

November 15, 2022

H-32

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 one appeal of the Board of Harbor Commissioners' certification of the Final Environmental Impact Report (EIR) for the Deep Draft Navigation Feasibility Study and Channel Deepening Project (Project) filed pursuant to Long Beach Municipal Code Section 21.21.507 by Earthjustice, Center for Biological Diversity, East Yard Communities for Environmental Justice, Natural Resources Defense Council, Pacific Environment, Sierra Club, and West Long Beach Association (collectively, "Appellants"); and (2) Adopt a resolution denying the appeal upholding the Board of Harbor Commissioners' certification of the Final EIR 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 analysis for the Deep Draft Navigation Feasibility Study and Channel Deepening Project (Project) was conducted 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 fully complied with CEQA when it certified the Final EIR for the Project, a component of the Final Integrated Feasibility Report (IFR) with Environmental Impact Statement (EIS)/Environmental Impact Report (IFR-EIS/EIR), a joint document between the Port of Long Beach (Port) and the U.S. Army Corps of Engineers Los Angeles District (USACE). However, it will be up to the City Council to consider the appeal and determine whether the certification of the Final EIR was proper and in accordance with CEQA.

If the City Council determines that the Board of Harbor Commissioner's certification of the Final EIR complies with CEQA, it must reject the appeal and affirm the Board of Harbor Commissioners' certification of the Final EIR for the Project (see Attachment 1 for proposed resolution). Alternatively, if the City Council finds that the Board of Harbor Commissioners' certification of the Final EIR did not comply with CEQA, then it must uphold the appeal and direct the Board of Harbor Commissioners 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 September 12, 2022, the Board of Harbor Commissioners held a public hearing to consider the adoption of a resolution to certify the Final EIR, adopt the Findings of Fact and Statement of Overriding Considerations and Mitigation Monitoring Reporting Program; approve the Project; and issue a Harbor Development Permit.

During the public hearing, Harbor Department staff gave a presentation on the Project and the Final EIR. Following the presentation, a total of five public speakers testified before the Board; three spoke in favor of the Project, and two spoke in opposition to one or more aspects of the Project. Commissioners expressed their support for the Project and its benefits. The Board of Harbor Commissioners voted unanimously to adopt Resolution HD-3103, wherein it certified the Final EIR as being fully compliant with CEQA. Attachment 2 contains the Harbor Department's Staff Report to the Board of Harbor Commissioners. Attachment 3 contains the Board of Harbor Commissioners' Resolution (HD-3103). Attachment 4 contains the associated Findings of Facts and Statement of Overriding Considerations, and Attachment 5 contains the Mitigation Monitoring Reporting Program. The Harbor Department Staff PowerPoint Presentation slides are provided as Attachment 6. The full, certified transcript of the September 12, 2022 public hearing is provided as Attachment 7 to this staff report. The Board of Harbor Commissioners' questions and deliberations are set forth on pages 26-37 of the transcript.

B. Summary of the Deep Draft Navigation Feasibility Study and Channel Deepening Project.

The Final IFR-EIS/EIR is a joint document lead by the USACE. The USACE is the lead agency responsible for implementing the National Environmental Policy Act (NEPA), while the Port of Long Beach is responsible for implementing CEQA. The IFR-EIS/EIR documents the planning process conducted for the Project and identifies and evaluates alternatives to increase transportation efficiencies and improve safety for container and liquid bulk vessels calling at the Port. Currently, large container vessels must either ride the tides and enter and leave the West Basin and Pier J Basin only during high tides or to light load the vessel in order to ensure a shallower draft to safely enter and leave these areas of the Port. Liquid bulk vessels must enter and exit the two-mile long Approach Channel one at a time, which results in increased delays due to channel width limitations, and/or must delay entry during wave swells and other conditions or light load at the point of origin due to the current depth limitations along the Approach Channel.

The USACE issued the Final IFR-EIS/EIR in October 2021 and approved the Record of Decision pursuant to NEPA in July 2022, thereby completing the federal environmental review process. The Final IFR-EIS/EIR is available online on the USACE's website at: <https://www.spl.usace.army.mil/Missions/Civil-Works/Projects-Studies/Port-of-Long-Beach-Deep-Draft-Navigation-Study/>

C. Overview of the EIR and Public Input Process.

In accordance with State CEQA Guidelines, the Port issued a Notice of Preparation (NOP) for the Project on November 14, 2016. The NOP described the Project and potential environmental impacts, and solicited public input on environmental issues to be addressed in the EIR. On January 29, 2019, the Port issued an Amended Notice of Preparation to update the Project title from "Port of Long Beach Deep Draft Navigation Feasibility Study" to "Port of Long Beach Deep Draft Navigation Feasibility Study and Channel Deepening Project" to clarify that in addition to the feasibility study prepared by the USACE, channel deepening activities and related activities would occur, and previously proposed dredging in the Southeast Basin was being removed from the scope of the Project. A scoping meeting was held on February 13, 2019, in the Port's Interim Administrative Offices. The USACE and the Port released a Notice of Availability of the IFR-EIS/EIR in the Federal Register on October 25, 2019; concurrently, the Port issued a Notice of Completion of an EIR pursuant to CEQA. The 45-day public comment period ended on December 9, 2019. Two joint USACE and Port public hearings were held on Wednesday, November 13, 2019, at the Port of Long Beach Administration Building. Comments on the Draft EIS/EIR were received from 11 agencies and individuals. Appendix O of the Final IFR-EIS/EIR contains all comments and recommendations received on the Draft IFR-EIS/EIR and a list of persons, organizations, and public agencies whom submitted comments. Responses to comments are also provided in Appendix O to the Final IFR-EIS/EIR. The USACE and Port considered each comment received and determined that no changes or revisions to the Draft IFR-EIS/EIR were necessary. No new significant environmental effects were identified, nor did any issues raised in the comments received necessitate recirculation of the Draft IFR-EIS/EIR. The Notice of Public Hearing and Notice of Availability for the Final EIR was issued on August 16, 2022, 27 days prior to the public hearing for the Board of Harbor Commissioners' consideration of the Final EIR. The Final EIR and its supporting documentation were made available electronically on the USACE's website and Port of Long Beach website at <https://www.polb.com/ceqa>.

At the public hearing on September 12, 2022, the Board of Harbor Commissioners certified the Final EIR in accordance with CEQA, after hearing the testimony from five members of the public. The day after certification of the Final EIR, a Notice of Determination (NOD) was filed with the Los Angeles County Clerk and California Office of Planning and Research in accordance with State CEQA Guidelines Section 15075.

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

1. Description of the Project.

The Project involves:

- Deepening the entrance to the Approach Channel through Queens Gate from a current depth of -76 feet to -80 feet mean MLLW;
- Bend-easing portions of the Main Channel to match the currently authorized depth of -76 feet MLLW;
- Construction of an approach channel and turning basin to Pier J South to a new depth of -55 feet MLLW;
- Deepening portions of the West Basin from a depth of -50 feet to -55 feet MLLW;
- Construction of a new electric substation at Pier J South to support electric dredging equipment to mitigate air quality impacts associated with construction activities.

In Section 4.2 of its CEQA Findings of Fact, the Board of Harbor Commissioners made factual findings regarding the various alternatives that were considered in the EIR (Attachment 4, pages 19-26). That analysis explains in detail why Alternative 3 was selected as the environmentally superior of the build alternatives and why it best meets the Project objectives.

2. Summary of Potential Unavoidable Impacts.

The Final EIR identified potentially significant impacts to air quality associated with construction of the Project. Construction emissions would exceed the South Coast Air Quality Management District (AQMD) daily thresholds of significance for Nitrogen Oxides (NO_x) in years 2024, 2025, 2026, and 2027, and particulate matter 2.5 microns or less (PM_{2.5}), carbon monoxide (CO), and volatile organic compounds (VOC) in 2025. In addition, during construction activities, the Project would generate offsite ambient air pollutant concentrations that would exceed the South Coast AQMD's threshold of significance for 1-hour nitrogen dioxide (NO₂) and 1-hour federal NO₂.

These environmental impacts are discussed in detail in the Final IFR-EIS-EIR and in the Board of Harbor Commissioners' Findings of Fact for the Project (Attachment 4).

3. Mitigation.

Mitigation measures and special conditions were developed for the Project to reduce significant impacts to the extent feasible. These measures, which are set forth in the Mitigation Monitoring and Reporting Plan (MMRP) adopted for the Project by the Board of Harbor Commissioners (see Attachment 5), were made conditions of the Project approval.

Mitigation measures to reduce impacts to air quality associated with the Project would include the required use of an electric dredge; use of construction-related harbor craft that meet at least United States Environmental Protection Agency (USEPA) Tier 3 marine engine standards; use of off-road construction equipment that meet USEPA Tier 4 Final engine emission standards; and application of best management practices by maintaining construction equipment according to manufacturers specifications and limiting idling to five minutes.

After the implementation of all feasible mitigation measures to reduce the impacts to air quality associated with the Project, significant air quality impacts are expected to remain. CEQA requires a public agency to balance the benefits of a proposed project against its unavoidable, adverse environmental impacts in determining whether to approve the project. The Project would offer overriding economic, legal, social, technological, and other benefits that outweigh the unavoidable adverse environmental effects of the undertaking and provide important reasons for approving the Project.

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

Following the Board of Harbor Commissioners' certification of the Final EIR on September 12, 2022, one appeal was filed. Appellants appeal is included hereto as Attachment 8. The Harbor Department's detailed responses to the grounds to Appellants' appeal are provided as Attachment 9.

Many of the issues raised in the appeal letter were previously raised by Appellants during the CEQA process and addressed in the Final EIR. The issues in the appeal are presented in a conclusory manner with no supporting evidence that the environmental determination does not comply with CEQA. The following is a summary of the claims made in the appeal by Appellants and the Harbor Department's responses to those claims. Background information on Appellants is also provided.

Background

Appellants are comprised of Earthjustice, Center for Biological Diversity, East Yard Communities for Environmental Justice, Natural Resources Defense Council, Pacific Environment, Sierra Club, and West Long Beach Association. These organizations focus on environmental law and environmental issues in areas such as, air quality, water quality, public health, and environmental justice.

Summary of Appeal Issues

Appellants contend that the scope of the Project is improperly narrow and that the Project is an “expansion project” that will introduce additional large ships to expand the Port’s capacity to process more cargo than it currently handles, leading to increased impacts of shipping traffic and other environmental effects. Appellants have submitted no evidence that supports their conclusion that the Project or introduction of large ships will expand the Port’s capacity to process more cargo than it currently handles leading to increased environmental impacts.

The Project entails dredging various areas of the Port to improve channel depths and widths to accommodate the global fleet of large vessels to enter and depart the Port safely and more efficiently. Projecting the numbers and types of vessels in the future would require pure speculation, and any analysis would not provide reliable or meaningful information to the public or decisionmakers. Furthermore, any hypothetical change in the vessel fleet would not alter the capacities of the marine terminals. The Project would not result in increased terminal capacity and vessel trips required to transport forecasted cargo because the Project does not include any changes to Port marine terminals that will increase capacity or their operations. To increase capacity or alter operations, marine terminal infrastructure would require improvements, which would require project-specific environmental review, during which the potential environmental impacts associated with the operation of vessels, as well as other goods movement-related sources such as trucks, rail locomotives, harbor craft, and cargo-handling equipment, would be evaluated as appropriate in accordance with CEQA. Therefore, vessel operations are not part of the scope of the environmental evaluation.

As such, the efficiencies afforded by the Project would not influence or alter marine terminal capacities or operations. Generally, the deployment of large container vessels filled to their capacities allows for more efficient transport of goods, requiring fewer trips to and from the Port, which would result in fewer air emissions from ocean-going vessels, as demonstrated in the Port’s annual emissions inventories as early as 2010 (available online at www.polb.com/emissions and incorporated herein by reference).

The Appellants also assert that impacts to air quality and health risk are insufficiently analyzed and addressed. The Final IFR-EIS/EIR adequately discloses the potential air emissions associated with the Project in full compliance with CEQA. As previously discussed, marine terminal operational activities are not a component of the Project, and the Project would not change or “expand” operations at the marine terminals to require more cargo-handling equipment, rail, and/or truck visits. The EIR appropriately does not analyze emissions from speculative potential changes in future operations or expansion of Port operations.

The Appellants suggest that impacts to greenhouse gas emissions and global climate change are insufficiently addressed because the Project would increase the Port's capacity for import of crude oil resulting in more oil production, refining, coal exports, and freight transportation thereby increasing greenhouse gas emissions above CEQA levels of significance. The Project does not include any modifications to existing liquid bulk terminals, storage, transmission, or refinery capacities all of which are beyond the scope of the Project. Supply of and demand for oil, gas, and other energy resources fluctuates over time, and those factors are not significantly impacted or influenced by the Project. This ground for appeal should be denied because the Appellants have provided no evidence that the Project would increase the Port's capacity for import of crude oil or increase greenhouse gas emissions above CEQA levels of significance.

Appellants also claim that impacts to endangered species are insufficiently analyzed and addressed. The Final IFR-EIS/EIR demonstrates that the potential environmental impacts to endangered species associated with construction of the Project have been fully analyzed, while Appellants' claims are conclusory and devoid of specific evidence that the Project will contribute to increased risks to endangered species.

Appellants contend that the Final EIR failed to analyze and mitigate the Project's environmental justice impacts. This ground for appeal should be denied because CEQA does not explicitly require the evaluation of Environmental Justice, and there are no specific thresholds of significance for environmental justice. Rather, CEQA requires a lead agency to exercise its own best judgment to "balance a variety of public objectives, including economic, environmental, and social factors and in particular the goal of providing a decent home and satisfying living environment for every Californian." In accordance with CEQA, the Statement of Overriding Considerations for the Project details the balance of specific economic, legal, social, technological, or other benefits, including region-wide and statewide environmental benefits of the Project against its unavoidable environmental risks. The EIR also acknowledges that the greatest cumulative impact on the air quality of the regional air basin would be the incremental addition of pollution associated with the use of construction-related heavy-duty equipment and trucks. As described in the EIR cumulative impacts discussion, the Port will contribute a total of \$146,753 to the Community Grants Program to address the cumulative impacts to air quality associated with construction of the Project. The EIR was prepared in full accordance with CEQA. Therefore, this Ground for Appeal should be denied.

Appellants argue that the Final EIR failed to analyze and mitigate the Project's environmental indirect and cumulative impacts associated with "several expansion projects". LBMC Section 21.21.507, subsection E.2, requires appellants to "specify in detail why the appellant contends that the environmental determination does not comply with CEQA." Appellants do not point to or reference any specific projects to support their claim. Nonetheless, the Final IFR-EIS/EIR includes discussion of existing container

facilities and infrastructure at the Port, as well as the Port's capital improvement projects that have been approved pursuant to CEQA and/or NEPA. These projects, including the Middle Harbor Redevelopment Project, Gerald Desmond Bridge Replacement Project, Pier B On-Dock Rail Support Facility Project, the Pier G & J Terminal Development Project are not dependent on, or a consequence of the Channel Deepening Project. The Project will merely provide for dredging of various areas of the Port to allow for improvements to channel depths to accommodate large vessels, the mix of which the Port has no control of influence over, entering and departing the Port safely and more efficiently. The Project itself will not influence cargo throughput or capacity. This ground for appeal should be denied.

Appellants assert that Project does not mitigate the externalities of expanded freight activities resulting from the Project; the Project only identified mitigation measures stemming from construction. This ground for appeal should be denied because Appellants' claim is conclusory and devoid of evidence. They provide no factual support to their claim. It would be speculative to evaluate potential impacts associated with future vessel activities and marine terminal operations. Furthermore, there are no land-side improvements or modifications associated with the Project that would facilitate increased capacity. The Project's environmental impacts and discussion of all applicable and all feasible mitigation measures associated with construction activities defined in the scope of the Project are adequately detailed in the Final IFR-EIS/EIR, the Findings of Fact/Statement of Overriding Considerations, and Mitigation Monitoring Reporting Plan—prepared in accordance with CEQA. Section 15126.4(a)(4) of the State CEQA Guidelines requires that “[t]here must be an essential nexus (i.e. connection) between the mitigation measure and a legitimate governmental interest.” There is no nexus between the marine terminals' activities for goods movement activities such as the operation of trucks, cargo-handling equipment, harbor craft, and ocean-going vessels at berth and the construction activities occurring as part of the Project.

TIMING CONSIDERATIONS

City Council action on this matter is requested on November 15, 2022, in order to respond to the appeal.

FISCAL IMPACT

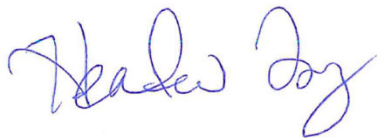
If the appeal is denied, there would be no financial impact. Should the City Council sustain the appeal, the Project could not move forward and would be jeopardized. The navigational and safety challenges associated with the existing channel constraints would continue. The perpetuation of the existing conditions involving the use of smaller ships to make more trips to transport goods, and large vessels having to light-load, lighter, and wait for high tide in order to maneuver into and out of the Port, anchor in the

Harbor, rather than berth at a dock, would continue, and potentially worsen over time with the industry trend toward expanded use of large vessels, negating the increased efficiencies associated with the deployment of large cargo vessels that would result in fewer vessel calls and potentially reduced air emissions from ocean-going vessels at the Port.

SUGGESTED ACTION

Approve Recommendation.

Respectfully submitted,



Heather Tomley
Managing Director
Planning and Environmental Affairs
Harbor Department



(for)

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, September 12, 2022 (Legislation Text)
- 3) Board of Harbor Commissioners Resolution HD-3103 (Text)
- 4) Findings of Fact and Statement of Overriding Considerations
- 5) Mitigation Monitoring and Reporting Program
- 6) Harbor Department Staff PowerPoint Presentation to Board of Harbor Commissioners Public Hearing, September 12, 2022
- 7) Certified Transcript of Board of Harbor Commissioners Public Hearing, September 12, 2022
- 8) Appeal of Earthjustice, et al.; Received September 26, 2022
- 9) Detailed Response of the Harbor Department to the Issues on Appeal

RESOLUTION NO. HD-

A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF LONG BEACH AFFIRMING THE LONG BEACH
HARBOR COMMISSION'S CERTIFICATION OF THE FINAL
ENVIRONMENTAL IMPACT REPORT FOR THE DEEP
DRAFT NAVIGATION FEASIBILITY STUDY AND CHANNEL
DEEPENING PROJECT (SCH. NO. 2016111014) IN THE
CITY OF LONG BEACH AND MAKING CERTAIN FINDINGS
THERE TO

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

WHEREAS, the Long Beach Harbor Department ("Harbor Department")
requested assistance of the United States Army Corps of Engineers ("USACE") to
address on-going operational constraints to the efficient movement of goods through the
Port;

WHEREAS, on August 27, 2015, a Feasibility Cost Sharing Agreement was
signed by the Harbor Department as the non-federal sponsor, and the Department of the
Army, initiating the feasibility phase of a study to improve navigational efficiency and
vessel safety throughout the Port (the "Study");

WHEREAS, a range of measures and preliminary alternatives were
developed as part of the Study for the Port of Long Beach Deep Draft Navigation Project
(the "Project");

WHEREAS, on May 1, 2019, the Harbor Department and the USACE jointly
submitted an application for a Harbor Development Permit ("HDP") for the Project;

WHEREAS, pursuant to California Public Resources Code Section 21067

1 and the California Environmental Quality Act (CEQA) Guidelines (Cal. Code Regs., Tit.
2 14, Sec. 15000, et seq.), Section 15051, the City, acting by and through the Board, is the
3 lead agency responsible for implementing CEQA, and the Board is the decision-making
4 body for the Harbor Department;

5 WHEREAS, pursuant to United States Code, Title 42, Section 4370m, and
6 the Council on Environmental Quality National Environmental Policy Act ("NEPA")
7 Regulations (Code of Federal Regulations, Tit. 40, Sec. 1500, et seq.), Section 1508.1,
8 the USACE is the lead agency responsible for implementing NEPA;

9 WHEREAS, the Board determined that because the Project could have a
10 significant effect on the environment, an Environmental Impact Report (EIR) should be
11 prepared to assess the environmental impacts associated with the completion of the
12 Project;

13 WHEREAS, USACE determined that an Environmental Impact Statement
14 (EIS) should be prepared to assess the environmental impacts associated with the
15 issuance of the federal permits authorizing work in the navigable waters of the United
16 States and the dredging of material from those waters; and

17 WHEREAS, the Harbor Department and USACE jointly prepared a draft
18 Integrated Feasibility Report ("IFR"), which contains the draft EIS and the draft EIR
19 describing the Project and discussing the resultant environmental impacts in the interest of
20 efficiency and to avoid duplication of effort;

21 WHEREAS, USACE will consider approval of the EIS separately from the
22 Board's consideration of the EIR; and

23 WHEREAS, on November 4, 2016, the Harbor Department circulated a
24 Notice of Preparation of a draft EIR for the Project to responsible agencies and interested
25 persons;

26 WHEREAS, on January 29, 2019, the Harbor Department circulated an
27 Amended Notice of Preparation of a draft EIR for the Project to responsible agencies and
28 interested persons;

1 WHEREAS, on October 25, 2019, the Harbor Department circulated a
2 Notice of Availability of a draft IFR, which contains the draft EIS and the draft EIR
3 describing the Project and discussing the resultant environmental impacts;

4 WHEREAS, on October 21, 2019, a Notice of Public Hearing on the draft
5 IFR, to be held on November 13, 2019, was published in the "Press Telegram," a
6 newspaper of general circulation, and notice was also provided by letter mailed to public
7 agencies, organizations and persons who requested notice or were likely to be interested
8 in the potential impacts of the Project, by email to the Harbor Department contact list, and
9 by publication on the USACE's website and the Harbor Department's website; and

10 WHEREAS, on November 13, 2019, the Harbor Department and USACE
11 conducted two public hearings on the draft IFR for the Project and received twelve written
12 comment letters and public meeting comment cards from governmental agencies,
13 organizations and members of the public;

14 WHEREAS, the 45-day period for public comment closed on December
15 9, 2019;

16 WHEREAS, USACE staff, Harbor Department staff, and consulting experts
17 reviewed and considered all comments received and addressed them, as appropriate,
18 into a Final IFR, dated October 2021, which contains the Final EIR and Final EIS,
19 presents a summary of the planning process, describes the affected environmental
20 resources, and evaluates the potential impacts to those resources as a result of
21 constructing, operating and maintaining the Project;

22 WHEREAS, the comments received on the Final IFR were reviewed, and
23 full and complete responses thereto were prepared and distributed on August 16, 2022,
24 to all public agency commenters, and written notice of the public availability of the
25 responses was provided to all other commenters in accordance with California Public
26 Resources Code Section 21092.5; WHEREAS, the Final EIR reflects the independent
27 judgment of the City, acting by and through the Board, as the lead agency under CEQA
28 as to the potential environmental impacts of the Project;

1 WHEREAS, the Final EIR for the Project was presented to the Board for
2 certification as having been completed in compliance with the provisions of CEQA and
3 the State and local CEQA Guidelines;

4 WHEREAS, on September 12, 2022, the Board held a properly noticed
5 public hearing to consider the Final EIR and the proposed Project, at which time, all
6 interested parties had the opportunity to present evidence and be heard;

7 WHEREAS, on September 12, 2022, having thoroughly reviewed and
8 considered the Final EIR and the written communications and oral testimony regarding
9 the same, the Board, pursuant to Resolution No. HD-3103, certified that the Final EIR for
10 the Project had been completed in compliance with CEQA and the State and local
11 guidelines promulgated pursuant thereto, made certain findings and determinations
12 relative thereto, adopted a statement of overriding considerations, adopted a mitigation
13 monitoring and reporting program, approved the Project, adopted the application
14 summary report for the Project, and approved issuance of Harbor Development Permit
15 No. 19-035 for the Project;

16 WHEREAS, prior to taking action on the Project, the Board considered all
17 significant impacts, mitigation measures, and Project alternatives identified in the Final
18 EIR, and found that all potentially significant impacts of the Project have been lessened
19 or avoided to the extent feasible. The Board further certified that the Final EIR had been
20 presented to the Board and that the Board reviewed and considered the information
21 contained in it prior to approving the Project, and that the Final EIR reflected the Board's
22 independent judgment and analysis;

23 WHEREAS, on September 26, 2022, Earthjustice, Center for Biological
24 Diversity, East Yard Communities for Environmental Justice, Natural Resources Defense
25 Council, Pacific Environment, Sierra Club, and West Long Beach Association
26 (Appellants) appealed the certification of the Final EIR by the Board pursuant to
27 California Public Resources Code section 21151(c) and Long Beach Municipal Code
28 section 21.21.507;

1 WHEREAS, on October 5, 2022, the Long Beach City Clerk issued notice to
2 Appellants pursuant to Long Beach Municipal Code section 21.21.507 that their appeal of
3 the certification of the Final EIR would come before the Long Beach City Council on
4 November 15, 2022.

5 NOW, THEREFORE, the City Council of the City of Long Beach resolves as
6 follows:

7 Section 1. Based on its independent review and consideration of
8 Resolution No. HD-3103, the Final EIR, the appeal filed by Appellants, and all written
9 communications and oral testimony regarding the Project which have been submitted to
10 and received by the City Council, the City Council finds as follows:

11 1.1 Recitals. The foregoing recitals are true and correct.

12 1.2 Scope of Appeal. California Public Resources Code Section
13 21151(c) provides that if a nonelected decision-making body of a local agency certifies an
14 environmental impact report, that certification may be appealed to the agency's elected
15 decision-making body, if any. Pursuant to Long Beach Municipal Code Section 21.21.507,
16 any person who appeared before the Board and objected to the Board's certification of the
17 Final EIR may appeal that determination to the City Council. Following the hearing, the
18 City Council may either (1) deny the appeal and affirm the certification of the Final EIR, or
19 (2) grant the appeal, set aside the certification of the Final EIR and remand to the Board.

20 1.3 Certification. The Final EIR for the Project has been completed
21 in compliance with CEQA and the State and local CEQA Guidelines. The Board, having
22 final approval authority over the Project, properly adopted and certified as complete and
23 adequate the Final EIR, which reflected the independent judgment and analysis of the
24 Board. The Board further certified that the Final EIR was presented to the Board and the
25 Board reviewed and considered the information contained in its prior to approving the
26 Project.

27 1.4 The Challenges by Appellants Are Without Merit. All grounds
28 raised during the appeal process have been adequately addressed in the Final EIR.

1 Attachment 9 of the Staff Report to the City Council fully addresses the issues raised by
2 the appeal.

3 Section 2. Based upon its independent review and consideration of the
4 Final EIR, all grounds raised during the appeal process, all written communications and
5 oral testimony during the appeal, the certified transcript of the September 12, 2022,
6 Board meeting, the reports, written communications, and presentations by City Staff, the
7 reports, written communications, and presentations by the Harbor Department, and the
8 findings and determinations set forth above, the City Council of the City of Long Beach
9 hereby:

10 2.1 Affirms the Board's certification that the Final EIR has been
11 completed in compliance with CEQA and the state and local CEQA Guidelines
12 promulgated pursuant thereto, and denies the appeal of Appellants.

13 2.2 Affirms the certification by the Board that the Final EIR was
14 presented to the Board, that the Board reviewed and considered the information
15 contained in it prior to approving the Project, and that the Final EIR reflects the Board's
16 independent judgment and analysis.

17 2.3 Affirms that the City Council has independently reviewed and
18 considered the information contained in the Final EIR and that the Final EIR reflects the
19 City's independent judgment and analysis.

20 2.4 Adopts and makes, to the extent required by law, the findings
21 set forth in the Findings of Fact and Statement of Overriding Considerations for the
22 Project, attached as Exhibit "A" to Resolution No. HD-3103 of the Board, which is
23 incorporated herein by reference as though set forth in full.

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

provisions of the California Public Records Act (Cal. Government Code Sec. 6250, *et seq.*), and Cal. Code Regs., Tit. 14, Sec. 15072.

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

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

I hereby certify that the foregoing Resolution was adopted by the City Council of the City of Long Beach at its meeting of November 15, 2022, by the following vote:

Ayes: Councilmembers: _____

Noes: Councilmembers: _____

Absent: Councilmembers: _____

Not Voting: Councilmembers: _____

City Clerk



Port of Long Beach

Long Beach Civic Center
Bob Foster Civic Chamber
411 West Ocean Boulevard
Long Beach, CA 90802

Legislation Text

File #: HD-22-421, **Version:** 1

DATE: 9/12/2022

TO: Board of Harbor Commissioners

FROM: Matthew Arms, Director of Environmental Planning

SUBJECT: Deep Draft Navigation Feasibility Study and Channel Deepening Project - Final Integrated Feasibility Report with Environmental Impact Statement and Environmental Impact Report; Level III Harbor Development Permit Application No. 19-035.

EXECUTIVE SUMMARY

The proposed Deep Draft Navigation Channel Deepening Project (Project) would improve vessel navigation efficiencies and safety at the Port of Long Beach (Port) by deepening and widening (bend-easing) the Approach Channel through Queens Gate and deepening channels to certain container terminals. The Final Integrated Feasibility Report (IFR) for the proposed Project with Environmental Impact Statement (EIS)/Environmental Impact Report (EIR) is a joint document led by the U.S. Army Corps of Engineers Los Angeles District (USACE). The USACE is the lead agency responsible for implementing the National Environmental Policy Act (NEPA); the Port of Long Beach is the lead agency responsible for implementing the California Environmental Quality Act (CEQA).

The IFR documents the planning process conducted for the Project and identifies and evaluates alternatives to increase transportation efficiencies and improve safety conditions for container and liquid bulk vessels at the Port. To comply with CEQA and NEPA, the document includes an EIS/EIR analyzing the proposed Project's potential effects on the environment. Prior to approving the proposed Project and issuing a Harbor Development Permit (HDP), the Board will need to certify the EIR, make specific findings regarding the significant environmental impacts of the proposed Project, adopt the Statement of Overriding Considerations and the Mitigation Monitoring and Reporting Plan, and adopt the Application Summary Report. If the EIR is certified and the proposed Project is approved, the Board will issue Level III HDP No. 19-035 in accordance with Section 1215 of the City Charter and the certified Port Master Plan.

KEY POINTS

- Staff recommends that the Board certify the Final EIR, make findings, adopt a Statement of Overriding Considerations and a Mitigation Monitoring Reporting Plan in accordance with CEQA, adopt an Application Summary Report, approve the proposed Project, and issue an HDP for the Deep Draft Navigation Study and Channel Deepening Project.
- The Draft EIS/EIR for the Project, as part of IFR for the proposed Project was issued for a 45-day public review and comment period on October 25, 2019, ending on December 9, 2019.
- Two public hearings were held to gather comments on the Draft IFR EIS/EIR on November 13, 2019, at the Port of Long Beach Administration Building.

- The Final IFR EIS/EIR was issued by the USACE in October 2021, followed by the USACE's issuance of the Record of Decision approving the National Economic Development Plan alternative (the proposed Project) pursuant to NEPA on July 6, 2022. The Port filed a Notice of Completion with the California Office of Planning and Research State Clearinghouse on August 16, 2022.
- The potential significant air quality impacts associated with the proposed Project's construction activities are anticipated to remain significant following the implementation of mitigation measures.
- The proposed Project is consistent with the 1990 certified Port Master Plan and conforms to Chapter 8 of the California Coastal Act.
- This action supports the Strategic Plan Goal to "Strengthen the Port's competitive position through secure and efficient movement of cargo while providing outstanding customer service" by working collaboratively with public agencies and regulators throughout the supply chain to increase the velocity of cargo movement through the Port.

REQUESTED ACTION(S) ..Title

Receive and File Supporting Documentation into the Record and Conduct a Public Hearing on the Deep Draft Navigation Feasibility Study and Channel Deepening Project, Adopt a Resolution Certifying the Final Environmental Impact Report, Adopt the Findings of Fact, the Statement of Overriding Considerations, the Mitigation Monitoring and Reporting Program, Adopt the Application Summary Report, Approve the Project, and Issue Level III Harbor Development Permit No. 19-035.

There are no financial impacts related to certification of the Final EIR, approval of the proposed Project, or issuance of HDP. The USACE estimates a total Project cost of approximately \$170 million, with a Port of Long Beach contribution estimated to be \$108,756,200 million. If approved today, Engineering, in partnership with the USACE, will develop a Design Agreement, proceed with additional design work and, in accordance with the Port's Program/Project Budget Approval and Accounting Policy, develop a Baseline Program Budget. The Design Agreement and Baseline Budget will be brought to the Board for consideration at a future meeting.

DISCUSSION

The USACE, in partnership with the Port, proposes to undertake the Channel Deepening Project to increase transportation efficiencies and improve safety for container and liquid bulk vessels at the Port. Currently, larger container vessels must either ride the tides and enter and leave the West Basin and Pier J Basin only during high tides or to light load the vessel in order to ensure a shallower draft to safely enter and leave these areas of the Port. Liquid bulk vessels must enter and exit the two-mile long Approach Channel one at a time, which results in increased delays due to channel width limitations, and/or must delay entry during wave swells and other conditions or light load at the point of origin due to the current depth limitations along the Approach Channel. In the IFR EIS/EIR, the USACE assessed the costs, benefits, and environmental impacts of an array of 5 alternatives, including a "No Action" alternative to deepen channels, basins, berths, and other areas in the Port at varying depths to improve safety, reliability, and waterborne transportation efficiencies for current and future container and liquid bulk vessel operations. Based on the economic and engineering cost-benefit analysis, the

USACE selected and approved Alternative 3, the National Economic Development (NED) Plan, as it would provide for maximized net benefits. Alternative 3 would deepen container terminal channels to -55 feet mean lower low water (MLLW) and the Approach Channel to -80 feet MLLW.

As such, for the purposes of evaluating the USACE's approved plan under CEQA, Alternative 3, the NED Plan, is the "proposed Project." The IFR includes the functional equivalent of an EIR to analyze and disclose each of the potentially significant environmental effects that could result from the implementation of the proposed Project.

Project Description

The USACE-approved the NED Plan, or Alternative 3 (for the purposes of CEQA, the "proposed Project"), includes the following General Navigation Features (GNF):

- Deepening the entrance to the Approach Channel through Queens Gate from a current depth of -76 feet to -80 feet mean MLLW;
- Bend-easing portions of the Main Channel to match the currently authorized depth of -76 feet MLLW;
- Construction of an approach channel and turning basin to Pier J South to a new depth of -55 feet MLLW;
- Deepening portions of the West Basin from a depth of -50 feet to -55 feet MLLW;
- Construction of a new electric substation at Pier J South to support electric dredging equipment to mitigate air quality impacts associated with construction activities.

The proposed Project also includes Local Service Facilities (LSF) that would be constructed by the Port and are necessary to implement the GNF and fully realize the economic benefits of the Project. The appropriate permits from the USACE would be required for construction of the LSF.

- Deepening of Pier J South and berth dredging within the Pier J South Slip to a new depth of -55 feet MLLW;
- Structural improvements to the Pier J breakwaters to accommodate dredging in the Pier J Slip and Approach Channel.

The 7.1 million cubic yards of dredged material expected to be generated by activities for the GNF and 337,000 cubic yards from the LSF would be placed in a combination of the nearshore Surfside-Sunset Borrow Site of Huntington Beach and United States Environmental Protection Agency (USEPA)-designated offshore Ocean Dredged Material Disposal Site. If construction schedules are aligned, dredge material may be used to fill the Pier G South Slip.

Public Review Process

In accordance with State CEQA Guidelines, the Port issued a Notice of Preparation (NOP) for the proposed Project on November 14, 2016. The NOP described the proposed Project and potential environmental impacts,

and solicited public input on environmental issues to be addressed in the EIR. On January 29, 2019, the Port issued an Amended Notice of Preparation to update the Project title from “Port of Long Beach Deep Draft Navigation Feasibility Study” to “Port of Long Beach Deep Draft Navigation Study and Channel Deepening Project” to clarify that in addition to the feasibility study prepared by the USACE, channel deepening activities and related activities would occur, and previously proposed dredging in the Southeast Basin was being removed from the scope of the Project. A scoping meeting was held on February 13, 2019, in the Port’s Interim Administrative Offices.

The USACE and the Port released a Notice of Availability of the IFR-EIS/EIR in the Federal Register on October 25, 2019; concurrently, the Port issued a Notice of Completion of an EIR pursuant to CEQA. The 45-day public comment period ended on December 9, 2019. Two joint USACE and Port public hearings were held on Wednesday, November 13, 2019, at the Port of Long Beach Administration Building in Downtown Long Beach. Comments on the Draft EIS/EIR were received from the California Coastal Commission; the State Water Resources Control Board (SWRCB); the California State Clearinghouse; Caltrans District 7; USEPA Region IX; National Marine Fisheries Services (NMFS) West Coast Region; FuturePorts; EarthJustice; National Resources Defense Council; and from individuals Andrea Hricko and William Johns. The Final IFR EIS/EIR contains copies of all comments and recommendations received on the Draft EIS/EIR; a list of persons, organizations, and public agencies whom submitted comments. Responses to comments are also provided in Appendix O to the Final IFR EIS/EIR. The USACE and Port considered each comment received and determined that no changes or revisions to the Draft IFR EIS/EIR were necessary. No new significant environmental effects were identified, nor did any issues raised in the comments received necessitate recirculation of the Draft IFR EIS/EIR.

If the Board certifies the Final EIR, a Notice of Determination (NOD) 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 limitations on court challenges to the approval under CEQA. ***Environmental Impacts of the Project***

The EIR identified potentially significant impacts to air quality that could result from the proposed Project:

Air Quality - Construction of the proposed Project would produce emissions that exceed the South Coast Air Quality Management District daily thresholds of significance for Nitrogen Oxides in years 2024, 2025, 2026, and 2027, and particulate matter 2.5 microns or less (PM_{2.5}), carbon monoxide carbon monoxide (CO), and volatile organic compounds (VOC) in 2025. In addition, the proposed Project would generate offsite ambient air pollutant concentrations that would exceed the South Coast AQMD’s threshold of significance for 1-hour NO₂ and 1-hour federal NO₂.

The Project’s environmental impacts and mitigation measures are described in detail in the Final IFR EIS/EIR as well as in the Findings of Fact/Statement of Overriding Considerations which is an exhibit to the Resolution provided as Attachment 1 to this memorandum.

Mitigation Measures

In accordance with CEQA, a Mitigation Monitoring and Reporting Plan was prepared to outline the procedures for the implementation of the mitigation measures and special conditions for the proposed Project identified in the Final EIS/EIR. Mitigation Measures to reduce impacts to air quality associated with the proposed Project would include the required use of an electric dredge; use of construction-related harbor craft that meet at least USEPA Tier 3 marine engine standards; use of off-road construction equipment that meet USEPA Tier 4 Final engine emission standards; and application of best management practices by maintaining construction

equipment according to manufacturer's specifications and limiting idling to 5 minutes.

Special Conditions

As special conditions for issuance of the HDP for the proposed Project, implementation of best management practices for water resources protection would be required. Also, during the development of the Project, a Transportation Management Plan will be considered to ensure traffic circulation in the area of construction is maintained. In addition, a contribution of \$146,753 to the Port's Community Grants Program will be required for the proposed Project. The timing of the payment will be made by the later of the following two dates: (a) the date that the Port issues a Notice to Proceed or otherwise authorizes the commencement of construction; or (b) the date that the Final EIS/EIR is conclusively determined to be valid, either by operation of Public Resources Code 21167.2 or by final judgment or final adjudication.

Also, in the unlikely event any archeological or human remains are discovered during construction activities, construction activities would be halted, and archeological experts are to be notified. The USACE and Port will be required to prepare an evaluation of the significance of the findings to determine the appropriate resolution of any potential adverse effects.

Overriding Considerations

Even after the implementation of all feasible mitigation measures to reduce the impacts to air quality associated with the proposed Project, significant air quality impacts are expected to remain. CEQA requires a public agency to balance the benefits of a proposed project against its unavoidable, adverse environmental impacts in determining whether to approve the project. The proposed Project would offer overriding economic, legal, social, technological, and other benefits that outweigh the unavoidable adverse environmental effects of the undertaking and provide important reasons for approving the proposed Project, as follows:

Improve Transportation Efficiencies. The Port currently experiences navigational challenges, including existing channel depths that do not meet the draft requirements of the current and future fleet of larger container and liquid bulk vessels. Tide restrictions, light loading, lightering, and other operational inefficiencies result in economic inefficiencies that translate into increased costs for the national economy. Container vessel movements along the secondary channels serving Pier J and Pier T/West Basin, as well as liquid bulk vessel movements along the Main Channel, have been identified as constrained by current conditions. The proposed Project would address these navigational challenges and increase transportation efficiencies for container and liquid bulk vessels operating in the Port for both the current and future fleet and improve conditions for vessel operations and safety.

Improve Navigational Safety. The proposed Project would improve navigational efficiency and vessel safety throughout the Port. The deepening and widening of the federal channels would facilitate the safe and efficient transportation of all types of cargo into and out of the Port because larger vessels are calling at the Port that need deeper and wider channels in order to safely operate. Additionally, the proposed Project would potentially assist in reducing vessel congestion in the Port, thereby contributing to safer conditions within the harbor.

Reduce Delays and Wait Times. The proposed Project would reduce wait times within the harbor and reduce loading and unloading delays for deeper-drafting liquid bulk vessels. The proposed Project would reduce the need for deeper-drafting vessels to enter and exit the Port without having to account for tide restrictions, light loading, lightering, and other operational constraints.

Reduce Transportation and Product Costs. The proposed Project would have national significance because it will decrease costs as a result of transportation efficiencies. These costs will be reduced by allowing a more efficient future fleet mix (e.g., displace Panamax and smaller-scale Post-Panamax vessels with larger-scale Post-Panamax vessels, which have increased cargo capacity).

Reduce Vessel Trips. Removal of channel restrictions would increase vessels' maximum loading capacity, thereby resulting in fewer vessel trips to transport the forecasted cargo. Additionally, increased channel depth would encourage shippers to replace smaller, less efficient vessels with larger, more efficient vessels on Port route services.

Consistency with the Certified Port Master Plan. The proposed Project is consistent with the development goals of the PMP and all other applicable land use plans, policies, and regulations.

Contribution to the Community Grants Program. To assist in reducing the proposed Project's cumulative impacts to air quality, health risk, and global climate change, the Port will make a total contribution of \$146,753 in funding to the Port's Community Grants Program to fund projects to benefit three specific programs: community health, facility improvements, and community infrastructure.

Consistency with the Certified Port Master Plan

An Application Summary Report (Appendix L of the IFR EIS/EIR) for the Project was prepared in accordance with the Guidelines for the Implementation of the certified Port of Long Beach Port Master Plan. The proposed Project is consistent with the certified 1990 PMP as amended and conforms to Chapter 8 of the California Coastal Act. The Port has carefully reviewed the proposed Project and the Coastal Act Section 30715(a)(1) (Appealable Developments). The proposed Project is not among the types of projects appealable to the California Coastal Commission because it is not a development for the storage, transmission, or processing of liquefied natural gas and crude oil in such quantities as would have a significant impact upon the oil and gas supply of the state or nation or both. While the proposed Project will accommodate for increased transportation efficiencies and navigational safety for liquid bulk vessels, the project will not cause the quantity of oil and gas to materially change; the proposed Project will simply allow deliveries to be handled in a safer and more cost-effective manner. As such, the proposed Project will have little to no impact on the oil and gas supply of the state or nation and is not appealable under the Coastal Act Section 30715(a)(1).

Previous Actions

The following actions by the Board of Harbor Commissioners associated with the proposed Project are:

Date	Item	Action	Comments
02/11/2019	1 st Amendment to Cost Share Agreement	Approved	Execute 1 st Amendment to cost share agreement with USACE for \$922,500, extend term to September 30, 2021, and authorize transfer of funds in amount of \$317,509.
12/14/2016	Authorize Funding	Approved	Authorize spending in amount of \$1.2M for On-call Professional Consulting Services

07/272015	Execute Cost Share Agreement	Approved	Authorize feasibility cost share agreement with USACE and approve transfer of up to \$1.5M of funding.
-----------	------------------------------------	----------	--------------------------------------------------------------------------------------------------------------

Attachments:

- Attachment 1 - Resolution including Findings of Fact and Statement of Overriding Considerations; Mitigation Monitoring Reporting Program
- Attachment 2 - Final IFR EIS/EIR - Deep Draft Navigation Feasibility Study and Channel Deepening Project, which includes the Application Summary Report
- Attachment 3 - Appendices A-O Final IFR EIS_EIR
- Attachment 4 - PowerPoint Presentation

RESOLUTION NO. HD- 3103

A RESOLUTION OF THE BOARD OF HARBOR COMMISSIONERS OF THE CITY OF LONG BEACH CERTIFYING THAT THE FINAL ENVIRONMENTAL IMPACT REPORT FOR THE PORT OF LONG BEACH DEEP DRAFT NAVIGATION FESABILITY STUDY (SCH NO. 2016111014) HAS BEEN COMPLETED IN ACCORDANCE WITH THE PROVISIONS OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT AND STATE AND LOCAL GUIDELINES, MAKING CERTAIN FINDINGS AND DETERMINATIONS RELATIVE THERETO, ADOPTING A STATEMENT OF OVERRIDING CONSIDERATIONS, ADOPTING A MITIGATION MONITORING AND REPORTING PROGRAM, AND APPROVING THE PROJECT AND HARBOR DEVELOPMENT PERMIT

WHEREAS, the Long Beach Harbor Department of the City of Long Beach ("COLB") requested assistance of the United States Army Corps of Engineers ("USACE") to address on-going operating constraints to the efficient movement of goods through the Port of Long Beach ("POLB"); and

WHEREAS, on August 27, 2015, a Feasibility Cost Sharing Agreement was signed by COLB as the non-federal sponsor, and the Department of the Army, initiating the feasibility phase of a study to improve navigational efficiency and vessel safety throughout the POLB (the "Study"); and

WHEREAS, a range of measures and preliminary alternatives were developed as part of the Study for the Port of Long Beach Deep Draft Navigation Project (the "Project"); and

1 WHEREAS, the Federal lead agency responsible for implementing the
2 National Environmental Policy Act ("NEPA") is the USACE Los Angeles District; and

3 WHEREAS, the lead agency under the California Environmental Quality Act
4 ("CEQA") is the City of Long Beach, acting by and through its Board of Harbor
5 Commissioners ("Board"); and

6 WHEREAS; a Notice of Availability of draft Environmental Impact Statement
7 ("EIS") was published in the Federal Register on October 25, 2019 and was amended on
8 November 29, 2019; and

9 WHEREAS, the draft Integrated Feasibility Report ("IFR"), which contains
10 the draft EIS and the draft Environmental Impact Report ("EIR") describing the Project
11 and discussing the resultant environmental impacts to be prepared for public and agency
12 comments, was published on the District's website and POLB's website on October 25,
13 2019; and

14 WHEREAS, on November 13, 2019 USACE and COLB conducted two
15 public hearings on the draft IFR for the Project and received both written and oral
16 comments; and

17 WHEREAS, the 45-day period for public comment closed on December
18 9, 2019; and

19 WHEREAS, all comments received were considered and incorporated as
20 appropriate into the Final IFR, which contains the Final EIS and Final EIR, which
21 presents a summary of the planning process, describes the affected environmental
22 resources and evaluates the potential impacts to those resources as a result of
23 constructing, operating and maintaining the Project; and

24 WHEREAS, the Draft IFR and the Final IFR (collectively the "FIFR") for the
25 Project have been presented to the Board, as the decision-making body of the lead
26 agency, for certification of the Final EIR as having been completed in compliance with the
27 provisions of CEQA and State and Local Guidelines implementing CEQA and as the
28 permitting agency under the California Coastal Act; and

1 WHEREAS, the Board held a duly noticed public hearing on May 23, 2022,
2 to consider the FIFR and the proposed Project; and

3 WHEREAS, the Board has thoroughly reviewed and considered the FIFR
4 and the written communications and oral testimony regarding the same.

5 NOW, THEREFORE, the Board of Harbor Commissioners of the City of
6 Long Beach resolves as follows:

7 SECTION 1. Findings - Preparation and Review of Final Environmental
8 Impact Report. The Board finds as follows:

9 1.1 COLB conducted a scoping meeting for the Project on
10 January 19, 2016.

11 1.2 On November 4, 2016, COLB circulated a Notice of
12 Preparation of a draft EIR for the Project to responsible agencies and interested
13 persons by the Environmental Planning Division of the Long Beach Harbor
14 Department ("Environmental Planning").

15 1.3 On January 29, 2019, COLB circulated an Amended Notice of
16 Preparation of a draft EIR for the Project to responsible agencies and interested
17 persons by Environmental Planning.

18 1.4 The consulting firm of ICF ("Consultant") prepared a draft IFR
19 which contains the draft EIR for the Project, which was reviewed and approved by
20 Environmental Planning and published on the District's website and POLB's
21 website on October 25, 2019.

22 1.5 On October 25, 2019, COLB circulated a Notice of Availability
23 of a draft IFR which contains the draft EIR for the Project to responsible agencies
24 and interested persons.

25 1.6 After publication of the draft IFR, two public hearings on the
26 draft IFR were held on November 13, 2019. Twelve written comment letters and
27 public meeting comment cards were received from governmental agencies,
28 organizations and members of the public. The period for public comment was

1 closed on December 9, 2019.

2 1.7 Consultant and Environmental Planning prepared the Final
3 EIR for the Project, consisting of revisions to the Draft EIR, together with the
4 comments received and responses thereto.

5 1.8 On November 8, 2021, USACE published a Notice of
6 Availability of the Final IFR in the Federal Register.

7 1.9 On November 8, 2021, members of the Board received copies
8 of the Final EIR. The Board has reviewed and considered the information
9 contained in said document together with all written communications and oral
10 testimony regarding the same prior to approval of this resolution.

11 1.10 The Final EIR reflects the independent judgment of the Board
12 as lead agency under CEQA.

13 1.11 The Findings of Fact contained in the "Findings of Fact And
14 Statement of Overriding Considerations" attached hereto as Exhibit "A" are hereby
15 adopted as the factual findings of the Board, and are summarized below.

16 Sec. 2. Findings - Project Description. As described in Section 2.0 of
17 Exhibit "A", the Board finds that the Project recommended for approval by staff, which
18 was analyzed as Alternative 3 in the draft IFR and selected as the National Economic
19 Development Plan, consists of the following:

20 2.1 Construct an approach channel to Pier J South.

21 2.2 Deepen the West Basin Channel to a new depth of -55 ft
22 MLLW (with a 2-ft over dredge allowance) for cargo vessels.

23 2.3 Construct a turning basin outside the Pier J slip.

24 2.4 Deepen the Approach Channel to -80 ft MLLW.

25 2.5 Bend easing portions of the Main Channel to match the
26 currently authorized depth in the Main Channel of -76 ft MLLW to accommodate
27 liquid bulk vessels.

28 2.6 Deepen berths at Pier J and Pier T to -55 ft MLLW.

2.7 Place dredged material in a combination of a nearshore placement site and two United States Environmental Protection Agency-designated ocean-dredged material disposal sites.

2.8 Construct a new dredge electric station.

2.9 Construct structural improvements to the Pier J breakwater.

2.10 Conform to the Green Port Policy and improve the air quality in the environmental justice communities surrounding the Port.

Sec. 3. Findings - Project Alternatives. As more fully described in Section 4.1 of Exhibit "A", the Board finds as follows:

3.1 The reasonable range of Project alternatives considered in the FEIR consist of:

3.1.1 Alternative 1 – No Project. The "No Project" alternative assumes that no dredging or construction of the channels and breakwater would occur.

3.1.2 Alternative 2 – Container terminal channels deepened to -53 ft MLLW, Approach Channel deepened to -78 ft MLLM.

3.1.3 Alternative 4 -- Container terminal channels deepened to -57 ft MLLW; Approach Channel deepened to -83 ft MLLM; berths J266-J270 within the Pier J South Slip and berth T140 along Pier T both deepened to -57 ft MLLW; wharf improvements possibly implemented to accommodate the deepening.

3.1.4 Alternative 5 - Container terminal channels deepened to -55 ft MLLW, Approach Channel deepened to -80 ft MLLM. New Standby Area dredged to -67 ft MLLW with a 600-foot diameter center anchor placement at a proposed depth of -73 ft MLLW.

3.2 The "No Project" alternative, Alternative 1, would not result in significant impacts, as no improvements would be made to the channels or the breakwater. Since it would not accomplish any of the Project objectives, the No

1 Project alternative is hereby rejected.

2 3.3 Alternative 2 is a feasible alternative that would deepen the
3 Pier J channel and the West Basin channel and create a turning basin off Pier J all
4 to a depth of -53 ft MLLW; would widen the Main Channel to the design depth (-76
5 ft MLLW); and would deepen the Approach Channel to -78 ft MLLW.
6 Approximately 4.9 million cubic yards of sediment would be dredged and disposed
7 of. Sheet piling and armor rock would be placed along portions of the Pier J
8 Breakwater to accommodate the adjacent deepened Pier J channel.

9 Dredging would be accomplished by a hydraulic hopper dredge and
10 a clamshell dredge operating simultaneously for approximately 21 months. The
11 hopper dredge would travel to the disposal sites to dispose of dredged material
12 whereas the clamshell dredge would place dredged material on a barge that would
13 be hauled to disposal sites. Disposal sites would include the nearshore Surfside-
14 Sunset site off Huntington Beach and the LA-2 and LA-3 offshore disposal sites.
15 The nearshore site is expected to receive approximately 2.5 million cubic yards of
16 material from the Approach Channel, Main Channel, and West Basin dredging and
17 the two ocean disposal sites would receive the remaining 2.4 million cubic yards of
18 material from the Pier J and West Basin dredging.

19 While this alternative would require less dredging which would mean
20 less equipment activity, fewer worker commutes, and less disruption of biological
21 habitats and water quality, these differences are not substantial in nature and
22 result in significant and unavoidable impacts to air quality and health risk. Because
23 Alternative 2 would not meet the overall Project purpose and need of increasing
24 transportation efficiencies for container and liquid bulk vessels operating in the
25 Port, for both the current and future fleet, and to improve conditions for vessel
26 operations and safety, which would be achieved by the proposed Project,
27 Alternative 2 is not considered the environmentally preferred alternative.

28 ///

3.4 Alternative 3 is a feasible alternative that was selected by USACE as the Tentatively Selected Project, and is described above in Section 2. Operational benefits include reduced lightering of liquid bulk vessels, reduced light-loading of containerized vessels, and less time waiting for tides. Environmental benefits include increased transportation efficiencies, and improved navigational efficiencies that will reduce emissions of air pollutants and greenhouse gasses by allowing the largest and cleanest vessels to call fully loaded and reduce idling time. Alternative 3 will result in safety improvements, allowing for increased vessel maneuvering. Financially, Alternative 3 will result in reduced transportation costs, and the potential for beneficial reuse of dredge material. In sum, Alternative 3 would meet the overall Project purpose and need of increasing transportation efficiencies for container and liquid bulk vessels operating in the Port, for both the current and future fleet, and to improve conditions for vessel operations and safety, which would be achieved by the proposed Project and maximizes the net benefits of the alternatives analyzed while considering all of the environmental impacts of each of the alternatives. Therefore, Alternative 3 is the environmentally superior alternative and has been selected as the National Economic Development Plan.

3.5 Alternative 4 is a feasible alternative that would deepen the Pier J Channel and the West Basin Channel and create a turning basin off Pier J, all to a depth of -57 ft MLLW; would widen the Main Channel to the design depth (-76 ft MLLW); and would deepen the Approach Channel to -80 ft MLLW. Approximately 11.9 million cubic yards of sediment would be dredged and disposed of. Sheet piling and armor rock would be placed along portions of the Pier J Breakwater to accommodate the adjacent deepened Pier J channel. In addition, Alternative 4 would require modifications of the wharves at Pier J and Pier T to accommodate the deeper (-57 ft MLLW) berths. These modifications would include pile driving and rock placement.

Alternative 4 would not have fewer or less severe impacts than the proposed Project in any resource area. Alternative 4 would have greater impacts than the proposed Project in the areas of air quality, biota, hydrology and water quality, noise, ground and vessel transportation, and climate change. This is because Alternative 4 would involve more dredging (11.9 million cubic yards versus 7.4 million cubic yards), which would mean correspondingly more equipment activity, worker commutes, and disruption of biological habitats and water quality.

In addition to increased noise from equipment activity, construction of Alternative 4 would generate more high-intensity underwater noise from pile driving at the Pier J and Pier T wharves. As described in POLB (2019), high-intensity underwater noise can adversely affect marine organisms by damaging their auditory systems, disrupting behavior and communication, and causing mortality through swim bladder damage. These effects would be limited to a small area near the pile driving activity, and the USACE has determined that they would not represent a significant impact on marine mammals, managed fish species, and other marine resources.

All of the impact determinations under CEQA would, like those of the proposed Project, be either no impact or less than significant impact, with the exception of air quality, human health risk, and biota. Air quality would represent a significant impact. Alternative 4 would have a significant human health risk impact that the other alternatives would not have. Even after mitigation, impacts on air quality and human health risk would be significant and unavoidable.

Because Alternative 4 would not meet the overall Project purpose and need of increasing transportation efficiencies for container and liquid bulk vessels operating in the Port, for both the current and future fleet, and to improve conditions for vessel operations and safety, which would be achieved by the proposed Project, Alternative 4 is not considered the environmentally preferred

alternative.

3.6 Alternative 5 is a feasible alternative that would deepen the Pier J channel and the West Basin channel and create a turning basin off Pier J, all to a depth of -55 ft MLLW; would widen the Main Channel to the design depth (-76 ft MLLW); and would deepen the Approach Channel to -80 ft MLLW (Figure 4-2). A Standby Area adjacent to the Main Channel would be created by dredging to -67 ft MLLW with a 300-ft-diameter area in the center dredged to -73 ft MLLW. Approximately 8.4 million cubic yards of sediment would be dredged and disposed of (Table 4-8). Sheet piling and armor rock would be placed along portions of the Pier J Breakwater to accommodate the adjacent deepened Pier J channel. Alternative 5 would not require wharf modifications.

Alternative 5 would have greater impacts than the proposed Project in the areas of air quality, biota, hydrology and water quality, noise, ground and vessel transportation, and climate change. This is because Alternative 5 would involve more dredging (8.4 million cubic yards versus 7.4 million cubic yards), which would mean correspondingly more equipment activity, worker commutes, and disruption of biological habitats and water quality. All of the impact determinations under CEQA would, like those of the proposed Project, be either no impact or less than significant impact, with the exception of air quality and biota. Air quality would represent a significant impact.

As with the proposed Project, the significant impacts to air quality and health risk would be significant and unavoidable for Alternative 5. Because the Alternative 5 even after mitigation would not meet the overall Project purpose and need of increasing transportation efficiencies for container and liquid bulk vessels operating in the Port, for both the current and future fleet, and to improve conditions for vessel operations and safety, which would be achieved by the proposed Project, Alternative 5 is not considered the environmentally preferred alternative.

1 Sec. 4. Findings - Environmental Impacts. The Board adopts the findings
2 regarding the Project's environmental impacts contained in Section 3.0 of Exhibit "A."
3 Other than those mitigation measures required or incorporated pursuant to the Final EIR,
4 the Board finds that there are no feasible measures within its jurisdiction which could be
5 adopted at this time, which would avoid or significantly mitigate those significant,
6 potentially significant or cumulatively considerable adverse environmental impacts
7 identified in Section 3.0 of Exhibit "A."

8 Sec. 5. Findings - Significant Benefits and Statement of Overriding
9 Considerations. The Board hereby adopts the Statement of Overriding Considerations
10 contained in Section 5.0 of Exhibit "A."

11 Sec. 6. Certification. The Board hereby certifies that the FEIR for the
12 Project has been completed in compliance with the CEQA and the State and local
13 guidelines promulgated pursuant thereto. The Board further certifies that the FEIR was
14 presented to the Board and that the Board reviewed and considered the information
15 contained in it prior to approving the Project. The Board further certifies that the FEIR
16 reflects the Board's and the Port's independent judgment and analysis.

17 Sec. 7. Project Approval. Based on the conclusions set forth in Section 6,
18 the Application Summary Report, the Project and Harbor Development Permit No. 19-035
19 are hereby approved.

20 Sec. 8. Mitigation Plan Approval. The mitigation measures set forth in the
21 Deep Draft Navigation Feasibility Study Project Mitigation Monitoring and Reporting
22 Program attached hereto as Exhibit "B" are hereby adopted and approved as part of the
23 Project.

24 Sec. 9. Location and Custodian of Record Proceedings. The Director of
25 Environmental Planning of the Long Beach Harbor Department, whose office is located at
26 415 W. Ocean Boulevard, Long Beach, California 90802, is hereby designated as the
27 custodian of the documents and other materials which constitute the record of
28 proceedings upon which the Board's decision is based, which documents and materials

shall be available for public inspection and copying in accordance with the provisions of the California Public Records Act (Cal. Government Code Sec. 6250 et seq.).

Sec. 10. Notice of Determination. The Director of Environmental Planning shall file a notice of determination with the County Clerk of the County of Los Angeles and with the state Office of Planning and Research.

Sec. 11. Certification, Posting and Filing. This resolution shall take effect immediately upon its adoption by the Board of Harbor Commissioners, and the Secretary of the Board shall certify to the vote adopting this resolution and shall cause a certified copy of this resolution to be filed forthwith with the City Clerk. The City Clerk shall post the resolution in three conspicuous places in the City of Long Beach.

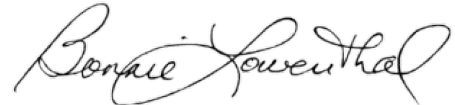
I hereby certify that the foregoing resolution was adopted by the Board of Harbor Commissioners of the City of Long Beach at its meeting of September 12, 2022 by the following vote:

Ayes: Commissioners: Neal, Colonna, Lowenthal, Olvera, Weissman

Noes: Commissioners: _____

Absent: Commissioners: _____

Not Voting: Commissioners: _____



Secretary

**PORT OF LONG BEACH
DEEP DRAFT NAVIGATION FEASIBILITY STUDY AND
CHANNEL DEEPENING PROJECT**

**FINDINGS OF FACT AND STATEMENT OF OVERRIDING
CONSIDERATIONS**



Port of Long Beach
Environmental Planning Division
415 West Ocean Boulevard
Long Beach, California 90802

September 2022

This page intentionally left blank.

TABLE OF CONTENTS

1.0	Introduction	1
2.0	Deep Draft Navigation Feasibility Study and Channel Deepening Project.....	1
2.1	Project Objectives	1
2.2	Project Overview	2
3.0	CEQA Findings.....	2
3.1	Findings Regarding Environmental Impacts Determined to be Not Significant or Less than Significant	3
3.2	Findings Regarding Cumulative Environmental Impacts Determined to be Not Significant or Less than Significant	15
3.3	Findings Regarding Significant Environmental Impacts that Cannot be Mitigated to a Less than Significant Level	15
3.4	Cumulatively Considerable Impacts.....	17
3.5	Finding Regarding Responses to Comments on the Draft EIR	19
4.0	Alternatives to the Proposed Project.....	19
4.1	Alternatives Analyzed in the Draft EIR.....	20
4.2	Findings for Alternatives Analyzed.....	22
5.0	Statement of Overriding Considerations	26
5.1	Project Significant Impacts	26
6.0	Overriding Considerations	27

1.0 INTRODUCTION

The City of Long Beach (COLB), acting by and through its Board of Harbor Commissioners (Board), has prepared an Environmental Impact Report (EIR) in accordance with the California Environmental Quality Act (CEQA) to identify and evaluate potential environmental impacts associated with implementation of the proposed Deep Draft Navigation Feasibility Study and Channel Deepening Project (Project or proposed Project) in the Port of Long Beach (Port or POLB).

These Findings of Fact have been prepared by the Port acting by and through its Board in its capacity as lead agency pursuant to CEQA to support a decision on the Project. Section 21081 of the California Public Resources Code (PRC) and Section 15091 of the State CEQA Guidelines provide that no public agency shall approve or carry out a project for which an EIR has been certified that identifies one or more significant environmental effects of the Project unless the public agency makes one or more written findings for each of those significant effects, accompanied by a brief explanation of the rationale for each finding. The possible findings are:

1. Changes or alterations have been required in, or incorporated into, the project, which avoid or substantially lessen the significant environmental effects as identified in the Final EIR.
2. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.
3. Specific economic, legal, social, technological, or other considerations, including provisions of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the Final EIR.

Additionally, the lead agency must not approve a project that will have a significant effect on the environment unless it finds that specific overriding economic, legal, social, technological, or other benefits of the project outweigh the unavoidable adverse environmental effects (Public Resources Code Section 21081(b); California Code of Regulations, Title 14, Section 15093). The Statement of Overriding Considerations set forth below identifies the specific overriding economic, legal, social, technological, or other benefits of the Project that outweigh the significant environmental impacts identified in the Final EIR.

2.0 DEEP DRAFT NAVIGATION FEASIBILITY STUDY AND CHANNEL DEEPENING PROJECT

2.1 Project Objectives

CEQA requires that an EIR state the objectives of a proposed project to explain the reasons for project development and why this particular solution is being recommended. Additionally, the project objectives are instrumental in determining which alternatives should be considered in the EIR. The purpose of the Port of Long Beach Deep Draft Navigation Feasibility Study and Channel Deepening Project is to identify and evaluate alternatives to increase transportation efficiencies for container and liquid bulk vessels operating in the Port, for both the current and future fleet, and to improve conditions for vessel operations and safety.

1 The basic objectives of the Project are to do the following:

- 2 • Reduce transportation costs by allowing a more efficient future fleet mix (e.g., displace
- 3 Panamax and smaller-scale Post-Panamax vessels with larger-scale Post-Panamax vessels,
- 4 which have increased cargo capacity).
- 5 • Reduce vessel congestion in the Port.
- 6 • Increase channel depth to encourage shippers to replace smaller, less efficient vessels with
- 7 larger, more efficient vessels on Long Beach route services.
- 8 • Remove channel restrictions to increase vessels' maximum loading capacity, thereby resulting
- 9 in fewer vessel trips to transport the forecasted cargo.
- 10 • Reduce wait times within the harbor to reduce loading and unloading delays for deeper
- 11 drafting liquid bulk vessels and to provide a safe area to anchor adjacent to the Main Channel
- 12 during equipment failures.

13 **2.2 Project Overview**

14 The proposed Project involves constructing an approach channel to Pier J South and deepening
15 the West Basin Channel to a new depth of -55 ft mean lower low water (MLLW) (with a 2-ft over
16 dredge allowance) for cargo vessels, constructing a turning basin outside the Pier J slip,
17 deepening the Approach Channel to -80 ft MLLW, bend easing portions of the Main Channel to
18 match the currently authorized depth in the Main Channel of -76 ft MLLW, to accommodate liquid
19 bulk vessels, deepening berths at Pier J and Pier T to -55 ft MLLW, and constructing structural
20 improvements to the Pier J breakwaters. Construction would last for 39 months.

21 The proposed Project would involve dredging approximately 7.4 million cubic yards of sediments,
22 of which 2.5 million cubic yards would be disposed of at the nearshore Surfside-Sunset Borrow
23 Site off Huntington Beach and the remainder would be disposed of at the LA2 and LA3 offshore
24 disposal areas. Dredging would involve a hopper dredge and a clamshell dredge as well as
25 tugboats and barges for disposal operations and utility boats for support. The breakwaters at the
26 entrance to the Pier J Slip would be reinforced against the increased depth by driving sheet piling
27 and placing rock riprap over the sheet piling.

28 **3.0 CEQA FINDINGS**

29 The Findings of Fact are based on information contained in the Final EIR for the proposed Project,
30 as well as information contained within the administrative record. The administrative record
31 includes, but is not limited to, the Project application, Project staff reports, Project public hearing
32 records, public notices, written comments on the Project, proposed decisions and findings on the
33 Project, and all other documents relating to the agency decision on the Project. When making
34 CEQA findings required by PRC Section 21081(a), a public agency shall specify the location and
35 custodian of the documents or other material, which constitute the record of proceedings upon
36 which its decision is based. The Director of Environmental Planning of the Long Beach Harbor
37 Department, whose office is located at 415 W. Ocean Boulevard, Long Beach, California 90802,
38 is designated as the custodian of the documents and other materials that constitute the record of
39 proceedings upon which the Board's decision is based. These documents and materials are
40 available for public inspection and copying in accordance with the provisions of the California
41 Public Records Act (Government Code §§ 6250 *et seq.*).

The Draft EIR addresses the proposed Project's potential effects on the environment. The Draft EIR was circulated for public review and comment pursuant to CEQA Guidelines. Comments were received from a variety of public agencies, organizations, and individuals. The Final EIR contains copies of all comments and recommendations received on the Draft EIR; a list of persons, organizations, and public agencies commenting on the Draft EIR; and responses to comments received during the public review and identifies changes to the Draft EIR. This section provides a summary of the environmental effects of the proposed Project that are discussed in the EIR and provides written findings for each of the significant effects, accompanied by a brief explanation of the rationale for each finding.

While the findings set forth below identify certain specific facts supporting the various determinations and conclusions, additional facts supporting the conclusions are set forth in the corresponding sections of the Draft EIR, and these findings specifically incorporate those facts. In addition, the Board incorporates the facts set forth in the Record of Proceedings on the Project to the extent they relate to and support the findings set forth herein.

3.1 Findings Regarding Environmental Impacts Determined to be Not Significant or Less than Significant

The Board hereby finds that the following environmental impacts of the proposed Project are less than significant. As shown in Table 3.1.1, under CEQA, no mitigation measures are required for impacts that are less than significant (14 Cal. Code Regs. §15126.4[a][3]).

TABLE 3.1-1: FINDINGS FOR ENVIRONMENTAL IMPACTS DETERMINED TO BE NOT SIGNIFICANT OR LESS THAN SIGNIFICANT

Impact	Board Finding
Aesthetics/Visual Resources	
AES-1: The proposed Project would not have a substantial adverse effect on a scenic vista.	The proposed Project is not located within an officially designated scenic vista. Accordingly, the dredging of the navigation channels and berths within the Port complex would be consistent with the existing viewshed and landscape, and the proposed Project would not adversely affect a scenic vista. No impact on a scenic vista would occur.
AES-2: The proposed would not substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway.	The proposed Project is not within a high-quality foreground view from any officially designated state scenic highways. Additionally, the project area does not include any scenic resources that would be affected by the proposed Project. As such, the proposed Project would not adversely affect a scenic resource within a state scenic highway, result in impacts on the existing visual character or quality of the surrounding uses, or not alter the qualities of the area that contribute to the scenic highway designation. No impact would occur.
AES-3: The proposed Project would not create a new source of substantial light or glare which would adversely affect day or nighttime views in the area.	The proposed Project site is located within and adjacent to the highly industrialized Port complex and is characterized by substantial night-time lighting within marine terminals and along roadways. Port activities take place 24 hours per day, and the lighting is visible from a distance. The proposed Project would create new sources of light from nighttime activities, but this source would be limited to the staging areas, dredges, disposal barges, and tugboats. The new lighting would be nominal in the context of the existing nighttime

Impact	Board Finding
	operations at the Port and would be temporary, lasting only as long as construction. Accordingly, impacts would be less than significant, and mitigation is not required.
AES-4: The proposed Project would not conflict with applicable zoning and other regulations governing scenic quality.	The Port is currently preparing the 2020 PMP Update, which modified the Planning Districts throughout the Port. According to the 2020 PMP Update, the project is located within District 4 – West Basin, and District 5 – Southeast Basin. The permitted uses in these Districts includes primary Port facilities and Port-related facilities, hazardous cargo facilities, maritime support facilities, institutional facilities, oil and gas production, renewable energy resources, environmental protection, utilities, navigable corridor, maneuvering and berthing, environmental protection, navigable corridor, maneuvering and berthing, and sediment management areas. The proposed Project would not conflict with applicable zoning and other regulations governing scenic quality.
Agriculture and Forestry Resources	
AFR-1: The proposed Project would not convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use.	The Port complex does not have any agricultural farmland. No impact would occur.
AFR-2: The proposed Project would not conflict with existing zoning for agricultural use, or a Williamson Act contract use.	The Port is entirely located within the Port-Related Industrial (IP) zoning district, which is characterized predominately by maritime industry and marine resources. The Port complex does not have any agricultural farmland or existing zoning for agricultural use. No impact would occur.
AFR-3: The proposed Project would not conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g)).	The Port complex does not have any forest land or existing zoning for forest or timberland resources. No impact would occur.
AFR-4: The proposed Project would not result in the loss of forest land or conversion of forest land to non-forest use.	The Port complex does not have any forest land. No impact would occur.
AFR-5: The proposed Project would not involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use.	The Port complex does not have any farmland or forest land. Therefore, no impacts would occur.

Impact	Board Finding
Air Quality and Health Risk Assessment	
AQ-3: The proposed Project would not create an objectionable odor at the nearest sensitive receptor pursuant to SCAQMD Rule 402.	The combustion of diesel fuel used in construction and operational activities would generate air pollutants. Diesel exhaust includes some chemical species that are known to have odors. The mobile nature of most proposed Project emissions over the relatively large Project site would help decentralize, disperse, and dilute odors. Dredged sediment would be transported to offshore disposal sites several miles away from receptors. Therefore, the potential for the proposed Project to produce objectionable odors that would affect sensitive receptors is low. Given the existing industrial setting represents is an already complex odor environment, impacts would be less than significant.
AQ-4: The proposed Project would not produce emissions that would expose the public to significant levels of TACs.	Construction activities would occur over a period of approximately 39 months and would be spread out over a total area of over 1,700 acres. Activities in a given dredging area are unlikely to affect the same receptors affected by activities in a different dredging area. Construction activities in any single location would be transitory and short-term and are not anticipated to result in substantial elevated cancer risks to exposed persons.
AQ-5: The proposed Project would not conflict with or obstruct implementation of the applicable Air Quality Management Plan (AQMP) or would not conform to the most recently updated SIP.	The South Coast Air Quality Management District (SCAQMD) AQMP proposes emission-reduction measures that are designed to bring the South Coast Air Basin (SCAB) into attainment of California Ambient Air Quality Standards (CAAQS) and National Ambient Air Quality Standards (NAAQS). Proposed Project operations would need to comply with these strategies. SCAQMD also adopts AQMP control measures into rules and regulations, which are then used to regulate sources of air pollution. Compliance with these requirements would ensure that the proposed Project would not conflict with or obstruct implementation of the AQMP or SIP.
Biota and Habitats	
BIO-1: The proposed Project would not have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the CDFW or USFWS.	There would not be any substantial loss in the population or habitat of any native fish, wildlife, or vegetation. Benthic populations removed during dredging or buried at the placement/disposal sites are expected to recover following disturbance. The project would not have substantial adverse effects on any listed species or their critical habitats. Therefore, impacts would be less than significant.
BIO-2: The proposed Project would not have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, or regulations or by the CDFW or USFWS.	No riparian habitat and very limited eelgrass habitat currently exist within the Harbor District. Construction of the proposed Project would not directly affect eelgrass. Eelgrass does not occur in the proposed dredge. Because the proposed Project would not have a substantial adverse effect on a sensitive natural community, impacts would be less than significant.
BIO-3: The proposed Project would not have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh,	No state or federally protected wetlands exist in or near the project area. Therefore, proposed Project activities would not have a substantial adverse effect on state or federally protected wetlands, and no impact would occur.

Impact	Board Finding
vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means.	
BIO-4: The proposed Project would not interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors or impede the use of native wildlife nursery sites.	Construction activities could temporarily increase turbidity, thereby degrading water quality in a manner that could affect fish and other marine life movement within the area. Mobile species are expected to relocate out of the immediate area until dredging activities are completed. Construction activities could affect Essential Fish Habitat by removing or decreasing the functions and values of that habitat. However, any such effects would be temporary and limited in extent to the immediate dredge or disposal area. The movement or migration of fish or wildlife would not be substantially impeded; therefore, impacts would be less than significant.
BIO-5: The proposed Project would not conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance	Applicable regulations protecting biological resources in the Harbor District are administered by federal and state agencies under the various laws and policies described above and in Section 3.4. Construction of the proposed Project would be conducted in accordance with all applicable regulations protecting biological resources. The proposed Project would not conflict with any local policies or ordinances protecting biological resources. Therefore, no impacts would occur, and mitigation is not required.
BIO-6: The proposed Project would not conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan.	The project area is not located within an adopted Natural Communities Conservation Plan or Habitat Conservation Plan area. As such, implementation of the proposed Project would not conflict with an applicable Natural Communities Conservation Plan or Habitat Conservation Plan. Therefore, no impacts would occur.
Historic and Tribal Cultural Resources	
CR-1: The proposed Project would not cause a substantial adverse change in the significance of a historical resources.	Because there are no structures present on the land areas that could be affected by the project that are considered significant historic resources and because no shipwrecks or other submerged cultural resources are known to be present in the dredge footprint, the proposed Project would not adversely change the significance of any historical resources. Therefore, impacts would be less than significant.
CR-2: The proposed Project would not cause a substantial adverse change in the significance of an archaeological resources.	Construction activities associated with the proposed Project would not have the potential to uncover archaeological resources because all Project-related activities would occur within sediments of the bay, most of them in previously dredged areas, and on recently placed fill material. Therefore, impacts on archeological resources would be less than significant.
CR-3: The proposed Project would not disturb any human remains, including those interred outside of formal cemeteries.	Because the proposed Project site is located on a previously disturbed area, the proposed Project would not affect remains interred outside of formal cemetery. No human remains are known to exist on the proposed Project site, and the proposed Project site is not designated, nor has it been designated, for use as a cemetery. Therefore, impacts would be less than significant.

Impact	Board Finding
<p>CR-4: The proposed Project would not cause a substantial adverse change in the significance of a tribal cultural resources.</p>	<p>The proposed Project would occur within the water areas, and minimal landside areas, which are on documented fill. Therefore, the proposed Project is not anticipated to result in changes to listed or eligible tribal cultural resources. There is no evidence of tribal resources occurring in the area that could be affected. Accordingly, no impacts would occur.</p>
<p>Geology, Soils, and Seismic Conditions</p>	
<p>GEO-1: The proposed Project would not directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving:</p> <ul style="list-style-type: none"> • Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map; • Strong seismic ground shaking; • Landslides, lateral spreading, subsidence, or collapse; and/or • Tsunamis or seiches. 	<p>The proposed Project does not involve the development of habitable structures that would be affected by seismic activity, nor does it involve the alteration of existing landforms such that risks of ground rupture, landslides, or tsunamis or seiches would be increased. Accordingly, no impact would occur.</p>
<p>GEO-2: The proposed Project would not result in substantial soil erosion or the loss of topsoil</p>	<p>Construction would occur primarily in the harbor waters and would not result in erosion. The landside construction would be minimal and would occur on existing developed and disturbed areas; compliance with the NPDES Construction General Permit (CGP) and project-specific Stormwater Pollution Prevention Plan (SWPPP) would be mandatory and would ensure that any runoff from landside construction would not cause substantial soil erosion or loss of topsoil. Standard, permit-specified best management practices (BMPs) for soil stabilization can include use of vegetation, soil binders, mulches, geotextiles, plastic covers, and erosion control blankets. Construction activities would comply with POLB guidance and applicable permits and applicable sections of the Long Beach Municipal Code and California Building Code. Therefore, the proposed Project would not result in substantial soil erosion or the loss of topsoil. No impact would occur.</p>
<p>GEO-3: The proposed Project would not be located on expansive soil.</p>	<p>Because construction of the project would not affect the expansiveness of soils and does not involve the development of habitable structures that would be affected by geologic constraints, no impact would occur.</p>
<p>GEO-4: The proposed Project would not directly or indirectly destroy a unique geologic feature or result in the permanent loss of, or loss of access to, a paleontological resource of regional or statewide significance.</p>	<p>The potential to encounter sensitive paleontological resources during dredging in the San Pedro Bay is also extremely low, since sediments in the Bay are silts and sands deposited by. Therefore, the proposed Project would not directly or indirectly destroy unique paleontological resources or geologic features. Impacts would be less than significant.</p>
<p>GEO-5: The proposed Project would not render known mineral (petroleum or natural gas) resources inaccessible.</p>	<p>According to the Division of Oil, Gas, and Geothermal Resources' Online Mapping System, the project site is within the Wilmington Oil Field, and several oil wells exist in the vicinity of the project. Accordingly, the proposed Project would not increase the rates of existing oil extraction or affect production and abandonment plans for any project area oil</p>

Impact	Board Finding
	wells around the project site. Therefore, the proposed Project would not result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan. No impact on the availability of a mineral resource would occur.
Hazards and Hazardous Materials	
HAZ-1: The proposed Project would not create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials.	The proposed Project is not expected to result in routine transport, use, or disposal of significant quantities of hazardous materials. However, accidents resulting in spills of hazardous materials—including fuel, lubricants, or hydraulic fluid from the equipment used during dredging and disposal—could occur during the proposed Project and adversely affect water quality. Impacts would depend on the amount and type of material spilled as well as specific conditions. As such, impacts related to routine transport, use, or disposal of significant quantities of hazardous materials would be less than significant.
HAZ-2: The proposed Project would not create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment.	The proposed Project activities could result in contaminated sediments being encountered during dredging, excavation, and associated activities throughout the proposed Project area. However, dredging and placement operations are not expected to result in the release of toxic substances as the dredged materials are expected to be clean enough to be placed in the nearshore or disposed of at one of two nearby ocean-dredged material disposal sites. As such, impacts related to the release of hazardous materials into the environment would be less than significant.
HAZ-3: The proposed Project would not produce an adverse effect on the public or environment as a result of being located on a site that is known to contain hazardous materials or create a significant hazard to people or the environment because of the presence of soil or groundwater contamination.	The construction activities associated with the proposed Project would primarily involve dredging of sediment materials. Dredging and placement operations are not expected to result in the release of toxic substances as the dredged materials are expected to be clean enough to be placed in the nearshore or disposed of at one of two nearby ocean-dredged material disposal sites. As such, impacts related to the release of hazardous materials into the environment would be less than significant. Impacts would be less than significant.
HAZ-4: The Project would not impair implementation, physically interfere with, or result in an inconsistency with an adopted emergency response plan or emergency evacuation plan.	The proposed Project would not interfere with any current emergency response plans or emergency evacuation plans for local, state, or federal agencies. Access to all local roads would be maintained during construction and project operation. Any emergency procedures or design features required by city, state, and federal guidelines would be implemented during construction and operation of the proposed Project. Therefore, the proposed Project would not impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan. No impacts would occur.
HAZ-5: The proposed Project would comply with state guidelines associated with abandoned oil wells.	The proposed Project is located within the harbor waters and would not affect existing or abandoned oil wells. No impact would occur.

Impact	Board Finding
HAZ-6: The proposed Project would not handle hazardous materials, substances, or waste within 0.25 mile of an existing or planned school.	Because there are no schools located or proposed within one-quarter mile of the project site, no impact would occur.
HAZ-7: The proposed Project would not expose people or structures, either directly or indirectly, to a significant risk of loss, injury, or death involving wildland fires.	Because there are no wildlands adjacent to or in the general project vicinity, no impacts associated with exposing people or structures to increased wildland fire hazards would occur.
HAZ-8: The proposed Project would not result in a safety hazard or excessive noise for people residing or working in a project area located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport.	The project site is not located within a 2-mile radius of any public airport. As such, the proposed Project would not result in an airplane safety hazard for people residing or working in the project area. No impact would occur.
HAZ-9: The proposed Project would not result in an inconsistency with the Port of Long Beach Risk Management Plan.	Generally, the Port RMP is associated with the operational use and storage of hazardous materials and not construction-related impacts, unless construction activities would involve large quantities of hazardous materials that could cause off-site impacts. Hazardous materials used during construction would be limited to construction equipment fuels and other construction materials, such as hydraulic oils, solvents, welding gases, or cleaning supplies, with limited potential to affect areas off of the construction site. Therefore, construction activities would not be inconsistent with the Port RMP. No impact would occur.
Hydrology and Water Quality	
WQ-1: The proposed Project would not violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or groundwater quality.	Construction of the proposed Project, including dredging activities, would potentially affect water quality. Construction activities such as dredging and earthmoving could result in short-term increases in turbidity, decreases in dissolved oxygen, increases in nutrients, and increases in contaminants in areas where contaminated sediments occur adsorbed on suspended sediments or dissolved in the water in the sediments, thus degrading water quality. These impacts would generally be confined to the immediate vicinity of the dredging activities, though impacts may remain detectable short distances away depending on current. Periodic monitoring of the water column would be conducted to ensure that turbidity increases and/or decreases in dissolved oxygen do not result in significant impacts. With implementation of water quality monitoring and management strategies as part of project design, proposed Project impacts would be less-than-significant.
WQ-2: The proposed Project would not substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin.	Because the proposed Project would not directly change the quantity of the groundwater and groundwater would not be used as part of the project, no impacts associated with groundwater supply depletion or groundwater recharge interference would occur.

Impact	Board Finding
<p>WQ-3: The proposed Project would not substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would:</p> <ul style="list-style-type: none"> • Result in substantial erosion or siltation on- or off-site. • Substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or offsite. • Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff; or • Impede or redirect flood flows. 	<p>Proposed dredging activities and construction activities would not alter drainage patterns that could result in substantial soil erosion or increase the rate or amount of surface runoff that could result in flooding. All construction would occur within the water, or on disturbed and existing paved areas. Therefore, no impacts pertaining to drainage pattern alterations would occur.</p> <p>Proposed dredging activities and construction activities would not alter drainage patterns or increase impervious surfaces. All construction would occur within the water, or on disturbed and existing paved areas. Therefore, no impacts pertaining to drainage pattern alterations would occur.</p> <p>No structures that would impede or redirect flood flows are proposed as a part of the proposed Project. The site would remain relatively level and drainage patterns would be similar to existing conditions. As such, the proposed Project would not impede, or redirect flood flows compared to existing conditions. Therefore, no impacts would occur.</p>
<p>WQ-4: The proposed Project would not risk release of pollutants due to project inundation in flood hazard, tsunami, or seiche zones.</p>	<p>The project site is within the Tsunami Hazard Zone as mapped by the California Emergency Management Agency. Further, tsunami flood hazard conditions already exist for much of the Port area, and the proposed Project would not contribute toward intensifying this condition. Impacts would be less than significant.</p> <p>Seiches are seismically induced water waves that surge back and forth in an enclosed basin and could occur in the harbor as a result of earthquakes. Dredging of approximately 7 million cubic yards of sediments would result in moderate alterations of the bottom topography of the harbor. The Port is an industrial area where previous dredging has been completed. Dredging would temporarily disrupt underwater depositional processes; however, similar to prior dredging episodes in this area, depositional equilibrium would be reestablished within a short period of time. Therefore, impacts would be less than significant.</p>
<p>WQ-5: The proposed Project would not conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan.</p>	<p>Because the proposed Project would not conflict with any water quality control plans or sustainable groundwater management plans, no impacts would occur.</p>
<p>WQ-6: The proposed Project would not substantially alter water circulation or currents, or result in the long-term detrimental alteration of harbor circulation that would cause reduced water quality.</p>	<p>The proposed Project would deepen existing channels, basins, and slips, but not substantially from existing conditions. The small changes in depth could result in a slight increase in tidal flushing, but not in substantial alterations to water circulation or currents. Impacts would be less than significant.</p>
<p>Land Use/Planning</p>	
<p>LU-1: The proposed Project would not conflict with any applicable land use</p>	<p>According to the General Plan Land Use Element, land uses within the Port boundaries are designated and controlled by</p>

Impact	Board Finding
<p>plan, policy, or regulation of any agency with jurisdiction over the proposed Project adopted for the purpose of avoiding or mitigating an environmental effect.</p>	<p>the PMP. The proposed Project is consistent with (a) permitted Port-related industrial uses and navigation uses associated with these Harbor Planning Districts; and (b) overall goals stipulated in the PMP and the long-range planning goal for the Terminal Island, Middle Harbor, and Southwest Harbor Planning Districts to increase Primary Port use, as well as the goal of Navigation and Outer Harbor Planning Districts to help navigation. The proposed Project would improve existing navigation channels within the Port complex and would not require zone changes or changes to existing land uses. As such, the proposed Project would be consistent with the applicable land use designations and zoning and would also be consistent with a PMP goals to encourage maximum use of facilities by improving the efficiency of cargo handling facilities and developing land for primary Port facilities and Port-related uses. Therefore, the project would not conflict with applicable land use plans, policies, or regulations. No impacts would occur.</p>
<p>LU-2: The proposed Project would not introduce uses or activities incompatible with existing and future land uses.</p>	<p>The proposed Project would not introduce any uses or activities that are incompatible with existing Port operations. Dredging activities are common within Port environments for channel deepening and maintenance of existing channels. No impacts would occur.</p>
<p>LU-3: The proposed Project would not physically divide an established community.</p>	<p>The proposed Project would occur entirely within the boundaries of the Port. There are no residential uses within the proposed Project site. Therefore, no communities would be physically divided by the proposed Project. No impacts would occur.</p>
Noise	
<p>NOI-1: The proposed Project would not result in a substantial temporary or permanent increase (3 dBA or more in Leq) in ambient noise levels at the property line of a noise-sensitive receptor.</p>	<p>Construction activities, including dredging activities, would generate increased noise levels. However, there are no sensitive located within 1.25 miles of the proposed Project site. Noise associated with vehicle trips would be negligible due to the small number of daily trips throughout the construction period. Noise levels would return to ambient conditions upon project completion. Accordingly, impacts would be less than significant.</p>
<p>NOI-2: The proposed Project would not exceed Land Use Noise District noise levels allowed by the LBMC.</p>	<p>The proposed Project is entirely located in Noise Land Use District Four, which is characterized as predominantly industrial with other land use types present. There are no sensitive receptors located within 1.25 miles of the proposed Project area. It is expected that by 1.25 miles, sensitive receptors will not be able to detect construction-related noise emissions. Noise associated with vehicle trips would be negligible due to the small number of daily trips throughout the construction period. Noise levels would return to ambient conditions upon project completion. Accordingly, impacts would be less than significant.</p>
<p>NOI-3: The proposed Project would not result in exposure of persons to or generation of ground-borne vibration in</p>	<p>Construction of the proposed Project would generate varying degrees of groundborne vibration, depending on the construction procedure and the construction equipment used. Operation of construction equipment generates vibrations that</p>

Impact	Board Finding
excess of the standards established by the LBMC.	spread through the ground and diminish in amplitude with distance from the source. The effects of vibration can range from no perceptible effects at the lowest vibration levels, to low rumbling sounds and perceptible vibration at moderate levels, to slight damage at the highest levels. Ground-borne vibrations from construction activities rarely reach levels that damage structures. Groundborne vibration sources associated with the project include dredging as well as potential pile driving. However, both of these activities would generate vibration at the ocean floor below the water surface and away from landside structures. Additionally, the closest buildings are all industrial structures within the Port that are not typically susceptible to damage from groundborne vibration. There are no sensitive within 1.25 mile of the proposed dredging activity. At these distances, project-generated groundborne vibration would be completely imperceptible. Therefore, impacts would be less than significant.
NOI-4: The proposed Project would not result in a substantially increased number of vibration events that exceed the standards established by the LBMC.	The proposed Project would not generate groundborne vibration that could affect sensitive receptors and would not substantially increase the number of vibration events. Therefore, impacts would be less than significant.
Population/Housing	
POP-1: The proposed Project would not induce substantial unplanned population growth in an area, either directly or indirectly.	The proposed Project would not induce unplanned population growth in the area. Jobs generated during construction of the proposed Project would be expected to be filled from the local population and would be nominal. Therefore, no impacts pertaining to substantial unplanned population growth would occur.
POP-2: The proposed project would not displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere.	The proposed Project would neither displace existing housing nor require the construction of replacement housing. Therefore, no impact would occur.
Public Services and Safety	
PSS-1: The proposed Project would not require the addition, expansion, modification, or relocation of an existing government facility to maintain acceptable service ratios, response times, or other performance objectives, the construction or operation of which could cause significant environmental impacts.	Implementation of the proposed Project would not increase demand for fire or police protection services given the limited amount of equipment involved and the temporary nature of the project. Accordingly, there would be no increase in demand over the baseline level of public service currently required that would require construction of new facilities. Because the proposed Project would not increase demand for fire, police, and other public services, nor necessitate the construction of new public service facilities, no impacts would occur.
PSS-2: The proposed Project would not result in substantial adverse physical impacts on existing school or park facilities, or create a need for new or physically altered school or park facilities, the construction or operation of which could cause significant	The proposed Project does not include the development of residential land uses that would result in an increase in population or increased enrollment at schools in the proposed Project area, and would not increase population in a manner that would generate an increase in demand on existing public or private parks or other recreational facilities that would either

Impact	Board Finding
environmental impacts, to maintain acceptable service ratios or other performance objectives.	result in or increase physical deterioration of the facility. Therefore, no impacts would occur.
Recreation	
REC-1: The proposed Project would not increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated.	Because no residential uses are proposed, the proposed Project would not increase population in a manner that would generate an increase in demand on existing public or private parks or other recreational facilities that would either result in or increase physical deterioration of the facility. Therefore, no impacts would occur.
REC-2: The proposed Project would not require the construction or expansion of recreational facilities that might have an adverse physical effect on the environment.	The proposed Project does not involve the construction or expansion of recreation facilities, nor other land uses that would require the provision of such facilities. Therefore, no impacts would occur.
Ground Transportation	
TRANS-1: The proposed Project would not increase an intersection's V/C ratio in accordance with the guidelines, which show traffic impact thresholds of significance for intersections (signalized and unsignalized) of the affected jurisdictions in the area of influence for the proposed Project.	Construction of the proposed Project would result in vehicle trips from construction crews that would operate the clamshell dredge and hopper dredge. Construction of the proposed Project would occur between 2024 and 2029. Given the relatively modest peak hour trips, the broad distribution of those trips across the study area, and the relatively uncongested setting in which they would occur, it can be concluded that the addition project traffic would result in less-than-significant impacts according to the City of Long Beach's criteria. Additionally, with completion of the proposed Project, the operations at all the facilities would continue as usual and are not anticipated to result in additional vehicular traffic. Therefore, impacts would be less than significant.
TRANS-2: The proposed Project would not cause an increase of 0.02 or more in the V/C ratio with a resulting LOS E or F at an analyzed freeway segment.	The construction traffic would be nominal with a maximum of 240 daily trips. This negligible number of trips would not have the potential to increase the V/C ratio of a freeway segment by 0.02 or more. Impacts would be less than significant.
TRANS-3: The proposed Project would not conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities.	The proposed Project would not affect existing public transit, bicycle, or pedestrian facilities or otherwise decrease the performance of such facilities. All construction work would occur within the areas of the harbor that are not served by public transportation nor support bicycle, pedestrian, or other non-vehicular transportation modes. Therefore, no impacts would occur.
TRANS-4: The proposed Project would not result in inadequate emergency access.	Construction of the proposed Project would not affect emergency access. All local roads would be maintained during construction. Any emergency procedures or design features required by city, state, and federal guidelines would be implemented during construction of the proposed Project. Therefore, no impacts pertaining to emergency access would occur.
Vessel Transportation	
VT-1: The proposed Project would not result in a change in vessel traffic	The proposed dredging activities involve barges and tugs that would occur over an approximately three-year period. These

Impact	Board Finding
patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks.	activities would be scheduled by the POLB and the construction contractors to minimize potential conflicts with vessel traffic in the Approach Channel, Main Channel, West Basin, Pier J Basin, and Pier J Approach areas. Construction operators contracted by the POLB are required to have completed training in protocols specific to Long Beach Harbor and POLB marine navigation. The proposed Project would be subject to the USACE restrictions and requirements specified in the conditions of the USACE construction permit. Dredges would also be required to display appropriate lights and day shapes warning approaching vessels of the nature of the work and of the restricted ability of the dredge to maneuver, and to perform their work in a manner that does not obstruct navigation. With these controls in place, impacts would be less than significant.
Utilities, Service Systems, and Energy Conservation	
UTIL-1: The proposed Project would not require or result in the relocation or construction of new, or expansion of, water, wastewater, storm drains, natural gas, electrical utility lines or facilities, or oil lines, the construction or relocation of which could cause significant environmental effects.	The proposed Project would not require the relocation or expansion of any existing utility or the construction of any new utility infrastructure. Impacts would be less than significant.
UTIL-2: The proposed Project would not exhaust or exceed existing water supply, wastewater treatment, electrical power, or landfill capacities.	The proposed Project would not require an increase in water supply, does not involve wastewater treatment facilities, and would not generate significant amounts of solid waste. All dredged sediments would be disposed of at permitted in-water sites. Therefore, no impacts associated with solid waste generation in excess of state or local standards would occur.
UTIL-3: The proposed Project would not result in potentially significant environmental impacts due to wasteful, inefficient, or unnecessary consumption of energy resources during project construction or operation.	Construction-period energy consumption would result from the use of construction equipment, material delivery and hauling, and worker commute trips. The temporary increase in energy use during the construction period would not be considered a wasteful, inefficient, or unnecessary consumption of energy resources because it would be required for project implementation. Therefore, impacts would be less than significant.
UTIL-4: The proposed Project would not conflict with or obstruct a state or local plan for renewable energy or energy efficiency.	The proposed Project would not conflict with or obstruct any state or local plan for renewable energy or energy efficiency; therefore, impacts would be less than significant.
Global Climate Change	
GCC-1: The proposed Project would not cause GHG emissions to exceed the SCAQMD interim significant emissions threshold for industrial projects of 10,000 MT CO ₂ e per year.	The proposed Project's amortized GHG emissions would not exceed the SCAQMD interim significant emissions threshold for industrial projects of 10,000 MT CO ₂ e per year. Impacts would be less than significant.
GCC-2: The proposed Project would not conflict with an applicable plan, policy, or	The proposed Project would not conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing GHG emissions. The project would not conflict with any of the

Impact	Board Finding
regulation adopted for the purpose of reducing GHG emissions.	applicable federal, state, regional, or local GHG emission-reduction plans, policies, or regulations. Therefore, impacts would be less than significant.
GCC-3: The proposed Project would not expose people and structures to a significant risk of loss, injury, or death involving flooding as a result of sea-level rise.	Nearly all of the proposed Project components would consist of in-water dredging and disposal. The small land-side areas temporarily required to support construction activities are not located within the areas predicted to be inundated as part of the 16-inch or the 55-inch sea level rise (SLR) scenarios according to the Climate Adaptation and Coastal Resiliency Plan (CRP) (POLB 2016). In addition, the current POLB Harbor Development Permit process requires SLR analyses to ensure that any future project is designed to avoid significant risks from SLR. Impacts would be less than significant.

3.2 Findings Regarding Cumulative Environmental Impacts Determined to be Not Significant or Less than Significant

The Board hereby finds that the following cumulative environmental impacts of the proposed Project are not significant or less than significant. Under CEQA, no mitigation measures are required for impacts that are less than significant (14 Cal. Code Regs. §15126.4[a][3]):

- Aesthetics/Visual Resources
- Biota and Habitats
- Historic and Tribal Cultural Resources
- Geology, Soils, and Seismic Conditions
- Hazards and Hazardous Materials
- Hydrology and Water Quality
- Land Use
- Noise
- Population and Housing
- Public Services and Safety
- Recreation
- Ground Transportation
- Vessel Transportation
- Utilities, Service Systems, and Energy Conservation
- Global Climate Change

Please refer to Chapter 12, Section 12.4, Cumulative Impacts of the Deep Draft Navigation Feasibility Study and Channel Deepening Project Final IFR EIS-EIR for a complete analysis.

3.3 Findings Regarding Significant Environmental Impacts that Cannot be Mitigated to a Less than Significant Level

The Draft EIR identified certain potentially significant effects that could result from the Deep Draft Navigation Feasibility Study and Channel Deepening Project. The Port finds for each of the significant impacts identified in this section, based on substantial evidence in the record of proceedings that, to the extent feasible, changes or alterations have been required or

1 incorporated into the proposed Project that substantially lessen these significant impacts.
2 However, even with the incorporation of mitigation measures for the resource areas discussed
3 below, impacts from the proposed Project are significant and unavoidable.

4 The Board finds and determines that all other mitigation measures and alternatives suggested in
5 public comments on the Draft EIR are infeasible in light of specific economic, legal, social,
6 technological, and other considerations.

7 **3.3.1 AIR QUALITY AND HEALTH RISK**

8 As discussed in Section 12.2.3 of the Draft IFR EIS-EIR, there would be two significant impacts
9 to air quality and human health as a result of the proposed Project that would remain significant,
10 and unavoidable.

11 **Impact AQ-1:** Construction of the proposed Project would produce emissions that exceed an
12 SCAQMD significance threshold.

13 Construction of the proposed Project would produce emissions that exceed the SCAQMD daily
14 thresholds of significance. Without mitigation, the peak daily emissions associated with
15 construction activities would exceed SCAQMD thresholds for NO_x in years 2024, 2025, 2026, and
16 2027; and for PM_{2.5}, CO, and VOC in 2025. These exceedances would represent significant
17 regional air quality impacts. The proposed Project would contribute to an increase in criteria
18 pollutant emissions during construction. Short-term emissions would result from the use of
19 construction equipment, including equipment used for dredging (clamshell, hydraulic, or hopper
20 dredge barges) and disposal (tugs and barges), and trips generated by construction workers and
21 haul/material delivery trucks.

22 **Finding**

23 The following measures have been incorporated into the proposed Project such that they would
24 avoid or substantially lessen the significant environmental effect identified in the Deep Draft
25 Navigation Feasibility Study and Channel Deepening Project Final IFR EIS-EIR. They are as
26 follows:

27 **MM-AQ-1: Electric Clamshell Dredge.** The use of an electric clamshell dredge shall be required
28 for project clamshell dredging activities during the entire construction period of the project, and
29 the construction of an electrical substation at Pier J is also required to provide electric power to
30 the clamshell dredge.

31 **MM-AQ-2: Construction-Related Harbor Craft.** Construction-related harbor craft (tugboats,
32 crew boats, and survey boats) with Category 1 or Category 2 marine engines will meet at least
33 EPA Tier 3 emission standards for marine engines. In addition, the construction contractor will
34 require all construction-related tugboats that home fleet in the San Pedro Bay Ports: 1) to shut
35 down their main engines and 2) to refrain from using auxiliary engines while at dock and instead
36 use electrical shore power, if feasible.

37 **MM-AQ-3: Fleet Modernization of Off-Road Construction Equipment.** Self-propelled, diesel-
38 fueled off-road construction equipment 25 horsepower or greater will meet EPA/CARB Tier 4 final
39 emission standards for non-road equipment.

40 **MM-AQ-4: Additional Mitigation for Off-Road Construction Equipment.** Off-road diesel-
41 powered construction equipment will comply with the following:

- Construction equipment will be maintained according to manufacturer's specifications.
- Construction equipment will not idle for more than five minutes when not in use.

Although this measure would reduce combustion emissions, the benefits achieved from its implementation were not quantified due to the wide range of variables involved.

Rationale for Finding

Table 12.7 in the Deep Draft Navigation Feasibility Study and Channel Deepening Project Final IFR EIS-EIR summarizes the peak daily emissions associated with construction of the proposed Project after implementation of the Mitigation Measures AQ-1, AQ-2, AQ-3, and AQ-4. The emissions include construction of the electrical substation at Pier J, as required by MM-AQ-1. The table shows that although emissions would be reduced with mitigation, NO_x would remain above significance thresholds in years 2024, 2025, 2026, and 2027; and PM_{2.5}, CO, and VOC would remain above significance thresholds in 2025. Impacts would be significant and unavoidable.

Impact AQ-2: Construction of the proposed Project would result in offsite ambient air pollutant concentrations that exceed an SCAQMD significance threshold.

Construction of the proposed Project would result in ambient air pollutant concentrations that exceed the NAAQS and CAAQS. Tables 12-8 and 12-9 in the Deep Draft Navigation Feasibility Study and Channel Deepening Project Final IFR EIS-EIR present the maximum offsite pollutant concentrations associated with construction, which demonstrate that the total 1-hour NO₂ concentration would exceed the NAAQS and CAAQS; the annual NO₂ concentration and the SO₂ and CO concentrations would not exceed the NAAQS or CAAQS; neither PM₁₀ nor PM_{2.5} concentrations would exceed NAAQS or CAAQS. The NO₂ exceedances would represent significant local air quality impacts. Appendix H2 provides figures showing the locations of the maximum 1-hour NO₂ concentrations and the geographical areas where the NAAQS and CAAQS would be exceeded. The maximum concentrations and significant impact areas would occur on Port property.

Finding

Mitigation Measures AQ-1 through AQ-4 described under Impact AQ-1 previously, would reduce impacts from off-site pollutant concentrations.

Rationale for Finding

Table 12-10 and Table 12-11 in the Deep Draft Navigation Feasibility Study and Channel Deepening Project Final IFR EIS-EIR present the maximum local offsite pollutant concentrations associated with construction of the proposed Project with mitigation. These tables show that the 1-hour state NO₂ concentration would be reduced to below the CAAQS. Although the 1-hour federal NO₂ concentration would be reduced with mitigation, it would remain above the NAAQS. All other pollutants would be reduced and would remain below the level of significance. Because the 1-hour federal NO₂ would remain above the NAAQS, local impacts would be significant and unavoidable. Figure H2.4 in Appendix H2 shows the location of the maximum federal 1-hour NO₂ concentration and the significant impact area. They are both located on Port property.

3.4 Cumulatively Considerable Impacts

CEQA Guidelines Section 15130 requires that an EIR evaluate the cumulative impacts of a project be analyzed when the project's incremental effect is cumulatively considerable. Cumulative

impacts refer to “two or more individual effects, when considered together, are considerable or which compound or increase other environmental impacts” (CEQA Guidelines Section 15355). This section identifies the cumulatively significant and unavoidable impacts of the Deep Draft Navigation Feasibility Study and Channel Deepening Project. The Board of Harbor Commissioners has determined that there are no mitigation measures available that would reduce these impacts below significance; it would be technologically and economically infeasible to implement any additional measures beyond those described herein.

3.4.1 AIR QUALITY AND HEALTH RISK

The greatest cumulative impact on the air quality of the regional air basin would be the incremental addition of pollutants from the use of heavy equipment and trucks associated with the construction, and operations of ocean-going vessels, terminal equipment, and trucks from the cumulative projects. Air quality impacts from the cumulative projects would result in cumulatively significant impacts, which would exceed the emission thresholds for VOC, CO, NO_x, PM₁₀, and PM_{2.5} and possibly SO_x. Additionally, many of the cumulative projects could also contribute to significant health risks.

Mitigated construction activities for the proposed Project would contribute emissions of these pollutants and would exceed the SCAQMD daily construction emission thresholds for PM_{2.5}, NO_x, CO, and VOC. Therefore, emissions from the proposed Project would make a cumulatively considerable contribution to a significant cumulative impact to air quality. The Port would impose a special condition on the HDP that would require implementing and funding the Community Grants Program (see below). However, implementation of the CGP would not mitigate the proposed Project’s contribution to a significant cumulative impact, and that contribution would remain cumulatively considerable. The proposed Project’s health risk impact would be less than significant, and due to the distance to sensitive receptors, is not expected to make a cumulatively considerable contribution to significant cumulative health risks.

Special Condition. Community Grants Program (CGP).

In 2016, the Port adopted a Community Grants Program (CGP) following a public hearing process. The CGP contains mitigation measures for environmental impacts as policies and requirements within the program. As applied to projects within the Harbor District, projects must mitigate environmental impacts to the extent feasible, and when impacts remain, compliance with the CGP can be a condition of project approval such that the project must provide funding to future projects that apply to the CGP for such grant awards. The Port will participate and fund the CGP, as determined by the methodology described below. The timing of the payment will be made by the later of the following two dates: (a) the date that the Port issues a Notice to Proceed (NTP) or otherwise authorizes commencement of construction; or (b) the date that the Final EIS/EIR is conclusively determined to be valid, either by operation of PRC Section 21167.2 or by final judgment or final adjudication.

Contribution to the CGP was considered for pollutants that would exceed the SCAQMD peak day significance thresholds, following mitigation. Emissions greater than the threshold were multiplied by the cost per ton of emissions, per SCAQMD Rule 301, July 1, 2019. Table III. The CGP funding contribution for the proposed Project is expected to be \$146,753.

3.5 Finding Regarding Responses to Comments on the Draft EIR

The Board of Harbor Commissioners finds that information added to the EIR after public notice of the availability of the Draft EIR for public review, but before certification, merely clarifies or makes minor modifications to an adequate EIR and does not require recirculation. Recirculation is required only when “significant” new information is added to an EIR after public review and comment on the draft EIR but before certification (PRC § 21092.1). Not all new information added to an EIR is “significant.” According to CEQA Guidelines, new information added to an EIR is significant only if “the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such effect (including a feasible project alternative) that the project’s proponents have declined to implement” (14 C.C.R. § 15088.5). Examples of significant new information include: (1) a new significant impact of the project or from a new mitigation measure proposed to be implemented; (2) a substantial increase in the severity of an environmental impact for which no mitigation measures are added which reduce the impact to a level of insignificance; or (3) a feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the environmental impacts of the project, but the project proponent declines to adopt it.

Based on these standards, there is no reason to recirculate the Draft EIR. Although some new information has been added to the Final EIR in response to comments, none of the information is significant. No new impacts have been identified, the severity of the impacts identified in the Draft EIR are not substantially increased over what is described in the document, and no feasible alternatives or mitigation measures were identified which would clearly lessen the environmental impacts of the proposed Project.

4.0 ALTERNATIVES TO THE PROPOSED PROJECT

CEQA Guidelines Section 15126.6 requires that an EIR examine alternatives to a project to explore a reasonable range of alternatives that meets most of the basic project objectives, while reducing the severity of potentially significant environmental impacts. CEQA Guidelines Section 15126.6(a) states:

An EIR shall describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project and evaluate the comparative merits of the alternatives. An EIR need not consider every conceivable alternative to a project. Rather it must consider a reasonable range of potentially feasible alternatives that will foster informed decision making and public participation. The lead agency is responsible for selecting a range of project alternatives for examination and must publicly disclose its reasoning for selecting those alternatives. There is no ironclad rule governing the nature or scope of the alternatives to be discussed other than the rule of reason.

The alternatives were also assessed in accordance with CEQA Guidelines Section 15126.6(f), which states:

The range of alternatives required in an EIR is governed by a “rule of reason” that requires the EIR to set forth only those alternatives necessary to permit a reasoned choice. The alternatives shall be limited to ones that would avoid or substantially lessen

1 *any of the significant effects of the proposed project. Of those alternatives, the EIR need*
2 *examine in detail only the ones that the lead agency determines could feasibly attain*
3 *most of the basic objectives of the project.*

4 The POLB as lead agency under CEQA is responsible for selecting a range of project alternatives
5 for examination and must publicly disclose its reasoning for selecting those alternatives. The
6 purpose of the Port of Long Beach Deep Draft Navigation Feasibility Study and Channel
7 Deepening Project is to identify and evaluate alternatives to increase transportation efficiencies
8 for container and liquid bulk vessels operating in the Port, for both the current and future fleet,
9 and to improve conditions for vessel operations and safety. From a CEQA perspective, the
10 evaluation below presents a reasonable range of alternatives that are consistent with the POLB's
11 legal mandates under the California Coastal Act of 1976, which identifies the POLB and its
12 facilities as a primary economic/coastal resource of the state and an essential element of the
13 national maritime industry for promotion of commerce, navigation, fisheries, environmental
14 preservation, and public recreation. To comply with CEQA requirements, all alternatives
15 considered in the EIR have been evaluated in accordance with the following:

- 16 • Does the alternative accomplish all or most of the basic objectives of the proposed Project?
- 17 • Is the alternative potentially feasible (from economic, environmental, legal, social, and
18 technological standpoints)?
- 19 • Does the alternative avoid or substantially lessen any significant effects of the proposed
20 Project, including consideration of whether the alternative itself could create significant effects
21 greater than those of the proposed Project?

22 **4.1 Alternatives Analyzed in the Draft EIR**

23 Three action alternatives, in addition to the proposed Project (Alternative 3), were carried forward
24 to meet the Project's needs and objectives. Numerous scenarios were explored to determine the
25 most prudent and practicable designs, which are described in more detail in Section 4 of the Draft
26 EIR. The following alternatives are analyzed in this CEQA document:

- 27 • **Alternative 1.** No Project Alternative.
- 28 • **Alternative 2.** Container terminal channels deepened to -53 feet MLLW, Approach Channel
29 deepened to -78 feet MLLW.
- 30 • **Alternative 4.** Container terminal channels deepened to -57 feet MLLW, Approach Channel
31 deepened to -83 feet MLLW; berths J266–J270 within the Pier J South Slip and berth T140
32 along Pier T deepened to -57 feet MLLW; wharf improvements possibly implemented to
33 accommodate the deepening.
- 34 • **Alternative 5.** Container terminal channels deepened to -55 feet MLLW, Approach Channel
35 deepened to -80 feet MLLW. New Standby Area dredged to -67 feet MLLW, with a 600-foot-
36 diameter center anchor placement at a proposed depth of -73 feet MLLW.

37 The proposed Project and other three action alternatives include widening the Channel,
38 deepening the added width to the authorized depth of -76 feet MLLW, and constructing
39 reinforcement of the Pier J breakwaters. These activities are needed to fully implement the
40 General Navigation Features discussed above and to allow the POLB to fully realize all of the
41 economic benefits of the project. These features are designed to prepare wharves for the selected
42 channel depths and to deepen berths to match the selected channel depths. Reduced features

would not fully enable the POLB to realize all project benefits and were not considered. Enhanced measures would result in greater costs with no increase in benefits and were also excluded.

For the purposes of CEQA, a qualitative comparison of the impacts associated with each alternative are compared to the respective impacts associated with the proposed Project. Table 4.1-1 provides a summary comparison of the impacts relative to the proposed Project; the basis for the determinations in Table 4.1-1 are discussed below. The anticipated significance of each impact is shown, along with a relative comparison to the proposed Project denoted by either (-) representing fewer impacts, (+) representing greater impacts, or (0) representing equivalent impacts.

TABLE 4.1-1: COMPARISON OF IMPACTS FOR ALTERNATIVES TO THE PROPOSED PROJECT

Resource Area	Proposed Project	No Project	Alt 2	Alt 4	Alt 5
Aesthetics/Visual Resources	Less Than Significant	No Impact (-)	Less Than Significant (0)	Less Than Significant (0)	Less Than Significant (0)
Air Quality and Health Risk	Significant	No Impact (-)	Significant (-)	Significant (+)	Significant (+)
Biota and Habitats	Less Than Significant	No Impact (-)	Less Than Significant (-)	Less Than Significant (+)	Less Than Significant (+)
Historic and Tribal Cultural Resources	Less Than Significant	No Impact (-)	Less Than Significant (0)	Less Than Significant (0)	Less Than Significant (0)
Geology, Soils, and Seismic Conditions	Less Than Significant	No Impact (-)	Less Than Significant (0)	Less Than Significant (0)	Less Than Significant (0)
Hazards and Hazardous Materials	Less Than Significant	No Impact (-)	Less Than Significant (0)	Less Than Significant (0)	Less Than Significant (0)
Hydrology and Water Quality	Less Than Significant	No Impact (-)	Less Than Significant (-)	Less Than Significant (+)	Less Than Significant (+)
Land Use	Less Than Significant	No Impact (-)	Less Than Significant (0)	Less Than Significant (0)	Less Than Significant (0)
Noise	Less Than Significant	No Impact (-)	Less Than Significant (-)	Less Than Significant (+)	Less Than Significant (+)
Population and Housing	No Significant	No Impact (-)	No Impact (0)	No Impact (0)	No Impact (0)
Public Services and Safety	Less Than Significant	No Impact (-)	Less Than Significant (0)	Less Than Significant (0)	Less Than Significant (0)

Resource Area	Proposed Project	No Project	Alt 2	Alt 4	Alt 5
Recreation	Less Than Significant	No Impact (-)	Less Than Significant (0)	Less Than Significant (0)	Less Than Significant (0)
Ground Transportation	Less Than Significant	No Impact (-)	Less Than Significant (-)	Less Than Significant (+)	Less Than Significant (+)
Vessel Transportation	Less Than Significant	No Impact (-)	Less Than Significant (-)	Less Than Significant (+)	Less Than Significant (+)
Utilities, Service Systems, and Energy Conservation	Less Than Significant	No Impact (-)	Less Than Significant (0)	Less Than Significant (0)	Less Than Significant (0)
Global Climate Change	Less Than Significant	No Impact (-)	Less Than Significant (-)	Less Than Significant (+)	Less Than Significant (+)
Relative Impact Score	-	-16	-7	+7	+7

Notes:

(+) = Alternative would increase impact when compared with the proposed Project.

(0) = Alternative would have similar impacts when compared with the proposed Project and would be considered neutral.

(-) = Alternative would reduce impact when compared with the proposed Project.

4.2 Findings for Alternatives Analyzed

In compliance with CEQA, an EIR must identify an environmentally superior alternative. The No Project Alternative would be the environmentally superior alternative because it would likely result in none of the adverse environmental impacts of the proposed Project. However, the No Project Alternative would achieve none of the project objectives described in Section 2.1. It should also be recognized that there could be adverse economic and environmental consequences from making no or limited improvements to the existing Port of Long Beach Deep Draft Navigation Study area, and none of the benefits that could occur under the proposed Project would occur under the No Project Alternative scenario.

Pursuant to CEQA regulations (see CEQA Guidelines Section 15126.6(e)(2)), when the No Project Alternative is identified as the environmentally superior alternative, the EIR will also identify an environmentally superior alternative from among the other alternatives. The Board has reviewed the significant impacts associated with each of the alternatives. The Plan Formulation and Array of Alternatives presented in detail in Chapter 4 of the Deep Draft Navigation Feasibility Study and Channel Deepening Project Final IFR EIS-EIR identified Alternative 3 as the Port's proposed Project for the purposes of CEQA. Furthermore, the Board finds that Alternative 3 would be environmentally superior to all other alternatives under CEQA.

Alternative 2 would likely result in a reduction in the severity and extent of impacts compared to Alternative 3. However, this alternative would not avoid significant and unavoidable air quality impacts. Additionally, Alternative 2 would not achieve the project objectives and would not realize economic benefits to the fullest. Alternatives 4 and 5 would achieve the project objectives, but

both would have more severe impacts, including an additional significant impact for Alternative 4, than the Alternative 3.

4.2.1 ALTERNATIVE 2

- Alternative 2 would deepen the Pier J channel and the West Basin channel and create a turning basin off Pier J all to a depth of -53 ft MLLW; would widen the Main Channel to the design depth (-76 ft MLLW); and would deepen the Approach Channel to -78 ft MLLW (Figure 4-2). Approximately 4.9 million cubic yards of sediment would be dredged and disposed of. Sheet piling and armor rock would be placed along portions of the Pier J Breakwater to accommodate the adjacent deepened Pier J channel. As with the proposed Project, pile driving would not occur at night.
- Dredging would be accomplished by a hydraulic hopper dredge and a clamshell dredge operating simultaneously for approximately 21 months. The hopper dredge would travel to the disposal sites to dispose of dredged material whereas the clamshell dredge would place dredged material on a barge that would be hauled to disposal sites. Disposal sites would include the nearshore Surfside-Sunset site off Huntington Beach and the LA-2 and LA-3 offshore disposal sites. The nearshore site is expected to receive approximately 2.5 million cubic yards of material from the Approach Channel, Main Channel, and West Basin dredging and the two ocean disposal sites would receive the remaining 2.4 million cubic yards of material from the Pier J and West Basin dredging.

Finding

The Board hereby finds that the Alternative 2 is a feasible alternative that generally meets the Project objectives. Alternative 2 would have similar impacts as the proposed Project in the areas of aesthetics, cultural resources, geology and soils, hazards and hazardous materials, land use, population and housing, public services and safety, recreation, and utilities and service systems. This is because the geographic scope and nature (i.e., type of activities and equipment) of this alternative are very similar to those of the proposed Project. Alternative 2 would have fewer or less severe impacts than the proposed Project in the areas of air quality, biota, hydrology and water quality, noise, ground and vessel transportation, and climate change. This is because Alternative 2 would involve less dredging (4.9 million cubic yards versus 7.4 million cubic yards), which would mean less equipment activity, fewer worker commutes, and less disruption of biological habitats and water quality. However, these differences are not substantial in nature and result in the same number of significant and unavoidable impacts to air quality and health risk.

Facts in Support of Finding

As with the proposed Project, the significant impacts to air quality and health risk would be significant and unavoidable for Alternative 2. Because the Alternative 2 would not meet the overall Project purpose and need of increasing transportation efficiencies for container and liquid bulk vessels operating in the Port, for both the current and future fleet, and to improve conditions for vessel operations and safety, which would be achieved by the proposed Project, Alternative 2 is not considered the environmentally preferred alternative.

4.2.2 ALTERNATIVE 4

Alternative 4 would deepen the Pier J channel and the West Basin channel and create a turning basin off Pier J, all to a depth of -57 ft MLLW; would widen the Main Channel to the design depth (-76 ft MLLW); and would deepen the Approach Channel to -80 ft MLLW. Approximately 11.9

million cubic yards of sediment would be dredged and disposed of. Sheet piling and armor rock would be placed along portions of the Pier J Breakwater to accommodate the adjacent deepened Pier J channel. In addition, Alternative 4 would require modifications of the wharves at Pier J and Pier T to accommodate the deeper (-57 ft MLLW) berths. These modifications would include pile driving and rock placement. As with the proposed Project, pile driving would not occur at night.

Finding

The Board hereby finds that the Alternative 4 is a feasible alternative that generally meets the Project objectives. Alternative 4 would have similar impacts as the proposed Project in the areas of aesthetics, cultural resources, geology and soils, hazards and hazardous materials, land use, population and housing, public services and safety, recreation, and utilities and service systems. This is because the geographic scope and nature (i.e., type of activities and equipment) of this alternative are very similar to those of the proposed Project.

Alternative 4 would not have fewer or less severe impacts than the proposed Project in any resource area. Alternative 4 would have greater impacts than the proposed Project in the areas of air quality, biota, hydrology and water quality, noise, ground and vessel transportation, and climate change. This is because Alternative 4 would involve more dredging (11.9 million cubic yards versus 7.4 million cubic yards), which would mean correspondingly more equipment activity, worker commutes, and disruption of biological habitats and water quality.

In addition to increased noise from equipment activity, construction of Alternative 4 would generate more high-intensity underwater noise from pile driving at the Pier J and Pier T wharves. As described in POLB (2019), high-intensity underwater noise can adversely affect marine organisms by damaging their auditory systems, disrupting behavior and communication, and causing mortality through swim bladder damage. These effects would be limited to a small area near the pile driving activity, and the USACE has determined that they would not represent a significant impact on marine mammals, managed fish species, and other marine resources. Furthermore, pile-driving activities would include a “soft-start” feature by which the construction contractor would be required to initiate pile driving at reduced force. This measure would give animals the opportunity to vacate the area before full-force driving began, thus further reducing the potential for adverse effects on marine resources.

All of the impact determinations under CEQA would, like those of the proposed Project, be either no impact or less than significant impact, with the exception of air quality, human health risk, and biota. Air quality would represent a significant impact. Alternative 4 would have a significant human health risk impact that the other alternatives would not have: the maximum estimated cancer risk at a residential/sensitive receptor would be 1.3×10^{-5} (13 in a million), which exceeds the SCAQMD significance threshold of 1.0×10^{-5} (10 in a million). Mitigation measures MM-AQ-1 through MM-AQ-5, as described above for the proposed Project, would be imposed on Alternative 4, but even after mitigation, impacts on air quality and human health risk would be significant and unavoidable. Therefore, Alternative 4 is not considered the environmentally preferred alternative.

Facts in Support of Finding

As with the proposed Project, the significant impacts to air quality and health risk would be significant and unavoidable for Alternative 4. Because the Alternative 4 would not meet the overall Project purpose and need of increasing transportation efficiencies for container and liquid bulk

vessels operating in the Port, for both the current and future fleet, and to improve conditions for vessel operations and safety, which would be achieved by the proposed Project, Alternative 4 is not considered the environmentally preferred alternative.

4.2.3 ALTERNATIVE 5

Alternative 5 would deepen the Pier J channel and the West Basin channel and create a turning basin off Pier J, all to a depth of -55 ft MLLW; would widen the Main Channel to the design depth (-76 ft MLLW); and would deepen the Approach Channel to -80 ft MLLW (Figure 4-2). A Standby Area adjacent to the Main Channel would be created by dredging to -67 ft MLLW with a 300-ft-diameter area in the center dredged to -73 ft MLLW. Approximately 8.4 million cubic yards of sediment would be dredged and disposed of (Table 4-8). Sheet piling and armor rock would be placed along portions of the Pier J Breakwater to accommodate the adjacent deepened Pier J channel. As with the proposed Project, pile driving would not occur at night. Alternative 5 would not require wharf modifications.

Finding

The Board hereby finds that the Alternative 5 is a feasible alternative that generally meets the Project objectives. Alternative 5 would have similar impacts as the proposed Project in the areas of aesthetics, cultural resources (after mitigation), geology and soils, hazards and hazardous materials, land use, population and housing, public services and safety, recreation, and utilities and service systems. This is because the geographic scope and nature (i.e., type of activities and equipment) of this alternative are very similar to those of the proposed Project. Alternative 5 would have greater impacts than the proposed Project in the areas of air quality, biota, hydrology and water quality, noise, ground and vessel transportation, and climate change. This is because Alternative 5 would involve more dredging (8.4 million cubic yards versus 7.4 million cubic yards), which would mean correspondingly more equipment activity, worker commutes, and disruption of biological habitats and water quality. All of the impact determinations under CEQA would, like those of the proposed Project, be either no impact or less than significant impact, with the exception of air quality and biota. Air quality would represent a significant impact. Mitigation measures MM-AQ-1 through MM-AQ-5, as described above for the proposed Project, would be imposed on Alternative 5, but even after mitigation, impacts on air quality would be significant and unavoidable. Therefore, Alternative 5 is not considered the environmentally preferred alternative.

Facts in Support of Finding

As with the proposed Project, the significant impacts to air quality and health risk would be significant and unavoidable for Alternative 5. Because the Alternative 5 would not meet the overall Project purpose and need of increasing transportation efficiencies for container and liquid bulk vessels operating in the Port, for both the current and future fleet, and to improve conditions for vessel operations and safety, which would be achieved by the proposed Project, Alternative 5 is not considered the environmentally preferred alternative.

4.2.4 NO PROJECT ALTERNATIVE

Under CEQA, the No Project Alternative must consider the conditions that would exist if a project does not proceed, which includes consideration of predictable action, such as the proposing of some other project (CEQA Guidelines Section 15126.6(e)(3)(B)). Under the No Project Alternative, no dredging or disposal would take place, and no wharf or breakwater improvements would be constructed. The baseline configuration of channels and basins would be maintained,

and the Port's ability to accommodate large cargo vessels and increased vessel traffic would remain unchanged from baseline conditions.

Finding

The Board finds that the No Project Alternative, by virtue of the absence of any development, would be environmentally superior to all other alternatives under CEQA. However, without any improvements, the Port would not be able to meet its desired objectives to increase transportation efficiencies for container and liquid bulk vessels operating in the Port, for both the current and future fleet, and to improve conditions for vessel operations and safety. Therefore, this alternative will not be adopted.

Facts in Support of Finding

Because there would be no construction and no changes to the physical environment, the No Project Alternative would have no direct impacts under any of the resource areas considered in this environmental document.

5.0 STATEMENT OF OVERRIDING CONSIDERATIONS

CEQA requires a public agency to balance the benefits of a proposed project against its unavoidable, adverse environmental impacts in determining whether to approve the project.

Section 15093 of the State CEQA Guidelines provides the following:

1. CEQA requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits of a proposed project against its unavoidable environmental risks when determining whether to approve the project. If the specific economic, legal, social, technological, or other benefits of a proposed project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered "acceptable."
2. When the lead agency approves a project that will result in the occurrence of significant effects which are identified in the Final EIR but are not avoided or substantially lessened, the agency shall state in writing the specific reasons to support its action based on the Final EIR and/or other information in the record. The statement of overriding considerations shall be supported by substantial evidence in the record.
3. If an agency makes a Statement of Overriding Considerations, the statement should be included in the record of the project approval and should be mentioned in the Notice of Determination. This statement does not substitute for, and shall be in addition to, findings required pursuant to Section 15091.

5.1 Project Significant Impacts

The proposed Project would result in significant unavoidable impacts related to air quality and health risk.

5.1.1 AIR QUALITY AND HEALTH RISK

During a peak day of construction activity, construction activities associated with the proposed Project would produce emissions of VOC, CO, NO_x, and PM_{2.5} that would exceed SCAQMD daily emission significance thresholds. Additionally, proposed Project construction would result in

1 offsite ambient air pollutant concentrations that would exceed SCAQMD thresholds of significance
2 for 1-hour NO₂, and 1-hour federal NO₂. Although the 1-hour federal NO₂ concentration would be
3 reduced with mitigation, it would remain above the NAAQS. All other pollutants would be reduced
4 and would remain below the level of significance. Because the 1-hour federal NO₂ would remain
5 above the NAAQS, local impacts would be significant and unavoidable. Therefore, these mitigated
6 emissions and ambient concentrations would remain significant and unavoidable. This impact
7 would also be a significant cumulative impact that would be unavoidable.

8 **6.0 OVERRIDING CONSIDERATIONS**

9 The proposed Project would offer numerous benefits that outweigh the unavoidable adverse
10 environmental effects of the undertaking. The Board of Harbor Commissioners recognizes that
11 significant and unavoidable environmental impacts will result from implementation of the proposed
12 Project, as discussed above. The Port has adopted all feasible mitigation measures for the
13 proposed Project, recognized all significant and unavoidable environmental impacts, and
14 balanced the benefits of the proposed Project against the significant and unavoidable impacts.
15 Given these conditions, the Board finds that there are specific overriding economic, legal, social,
16 technological, and other benefits of the proposed Project which outweigh those impacts and
17 provide sufficient reasons for approving the proposed Project. These overriding considerations
18 justify certification of the Final EIR and approval of the proposed Project, as discussed below.

19 **Improves Transportation Efficiencies.** The Port currently experiences navigational challenges,
20 including existing channel depths that do not meet the draft requirements of the current and future
21 fleet of larger container and liquid bulk vessels. Tide restrictions, light loading, lightering, and other
22 operational inefficiencies result in economic inefficiencies that translate into increased costs for
23 the national economy. Container movements along the secondary channels serving Pier J and
24 Pier T/West Basin, as well as liquid bulk vessel movements along the Main Channel, have been
25 identified as constrained by current conditions. The proposed Project would address these
26 navigational challenges and increase transportation efficiencies for container and liquid bulk
27 vessels operating in the POLB for both the current and future fleet and improve conditions for
28 vessel operations and safety.

29 **Improves Navigational Safety.** The proposed Project would improve navigational efficiency and
30 vessel safety throughout the POLB. The deepening and widening of the federal channels would
31 facilitate the safe and efficient transportation of all types of cargo into and out of the POLB
32 because larger vessels are calling at the POLB that need deeper and wider channels in order to
33 safely operate. Additionally, the proposed Project would reduce vessel congestion in the Port,
34 thereby contributing to safer conditions within the harbor.

35 **Reduces Delays and Wait Times.** The proposed Project would reduce wait times within the
36 harbor and reduce loading and unloading delays for deeper-drafting liquid bulk vessels. The
37 proposed Project would allow deeper-drafting vessels to enter and exit the Port without having to
38 account for tide restrictions, light loading, lightering, and other operational constraints.
39 Additionally, the proposed Project would provide a safe area to anchor adjacent to the Main
40 Channel during equipment failures, thereby not taking up valuable berthing space.

41 **Reduce Transportation and Product Costs.** The proposed Project would have national
42 significance because it will decrease costs as a result of transportation efficiencies. These costs
43 will be reduced by allowing a more efficient future fleet mix (e.g., displace Panamax and smaller-

1 scale Post-Panamax vessels with larger-scale Post-Panamax vessels, which have increased
2 cargo capacity).

3 **Reduces Vessel Trips.** Removal of channel restrictions would increase vessels' maximum
4 loading capacity, thereby resulting in fewer vessel trips to transport the forecasted cargo.
5 Additionally, increased channel depth would encourage shippers to replace smaller, less efficient
6 vessels with larger, more efficient vessels on Long Beach route services.

7 **Consistent with Port Master Plan (PMP).** The proposed Project is consistent with the
8 development goals of the PMP and all other applicable land use plans, policies, and regulations.

9 **Contributes to the Community Grants Program.** To assist in mitigating the proposed Project's
10 cumulative impacts to air quality, health risk, and global climate change, the Port will make a total
11 contribution of \$146,753 in funding for the Port's CGP. The CGP is aimed at mitigating the impacts
12 of goods movement over 12-15 years in three specific programs: community health, facility
13 improvements, and community infrastructure.

**Port of Long Beach
Deep Draft Navigation Feasibility Study and
Channel Deepening Project**

Mitigation Monitoring and Reporting Program



Port of Long Beach
Environmental Planning Division
415 West Ocean Boulevard
Long Beach, California 90802

September 2022

Table of Contents

Introduction	1
Responsible Party	1
Mitigation Monitoring and Reporting Program Procedures.....	3
Mitigation and Monitoring Reporting Plan Completion Forms	3
Mitigation and Monitoring Annual Reporting.....	3
Special Conditions.....	4

1 Introduction

2 This Mitigation Monitoring and Reporting Program (MMRP) has been prepared for the Deep Draft
3 Navigation Feasibility Study and Channel Deepening Project (Project) in the City of Long Beach
4 (COLB). When a public agency conducts an environmental review of a proposed project in
5 conjunction with approving it, the lead agency shall adopt a program for monitoring or reporting
6 on the measures it was imposed to mitigate or avoid significant adverse environmental effects
7 pursuant Public Resources Code section 21081 and Title 14 California Code of Regulations
8 section 15097. Public Resources Code section 21081.6 states in part that when making the
9 findings required by section 21081(a):

10 "... the public agency shall adopt a reporting or monitoring program for the changes made to the
11 project or conditions of project approval, adopted in order to mitigate or avoid significant effects
12 on the environment. The reporting or monitoring program shall be designed to ensure compliance
13 during project implementation. For those changes which have been required or incorporated into
14 the project at the request of a responsible agency or a public agency having jurisdiction by law
15 over natural resources affected by the project, that agency shall, if so requested by the lead or
16 responsible agency, prepare and submit a proposed reporting or monitoring program."

17 The primary purpose of the MMRP is to ensure that the mitigation measures identified in the Final
18 Environmental Impact Report (EIR) for the Project are implemented to reduce or avoid identified
19 environmental effects and to appropriately assign the mitigation responsibilities for implementing
20 the Project. If the Project is approved, the mitigation measures listed in this MMRP will be adopted
21 by the Port of Long Beach (POLB or Port) Board of Harbor Commissioners (Board) as a condition
22 of Project approval. The mitigation measures and special conditions would be mandatory
23 components of the Harbor Development Permit (HDP) for this Project.

24 Responsible Party

25 The POLB (Lead Agency, or its designee, would be responsible for implementing and reporting
26 mitigation measures in this program. The Lead Agency would have responsibility for ensuring that
27 mitigation measures are accomplished in an environmentally responsible manner, ensuring that
28 the status of mitigation measures is reporting in accordance with this program, and would be
29 responsible for program oversight to ensure that applicable mitigation measures are carried
30 forward.

31 Mitigation measures will be included in applicable Requests for Proposals (RFP), specifications,
32 plans, drawings, and procedures issued for construction of the Project and during operation of
33 this facility. When Project work is undertaken by the U.S. Army Corps of Engineers (USACE)
34 and/or the Port's contractors, the pertinent mitigation measures will be included in the terms and
35 conditions of the contracts. Port construction inspectors will undertake regular inspections of the
36 job site to ensure that contractors are implementing the mitigation measures and complying with
37 their contract. The Port's Environmental Planning Division will be responsible for ensuring that
38 mitigation measures that are the responsibility of the Port are carried out. Mitigation measures
39 and Special Conditions for the Project are summarized in Table 1.

Table 1. Summary of Mitigation Measures and Special Conditions

Air Quality and Health Risk	
1	Mitigation Measure AQ-1: Electric Clamshell Dredge. The use of an electric clamshell dredge shall be required for project clamshell dredging activities during the entire construction period of the project, and the construction of an electrical substation at Pier J is also required to provide electric power to the clamshell dredge.
2	Mitigation Measure AQ-2: Construction-Related Harbor Craft. Construction-related harbor craft (tugboats, crew boats, and survey boats) with Category 1 or Category 2 marine engines will meet at least EPA Tier 3 emission standards for marine engines. In addition, the construction contractor will require all construction-related tugboats that home fleet in the San Pedro Bay Ports: 1) to shut down their main engines and 2) to refrain from using auxiliary engines while at dock and instead use electrical shore power, if feasible.
3	Mitigation Measure AQ-3: Fleet Modernization of Off-Road Construction Equipment. Self-propelled, diesel-fueled off-road construction equipment 25 horsepower or greater will meet U.S. Environmental Protection Agency (USEPA)/California Air Resources Board (CARB) Tier 4 final emission standards for non-road equipment.
4	Mitigation Measure AQ-4: Additional Mitigation for Off-Road Construction Equipment. Off-road diesel-powered construction equipment will comply with the following: <ul style="list-style-type: none"> • Construction equipment will be maintained according to manufacturer's specifications. • Construction equipment will not idle for more than five minutes when not in use. The benefits to be achieved by the above-listed components of this measure were not quantified in the analysis due to the wide range of variables involved. This measure is applied, however, to further reduce combustion emissions
Special Conditions	
5	Special Condition. Water Resource Protection. The Permittee shall complete the provided stormwater BMP checklist for small construction projects (under 1 acre in total disturbed area) and implement those best management practices (BMPs) as identified in the checklist.
6	Special Condition. Transportation Management Plan (TMP). The Permittee shall coordinate with the POLB Traffic Engineering Bureau during the development of the Project to determine if a TMP is warranted, and if yes, what it needs to address. Permittee shall coordinate with adjacent construction projects at the time, if any, to ensure proper traffic circulation in the area is maintained. If a TMP is warranted during any phase of the project, the Permittee shall submit a Transportation Management Plan to POLB Traffic Engineering for review and approval.
7	Special Condition. Discovery of Archaeological Materials or Human Remains. In the unlikely event that any archaeological material is discovered during construction, construction activities are to be halted, archeological experts are to be notified, and the USACE/Port will complete an evaluation of the significance of those resources and will determine the appropriate resolution of any potential adverse effects. Permittee shall immediately notify the Director of Environmental Planning of any discoveries.
8	Special Condition. Community Grants Program (CGP). The Port will contribute a total of \$146,743 to the Community Grants Program (CGP) to address cumulative air emissions impacts associated with construction activities for the Project.

Mitigation Monitoring and Reporting Program Procedures

The designated POLB Environmental Monitor, in coordination with POLB Construction Management and Inspection, assigned to the Project, will track and document compliance with mitigation measures, note any problems that may result, and take appropriate action to remedy problems. Specific responsibilities of the POLB Environmental Monitor are:

- Coordination of all mitigation monitoring activities;
- Management of the preparation, approval, and filing of monitoring or permit compliance reports;
- Maintenance of records concerning the status of all mitigation measures;
- Retaining a file containing documentation of the completion of all mitigation measures;
- Quality control assurance of field monitoring personnel;
- Coordination with regulatory agencies for compliance with mitigation and permit requirements;
- Reviewing and recommending acceptance and certification of implementation documentation;
- Serving as the point of contact for interested parties or surrounding property owners who wish to register complaints; and
- Documenting observations of unsafe conditions or environmental violations, and identifying any necessary corrective actions.

Mitigation and Monitoring Reporting Plan Completion Forms

The MMRP includes a Completion Form for each mitigation measure shown on a separate page and identifies the following for each measure:

- Required action;
- When the action is required to be taken;
- Agency responsible for action;
- Agency responsible for tracking the action;
- Specific action(s) to ensure implementation of the mitigation measure;
- Submittal date;
- Person verifying implementation (name and title);
- Any attachments for the Completion form to verify implementation; and
- Any comments by verifying personnel.

The agency responsible for taking the action will submit the appropriate completion form with attachments to the agency responsible for tracking and verifying the action (POLB Environmental Planning Division).

Mitigation and Monitoring Annual Reporting

This MMRP will require an annual report within the first year of Project approval (including during design activities) and then annually thereafter. The MMRP will document compliance with implementing the mitigation measures included in the Final EIR, Project HDP and construction contracts.

1 **Special Conditions**

2 Special Conditions would be implemented as condition of issuance of the Harbor Development
3 Permit, in Project specifications, or other applicable documents governing site use and or facility
4 operations. Special Conditions are consistent with the Green Port Policy, Clean Air Action Plan,
5 and the Water Resources Action Plan. Special Conditions that would be incorporated as part of
6 the Project are described below and the various means used to implement the Special Conditions,
7 as well as their timing, are also provided.

This page is intentionally left blank.

**Deep Draft Navigation Feasibility Study and
Channel Deepening Project
Mitigation Monitoring and Reporting Program Completion Forms**

*Deep Draft Navigation Feasibility Study and Channel Deepening Project
Mitigation Monitoring and Reporting Program Completion Form*

Mitigation Measure AQ-1: Electric Clamshell Dredge and Electrical Substation

Required Action: Use of an electric clamshell dredge shall be required for all clamshell dredging activities during the entire construction period of the project; Construction of an electrical substation at Pier J is required to provide electric power to the clamshell dredge.

When Required: During construction activities.

Agency Responsible for Action: U.S. Army Corps of Engineers and/or Port of Long Beach Engineering Services.

Agency Responsible for Tracking: Port of Long Beach Construction Management and Environmental Planning Division.

Action (i): U.S. Army Corps of Engineers and/or Port of Long Beach Engineering Services to include this requirement in Project construction specifications and bid process.

Submittal Date:

Verified By:

Title:

Comments:

*Deep Draft Navigation Feasibility Study and Channel Deepening Project
Mitigation Monitoring and Reporting Program Completion Form*

Mitigation Measure AQ-2: Construction-Related Harbor Craft

Required Action: Construction-related harbor craft (tugboats, crew boats, and survey boats) with Category 1 or Category 2 marine engines shall meet United States Environmental Protection Agency (USEPA) Tier 3 emission standards for marine engines. In addition, the construction contractor shall require all construction-related tugboats that home fleet in the San Pedro Bay Ports:1) to shut down their main engines and 2) to refrain from using auxiliary engines while at dock and instead use electrical shore power, if feasible.

When Required: During all construction activities.

Agency Responsible for Action: U.S. Army Corps of Engineers and/or Port of Long Beach Engineering Services.

Agency Responsible for Tracking: Port of Long Beach Construction Management Division and Environmental Planning Division.

Action (i): U.S. Army Corps of Engineers and/or Port of Long Beach Engineering Services to include this requirement in Project construction specifications and bid process.

Action (ii): Port of Long Beach Construction Management Division to verify that harbor craft (tugboats, crew boats, and survey boats) with Category 1 or Category 2 marine engines to meet United States EPA Tier 3 engine emission standards. A copy of each unit's certified tiered specification and any required CARB or South Coast Air Quality Management District (SCAQMD) operating permit will be made available at the time each piece of equipment is mobilized.

Action (iii): Port of Long Beach Construction Management Division to require all construction-related tugboats that home fleet in the San Pedro Bay Ports:1) to shut down their main engines and 2) to refrain from using auxiliary engines while at dock and instead use electrical shore power, if feasible.

Submittal Date:

Verified By:

Title:

Attachments:

Comments:

*Deep Draft Navigation Feasibility Study and Channel Deepening Project
Mitigation Monitoring and Reporting Program Completion Form*

Mitigation Measure AQ-3: Off-Road Construction Equipment

Required Action: Self-propelled, diesel-fueled off-road construction equipment 25 horsepower (hp) or greater shall meet United States Environmental Protection Agency (USEPA)/California Air Resources Board (CARB) Tier 4 final emission standards for non-road equipment.

When Required: Daily during all construction activities.

Agency Responsible for Action: U.S. Army Corps of Engineers and/or Port of Long Beach Engineering Services.

Agency Responsible for Tracking: Port of Long Beach Construction Management Division and Environmental Planning Division.

Action (i): U.S. Army Corps of Engineers and/or Port of Long Beach Engineering Services to include this requirement in Project construction specifications and bid process.

Action (ii): POLB Construction Management Division to verify that self-propelled, diesel-fueled off-road construction equipment 25 hp or greater meet USEPA/CARB Tier 4 final engine emission standards. A copy of each unit's certified tiered specification and any required CARB or South Coast Air Quality Management District (SCAQMD) operating permit will be made available at the time each piece of equipment is mobilized.

Submittal Date:

Verified By:

Title:

Attachments:

Comments:

*Deep Draft Navigation Feasibility Study and Channel Deepening Project
Mitigation Monitoring and Reporting Program Completion Form*

Mitigation Measure AQ-4: Additional Mitigation for Off-Road Construction Equipment

Required Action: Off-road diesel-powered construction equipment shall comply with the following:

- Maintain all construction equipment according to manufacturer's specifications.
- Construction equipment shall not idle for more than 5 minutes when not in use.

When Required: During all construction activities

Agency Responsible for Action: U.S. Army Corps of Engineers and/or Port of Long Beach Engineering Services.

Agency Responsible for Tracking: Port of Long Beach Construction Management Division and Environmental Planning Division.

Action (i): Port of Long Beach Engineering Services to include requirements in Project construction specifications and bid process.

Action (ii): Construction Management Division to verify that off-road diesel-powered construction equipment are in good maintenance condition, and do not idle more than 5 minutes when in use.

Submittal Date:

Verified By:

Title:

Attachments:

Comments:

Special Condition. Water Resources Protection.

Required Action: The Permittee shall complete the provided stormwater BMP checklist for small construction projects (under 1 acre in total disturbed area) and implement those best management practices (BMPs) as identified in the checklist. A copy of the completed stormwater BMP checklist shall be submitted to the Director of Environmental Planning fourteen (14) days prior to the start of construction activities for approval. Upon approval of the stormwater BMP checklist, the Permittee shall be responsible for installing, constructing and implementing all control measure requirements described in the stormwater BMP checklist and other stormwater BMPs that may be appropriate during construction. The Permittee shall perform visual observations to verify that all control measures are implemented and performing properly. If control measures being implemented by the Permittee are inadequate to control water pollution effectively, the Port may require the Permittee to revise the operations and amend the stormwater BMP checklist. The Port's review and approval of the Permittee's stormwater BMP checklist shall not waive any contractual requirements and shall not relieve the Permittee from achieving and maintaining compliance with all Federal, State, and local laws, ordinances, statutes, rules and regulations. All records shall remain on site and readily accessible for review by the Port of Long Beach and any responsible agencies. In the event that the Project scope changes and the landside disturbed area is greater than 1 acre, the Permittee shall work with the Port to obtain coverage under the Los Angeles Regional Water Quality Control Board's General Permit for Storm Water Discharges Associated with Construction and Land Disturbing Activities (CAS000002). A copy of the Notice of Intent (NOI) and Storm Water Pollution Prevention Plan (SWPPP) shall be provided to the Director of Environmental Planning prior to the start of construction.

When Required: Fourteen (14) days prior to the start of construction activities for approval.

Agency Responsible for Action: U.S. Army Corps of Engineers and/or Port of Long Beach Engineering Services.

Agency Responsible for Tracking: Port of Long Beach Construction Management Division and Environmental Planning Division.

Action (i): Port of Long Beach Engineering Services to include each of the above requirements in Project construction specifications and bid process.

Action (ii): Port of Long Beach Construction Management Division to verify that each of the above requirements are carried out during each construction phase.

Submittal Date:

Verified By:

Title:

Attachments:

Comments:

Deep Draft Navigation Feasibility Study

Mitigation Monitoring and Reporting Program Completion Form

Special Condition. Transportation Management Plan.

Required Action: The Permittee shall coordinate with the Port of Long Beach Traffic Engineering Bureau during the development of the Project to determine if a Transportation Management Plan (TMP) is warranted, and if yes, what it needs to address. Permittee shall coordinate with adjacent construction projects at the time, if any, to ensure proper traffic circulation in the area is maintained. If a TMP is warranted during any phase of the project, the Permittee shall submit a Transportation Management Plan to POLB Traffic Engineering for review and approval.

When Required: During all phases of the Project.

Agency Responsible for Action: U.S. Army Corps of Engineers and/or Port of Long Beach Traffic Engineering.

Agency Responsible for Tracking: Port of Long Beach Traffic Engineering, Transportation Planning Division, Construction Management Division, and Environmental Planning Division.

Action (i): Port of Long Beach Engineering Services to include each of the above requirements in Project construction specifications and bid process.

Action (ii): Port of Long Beach Traffic Engineering to verify that each of the above requirements, if it is determined that a TMP is required, are carried out during each construction phase.

Submittal Date:

Verified By:

Title:

Attachments:

Comments:

Special Condition. Discovery of Archaeological Materials or Human Remains.

Required Action: In the unlikely event that any archaeological material is discovered during construction, construction activities are to be halted, archeological experts are to be notified, and the U.S. Army Corps of Engineers and/or the Port of Long Beach will complete an evaluation of the significance of those resources and will determine the appropriate resolution of any potential adverse effects. Permittee shall immediately notify the Port of Long Beach Director of Environmental Planning of any discoveries.

When Required: During all earthwork and construction activities.

Agency Responsible for Action: U.S. Army Corps of Engineers and/or Port of Long Beach Engineering Services.

Agency Responsible for Tracking: Port of Long Beach Construction Management Division and Environmental Planning Division.

Action (i): Port of Long Beach Engineering Services to include a requirement for its construction contractor to provide a qualified archaeologist (on-call) in its Project construction specifications and available as needed), if any archaeological material is discovered during construction. These requirements shall be included in Project construction specifications and bid process.

Submittal Date:

Verified By:

Title:

Attachments:

Comments:

*Deep Draft Navigation Feasibility Study and Channel Deepening Project
Mitigation Monitoring and Reporting Program Completion Form*

Special Condition. Community Grants Program

Required Action: The Port of Long Beach will contribute to the Community Grants Program (CGP) to address cumulative air emissions impacts associated with construction activities for the Project. For the Project, the contribution to the CGP would be \$146,753 total.

When Required: The later of the following two dates: (a) the date that the U.S. Army Corps of Engineers and/or the Port of Long Beach issues a Notice to Proceed (NTP) or otherwise authorizes commencement of construction; or (b) the date that the Final EIS/EIR is conclusively determined to be valid, either by operation of PRC Section 21167.2 or by final judgment or final adjudication

Agency Responsible for Action: Port of Long Beach Environmental Planning Division.

Agency Responsible for Tracking: Port of Long Beach Environmental Planning Division.

Action: Port of Long Beach Environmental Planning Division to ensure the timing of the payment contribution to the Community Grants Program determined by the methodology described in the EIR.

Submittal Date:

Verified By:

Title:

Attachments:

Comments:



Public Hearing

Deep Draft Navigation Study and Channel Deepening Project

Harbor Development Permit Application No. 19-035

Matthew Arms
Director of Environmental Planning
September 12, 2022

Deep Draft Navigation Study and Channel Deepening Project

Purpose & Objectives

• Purpose

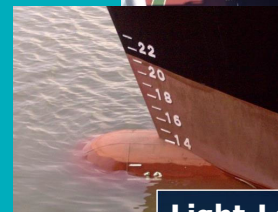
- Increase transportation efficiencies for container and liquid bulk ships at the Port of Long Beach
- Improve conditions for ship operations and safety

• Objectives

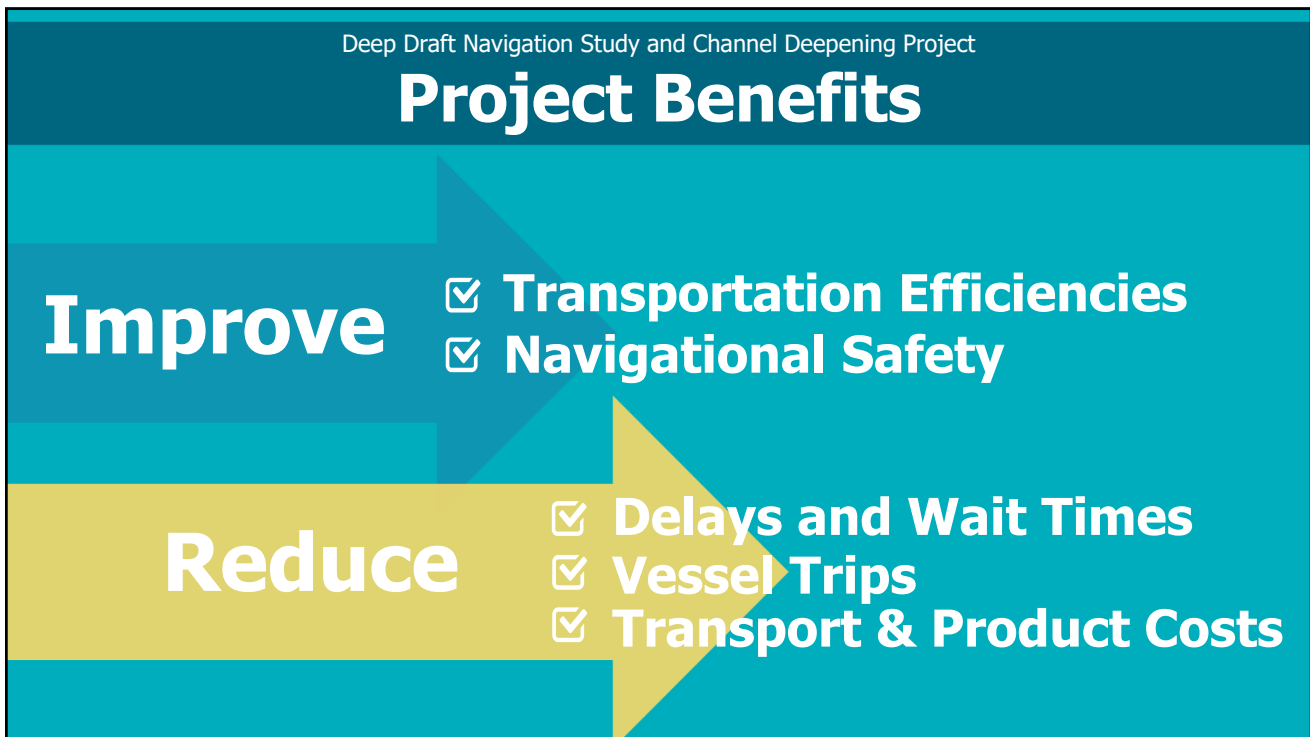
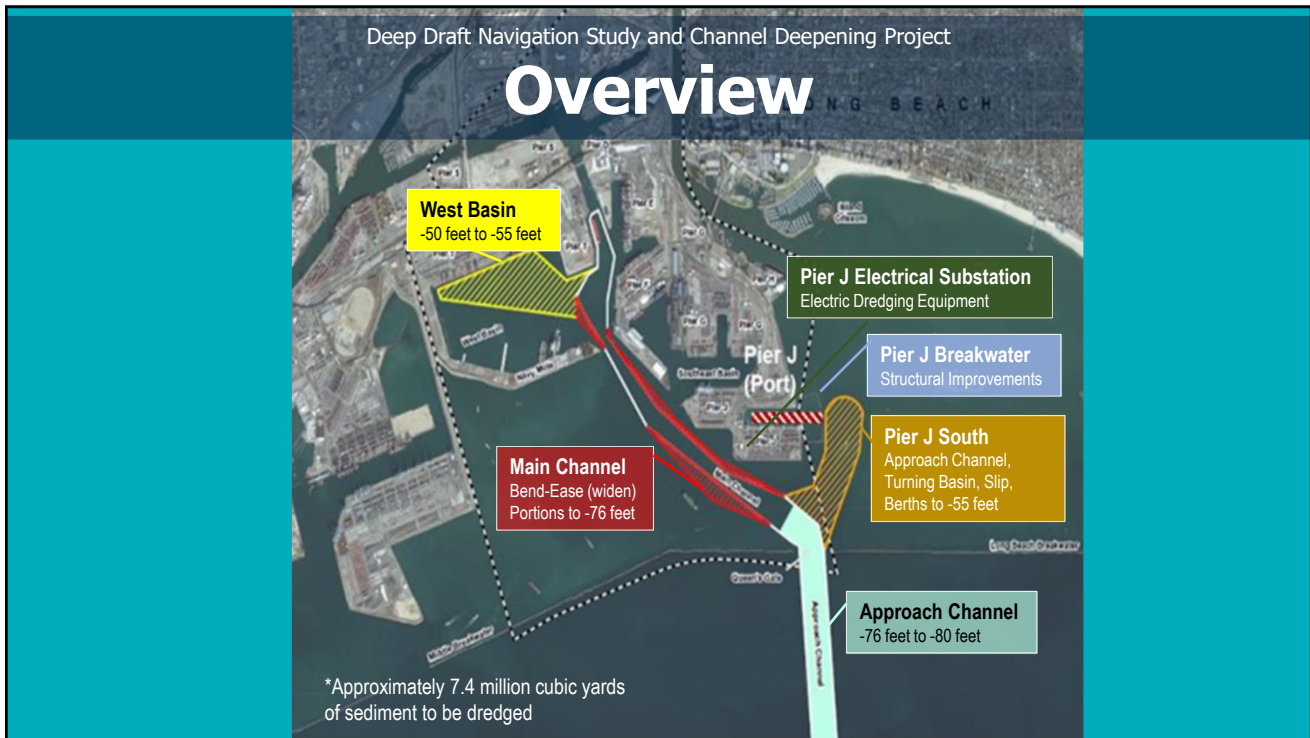
- Reduce transportation costs, ship congestion, harbor wait times
- Increase channel depth to encourage replacement of small, less efficient ships with larger, more efficient ships
- Remove channel restrictions to enable ships at maximum capacity



Lightering



Light-Loading



Environmental Review

- **Project Led by U.S. Army Corps of Engineers (USACE)**
 - CEQA Notice of Preparation/NEPA Notice of Intent – January 2019
- **EIS/EIR**
 - Draft IFR-EIS/EIR | 45-Day Review: October 25, 2019 – December 9, 2019
 - Two Public Meetings – November 13, 2019
 - Responses to all comments provided in Final IFR EIR/EIS
- **USACE NEPA Final EIS and Record of Decision**
 - October 2021
- **POLB CEQA Notice of Public Hearing/Availability of Final EIR**
 - August 16, 2022

Environmental Impacts

- **Air Quality**
 - **Significant Impacts (Construction)**
 - Nitrogen Oxides, Particulate Matter \leq 2.5 microns, Carbon Monoxide, Volatile Organic compounds
 - 1-Hour Nitrogen Dioxides (federal)

Mitigation Measures

MM-AQ-1



**Electric
Dredging
Equipment**

MM-AQ-2



**Tier 3
Construction
Harbor Craft**

MM-AQ-3



**Tier 4 Final
Off-Road
Construction
Equipment**

MM-AQ-4



**5 Minute
Idling Limit &
Equipment
Maintenance**

Application Summary Report

- **Project is Consistent with:**
 - **Certified Port Master Plan**
 - Planning Districts: Terminal Island, Middle Harbor, Southwest, Navigation, Southeast, and Outer Harbor
 - Port-related and navigational uses
 - Goals to increase primary Port use; maintain and improve access for vessel navigation; modernize Port facilities
 - **California Coastal Act**
 - Project is not appealable to Coastal Commission
 - No significant impact on state or national oil and gas supply

Special Conditions

- **Water Resources Protection**
 - Best Management Practices
- **Transportation Management Plan**
 - Maintain traffic circulation during construction
- **Discovery of Cultural and Historic Resources**
 - If found, halt and consult archeological experts
- **Community Grants Program**
 - Contribution in amount of \$146,743 to address cumulative air emission impacts

Staff Recommendations





Deep Draft Navigation Study and Channel Deepening Project

Public Comments



THANK YOU

ATTACHMENT 7

TRANSCRIPTION OF VIDEO RECORDING

LONG BEACH BOARD OF HARBOR COMMISSIONERS

PUBLIC HEARING

SEPTEMBER 12, 2022

Approximate Recording Time: 4:48 through 48:57

Agenda Item No. 1H:

HD-22-421 Receive and file supporting documentation into the record and conduct a public hearing on the Deep Draft Navigation Feasibility Study and Channel Deepening Project; adopt a resolution certifying the Final Environmental Impact Report; adopt the Findings of Fact, the Statement of Overriding Considerations, the Mitigation Monitoring and Reporting Program; adopt the Application Summary Report; approve the project and Issue Level III Harbor Development Permit No. 19-035. (Environmental Planning - M. Arms)

Transcribed by:

Janet M. Wood

1 SPEAKERS:

2

3 Long Beach Board of Harbor Commissioners:

4 President Sharon L. Weissman
5 Vice President Bobby Olvera, Jr.
6 Commissioner Frank Colonna
7 Commissioner Bonnie Lowenthal
8 Commissioner Steven Neal

9 Executive Officer to the Board of Harbor Commissioners:
10 Shana Espinoza

11 Managing Director of Engineering Services:
12 Sean Gamette

13 Director of Environmental Planning:
14 Matt Arms

15 Executive Director:
16 Mario Cordero

17 Public Comments:

18 Regina Hsu, Earthjustice
19 Mandeera Wijetunga, Pacific Environmental
20 Eileen Tovar, Field Representative for
21 Assemblymember Patrick O'Donnell
22 Jessica Alvarenga,
23 Pacific Merchant Shipping Association

24 Jacobsen Pilot Service:
25 Tom Jacobsen, President

TRANSCRIPTION OF VIDEO RECORDING

* * *

PRESIDENT WEISSMAN: Thank you. Would you please read 1H.

MS. ESPINOZA: Receive and file supporting documentation into the record and conduct a public hearing on the Deep Draft Navigation Feasibility Study and Channel Deepening Project; adopt a resolution certifying the Final Environmental Impact Report; adopt the Findings of Fact, the Statement of Overriding Considerations, the Mitigation Monitoring and Reporting Program; adopt the Application Summary Report; approve the project and issue Level III Harbor Development Permit Number 19-035.

PRESIDENT WEISSMAN: Thank you. We will have introductory remarks from our Managing Director of Engineering Services, Sean Gamette.

Mr. Gamette.

MR. GAMETTE: Thank you. And good afternoon, President Weissman and Commissioners. My name is Sean Gamette, Managing Director of your Engineering Services Bureau.

I am pleased to be before you today to talk about the critical importance of one of the

1 transportation legs associated with any marine, river,
2 or lakeside port and the role of the United States Army
3 Corps of Engineers.

4 That transportation leg consists of our
5 waterways, the entrance to our harbor, our channel, and
6 our ship-turning basins.

7 While not visible, this network of underwater
8 roads, if you will, are designed and maintained to
9 ensure that ships calling our port can move to and from
10 the open ocean into and out of our terminals.

11 The design, construction, and maintenance of
12 shipping channels is not new. These activities have
13 been conducted for thousands of years to accommodate
14 vessels laden with goods to and from ports all over the
15 world.

16 Over time and especially today, ships have
17 vastly increased in size. The purpose of this is to
18 carry more cargo on a lesser number of ships. The
19 purpose is to be more efficient. And today large
20 container and liquid bulk ships are designed to draw
21 52 feet and 70 feet of water respectfully.

22 It's hard to visualize, but despite the
23 potential enormity of the ship visible above the water
24 surface, there can be 52 feet of containership and
25 70 feet of liquid bulk ship -- bulk ships below the

1 water line. These large ships are as much as 1300 feet
2 in length.

3 As they are sailed into and out of our
4 harbor, our pilots must carefully consider the
5 maneuvering characteristics of each ship, the tide, and
6 weather conditions to ensure they have enough clearance
7 under ships' keels to navigate safely.

8 And even when supported by sophisticated
9 software that helps -- that helps our pilots better
10 understand the behavior of these ships, it is physically
11 not possible to bring them into and out of all areas of
12 our outer harbor south of the new bridge in all tides
13 and weather conditions, sometimes necessitating light
14 loading and lightering to remove cargo while anchored
15 off -- off of the port.

16 These facts are what bring us before you
17 today. One of the United States Army Corps of
18 Engineers' primary missions is to ensure that waterborne
19 traffic can move safely, reliably, and efficiently with
20 minimal impact on the environment.

21 Their primary navigation responsibilities
22 include planning, constructing new navigation channels,
23 locks and dams, and dredging to maintain channel depths
24 at U.S. harbors and on inland waterways.

25 The Corps maintains 12,000 miles of inland

1 and intercoastal waterways with 218 lock chambers and
2 1,067 miles of coastal, great lakes, and inland channels
3 and harbors comprising 13,000 miles of channels.

4 They do this in partnership with local port
5 authorities. They have done so with us over decades
6 from deepening our main channel in the 1990s to
7 environmental dredging in the west basin and filling the
8 north slip at our Pier G container terminal in the
9 2000s.

10 We have and will always maintain a strong
11 partnership with the Corps, and this partnership has
12 resulted in the Integrated Feasibility Report,
13 Environmental Impact Report, and proposed projects that
14 are before you today.

15 The Corps has completed an exhaustive,
16 comprehensive, and detailed feasibility of our outer
17 harbor and concluded that there are significant national
18 benefits to deepening the entrance to Queen's Gate to
19 80 feet, to widening parts of our 76-foot-deep main
20 channel, and to deepen the west basin and channel to our
21 Pier J south container terminal berths to 55 feet.

22 When considering the transportation
23 efficiencies alone, the proposed work results in an
24 astounding benefit-to-cost ratio of 3.6 and an average
25 annual benefit of nearly \$21 million, commanding the

1 attention of Corps headquarters and the United States
2 Congress.

3 Consistent with the Corps's mission, the
4 proposed work also greatly enhances safety and reduces
5 impacts to the environment. Having the proper depth
6 will allow our pilots to bring in these large ships --
7 bring these large ships in and out of our port under
8 almost all tide and weather conditions. Having the
9 proper depth will nearly eliminate the need to light
10 load ships or to lighter them at anchors.

11 But here in Long Beach, we aren't just
12 concerned about national benefits or even transportation
13 costs. Being able to bring these large ships in at most
14 any tide and weather conditions means that they can come
15 directly into port terminals, plug into shore power, and
16 shut down their engines. It means less time running
17 their engines while within our community. It means less
18 air emissions.

19 Also, if approved, the project will be
20 conducted by dredging sediment from the seafloor,
21 creating clean native surfaces suitable for marine
22 organisms to thrive.

23 And here in Long Beach we don't just dredge
24 and dispose of sediments out in the open ocean. We
25 maximize the beneficial reuse of those sediments. We

1 work with our local agencies to do so for the benefit of
2 all those on our coastline. If this project is
3 approved, we will do so in this case as well.

4 Commissioners, it is just as important to
5 invest in our waterway infrastructure as it is our
6 landside infrastructure. We must ensure that all legs
7 of our transportation network, whether roadways,
8 bridges, rail, and our waterways are ready and able to
9 serve their purpose.

10 This is why I'm here before you today, to
11 advocate for the certification of the EIR and approval
12 of the proposed project. This project will benefit the
13 port and our community for decades to come, and it will
14 benefit our nation.

15 Thank you, President Weissman and
16 Commissioners. Those are my introductory remarks.

17 PRESIDENT WEISSMAN: Thank you very much,
18 Mr. Gamette.

19 I'm officially opening the public hearing for
20 Harbor Development Permit Application Number 19-035 for
21 the Deep Draft Navigation Feasibility Study and Channel
22 Deepening Project.

23 This is a project in partnership with the
24 U.S. Army Corps of Engineers. As a reminder, members of
25 the public who wish to comment on this item may register

1 to do so until one minute after the public comment
2 portion of the hearing has begun, at which time
3 registration will close.

4 To register, simply follow the call-in
5 instructions provided in the agenda. Please wait on the
6 line, and staff will open the line when it is time for
7 you to make your comment during the public comment
8 period.

9 We will begin with a presentation from our
10 Director of Environmental Planning, Matt Arms, who will
11 provide a summary of the Deep Draft Navigation
12 Feasibility Study and Channel Deepening Project.

13 Mr. Arms.

14 MR. ARMS: Good afternoon, President Weissman and
15 Commissioners. As noted, I am Matt Arms. I'm the
16 Director of Environmental Planning here at the Port of
17 Long Beach. And today I am pleased to present to you
18 the Deep Draft Navigation Feasibility Study and Channel
19 Deepening Project, which I'm going to refer to as "the
20 project" during this hearing.

21 This afternoon Staff is recommending the
22 Board adopt a resolution certifying an Environmental
23 Impact Report, or EIR, pursuant to the California
24 Environmental Quality Act, make findings, adopt a
25 statement of overriding considerations, and mitigation,

1 monitoring, and reporting program, and application
2 summary report -- and an application summary report.

3 In addition, we are recommending approval of
4 the project and an issuance of a Level III Harbor
5 Development Permit in accordance with the Port's
6 Certified Master Plan.

7 Next slide.

8 For this project, the U.S. Army Corps of
9 Engineers is the federal lead agency under the National
10 Policy Act -- Environmental Policy Act, or NEPA, while
11 the Port is the lead agency under CEQA, the California
12 Environmental Quality Act.

13 The Army Corps prepared a feasibility report
14 that assessed the costs and environmental impacts of an
15 array of alternatives, ultimately determining that the
16 proposed project or what they have termed the National
17 Economic Development Plan, or NED, would provide the
18 maximum net benefits of (indiscernible).

19 The purpose of the project is to address
20 operational constraints and inefficiencies for liquid
21 bulk and container vessels calling at the port. It is
22 important to emphasize that these ships are already
23 calling the port.

24 However, the current channel depths and
25 configurations require vessels to contend with tide

1 restrictions by riding the tide or delaying entry --
2 delay entry during wave swells or conduct light loading
3 and lightering to allow for a (indiscernible) vessel
4 draft to enter and exit the port.

5 These inefficiencies result in increased
6 transportation costs for goods movement. Implementation
7 of the project would improve conditions for vessel
8 operations and safety by reducing these constraints.

9 Aside from installation of electrical
10 substation on Pier J to accommodate electric dredging,
11 there are no improvements at the marine terminals for
12 the project. Therefore, the overall capacity of the
13 port or individual terminals will not change as a result
14 of this project. In addition, it would not result in
15 larger ships beyond current forecasts.

16 Next slide.

17 As previously mentioned, the Army Corps
18 selected the National Economic Development Plan as the
19 proposed project as it provided the maximum benefits.

20 The activities associated with the proposed
21 project include deepening the approach channel from
22 negative 76 feet to negative 80 feet as shown in the
23 teal or light blue color at the bottom of the photo,
24 bend easing portions of the main channel to negative
25 76 feet as shown in red, deepening the west basin Pier J

1 south to minus 55 feet as shown in the yellow and gold
2 hash color.

3 Structural improvements would be made to the
4 Pier J breakwater to accommodate dredging -- to
5 accommodate dredging.

6 And as I previously mentioned, a land- --
7 landside, a new electrical substation will be installed
8 at Pier J to accommodate electric dredge.

9 Next slide.

10 The Army Corps Feasibility Assessment
11 determined the project would have national significance
12 because it will improve transportation efficiencies and
13 navigational safety for container and liquid bulk ships
14 while -- while reducing delays, wait times, and vessel
15 trips, resulting in an overall reduction in
16 transportation costs.

17 Next slide.

18 As required by both the National
19 Environmental Policy Act, as well as the California
20 Environmental Quality Act, the proposed project required
21 an extensive environmental review; therefore, a draft
22 integrated feasibility report with an EIS/EIR was
23 prepared for -- prepared and released for a 45-day
24 public comment period in 2019.

25 Two public meetings were held during which

1 the Corps and Port provided presentations on the
2 project, and members of the public were provided an
3 opportunity to provide comment.

4 Responses to all comments received, oral and
5 in writing, were prepared and are provided in the final
6 document.

7 The Port issued the final IFR/EIS document
8 on -- in October of 2021, and in July of this year they
9 issued the record of decision -- their record of
10 decision, which completed the Federal Environmental
11 Review Process under NEPA.

12 Subsequently, as the lead agency for the
13 project under CEQA, the Port issued the notice for
14 today's hearing and the availability of the final
15 document on August 16th, 2022.

16 Next slide.

17 The environmental review found that while
18 most of the potential impacts of the proposed project
19 can't be mitigated, there remain potentially significant
20 impacts to air quality after the implementation of
21 mitigation measures from construction of the proposed
22 project, including emissions that exceed the South
23 Coast Air Quality Management District's daily thresholds
24 of significance for nitrogen oxides in the years 2024,
25 2025, 2026, and 2027, and particulate matter of

1 2.5 microns or less, or PM 2.5, and carbon monoxide, CO,
2 and volatile organic compounds, VOCs, in 2025.

3 In addition, construction of the proposed
4 project would generate oxide ambient air -- air
5 pollutant concentrations that would exceed one-hour
6 federal NO2 thresholds. Again, these are impacts
7 related to construction of the project.

8 To address -- to address and lessen the
9 potential significant environmental impacts, mitigation
10 measures have been applied to the project, including the
11 use of electric dredging equipment, as well as the use
12 of construction-related harbor craft.

13 I'm sorry. Next slide, please.

14 My apologies. So I'll begin again.

15 To address and lessen the potential
16 significant environmental impacts from the project,
17 mitigation measures have been applied to the project,
18 including the use of electric dredging, as you can see
19 in MM-AQ-1, as well as the use of construction-related
20 harbor craft that meet U.S. EPA Tier 3 emission
21 standards, while offroad construction equipment would be
22 required to meet U.S. -- U.S. EPA Tier 4 final emission
23 standards.

24 In addition, off-road equipment would need to
25 be well maintained and their idling limited to five

1 minutes.

2 Next slide.

3 In addition to certification of the
4 Environmental Impact Report, staff is recommending the
5 Board approve the Application Summary Report, which
6 discusses the project's consistency with the Certified
7 Port Master Plan and the California Coastal Act and
8 issue a Level III Harbor Development Permit.

9 The project spans several planning districts
10 in the Long Beach Harbor. The project supports the PMP
11 goals to increase primary port uses, maintain and
12 improve -- improve access for vessels, navigation, and
13 modernizing port facilities.

14 The project would not result in larger ships
15 calling into port beyond the current forecasts.
16 However, the efficiencies afforded by accommodating
17 larger ships that are fully loaded with reduced
18 operational maneuvering restrictions could reduce the
19 number of vessels that would potentially call the port
20 over time.

21 Next slide.

22 As conditions for issuance of the Harbor
23 Development Permit, the port will require that the
24 following be implemented for the project:

25 Best management practices during construction

1 activities to ensure protection of water resources.

2 During construction, a transportation management plan
3 will be considered to ensure that the landside traffic
4 circulation's maintained in the area of the construction
5 activity.

6 In the unlikely event that any cultural or
7 historic resources are found during construction
8 activities, construction will be halted and an
9 archeological expert -- and archeological experts are to
10 be notified to determine the significance of the
11 findings and identify the appropriate resolution.

12 Lastly, the Port will make a contribution of
13 \$146,753 to the Port's community grants program. This
14 amount was determined using the calculation methodology
15 approved by the Board of Harbor Commissioners.

16 Next slide.

17 This afternoon, Staff is recommending that
18 the Board receive and file supporting documentation into
19 the record and conduct a public hearing for the Deep
20 Draft Navigation Feasibility Study and Channel Deepening
21 Project, certify the Final Environmental Impact Report,
22 adopt Findings of Fact, Statement of Overriding
23 Considerations, and the Mitigation Monitoring and
24 Reporting Program.

25 Also, we are recommending that you approve

1 the project and approve the Level III Harbor -- the
2 Application Summary Report and the Level III Harbor
3 Development Permit for the project.

4 Next slide.

5 That concludes my Staff Report, and I will be
6 happy to answer any questions.

7 COMMISSIONER COLONNA: Madam President, can you
8 guys hear me?

9 COMMISSIONER LOWENTHAL: You're muted, Madam
10 President.

11 PRESIDENT WEISSMAN: So sorry. Thank you.

12 We're going to take public comment first and
13 then have the opportunity for commissioners to make
14 comment and ask questions.

15 So I will now open this portion of the
16 hearing for public comment. For those who submitted a
17 request in advance, you will be called at the phone
18 number you provided. For those who called in when this
19 item was opened, please wait on the line, and Staff will
20 open the line for you to make your comments when it is
21 your turn.

22 As a reminder to speakers, please state your
23 name clearly for the record. Limit your comments to no
24 more than three minutes. I also ask that you avoid
25 repeating comments made by speakers before you.

1 And, Ms. Espinoza, who is our first
2 commenter?

3 MS. ESPINOZA: Thank you, Madam President. We
4 have four public commenters, and the first one is Regina
5 Hsu.

6 And just as a reminder, "star 3" is to raise
7 your hand, and "star 6" is to unmute yourself.

8 So with that, Regina?

9 MS. REGINA HSU: Good afternoon, President
10 Weissman and Members of the Board. My name is
11 Regina Hsu, and I'm an attorney with Earthjustice.
12 Thank you for the opportunity to testify today.

13 The Board should vote against the resolution
14 and deny the Harbor Development Permit because the
15 Environmental Impact Report and Environmental Impact
16 Statement do not comply with the California
17 Environmental Quality Act and National Environmental
18 Policy Act.

19 Earthjustice, along with West Long Beach
20 Association, San Pedro and Peninsula Homeowners
21 Association, the CFASE, NRDC, and Pacific Environment
22 have submitted a letter highlighting the deficiencies of
23 the report.

24 Since last September, the Port has been
25 operating 24/7, which has led to a huge increase in

1 pollution. While the Port continues to break records,
2 the increase in cargo movement has resulted in more
3 nitrogen oxide and particulate matter pollution from all
4 sources of Port equipment in a region that already
5 suffers from some of the worst air quality in the
6 nation.

7 Meanwhile, the Port has made little progress
8 in reducing emissions from Port operations in recent
9 years. This harbor deepening will accommodate larger
10 ships that carry more cargo and will lead to even more
11 growth at the port.

12 Not only does the study not address the
13 environmental impact of this potential growth or
14 operational impact, it does not include sufficient
15 mitigation measures to reduce the environmental harms
16 associated with this project.

17 The Port must institute meaningful
18 environmental review of projects that will promote
19 growth instead of continuing with its business as usual
20 approach, which is harming our communities.

21 We ask that you work with our air agencies,
22 including the South Coast Air District and California
23 Air Resources Board, to pass regulations that will
24 reduce pollution from Port operations rather than
25 focusing on continuous expansion at the expense of

1 public health.

2 We urge the Board to put community health
3 first and to not move forward with this project.

4 Thank you for your time.

5 PRESIDENT WEISSMAN: The next speaker is Mandeera
6 Wijetunga. Please hit "star 6."

7 It looks like we lost him, so we'll give him
8 a few minutes to rejoin. So I'll move on --

9 MR. MANDEERA WIJETUNGA: (Indiscernible.)

10 PRESIDENT WEISSMAN: Oh, there you are.

11 MR. MANDEERA WIJETUNGA: Hi. Thank you so much.

12 My name is Mandeera Wijetunga, and I'm a
13 climate campaigner with Pacific Environment. And we
14 strongly oppose the channel deepening project.

15 The Port of Long Beach has experienced
16 exponential growth since the pandemic, and this
17 (indiscernible) increased cargo movement has made even
18 more pollution to communities.

19 We experience a -- experiencing a pollution
20 (indiscernible) at the Port and need to focus on
21 reducing pollution.

22 The argument that because we will reduce
23 condition and pollution is simply not true. Studies
24 have shown that navigating at lower speeds were more
25 efficient with regards to consuming fuels and CO2

1 emissions for TEU.

2 Excessive dredging include harm- -- harming
3 endangered species (indiscernible) contaminant into the
4 water and increasing (indiscernible).

5 The dredged material has been (indiscernible)
6 to be third on land and can contain many pollutants
7 within the sediment, including polychlorinated
8 biphenyls, PCBs, mercury, and other heavy metals.

9 Increase in (indiscernible) has resulted in
10 additional emissions in all categories of
11 (indiscernible) including (indiscernible) trucks, rail,
12 and cargo-handling equipment.

13 The Port cannot continue to grow until there
14 are stronger policies in place to reduce pollution from
15 Port operation and ensure meaningful environmental
16 review of proposed budget.

17 The Port -- the Port should work with
18 agencies like South Coast AQMD and the (indiscernible)
19 to pass regulation to reduce air quality impact of the
20 Port equipment.

21 So we urge the Board toward -- against this
22 project and Port expansion project until the Port comes
23 up with a plan to addressing this (indiscernible).

24 Thank you so much.

25 MS. ESPINOZA: The next speaker is Eileen Tovar.

1 Please hit "star 6." I see your hand raised.

2 Eileen, can you hit "star 6"?

3 MS. EILEEN TOVAR: Hello. Are you able to hear
4 me?

5 MS. ESPINOZA: Yes.

6 MS. EILEEN TOVAR: Okay. Perfect.

7 Good afternoon, President Weissman and
8 Commissioners. My name is Eileen Tovar, and I am a
9 field representative for Assemblymember Patrick
10 O'Donnell, who has asked me to voice his support of the
11 Board of Harbor Commissioners' certification of the
12 Environmental Impact Report and approving the issuance
13 of a Level III Harbor Development Permit for the Deep
14 Draft Navigation Project.

15 As Chair of the Assembly Select Committee on
16 Ports and Goods Movement, Assemblymember O'Donnell
17 understands that this project will bring major benefit
18 to the Port and surrounding communities.

19 With the adoption of this report and the
20 implementation of the Deep Draft Navigation Project, the
21 Port will be able to reduce air pollutants by increasing
22 transportation efficiencies, reduce emissions per
23 container by facilitating next generation vessels, and
24 improve vessel maneuvering and the reduction of
25 transportation costs.

1 Deepening and widening channels in the harbor
2 will -- will undoubtedly lead to improved vessel
3 navigation, (indiscernible) benefits of nearly
4 21 million annually, as well as benefits to the supply
5 chain network beyond California.

6 For these reasons, Assemblymember O'Donnell
7 is pleased to support this important project.

8 Thank you for your consideration.

9 MS. ESPINOZA: Our next speaker is Jessica
10 Alvarenga.

11 Jessica, can you hit "star 6"?

12 MS. JESSICA ALVARENGA: Hello?

13 MS. ESPINOZA: There you go.

14 MS. JESSICA ALVARENGA: Okay. Hello, President
15 Weissman and Commissioners. My name is
16 Jessica Alvarenga, and I'm with the Pacific Merchant
17 Shipping Association.

18 On behalf of the PMSA, I would like to share
19 support for the Deep Draft Navigation Channel's
20 deepening project. This project would improve vessel
21 navigation efficiencies while deepening and widening the
22 channel. This would also allow more larger vessels to
23 come into the port, which is an important advantage.

24 The benefit of accommodating larger vessels
25 means fewer vessel trips, and that means reducing the

1 amount of pollution per container.

2 Thank you to the staff who've worked on the
3 study. Please support this beneficial project. Thank
4 you.

5 MS. ESPINOZA: Madam President, I know we have
6 Tom Jacobsen that would like to speak, but I do not see
7 him on the line yet.

8 PRESIDENT WEISSMAN: Why don't we --

9 MS. ESPINOZA: Actually, he just -- he just came
10 in.

11 So, Mr. Jacobsen, would you like to speak?

12 Please hit "star 6." Mr. Jacobsen, if you
13 can hit "star 6." I see you, Mr. Jacobsen. If you
14 could just hit "star 6" on your phone.

15 MR. TOM JACOBSEN: How's that?

16 MS. ESPINOZA: There you go.

17 MR. TOM JACOBSEN: Okay. Let me turn the
18 lighting down here.

19 Sorry about that.

20 Good afternoon, Commissioners and Board
21 Staff. My name is Tom Jacobsen, president of
22 Jacobsen Pilot Service. I would like to give our full
23 support to the Deep Draft Navigation Feasibility Study
24 and Channel Deepening Project.

25 This is a very important project for the

1 navigational safety of large commercial cargo ships that
2 we pilot into Long Beach.

3 As you know, the ships calling our port are
4 some of the largest ships in the world. Large container
5 ships are 1300 feet long and close to 200 feet wide with
6 drafts up to 50 feet deep. Very large crude carriers,
7 the VLCCs, are also 1300 feet long and 230 feet wide
8 with drafts up to 69 feet deep. These are massive-sized
9 ships.

10 This channel deepening project improves the
11 navigational safety today and into the future with even
12 bigger ships.

13 I would like to thank everyone at the Port
14 and the U.S. Army Corps for being proactive and making
15 these huge, important improvements to our port.

16 Again, all of our harbor pilots and myself
17 support this important channel deepening project.

18 Thank you very much.

19 MS. ESPINOZA: Madam President, that concludes
20 public comments.

21 PRESIDENT WEISSMAN: Thank you.

22 I will ask Staff if they have any additional
23 comments after we have heard the public comments.

24 MR. ARMS: Thank you, Madam President.

25 I would just offer that we have had a chance

1 to look at the letter that was referenced that was
2 submitted, as well as listen to the verbal testimony.

3 I don't believe that any of the issues that
4 we -- all of the issues in the letter and the testimony
5 are similar and, I think, consistent with the comments
6 that we received and fully responded to in the final
7 document, so we don't have any additional information to
8 add at this time.

9 PRESIDENT WEISSMAN: Thank you.

10 That will take us now to the Commission.

11 Commissioners, any comments or questions? I
12 believe, Commissioner Colonna, you had something.

13 COMMISSIONER COLONNA: Yes. Thank you,
14 President.

15 First I want to thank Sean and his staff,
16 engineering staff, and Matt for, you know, bringing this
17 forward. It's -- this is a critical element of our
18 evolution to moving to the next generation of not only
19 the transportation vessels that come to the port, but
20 also keeping up with the -- the demands.

21 These are not just items and ideas that we
22 have just because we -- we want to just implement them.
23 This -- this -- these items in this particular project
24 is an absolute necessity.

25 And for that, my one and only question,

1 though, Matt, is do we happen to know about -- or
2 Sean -- how much time it will take from start to finish
3 to complete this job?

4 MR. ARMS: Sean, would you --

5 MR. GAMETTE: Yeah. We -- Commissioner Colonna,
6 thank you for the question. And the Corps of Engineers
7 has put together a schedule. The first step in that
8 will be to -- if -- if the project is approved today,
9 would be to shortly after enter into a design agreement
10 and support the design of the work.

11 And we expect that to be completed and -- and
12 the construction work bid such that it could be -- it
13 could be started by 2025 and completed within three
14 years.

15 COMMISSIONER COLONNA: Okay. So this is still
16 kind of a down-the-road project, but still very
17 important for us to get it started as quickly as we can,
18 considering that, you know, our demand is there.

19 So thank you. And -- and I appreciate you
20 guys and all the effort you put -- put into this.

21 PRESIDENT WEISSMAN: Thank you, Commissioner.

22 Commissioner Lowenthal.

23 COMMISSIONER LOWENTHAL: Thank you. And thank
24 you to Staff for the years that you've been working on
25 this before it came to us today.

1 Actually, what year did you start this, Sean?
2 When did this project become -- you know, come up?

3 MR. GAMETTE: Well, it certainly -- it's
4 certainly been quite a number of years. Commissioner
5 Lowenthal, as -- as you point out, we -- we started on
6 it with a 3-by-3-by-3 study, and that's a three --
7 that's a three-year duration. We did need a little bit
8 more time than that, so we've been working on it for a
9 good five years, I'd say.

10 COMMISSIONER LOWENTHAL: As long as I've been on
11 the Commission. So here -- here we are.

12 Just a couple of questions.

13 Matt, you said there was going to be an
14 electric substation at Pier J. And is that -- that's a
15 new one that's going to be built and in use and
16 something that would remain?

17 MR. ARMS: Correct. So currently -- and it's
18 specifically for -- to accommodate the electric dredge.
19 We currently have a substation -- similar substation at
20 Pier T that has been using the past -- past for our
21 dredging programs for the west basin, for middle harbor
22 dredging.

23 The proposed one at Pier J would, again --
24 it's out further, so the extension cord wouldn't have to
25 be quite so long for the dredge. And so the -- the

1 proposal is to -- to -- to build one on Pier J, if
2 needed. If it's determined that -- that it's needed,
3 we'd build the substation if -- and, again, it's a
4 substation for electric dredging.

5 COMMISSIONER LOWENTHAL: So is that in concert
6 with Southern California Edison? Is that --

7 MR. ARMS: Absolutely.

8 COMMISSIONER LOWENTHAL: -- that part of the
9 trunk line that comes down there?

10 MR. ARMS: I'll defer to Sean on the engineering
11 details.

12 MR. GAMETTE: Yeah. That's a great observation
13 too, Commissioner Lowenthal. There's a -- there's a
14 66 KD line that comes down toward Pier J -- G and J, and
15 the idea would be to power this dredge substation off of
16 that -- off of that line.

17 COMMISSIONER LOWENTHAL: Another question. And,
18 Sean, you know I always ask about the dredging material,
19 so I -- I have two questions.

20 Will there be reuse to the material? That's
21 one question. And if there are, indeed, harmful
22 materials, how do you protect us and the public from
23 those harmful materials? How are they disposed of?

24 MR. ARMS: So --

25 MR. GAMETTE: Do you want to go, Matt, first?

1 Okay. Go ahead.

2 MR. ARMS: I'll give it -- I'll give it a start,
3 and you can finish.

4 So, you know, the management of dredge
5 sediment at the port and beneficial (indiscernible) is
6 something that we take very seriously; right? And --
7 and so we are always looking to maximize and have a long
8 history of maximizing the reuse of sediments in our port
9 fills.

10 The -- the document before you today and the
11 plan before you today from an environmental standpoint
12 as a worst case for emissions assumes that that material
13 will be going out to open ocean disposal because that's
14 the farthest we would have to take it.

15 However, if there is an opportunity to align
16 the project with -- another project within the port, we
17 will absolutely take advantage of that.

18 I also want to let you know that even if
19 once -- if approved today and the -- the Army Corps's
20 already issued their ROD for the project, that's just
21 the start of the sediment management process.

22 There's the dredge management team, which is
23 a team of all the state and federal agencies that have
24 an interest in sediment management and habitat and
25 marine life. They will actually review sampling and

1 analysis plans, review the results of any samples and
2 the results of the analysis, and then have approval
3 and -- and -- and a say into how those sediments will be
4 disposed of.

5 So there's still a long process to go through
6 to do -- make sure that we are handling all the
7 sediments in the proper way.

8 And then just finally, the best thing we can
9 do with contaminated sediments is put them in a silt
10 fill, into a port fill. So that's beneficially reusing
11 contaminated sediments, so we would definitely try to do
12 that, if possible.

13 COMMISSIONER LOWENTHAL: Wow. That's -- that's
14 really amazing and fascinating and protective of -- of
15 all of us, so I appreciate that.

16 And just a shout-out to Tom Jacobsen. You
17 know, those pilots, they know exactly by the inch or
18 probably less what the draft is and what the draft is --
19 is needed. So I know this is extremely important to our
20 pilots to provide the -- the safety that we need.

21 Thank you.

22 PRESIDENT WEISSMAN: Thank you, Commissioner
23 Lowenthal.

24 I see our executive director would like to
25 say a few things.

1 Mr. Cordero.

2 MR. CORDERO: Thank you, Madam President and
3 Commissioners. Thank you for your time in listening to
4 the pros and cons. And, honestly, I think from my
5 perspective, I'm convinced that the -- the benefits of
6 this program are certainly worthy.

7 So as was referenced in the introduction,
8 this is a project of national benefit. And so with
9 that, I'd like to make sure I emphasize our appreciation
10 with the Army Corps.

11 This has been a long-discussed project, a lot
12 of time put in by staff over the years, and I think,
13 again, none of this would have happened without the
14 cooperation of the Army Corps, who, again, looked at
15 this project and certainly agreed a hundred percent that
16 what's before you is something that has a significant
17 national benefit over many areas.

18 So with that, I just want to make sure to
19 acknowledge the Army Corps and, of course, the interest
20 that the Federal Government has in making sure we move
21 forward with this project.

22 PRESIDENT WEISSMAN: Thank you.

23 Commissioners, any other comments?

24 I -- I would just like to say a few things.
25 First of all, thank you to those who commented during

1 public comment period. I also thank the organizations
2 that submitted a letter to us regarding this.

3 Although I believe this was addressed during
4 Mr. Arms' presentation, I -- I do want to say a couple
5 of things.

6 First of all, the comment that this would
7 increase speeds at the Port when we know that lower
8 speeds cause fewer emissions -- and please tell me if
9 I'm wrong, Mr. Arms, but this would not increase speeds.

10 I think the idea is that ships would still
11 move into the port slowly because that does reduce
12 emissions, but that they either don't have to idle while
13 waiting for tides or there is not as much ship activity
14 in having to have smaller vessels meet larger vessels
15 and bring cargo in.

16 I believe Mr. Arms did say that this does not
17 increase our cargo, and so -- which is -- is in our
18 documents, that the idea is not to increase the cargo
19 coming into the port.

20 When a larger ship calls on the port, it is
21 oftentimes replacing smaller ships. And so given the
22 same technology, a 20,000 TEU ship has fewer emissions
23 than two 10,000 TEU ships. And so this actually is
24 helpful in that aspect.

25 And the thing that -- that Mr. Jacobsen

1 mentioned is it's safer. And I think that in addition
2 to -- to the -- our concerns about sustainability,
3 safety has to absolutely be one of our concerns here at
4 the port.

5 So I'm guessing I didn't get anything wrong
6 because Mr. Arms did not come in to tell me I did.
7 So -- so thank you.

8 If there is no other comments from our
9 Commission, no other comments or questions, I will close
10 the public comment portion of the hearing. I will
11 entertain a motion to receive and file the Staff Report,
12 documentation, and public comments received on the
13 Deep -- Deep Draft Navigation Feasibility Study and
14 Channel Deepening Project.

15 COMMISSIONER COLONNA: Move (indiscernible).

16 VICE PRESIDENT OLVERA: Second.

17 PRESIDENT WEISSMAN: I believe there was a motion
18 from Commissioner Colonna with a second from
19 Vice President Olvera.

20 If there are no other comments, Ms. Espinoza,
21 would you please do a roll call vote.

22 MS. ESPINOZA: President Weissman?

23 PRESIDENT WEISSMAN: Aye.

24 MS. ESPINOZA: Vice President Olvera?

25 VICE PRESIDENT OLVERA: Aye.

1 MS. ESPINOZA: Commissioner Lowenthal?

2 COMMISSIONER LOWENTHAL: Aye.

3 MS. ESPINOZA: Commissioner Colonna?

4 COMMISSIONER COLONNA: Aye.

5 MS. ESPINOZA: Commissioner Neal.

6 COMMISSIONER NEAL: Aye.

7 PRESIDENT WEISSMAN: Next we would require a
8 motion to adopt a resolution to certify the Final
9 Environmental Impact Report, adopt the Findings of Fact,
10 the Statement of Overriding Considerations, and the
11 Mitigation Monitoring and Reporting Program and approve
12 the project pursuant to the California Environmental
13 Quality Act.

14 Is there a motion?

15 COMMISSIONER LOWENTHAL: So moved.

16 COMMISSIONER COLONNA: Second.

17 PRESIDENT WEISSMAN: A motion by Commissioner
18 Lowenthal with a second by Colonna.

19 If the Commissioners have no other comments,
20 Ms. Espinoza, would you please do a roll call vote?

21 MS. ESPINOZA: President Weissman?

22 PRESIDENT WEISSMAN: Aye.

23 MS. ESPINOZA: Vice president Olvera?

24 VICE PRESIDENT OLVERA: Aye.

25 MS. ESPINOZA: Commissioner Lowenthal?

1 COMMISSIONER LOWENTHAL: Aye.

2 MS. ESPINOZA: Commissioner Colonna?

3 COMMISSIONER COLONNA: Aye.

4 PRESIDENT WEISSMAN: Commissioner Neal.

5 COMMISSIONER NEAL: Aye.

6 PRESIDENT WEISSMAN: The motion passes
7 unanimously, which I also should have said about the
8 motion before.

9 And, lastly, on this item, I would entertain
10 a motion to adopt the Application Summary Report and
11 issue Level III Harbor Development Permit Number 19-035
12 under the Certified Port Master Plan and Section 1215 of
13 the Long Beach City Charter.

14 COMMISSIONER NEAL: Move (indiscernible).

15 COMMISSIONER COLONNA: Second.

16 PRESIDENT WEISSMAN: I believe the motion was by
17 Commissioner Neal; second by Commissioner Colonna.

18 Seeing no other comments from Commission or
19 Staff, Ms. Espinoza, a roll call vote, please.

20 MS. ESPINOZA: President Weissman?

21 PRESIDENT WEISSMAN: Aye.

22 MS. ESPINOZA: Vice President Olvera?

23 VICE PRESIDENT OLVERA: Aye.

24 MS. ESPINOZA: Commissioner Lowenthal?

25 COMMISSIONER LOWENTHAL: Aye.

1 MS. ESPINOZA: Commissioner Colonna?

2 COMMISSIONER COLONNA: Aye.

3 MS. ESPINOZA: Commissioner Neal.

4 COMMISSIONER NEAL: Aye.

5 PRESIDENT WEISSMAN: That motion passes
6 unanimously. Thank you very much to our Staff for their
7 excellent work.

8 Again, thank you to those from the public who
9 commented either in favor or against this -- this
10 project.

11 And we'll now close the public hearing, and
12 we will move on to new business.

13 * * *

14 (End of video recording.)

15

16

17

18

19

20

21

22

23

24

25

Certificate
of
Transcriptionist

The undersigned transcriptionist does hereby
certify:

That the foregoing was transcribed by me to
the best of my ability from a video recording. I
further certify that I am neither financially interested
in the proceedings nor a relative or employee of any
party to the proceedings.

In witness whereof, I have subscribed my name
this date, October 20, 2022.



Janet M. Wood
Transcriptionist
CSR No. 9463



September 26, 2022

Via messenger and e-mail

Honorable Mayor and Members of the City Council
c/o Monique De La Garza, City Clerk
City of Long Beach California
411 W. Ocean Blvd., Lobby Level
Long Beach, CA 90802
(562) 570-6101
cityclerk@longbeach.gov

Re: Appeal of Long Beach Board of Harbor Commissioners' Approval of the Channel Deepening Project and Certification of the Final Environmental Impact Report (HD-22-421)

Dear Honorable Mayor and Members of the City Council:

On behalf of the Center for Biological Diversity, East Yard Communities for Environmental Justice, Natural Resources Defense Council, Pacific Environment, Sierra Club, and West Long Beach Association (collectively "Health & Environmental Groups"), we write to appeal the approval of the Channel Deepening Project ("Project") by the Port of Long Beach Board of Harbor Commissioners ("Port"). The Board approved a Harbor Development Permit for the Project and certified the Final Environmental Impact Statement and Final Environmental Impact Report (FEIS/FEIR), despite receiving public comments prior to its approval highlighting serious inadequacies in the Project's environmental review under the California Environmental Quality Act ("CEQA").

This letter serves as the formal appeal of the Port's approval of the Project and FEIR.¹ After careful review of the Port's decision, we have determined that the Port's approval of the Project does not comply with CEQA. The legal inadequacies of the Port's FEIR under CEQA were previously described in comment letters submitted on December 9, 2019 and September 12, 2022, and verbal comments were also provided by representatives of Health & Environmental Groups. In addition, Health & Environmental Groups incorporate by reference other comments submitted by other entities. These previously submitted comments are incorporated herein by reference.² Given the CEQA violations at issue, as explained in more detail herein, we respectfully request that the City Council remand the Project back to the Port to address existing deficiencies in the Project's environmental review.

CEQA compliance by the Port is critical to curtailing the negative impacts of the Port's operations. Freight activities at the Port are a major source of toxic air pollution in the South Coast Air Basin, a region with some of the worst air quality in the nation, and this pollution disproportionately impacts portside communities. Greenhouse gas emissions resulting directly and indirectly from Port

¹ See Long Beach Mun. Code § 21.21.507; Pub. Res. Code § 21151(c).

² See Appendices 1, 2.

activities are also contributing to climate change, which severely threatens California’s environment, water resources, and economy.

The Channel Deepening Project will add to existing environmental and public health impacts from Port activities. But rather than transparently disclose the full extent of these impacts, the FEIR improperly limits the scope of this Project to the dredging activities and fails to consider the channel deepening’s effect on port operations. This fundamental oversight renders the FEIR legally deficient, as the agency fails to analyze any environmental impacts associated with the expansion of Port operations that will result from this channel deepening. The FEIR also fails to properly consider feasible, superior mitigation measures that are most effective in reducing the Project’s significant air quality and greenhouse gas emissions impacts. All of these failures constitute violations of CEQA. Moreover, the Port seeks to expand when regulations and policies are not in place to protect communities from toxic pollution from Port operations.

I. PROJECT BACKGROUND

The Channel Deepening Project, which will require construction of an approach channel, turning basin, and the deepening of channels and berths at the Port, is intended to improve navigation efficiencies for larger container and liquid bulk vessels calling at the Port.³ Despite the fact that this Project will accommodate larger ships with greater cargo carrying capacity, the FEIR erroneously limits the scope of the project to the dredging and construction activities and fails to consider impacts related to increased cargo movement that will result from larger vessels calling on the Port.

As the Port admits in the Deep Draft Navigation Feasibility Study, “[t]he Port’s ability to accommodate large container ships and handle additional cargo is a key objective.”⁴ This Project is one of many that the Port is undertaking to accelerate its growth and handle additional throughput.⁵ Specifically, this Project is intended to allow Post-Panamax vessels – with the capacity of 18,000 to 19,000 Twenty-Foot Equivalent Units (TEU) per container vessels– to call at the Port.⁶ From 1995 to 2020, total container throughput at the Port has increased by 185 percent.⁷ Data from recent years indicate that this growth will continue. In 2021, the Port processed the most cargo in its history at almost 9.4 million TEU, 15.7 percent more cargo as compared to the previous record-breaking year.⁸ This year, the Port has broken cargo records in six of the past eight months and moved 4 percent more cargo, as compared to the same period last year.⁹

³ FEIR/FEIS, xxii, 3-4.

⁴ *Id.* at 10.

⁵ “In preparation of the next generation of vessel, the POLB has a 10-year, \$4.0 billion capital program to update infrastructure and facilities to improve the efficiency of cargo operations. The program has a plan for projected spending of \$2.3 billion over the next 10 years. This includes the Middle Harbor Redevelopment Project, the Gerald Desmond Bridge Replacement, the Pier B Rail Support Facility, the Pier G and J modification project, and berth deepening.” *Id.*

⁶ *Id.* at 15.

⁷ *Id.* at 11.

⁸ Jeff Berman, Port of Los Angeles and Port of Long Beach each set new volume records in 2021, Logistics Management, Jan. 27, 2022, https://www.logisticsmgmt.com/article/port_of_los_angeles_and_port_of_long_beach_each_set_new_volume_records_in_2.

⁹ Port of Long Beach, *Port of Long Beach has Second-Busiest August*, Sep. 16, 2022, <https://polb.com/port-info/news-and-press/port-of-long-beach-has-second-busiest-august-09-15-2022/>.

While the Port assumes that it will experience continued growth until its facilities reach capacity,¹⁰ it fails to recognize that its planned infrastructure projects, including this Channel Deepening Project, will increase capacity and drive additional growth. Moreover, the Project will not serve the stated purpose and need of improving navigational efficiencies. Research indicates that increasing ship sizes will lead to higher costs and higher emissions per TEU.¹¹ Projects that encourage this additional growth and increased container throughput, including this Project, will have significant adverse consequences on the daily lives of residents living near the Ports, railyards, warehouses, the I-710 corridor, and the inland port communities in the Inland Valley.

Before the Port can pursue the Project, it must first comply with CEQA and provide a complete analysis that will enable decision makers and the general public to properly consider the environmental consequences of the Project.¹² As explained below, this FEIR fails to meet basic requirements under CEQA because it omits discussion of numerous environmental and public health impacts associated with this Project.

II. SCOPE OF THE PROJECT AND ITS IMPACTS IS IMPROPERLY NARROW

A project under CEQA is “an activity which may cause either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment.”¹³ Under CEQA, the Port is legally required to disclose all environmental impacts that might result from all phases of project planning, implementation, and operation, including any growth-inducing impacts.¹⁴

For an environmental document to adequately evaluate the environmental impacts of a project, it must first provide a comprehensive description of the project itself. “An accurate, stable and finite project description is the sine qua non of an informative and legally sufficient EIR.”¹⁵ Courts have held that, even if an EIR is adequate in all other respects, the use of a “truncated project concept” violates CEQA because “[a]n accurate project description is necessary for an intelligent evaluation of the potential environmental effects of a proposed activity.”¹⁶ Thus, an inaccurate or incomplete project description renders the analysis of significant environmental impacts inherently unreliable. In other words, the law mandates that EIRs describe proposed projects with sufficient detail and accuracy to permit informed decisionmaking.¹⁷

The FEIR limits the Project to the dredging and construction activities and declines to analyze the Project’s operational and cumulative environmental and public health impacts. But this Project will not only involve the dredging of the channel to deeper depths. In deepening the harbor, this Project will expand the Port’s capacity to bring in larger ships and process more cargo than it currently handles, result in larger vessels calling on the Port, and lead to increased impacts of shipping traffic and other environmental effects.

¹⁰ FEIR/FEIS, 12.

¹¹ Ulrich Malchow, *Mega Vessels – Mega Error?*, 14 KMI Int’l. J. Marit. Aff. Fish. 29 (2022).

¹² *Citizens for a Sustainable Treasure Island v. City & Cty. Of San Francisco*, 227 Cal. App. 4th 1036, 1052 (2014) (finding that an EIR should provide decision makers “with sufficient analysis to intelligently consider the environmental consequences” of a project).

¹³ Pub. Res. Code § 21065.

¹⁴ 14 Cal. Code Regs. §§ 15063(a)(1), 15126.2(e).

¹⁵ *San Joaquin Raptor/Wildlife Rescue Ctr v. Cty. of Stanislaus*, 27 Cal. App. 4th 713, 730 (1994) (quoting *Cty. of Inyo v. City of Los Angeles*, 71 Cal. App. 3d 185, 193 (1977)).

¹⁶ *Id.*

¹⁷ See 14 Cal. Code Regs. § 15124 (requirements of an EIR).

For years, the Port has experienced steady growth and processed increasing amounts of cargo. Forthcoming expansion projects, including this Channel Deepening Project, are likely to accelerate the Port's growth rate. Changes in port operations will also result in increased cargo throughput. For example, the Port shifted to 24/7 operations last September and Port of Long Beach Executive Director Mario Cordero has called for other segments of the supply chain to move towards 24/7 operations.¹⁸ Despite these growth trends, the FEIR improperly limits the scope of this Project and therefore fails to provide an accurate and complete description of the project concept. In failing to analyze the direct, indirect, and cumulative impacts of this Project, the FEIR unlawfully overlooks the significant environmental effects that the Project will have on air quality, marine ecosystems, and environmental justice communities.

a. The FEIR's Air Quality & Health Risk Assessment Is Insufficient

The FEIR arbitrarily concludes that the Project will only result in short-term emissions and significant regional air quality impacts in certain years during construction.¹⁹ This impact determination neglects to consider the growth-inducing effects of this Project and emissions resulting from expanded port operations.

In deepening the channel, this project will facilitate growth and increased cargo and vessel throughput at the Port. Even if the project does somehow decrease the overall number of vessel trips, the larger ships that will be accommodated by this Project carry more cargo and will take longer to unload, spending more time in the harbor. They will also require more cargo handling equipment, rail, and truck visits at any given time to handle the influx of larger cargo loads, which result in higher localized concentrations of pollution.

Despite this reasonably foreseeable result, the FEIR does not analyze the air quality impacts from expanded operations and provides no support for its claim that the channel deepening will decrease the overall number of vessel trips at the Port and therefore reduce emissions. The planning objectives contradict the assumption that the channel deepening will not facilitate the Port's growth. The agencies admit that the channel deepening "would induce changes in the operations and composition of the future fleet mix at the Port of Long Beach."²⁰ These changes include: (1) an increase in a vessel's maximum practicable loading capacity; (2) an increase in the reliability of water depth, encouraging the deployment of larger vessels to the Port; and (3) an increase in larger vessels, which will displace less economically efficient smaller vessels.²¹

The FEIR also fails to examine emissions from the Project in accordance with the most recent federal and state air quality standards. The South Coast Air Basin is in extreme nonattainment of all federal and state ozone standards and is also in nonattainment of the particulate matter standards. The Project will facilitate an increase in freight transportation to move cargo from larger ships calling at the Port, resulting in additional criteria pollutant emissions that will affect the region's ability to attain federal

¹⁸ Jeff Berman, *A focus on 24/7 operations is front and center for Ports of Los Angeles and Long Beach*, Logistics Management, Oct. 14, 2021, https://www.logisticsmgmt.com/article/a_focus_on_24_7_operations_is_front_and_center_for_ports_of_los_angeles_and; Ngai Yeung, *Entire US Supply Chain Needs 24/7 Operations, Not Just Ports, Official Says*, Bloomberg, Aug. 9, 2022, <https://www.bloomberg.com/news/articles/2022-08-09/entire-us-supply-chain-needs-24-7-not-just-ports-official-says>.

¹⁹ FEIR/FEIS, 256.

²⁰ *Id.* at 68.

²¹ *Id.*

air quality standards, including the 2015 0.70 ppm 8-hour ozone standard, and the state 8-hour ozone standard.

This growth promotion will also exacerbate the already heightened health risks that communities who live along the freight corridor face every day. Studies show that residents living near the Ports are exposed to greater cancer risk, compared to the regional average.²² Long Beach and Los Angeles port-adjacent communities, including West Long Beach, Wilmington, and San Pedro, already experience up to 8 years lower life expectancy than the Los Angeles County average.²³ Yet the FEIR fails to provide a quantitative assessment of potential health risks from operational impacts and provides only a cursory statement that regional adverse health impacts would be “temporary, occurring only during the construction period.”²⁴

b. The Greenhouse Gas and Global Climate Change Impacts Analysis Is Inadequate

In limiting its assessment of greenhouse gas emissions to only the construction activities of this Project, the FEIR’s global climate change analysis suffers from the same legal defect. Port operations – ocean-going vessels, tugboats, cargo handling equipment, trucks, and locomotives – constitute major sources of GHG and other air pollutant emissions. This project would allow larger vessels with greater capacity to operate at the Port, thereby increasing freight transport in the area. But the FEIR does not account for operational GHG emissions, and thus wrongly concludes that the global climate change impacts will be less than significant and mitigation measures are not required.

In 2006, Governor Schwarzenegger signed AB 32, a landmark law to control and reduce the emission of global warming gases in California along with the companion statute SB 1368, which prohibits California utilities from making long-term investments in coal-based electricity generation. AB 32 requires both reporting of GHG emissions and their reduction on an ambitious timeline, including a reduction of CO2 emissions to 1990 levels by 2020. Looking beyond 2020, Executive Order S-3-05 sets an emissions reduction target of 80 percent below 1990 levels by 2050. Under Executive Order B-55-18, codified into law with the recent enactment of AB 1279 by Assemblymembers Al Muratsuchi (D-Torrance) and Cristina Garcia (D-Bell Gardens),²⁵ California’s goal is to achieve carbon neutrality by no later than 2045. Executive Order B-32-15, taking into account the state’s GHG reduction targets, directed state agencies to establish an action plan and set clear targets to ensure progress towards the sustainable movement of goods.

Mayor Robert Garcia joined the Compact of Mayors in 2015, and pledged to reduce greenhouse gas emissions, including at the Port.²⁶ On June 12, 2017, Mayors Garcia and Garcetti signed a joint executive directive affirming a commitment to zero emissions at the Ports and setting targets to reach

²² South Coast Air Quality Management District, Multiple Air Toxics Exposure Study in the South Coast Air Basin, MATES IV (2012), at 4-16, available at <https://www.aqmd.gov/docs/default-source/air-quality/air-toxic-studies/mates-iv/mates-iv-final-draft-report-4-1-15.pdf?sfvrsn=7>.

²³ City of Long Beach Department of Health and Human Services, 2019 Community Health Assessment, <https://www.longbeach.gov/globalassets/health/media-library/documents/healthy-living/community/community-health-assesment>.

²⁴ FEIR/FEIS, 260, 262.

²⁵ State of California, Office of Governor Gavin Newsom, Governor Newsom Signs Sweeping Climate Measures, Ushering in New Era of World-Leading Climate Action, Sep. 16, 2022, <https://www.gov.ca.gov/2022/09/16/governor-newsom-signs-sweeping-climate-measures-ushering-in-new-era-of-world-leading-climate-action/>.

²⁶ City of Long Beach, Office of the Mayor, What is Long Beach Doing About Climate Change?, Nov. 10, 2015, <https://www.longbeach.gov/mayor/news/compact/>.

100% zero-emission cargo-handling equipment by 2030 and 100% zero-emission trucks by 2035.²⁷ In 2017, the Port of Long Beach, in conjunction with the Port of Los Angeles, issued the Clean Air Action Plan Update (CAAP), further committing to the zero-emission goals, setting new GHG reduction targets, and reaffirming previous emissions goals:

- Reduce GHGs from port-related sources to 40 percent below 1990 levels by 2030
- Reduce GHGs from port-related sources to 80 percent below 1990 levels by 2050
- By 2014, reduce port-related emissions by 22 percent for NOx, 93 percent for SOx and 72 percent for DPM.
- By 2023, reduce port-related emissions by 59 percent for NOx, 93 percent for SOx and 77 percent for DPM.
- By 2020, reduce residential cancer risk from port-related DPM emissions by 85 percent.²⁸

While the FEIR discusses the effects of climate change, the global climate change impacts analysis fails to analyze how this channel deepening may facilitate more GHG emissions and the impacts on our ability to meet state and local greenhouse gas targets. For example, the FEIR recognizes the benefits that the project will have on crude oil imports. In its discussion of the project purpose and need, the FEIR states that transportation costs and inefficiencies at the Port have thus far affected up to 15 percent of crude oil imports.²⁹ But the GHG analysis does not analyze the global climate change impacts of increased crude oil imports and exports of petroleum products at the Port. As the FEIR acknowledges, the Project is, in part, intended to increase the Port's capacity to import crude oil. This will in turn lead to more oil production, refinement, coal exports, and freight transportation, and increased emissions of criteria pollutants. The activities facilitated by the Project will accelerate climate change and impede state and local goals for GHG reduction. The FEIR's failure to address the significant global climate change impacts of this Project is a violation of CEQA.

c. The FEIR's Analysis of Impacts on Endangered Species Is Insufficient

The threats to marine ecosystems from shipping are well-known: oil spills and other water pollution, air pollution, anchor scouring, biological invasions, container loss, chronic noise and collisions with large whales and sea turtles.³⁰ This Project, and the resulting ship traffic, will only increase these threats.

While the FEIR assumes that this Project will lead to reduced overall vessel traffic, there is no evidence supporting this assertion or a legally binding limit that would restrict the number of vessels. Consequently, this Project is likely to facilitate increased vessel traffic and growth at the Port. Even assuming the overall reduction in vessel traffic holds, the FEIR nonetheless forecasts an "increase in larger Post-Panamax vessels."³¹ The increased presence of these larger vessels—in addition to a potential increase in size or number of accompanying tending vessels—may introduce significantly more noise into the marine environment, particularly if they have larger positioning thrusters and propulsion units.³² The

²⁷ Creating a Zero Emissions Goods Movement Future, <https://www.lbreport.com/port/mayrstm.pdf>.

²⁸ San Pedro Bay Ports, Clean Air Action Plan 2017, <http://www.cleanairactionplan.org/documents/final-2017-clean-air-action-plan-update.pdf>.

²⁹ *Id.* at xi.

³⁰ T.J. Moore et al, Exploring ship traffic variability off California, 163 *Ocean & Coastal Management* 515-527 (2018).

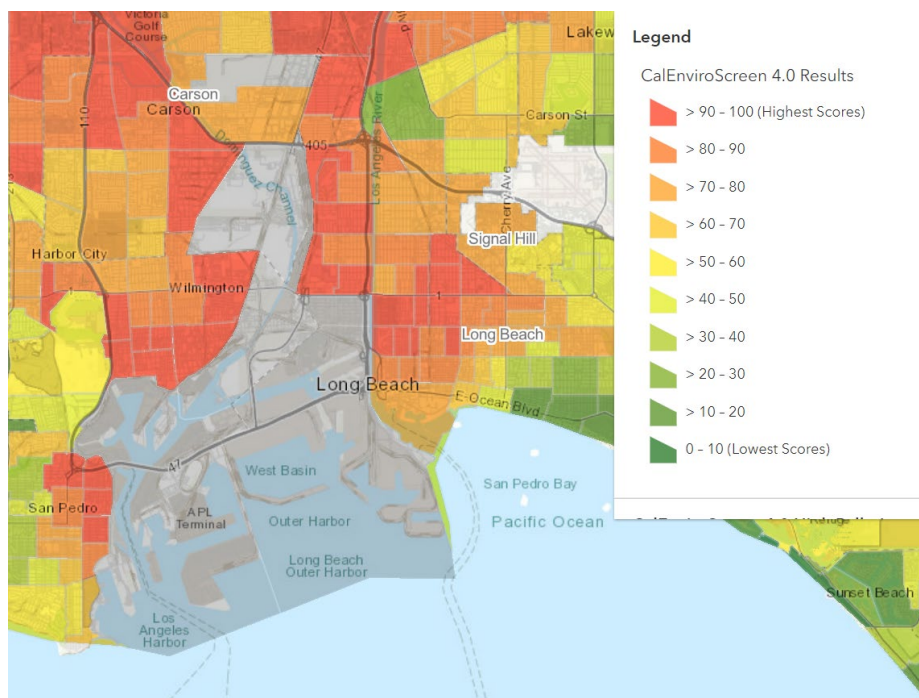
³¹ FEIR/FEIS, 68.

³² M.B. Kaplan & S. Solomon, A coming boom in commercial shipping? The potential for rapid growth of noise from commercial ships by 2030, 73 *Marine Policy* 119, 120 (2016).

threat to marine mammals of ship strike also would increase with any increase in large vessel traffic enabled by the proposed dredging project. Vessel traffic and noise caused by the project have the potential to cause serious harm to marine mammals, including endangered blue, fin, and humpback whales.

d. The FEIR Failed to Analyze and Mitigate Environmental Justice Impacts

The effects of port pollution on its neighboring residential communities bring into sharp focus the adverse impacts of this Project's air pollution emissions. The Project, and port operations generally, will occur in close proximity to the communities of West Long Beach, Wilmington, and Carson. Hundreds of thousands of residents in these areas are impacted by the Port's daily activities. Communities living near the Port bear extremely high pollution burdens, compared to other neighborhoods in the South Coast Air Basin.³³ Notably, this pollution disproportionately affects communities of color. Nearly 70 percent of the population in Long Beach is made up of people of color.³⁴



The Port's neighboring residents already bear a disproportionate share of the emission impacts from goods movement and are overburdened by environmental hazards generated by the Ports of Long Beach and Los Angeles, traffic on the I-710, the Intermodal Container Transfer Facility, as well as the several nearby refinery operations. Residents living near the Port have a higher exposure to diesel particulate matter than over 97% of Californians.³⁵

³³ Cal. Environmental Protection Agency (CalEPA), Office of Environmental Health Hazard Assessment (OEHHA), California Communities Environmental Health Screening Tool (hereinafter "CalEnviroScreen 4.0"), <https://oehha.ca.gov/calenviroscreen/report/calenviroscreen-40> (accessed Sep. 23, 2022).

³⁴ MemorialCare Long Beach Medical Center, 2019 Community Health Needs Assessment, 19, <https://www.memorialcare.org/sites/default/files/images/content/PDFs/20190620%202019%20Community%20Health%20Needs%20Assessment%20Long%20Beach%20Medical%20Center.pdf>

³⁵ *Id.*

People who live or go to school near ports, railyards, distribution centers, freight roadways, and other diesel hotspots face disproportionate exposure to diesel exhaust and associated health impacts, including increased risks of asthma and other respiratory effects, cancer, adverse birth outcomes, adverse impacts to the brain (including potentially higher risk of autism), heart disease, and premature death. Communities living adjacent to the Port are 95% more likely to have asthma and 99% more likely to suffer from cardiovascular disease, compared to other people in the state.³⁶

CEQA is intended to ensure the “maintenance of a quality environment” for all residents of California and requires agencies to take “all action necessary to provide the people of this state with clean air and water, enjoyment of aesthetic, natural, scenic, and historic environmental qualities, and freedom from excessive noise.”³⁷ Where the environmental impacts will cause substantially disproportionate effects on a community, corresponding analysis and mitigation measures are warranted. Accordingly, the FEIR must analyze the environmental justice impacts of the proposed Project and suggest mitigation measures to reduce the potential harm that may be disproportionately caused.

e. The FEIR Failed to Properly Analyze Indirect and Cumulative Impacts.

CEQA requires agencies to consider growth-inducing impacts in “[a]ll phases of project planning, implementation, and operation.”³⁸ As stated above, the FEIR is flawed because the environmental analysis rests on the faulty assumption that the channel deepening will not facilitate growth or increase overall throughput at the Port. In only analyzing the local impacts of construction activities, the FEIR not only failed to properly address the Project’s direct impacts, but also failed to address the reasonably foreseeable indirect impacts and cumulative impacts.

The FEIR ignores the growth-inducing effects of the Project and therefore understates the environmental impacts of the proposed channel deepening in violation of CEQA. The Port of Long Beach has consistently broken cargo records in the past few years. This year, the Port has reported record-breaking numbers of containers almost every single month.³⁹ The Port also saw its busiest July on record this year, with 785,843 TEU.⁴⁰ This Project is one of several expansion projects that the Port is undertaking to increase capacity and overall throughput. Moreover, expansion projects at the Ports of Long Beach and Los Angeles and the ensuing increases in cargo throughput will require greater utilization of diesel-powered ships, trucks, rail, and other port equipment, leading to even higher levels of diesel pollution and compounded health impacts for nearby communities. But the FEIR completely disregards these interrelated expansion projects and does not consider the indirect and cumulative air quality and greenhouse gas impacts of this Project.

In addition, the FEIR also fails to evaluate the cumulative effects and connected actions of several related efforts to widen and deepen shipping channels. Under CEQA, cumulative environmental effects can be defined as changes in the environment that “results from the incremental impact of the project when added to other closely related past, present, and reasonably foreseeable probable future projects.”⁴¹

The Port’s approval of this Project is one of many deepening projects at ports throughout the coastal U.S. Along the West Coast, and there are several proposals pending to deepen and widen

³⁶ *Id.*

³⁷ Pub. Res. Code §§ 2100(a), (g), 21001(b).

³⁸ 14 Cal. Code Regs. §§ 15063(a)(1), 15126.2(e).

³⁹ Christina Perlegka, Port of Long Beach records busiest July ever, Container News, Aug. 10, 2022, <https://container-news.com/port-of-long-beach-records-busiest-july-ever/>.

⁴⁰ *Id.*

⁴¹ 14 Cal. Code Regs. § 15355.

navigation channels to accommodate larger ships, including at the Port of Seattle, Port of San Francisco, Port of Oakland, Port of Los Angeles, Port of Tacoma, Coos Bay, and likely others. These projects are within the same region, intersecting the migratory path of several whale species, including blue, fin, grey, killer, and humpback whales. Many of the marine species affected by the Port of Long Beach project will therefore be affected by the vessel traffic and other navigation channel deepening and widening projects along the entire west coast because of the migratory nature of these animals.

The cumulative effects and connected actions of several related efforts to widen and deepen shipping channels must be evaluated. There are numerous feasibility studies occurring at ports and harbors throughout the United States to widen and deepen navigation channels to allow larger vessels. These actions are all related and foreseeable. Additionally, many will have impacts in multiple locations for species that migrate. An increase in larger vessels calling several ports along the West Coast will likely lead to increased levels of harmful underwater noise pollution and could also increase the likelihood of vessel-whale collisions.

III. MITIGATION IN THE FEIR IS INSUFFICIENT

CEQA requires that agencies refrain from approving projects that will harm the environment, unless feasible mitigation has been adopted that would substantially lessen the significant environmental effects of such projects.⁴² Instead of identifying appropriately tailored, updated mitigation measures that address the harmful externalities of expanded freight activities resulting from this Project, the FEIR only identifies mitigation measures for environmental impacts stemming from construction.

Specifically, the FEIR identifies the following mitigation measures to reduce impacts during construction:

- Use of an electric clamshell dredge during the construction period, and construction of an electric substation;
- Requiring construction-related harbor craft with Category 1 or Category 2 marine engines to meet at least EPA Tier 3 marine engine emission standards;
- Requiring diesel-fueled off-road construction equipment to meet EPA/CARB Tier 4 emission standards for non-road equipment;
- Maintenance and limited idling of not more than five minutes for off-road construction equipment.⁴³

These limited mitigation measures will do little to reduce the impacts from this Project and the concomitant growth of freight activities at the Port. The FEIR ignores the commercially available zero-emission equipment, such as trucks, cargo handling equipment, and harbor craft, that could be deployed at the Port to reduce the air quality impacts from both construction and operations. The Port also failed to consider that mandating the usage of shoreside power for all vessels, not only construction-related harbor craft, would mitigate environmental impacts from the Project.

⁴² *S. Cnty. Citizens for Smart Growth v. Cnty. of Nevada*, 221 Cal. App. 4th 316, 326 (2013). See also CEQA Guidelines §§ 15002, 15021, 15091, 15126.4(a)(1); Pub. Res. Code §§ 21002, 21081; *Citizens of Goleta Valley v. Bd. of Supervisors*, 52 Cal.3d 553, 565 (1990).

⁴³ FEIR/FEIS, 258.

IV. CONCLUSION

For the foregoing reasons, the Port's approval of the Channel Deepening Project does not comply with CEQA. The City Council should accordingly remand the Project back to the Port to address existing deficiencies in the Project's environmental review.

Date: September 26, 2022

Respectfully submitted,



Regina Hsu
Adrian Martinez
Earthjustice
707 Wilshire Blvd., Suite 4300
Los Angeles, CA 90017
(415) 217-2000
rhsu@earthjustice.org
amartinez@earthjustice.org

Counsel for East Yard Communities for Environmental Justice, Pacific Environment, Sierra Club, and West Long Beach Association

Miyoko Sakashita
Center for Biological Diversity
1212 Broadway #800
Oakland, CA 94612
(510) 844-7100
miyoko@biologicaldiversity.org

Counsel for Center for Biological Diversity

Heather Kryczka
Staff Attorney
Natural Resources Defense Council
1314 Second Street
Santa Monica, CA 90401
(310) 434-2300
hkryczka@nrdc.org

Taylor Thomas
East Yard Communities for Environmental Justice
2317 Atlantic Blvd.
City of Commerce, CA 90040
(323) 263-2113
taylort.eycej@gmail.com

Mandeera Wijetunga
Pacific Environment
473 Pine Street, Third Floor
San Francisco, CA 94104
(415) 399-8850
mwijetunga@pacificenvironment.org

Yassi Kavezade
Sierra Club
2101 Webster Street, Suite 1300
Oakland, CA 94612
(415) 977-5500
yassi.kavezade@sierraclub.org

Theral Golden
West Long Beach Association
3549 Fashion Avenue
Long Beach, CA 90810
(562) 427-6349
theraltg@msn.com

APPENDIX 1



September 12, 2022

President Weissman and Members of the Harbor Commission
Port of Long Beach
415 W. Ocean Blvd.
Long Beach, California 90802
bhc@polb.com

RE: Comments on Deep Draft Navigation Study

Dear President Weissman and Members of the Harbor Commission,

We submit these comments on behalf of the undersigned organizations to express our concerns over the Port of Long Beach and United States Army Corps of Engineers' Deep Draft Navigation Feasibility Study and Channel Deepening Project.

We strongly oppose the Channel Deepening Project ("Project") because it will facilitate further expansion and growth at the Port of Long Beach without adequately addressing increased pollution impacts from port operations. Moreover, this project violates the California Environmental Quality Act (CEQA) and National Environmental Policy Act (NEPA) because the Final Environmental Impact Report and Final Environmental Impact Statement (FEIR/FEIS) do not sufficiently analyze the Project's environmental impacts or consider meaningful mitigation measures.

We oppose any projects designed to accommodate more cargo throughput at the expense of public health. The Board cannot vote to certify the FEIR/FEIS or issue the Harbor Development permit as the Army Corps and Port have failed to meet its legal obligations under CEQA and NEPA. Moreover, the community does not have sufficient health protective regulations in place to protect us from deadly diesel pollution. We request that the Port hold off on port expansions until it can ensure meaningful environmental review of projects that facilitate additional growth and robust regulations from our air agencies (e.g. South Coast Air Quality Management District and California Air Resources Board) that reduce harmful port pollution are put in place.

I. The FEIR/FEIS fails to adequately analyze numerous significant and cumulative impacts of the Project.

NEPA requires that agencies take a “hard look” at the environmental impacts of their actions before the actions occur.¹ NEPA also requires that an EIS evaluate indirect effects that are “caused by the action and are later in time or farther removed in distance but are still reasonably foreseeable.”² This may include growth inducing effects and other effects related to induced changes in the pattern of land use, population density or growth rate, commercial growth, and related effects on air and water and other natural systems, including ecosystems.

CEQA similarly requires agencies to consider growth-inducing impacts in “[a]ll phases of project planning, implementation, and operation.”³ The FEIR/FEIS is flawed because the environmental analysis rests on the faulty assumption that the channel deepening will not facilitate growth or increase overall throughput at the Port.⁴ In only analyzing the local impacts of construction activities, the FEIR/FEIS fails to properly address the Project’s direct impacts, as well as reasonably foreseeable impacts and cumulative impacts.

The FEIR/FEIS ignores growth-inducing effects of the Project and therefore understates the environmental impacts of the proposed channel deepening in violation of NEPA and CEQA. The Port of Long Beach has consistently broken cargo records in the past few years. This year, the Port of Long Beach reported record-breaking numbers of containers almost every single month.⁵ Last month, the Port saw its busiest July on record, with 785,843 TEU.⁶ While the FEIR/FEIS claims that the channel deepening will not result in greater overall throughput, this is not rooted in the reality of the Port’s operations and projections for future growth. Last September, the Port shifted to 24/7 operations and Port of Long Beach Executive Director Mario Cordero has called for other segments of the supply chain to move towards 24/7 operations.⁷

Despite these growth trends, the FEIR/FEIS rests on an unfounded assumption that accommodating larger vessels will reduce the number of vessels visits at the Port and therefore not affect overall throughput at the Port: “Under future without and future with project conditions, the same volume of cargo is assumed to move through the POLB. However, a deepening project will allow shippers to load their vessels more efficiently or take advantage of larger vessels.”⁸ This oversight renders the environmental impact analysis wholly insufficient. Considering the Port’s move to 24/7 operations and overall growth, more vessels are projected to call at the Port. The channel deepening project is intended to increase efficiency,⁹ and it will also expand the Port’s capacity to bring in larger ships and process more

¹ *Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 349 (1989).

² 40 C.F.R. § 1508.8.

³ 14 Cal. Code Regs. §§ 15063(a)(1), 15126.2(e).

⁴ FEIR/FEIS, 335.

⁵ Christina Perlegka, *Port of Long Beach records busiest July ever*, Container News, Aug. 10, 2022, <https://container-news.com/port-of-long-beach-records-busiest-july-ever/>.

⁶ *Id.*

⁷ Jeff Berman, *A focus on 24/7 operations is front and center for Ports of Los Angeles and Long Beach*, Logistics Management, Oct. 14, 2021, https://www.logisticsmgmt.com/article/a_focus_on_24_7_operations_is_front_and_center_for_ports_ofLos Angeles_and_Long_Beach; Ngai Yeung, *Entire US Supply Chain Needs 24/7 Operations, Not Just Ports, Official Says*, Bloomberg, Aug. 9, 2022, <https://www.bloomberg.com/news/articles/2022-08-09/entire-us-supply-chain-needs-24-7-not-just-ports-official-says>.

⁸ FEIR/FEIS, 12.

⁹ *Id.* at xi.

cargo than it currently handles. The Project will enable the Port to accommodate larger vessels carrying more cargo, resulting in a significant increase in cargo throughput. In failing to analyze the Project's role in facilitating larger ships and cargo growth, the agencies have not properly addressed the direct impacts from the Project, as well as reasonably foreseeable indirect impacts and cumulative impacts.

The analysis of air quality impacts is legally deficient because it is limited to short-term emissions related to construction activities. As with the entire FEIR/FEIS, this omission is due to the flawed assumption that the Project will “not increase cargo or liquid bulk throughput” at the Port.¹⁰ As noted above, in improving operational efficiency, this channel deepening will facilitate growth and increased cargo and vessel throughput at the Port. Even if the Project does somehow decrease the overall number of vessel trips, the larger ships that will be accommodated by this project carry more cargo and will take longer to unload, spending more time in the harbor. They will also require more cargo handling equipment, rail, and truck visits at any given time to handle the influx of larger cargo loads, resulting in higher localized concentrations of pollution.

While the FEIR/FEIS states that the Project will improve efficiency and reduce emissions due to fewer vessel visits, recent research contradicts this conclusion. For example, a study on the impact of ultra large container ships concluded that increasing ship sizes will in fact lead to higher costs and higher emissions per TEU.¹¹

The FEIR/FEIS fails to examine emissions from the Project in accordance with the most recent federal and state air quality standards. The agencies have a duty to consider whether the proposed action “threatens a violation of Federal . . . law or requirement[] imposed for the protection of the environment.”¹² The South Coast Air Basin is in extreme nonattainment of all federal and state ozone standards and is also in nonattainment of particulate matter. The Project will facilitate an increase in freight transportation to move cargo from larger ships calling at the Port, resulting in additional criteria pollutant emissions that will affect the region's ability to attain federal air quality standards, including the 2015 0.70 ppm 8-hour ozone standard, and the state 8-hour ozone standard.

To illustrate how the Port's growth will affect air quality in the region, one only need look at activity at the Port since the pandemic. The increase in cargo throughput in March 2021 alone resulted in an additional 14.5 tons per day of nitrogen oxides and 0.27 additional tons per day of particulate matter from container vessels, locomotives, and heavy-duty trucks, compared to 2019 emission levels.¹³ From January to May 2022, the Ports of Long Beach and Los Angeles processed 28 percent more TEUs, as compared to the same period in 2019.¹⁴ This increase in cargo throughput has resulted in additional emissions from all categories of freight equipment, including ships, trucks, rail, and cargo handling equipment.¹⁵

¹⁰ *Id.* at 127.

¹¹ Ulrich Malchow, *Mega Vessels – Mega Error?*, 14 KMI Int'l. J. Marit. Aff. Fish. 29 (2022).

¹² 40 C.F.R. § 1508.27(b)(10).

¹³ California Air Resources Board, Emissions Impact of Recent Congestion at California Ports, Sep. 13, 2021, https://ww2.arb.ca.gov/sites/default/files/2021-09/port_congestion_anchorage_locomotives_truck_emissions_final_%28002%29.pdf.

¹⁴ California Air Resources Board, Emissions Impacts of Freight Movement Increases and Congestion near Ports of Los Angeles and Long Beach: June 2022, June 30, 2022, https://ww2.arb.ca.gov/sites/default/files/2022-06/SPBP_Freight_Congestion_Emissions_30JUN2022.pdf.

¹⁵ *Id.*

Table 1. Summary of Excess Oxides of Nitrogen (NOx) Emissions (tpd) near San Pedro Bay Ports by Source Category

Month-Year	Port Trucks ²	Regional Rail ³	Cargo Handling Equipment	Containerships at Anchor
November 2021	2.2	2.3	0.5	24.4
December 2021	2.3	1.3	0.3	6.4
January 2022	0.9*	1.5*	0.3*	2.5
February 2022	2.1*	3.5*	0.6*	1.3
March 2022	3.7*	6.1*	1.1*	0.9
April 2022	2.1*	3.4*	0.6*	1.3
May 2022	2.7*	4.5*	0.8*	0.7
6-Month Average	2.3	3.4	0.6	2.2

Table 2. Summary of Excess Particulate Matter (PM) Emissions (tpd) near San Pedro Bay Ports by Source Category

Month-Year	Port Trucks ⁴	Regional Rail ⁵	Cargo Handling Equipment	Containerships at Anchor
November 2021	0.014	0.055	0.015	0.638
December 2021	0.014	0.031	0.008	0.178
January 2022	0.006*	0.038*	0.011*	0.071
February 2022	0.013*	0.085*	0.025*	0.035
March 2022	0.023*	0.150*	0.044*	0.022
April 2022	0.013*	0.083*	0.025*	0.033
May 2022	0.017*	0.110*	0.033*	0.019
6-Month Average	0.015	0.083	0.024	0.060

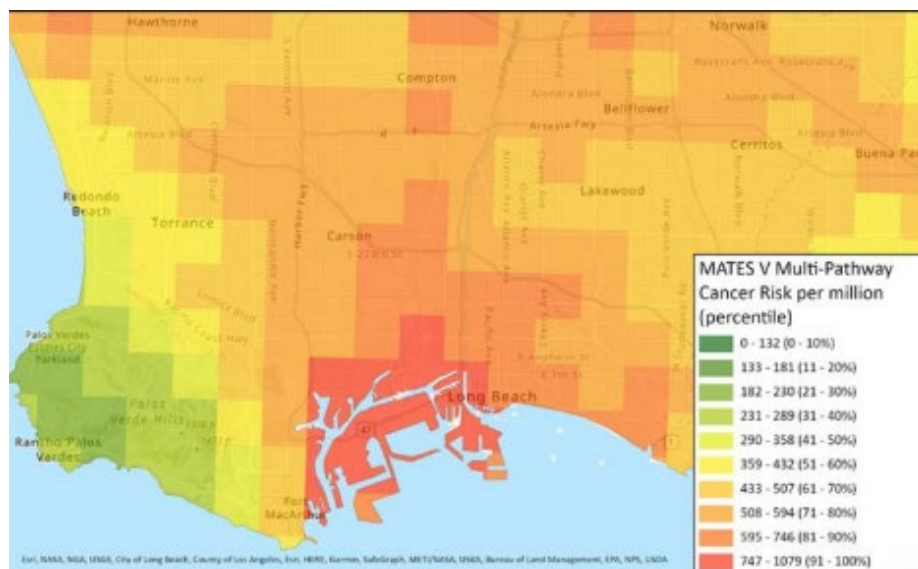
The FEIR/FEIS also fails to propose mitigation measures for the operational impacts of the Project. The agencies should require that future growth be consistent with the Port's commitments to achieve 100% zero-emission cargo handling equipment by 2030, and 100% zero-emission trucks by 2035, as outlined in the 2017 San Pedro Bay Ports Clean Air Action Plan. The Port should also mandate usage of shoreside power for all vessels, not only construction-related harbor craft, and consider the Advanced Maritime Emission Control System and other mitigation measures to reduce emissions at-berth.

The FEIR/FEIS also arbitrarily concludes that the Project will not have disproportionately high and adverse human health or environmental impacts on environmental justice communities.¹⁶ As noted above, the Channel Deepening Project will have significant environmental impacts, including increased emissions of harmful pollutants. These negative environmental impacts will disproportionately affect communities of color living adjacent to the Port, including in West Long Beach, Carson, and Wilmington.

Portside communities already experience much higher pollution burdens, due to their proximity to port operations. Because of this constant exposure to pollution from ships, trucks, trains, and other port equipment, port communities face much higher environmental and public health harms. Communities

¹⁶ FEIR/FEIS, 173.

living adjacent to the Port of Long Beach are in the 96th percentile for air toxics cancer risk in the South Coast Air Basin and also have much higher asthma rates.



Despite this, the FEIR/FEIS fails to provide careful consideration of the potential “disproportionately high and adverse human health or environmental effects” associated with this Project and any increased freight activity it causes.¹⁷ Instead, the FEIR/FEIS concludes that project impacts are restricted to construction impacts only, and therefore will not impact any minority populations.¹⁸

In addition to the comments above, we incorporate by reference our previous letter regarding the legal deficiencies of the agencies’ environmental analyses (see Attachment 1).

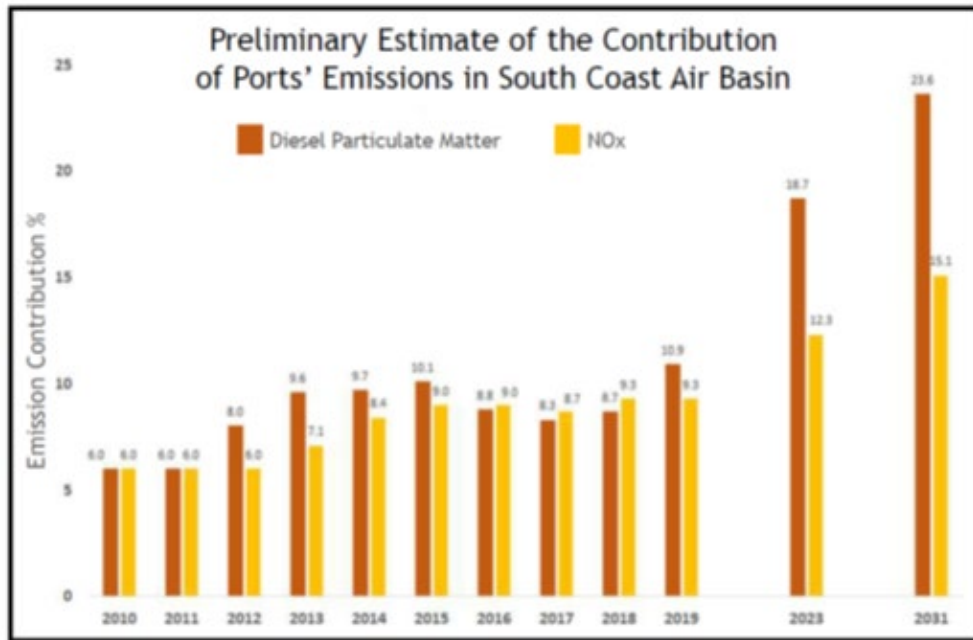
II. Future port expansion must not occur absent meaningful environmental review and public health measures.

The Channel Deepening Project is one of several proposed terminal expansion projects at the Port of Long Beach. For example, in its Revised Draft Port Master Plan Update (PMPU), the Port has identified other projects necessary for the future expansion of operations.

Neither this FEIR/FEIS nor the Revised Draft PMPU disclose the full breadth of environmental and health impacts these proposed expansion projects will have. The Port is undertaking numerous development projects that will facilitate increased growth and have significant impacts on nearby communities that are already shouldering disproportionate pollution burdens from port operations. Data from the South Coast Air Quality Management District also show that the Ports of Long Beach and Los Angeles are responsible for an increasing percentage of air pollution in the region.

¹⁷ Exec. Order No. 12898, 59 C.F.R. § 32 (1994).

¹⁸ FEIR/FEIS, 173.



As the Port is a growing contributor of air pollution in the region, we ask that the Port focus on supporting robust regulations to reduce port pollution, such as a Port Indirect Source Rule and regulations at the state and federal level to reduce emissions from port equipment. The Port also cannot proceed with any projects that will facilitate expansion or growth without conducting proper environmental impact assessments, as required under state and federal law. Before the Port moves forward with expansion projects, it must institute meaningful environmental review of all projects, including by limiting the use of previously prepared environmental impact analyses.

For the foregoing reasons, we urge the Board to deny certification of the FEIR/FEIS and deny the Harbor Development Permit for the Channel Deepening Project.

Sincerely,

Regina Hsu
Adrian Martinez
Earthjustice

Heather Kryczka
Natural Resources Defense Council

Peter M. Warren
San Pedro & Peninsula Homeowners Coalition

Jesse N. Marquez
Coalition for a Safe Environment

Allyson Browne
Pacific Environment

Theral Golden
West Long Beach Association

Attachment 1



**SAN PEDRO PENINSULA
HOMEOWNERS' COALITION**



December 9, 2019

Eduardo T. De Mesa
Chief, Planning Division
U.S. Army Corps of Engineers, Los Angeles District
ATTN: Mr. Larry Smith, CESPL-PDR-Q
915 Wilshire Boulevard, Suite 930
Los Angeles, California 90017-3849
EMAIL: POLB@usace.army.mil

Re: Comments on Draft Integrated Feasibility Report (Integrated Feasibility Study/Environmental Impact Statement/Environmental Impact Report), Port of Long Beach Deep Draft Navigation Feasibility Study

We submit these comments on behalf of the undersigned organizations and individuals on the United States Army Corps of Engineers (“Corps”) and Port of Long Beach’s (“Port”) Draft Integrated Feasibility Report and Environmental Impact Statement/Environmental Impact Report (“Draft Report”). We request that the agencies address the significant flaws with the Draft Report, including its failure to adequately analyze the proposed project’s air pollution, growth promotion, and shipping traffic impacts.

I. The Draft Report Fails to Comply with NEPA and CEQA

Pursuant to the National Environmental Policy Act (NEPA) and California Environmental Quality Act (CEQA), an environmental impact statement or report must contain the necessary analysis to enable the decision makers and the general public to properly consider the

environmental consequences of the Project.¹ An Environmental Impact Report is the only tool that can “effectively disclose to the public the analytic route the agency traveled from evidence to action.”² Likewise, under NEPA, the agency must “consider and disclose the actual environmental effects in a manner that will ensure that the overall process . . . brings those effects to bear on decisions to take particular actions that significantly affect the environment.”³

The Draft Report is limited in its scope and analysis, and does not comport with the requirements of NEPA and CEQA for the reasons provided below.

A. Purpose and Need, Scope and Project Are Too Narrowly Defined

The Draft Report’s discussion of the project need fails to comply with NEPA. NEPA’s implementing regulations provide that an EIS “shall briefly specify the underlying purpose and need to which the agency is responding in proposing the alternatives including the proposed action.”⁴ This need inquiry is crucial for a sufficient environmental analysis because “[t]he stated goal of a project necessarily dictates the range of ‘reasonable’ alternatives.”⁵ Thus, “an agency cannot define its objectives in unreasonably narrow terms” without violating NEPA.⁶ Here, the Draft Report has defined the purpose of the project as “increas[ing] transportation efficiencies for container and liquid bulk vessels operating in the Port of Long Beach.” But, this stated purpose completely ignores the Corps’ duty under the Clean Water Act to protect water quality. By narrowly defining the purpose and needs, the alternatives and mitigation are too narrowly constrained.

Furthermore, the Draft Report is misleading in its definition and scope of project. For an environmental document to adequately evaluate the environmental impacts of a project, it must first provide a comprehensive description of the project itself. “An accurate, stable and finite project description is the sine qua non of an informative and legally sufficient EIR.”⁷ Courts have held that, even if an EIR is adequate in all other respects, the use of a “truncated project concept” violates CEQA.⁸ Further, “[a]n accurate project description is necessary for an

¹ See *Idaho Conservation League v. Mumma*, 956 F.2d 1508, 1519 (9th Cir. 1992) (an EIS should “contain[] a reasonably thorough discussion of the significant aspects of the probable environmental consequences); *Citizens for a Sustainable Treasure Island v. City & Cty. Of San Francisco*, 227 Cal. App. 4th 1036, 1052 (2014) (finding that an EIR should provide decision makers “with sufficient analysis to intelligently consider the environmental consequences” of a project). See also *Silva v. Lynn*, 482 F.2d 1282, 1285 (1st Cir. 1973) (stating that Congress intended that the EIS provide information to the public of a project’s environmental costs); *Sierra Club v. U.S. Army Corps of Eng’rs*, 701 F.2d 1011, 1029 (2d Cir. 1983) (“the EIS must set forth sufficient information for the general public to make an informed evaluation and for the decisionmaker to consider fully the environmental factors involved . . .”).

² *Citizens of Goleta Valley v. Bd. of Supervisors*, 52 Cal.3d 553, 568-69 (1990) (internal quotation marks omitted).

³ *Baltimore Gas & Elec. Co. v. Natural Resources Defense Council*, 462 U.S. 87, 96 (1983).

⁴ 40 C.F.R. § 1502.13.

⁵ *Carmel-by-the-Sea v. U.S. Dep’t of Transp.*, 123 F.3d 1142, 1155 (9th Cir. 1997).

⁶ *Id.*

⁷ *San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus*, 27 Cal. App. 4th 713, 730 (1994) (quoting *County of Inyo v. City of Los Angeles*, 71 Cal. App. 3d 185, 193(1977)).

⁸ *Id.*

intelligent evaluation of the potential environmental effects of a proposed activity.”⁹ Thus, an inaccurate or incomplete project description renders the analysis of significant environmental impacts inherently unreliable. In other words, the law mandates that EIRs describe proposed projects with sufficient detail and accuracy to permit informed decisionmaking.¹⁰ NEPA likewise requires that an EIS provide a complete and accurate description of the proposed federal action.¹¹ Here, the Corps and the Port have limited the project to the dredging activities itself and ignored the important impacts of the operation of the project. The expansion project will not only dredge the channel to deeper depths but it will also enable growth of cargo into the Port of Long Beach, result in larger vessels calling on the Port of Long Beach, and a concomitant increase in the impacts of marine traffic and other environmental effects.

B. The Agencies Failed to Consider a Reasonable Range of Alternatives

The Draft Report must consider a reasonable range of alternatives. NEPA requires that an EIS “rigorously explore and objectively evaluate all reasonable alternatives” to a proposed plan of action that has significant environmental effects.¹² The alternatives analysis “is ‘the heart’ of an EIS.”¹³ The purpose of this requirement is to ensure agencies do not undertake projects “without intense consideration of other more ecologically sound courses of action, including shelving the entire project, or of accomplishing the same result by entirely different means.”¹⁴ Importantly, this evaluation extends to considering more environmentally protective alternatives and mitigation measures.¹⁵ NEPA regulations require that alternatives “include appropriate mitigations measures.”¹⁶ Additionally, the regulations require that the analysis of environmental consequences discuss “means to mitigate adverse environmental impacts.”¹⁷

Likewise, the alternatives analysis in the Draft Report fails to meet the requirements of CEQA. Alternatives are central to an EIR, and their assessment is a major function of the EIR.¹⁸ The purpose of the requirement to contemplate alternatives is to identify ways to mitigate or avoid the significant effects of a project.¹⁹ “[A]n agency may not approve a proposed project if feasible

⁹ *Id.*

¹⁰ See 14 Cal. Code Regs. § 15124 (requirements of an EIR).

¹¹ See *Aberdeen & Rockfish R. Co. v. SCRAP*, 422 U.S. 289, 322 (1975) (“In order to decide what kind of an environmental impact statement need be prepared, it is necessary first to describe accurately the ‘federal action’ being taken”).

¹² 40 C.F.R. § 1502.14(a).

¹³ *Natural Resources Defense Council v. U.S. Forest Service*, 421 F.3d 797, 813 (9th Cir. 2005).

¹⁴ *Env’t Defense Fund, Inc. v. U.S. Army Corps of Eng’rs*, 492 F.2d 1123, 1135 (5th Cir. 1974). See also *City of New York v. Dept. of Transp.*, 715 F.2d 732, 743 (2nd Cir. 1983) (NEPA’s requirement for consideration of a range of alternatives is intended to prevent the EIS from becoming “a foreordained formality.”); *Utahns for Better Transportation v. U.S. Dept. of Transp.*, 305 F.3d 1152 (10th Cir. 2002).

¹⁵ See, e.g., *Kootenai Tribe of Idaho v. Veneman*, 313 F.3d 1094, 1122-1123 (9th Cir. 2002) (and cases cited therein).

¹⁶ 40 C.F.R. § 1502.14(f).

¹⁷ 40 C.F.R. § 1502.16(h).

¹⁸ *Id.*; *Laurel Heights Improvement Ass’n v. Regents of the Univ. of California*, 47 Cal.3d 376, 400 (1988).

¹⁹ Cal. Pub. Res. Code § 21002.1.

alternatives exist that would substantially lessen its significant environmental effects.”²⁰ The alternatives discussion must be “meaningful” and must “contain analysis sufficient to allow informed decision making.”²¹

All of the Corps’ alternatives are virtually the same, save the no action alternative, because each basically considers a different dredging depth:

Alternative 1: no action alternative.

Alternative 2: container terminal channels deepened to -53 ft MLLW; Approach Channel deepened to 15 -78 ft MLLW.

Alternative 3: container terminal channels deepened to -55 ft MLLW; Approach Channel deepened to 17 -80 ft MLLW.

Alternative 4: container terminal channels deepened to -57 ft MLLW; Approach Channel deepened to 19 -83 ft MLLW.

Alternative 5: container terminal channels deepened to -55 ft MLLW; Approach Channel deepened to 21 -80 ft MLLW, and construction of Standby Area adjacent to the Main Channel dredged to -67 ft MLLW, 22 with a 300-foot diameter center anchor placement evaluated to a depth of -73 ft MLLW.

The document fails to examine other alternatives that could achieve the project objectives.

Moreover, the agencies should consider an alternative that also addresses inefficiencies resulting in marine mammal deaths. For example, the agencies should examine an alternative that includes requiring marine vessels using the Port of Long Beach to limit ship speeds to 10-knots on their approach to the Port of Long Beach, including during transit in the Santa Barbara Channel. Cooperation between the Corps, the Port of Long Beach and the National Marine Fisheries Service to accomplish this mitigation would reduce air pollution, ship collisions with wildlife, and ship noise.

C. The Agencies Failed to Properly Analyze Numerous Significant Impacts of the Project

The agencies have failed to look at many direct, indirect, and cumulative impacts of the proposed action to expand the Port of Long Beach shipping channel.

The Corps and the Port are legally required to disclose the impacts that will result from accommodating more growth and larger ships, in order to allow for an honest and informed decisionmaking process.²² Pursuant to NEPA, an EIS must also evaluate indirect effects that are “caused by the action and are later in time or farther removed in distance, but are still reasonably

²⁰ *Save Panoche Valley v. San Benito Cnty.*, 217 Cal. App. 4th 503, 520 (2013) (citations omitted). *See also* Cal. Pub. Res. Code § 21081(a); 14 Cal. Code Regs. § 15091(a)(3); *California Native Plant Soc. v. City of Santa Cruz*, 177 Cal. App. 4th 957, 1002 (2009)

²¹ *Laurel Heights*, 47 Cal.3d at 403-4.

²² *See Citizens of Goleta Valley*, 52 Cal.3d at 564 (finding that the purpose of an EIR is “to inform the public and its responsible officials of the environmental consequences of their decisions *before* they are made”); *Baltimore Gas & Elec. Co. v. NRDC*, 462 U.S. at 96 (NEPA requires agencies “to consider every significant aspect of the environmental impact of a proposed action”).

foreseeable.”²³ This may include growth inducing effects and other effects related to induced changes in the pattern of land use, population density or growth rate, commercial growth, and related effects on air and water and other natural systems, including ecosystems. Similarly, under CEQA, agencies are required to consider growth-inducing impacts,²⁴ and must consider “[a]ll phases of project planning, implementation, and operation.”²⁵ An EIR must “reasonably set[] forth sufficient information to foster informed public participation and to enable the decision makers to consider the environmental factors necessary to make a reasoned decision.”²⁶

The Draft Report concludes that the project will not directly induce growth in part because “the proposed Project would not significantly affect the economy of the region in ways that would generate significant direct growth inducing impacts.”²⁷ According to the agencies, the overall throughput at the Port will not be affected by the harbor deepening, despite the fact that the project’s purpose is to accommodate larger vessels. This rationale rests on a faulty premise and contradicts the Port of Long Beach’s Draft Port Master Plan Update, which states that harbor deepening among other projects will aid the projected growth of the Port over the next 20 years.²⁸

Both the Corps and the Port treat forecasted growth in cargo throughput as a given in its analysis, but in reality, this project will directly impact the level of growth that will occur in the future. By deepening the harbor, the Port intends to increase efficiency and capacity, and indeed, will expand its capacity to bring in bigger ships and process more cargo than it currently handles. In failing to analyze the project’s role in facilitating larger ships and cargo growth, the agencies have failed to properly address direct impacts from the project, as well as reasonably foreseeable indirect impacts and cumulative impacts.

In failing to account for these impacts, the Draft Report unlawfully overlooks the significant environmental effects that the Project will have on air quality, marine ecosystems, cultural resources, and environmental justice communities.

1. The Air Quality Impact Analysis Is Inadequate

In its air quality analysis, the Corps and the Port only assess impacts of construction activities because of the underlying assumption that the project will not increase overall throughput.²⁹ As with the entire Draft Report, this assumption renders the analysis inadequate.

²³ 40 C.F.R. § 1508.8(b).

²⁴ The CEQA Guidelines specify that the EIR should “[d]iscuss the ways in which the proposed project could foster economic or population growth, or the construction of additional housing, either directly or indirectly, in the surrounding environment.” 14 Cal. Code Regs. § 15126.2(e).

²⁵ 14 Cal. Code. Regs. § 15063(a)(1).

²⁶ *Berkeley Keep Jets Over the Bay Comm. v. Bd. of Port Comm’rs*, 91 Cal. App. 4th 1344, 1356 (2001).

²⁷ Port of Long Beach Deep Draft Navigation Feasibility Study, at 319 [hereinafter DEIS/DEIR].

²⁸ “The 2016 forecast indicates that combined cargo volumes through the San Pedro Bay Ports are likely to grow at an average annual rate of 3.9 percent and exceed 41.1 million twenty-foot equivalent units (TEUs) by 2040. The Port of Long Beach and Port of Los Angeles had a throughput of 15.3 million TEUs in 2015.” Port of Long Beach Draft Port Master Plan Update, 2-12.

²⁹ “While the action alternatives may accommodate changes in the vessel fleet calling at the Port, they would not increase cargo or liquid bulk throughput.” DEIS/DEIR, 115.

According to the Draft Report, the “primary problem” addressed by this project is that existing channel depths and widths “create limitations ... resulting in the inefficient operation of deep draft vessels” in the Port of Long Beach complex.³⁰ The Draft Report states that the existing conditions have historically impacted 5 to 10 percent of crude oil imports (1-3 million tons per year), or 15 percent of these imports more recently.³¹ Future fleet changes are expected to further exacerbate the transportation inefficiencies for container and liquid bulk vessels.³²

The planning objectives contradict the assumption that the channel deepening will not facilitate the Port’s growth. The agencies admit that the channel deepening “would induce changes in the operations and composition of the future fleet mix at the Port of Long Beach.” These changes include: (1) an increase in a vessel’s maximum practicable loading capacity; (2) an increase in the reliability of water depth, encouraging the deployment of larger vessels to the Port; and (3) an increase in larger vessels, which will displace less economically efficient smaller vessels.³³

While the Draft Report claims that these operational changes will decrease the overall number of vessel trips at the Port, the agencies do not provide any support for this assertion. In improving operational efficiency, this project will facilitate growth and increased cargo and vessel throughput at the Port. Even if the project does somehow decrease the overall number of vessel trips, the larger ships that will be accommodated by this project carry more cargo and will take longer to unload, spending more time in the harbor. They will also require more cargo handling equipment, rail, and truck visits at any given time to handle the influx of larger cargo loads, resulting in higher localized concentrations of pollution.

The South Coast Air Basin is in extreme nonattainment of all national ozone standards, and in nonattainment for particulate matter. The movement of goods to and from the Port is a significant source of criteria pollutant emissions affecting the region’s nonattainment status, and this project will lead to increased freight transportation. This growth promotion will exacerbate the already heightened health risks that communities who live along the freight corridor face every day. Studies show that residents living near the Ports are exposed to greater cancer risk, compared to the regional average.³⁴

Despite the anticipated growth of the Port, the Draft Report fails to consider the operational impacts or provide a quantitative assessment of potential health risks.³⁵ Instead, the Draft Report states that the Project would not result in substantial elevated cancer risks to exposed persons, since “construction activities in any single location would be transitory and short-term.”³⁶ For one threshold (AQ-1), the Corps considers the emissions from dredging equipment, construction-

³⁰ *Id.* at 64.

³¹ *Id.*

³² *Id.*

³³ *Id.* at 65.

³⁴ South Coast Air Quality Management District, *Multiple Air Toxics Exposure Study in the South Coast Air Basin, MATES IV* (2012), at 4-16, available at <https://www.aqmd.gov/docs/default-source/air-quality/air-toxic-studies/mates-iv/mates-iv-final-draft-report-4-1-15.pdf?sfvrsn=7>.

³⁵ DEIS/DEIR, 117.

³⁶ *Id.* at 119, 247.

related harbor craft, off-road construction equipment, on-road construction vehicles, and construction worker vehicles, as well as fugitive dust emissions from land-side construction.³⁷ Likewise, in its CEQA analysis, the Port examines only the short-term emissions during construction that would result from the use of construction equipment.³⁸ The Draft Report utterly disregards the potential air quality impacts from future operations at the Port, and is misleading.

The Draft Report also wrongly concludes that the impacts on air quality would be less than significant for Impact AQ-5 (“The proposed Project would not conflict with or obstruct implementation of an applicable AQMP or would not conform to the most recently adopted SIP”). The Port reasons that the impacts will be less than significant because the Port “operates well within the cargo forecasts provided for the AQMP.”³⁹ However, as stated above, the DEIR’s assumption that cargo throughput will not be impacted by the Project is inaccurate.

Furthermore, the analysis fails to examine emissions from the project in accordance with the most recent federal air quality standards. The agencies have a duty to consider whether the proposed action “threatens a violation of Federal . . . law or requirement[] imposed for the protection of the environment.”⁴⁰ While the Draft Report addresses the 2016 AQMP, it fails to come to terms with the fact that this project and its associated impacts will affect attainment of federal air quality standards, such as the 2015 0.70 ppm 8-hour ozone standard, and the state 8-hour ozone standard.

The agencies must address the project’s impacts on growth at the Port and the effects of increased cargo throughput on Clean Air Act attainment in the South Coast Air Basin. NEPA and CEQA require that the Draft Report account for the levels of growth anticipated at the Port, and consider operational emissions from the current and future fleet in its analysis.

In addition, the agencies must propose mitigation measures for the operational impacts of the project. In 2016, Port of Long Beach had the highest emissions of PM and NOx per day from ocean-going vessels compared to any other port statewide.⁴¹ Yet, in 2017, the Port had a low utilization rate of shoreside power and the Advanced Maritime Emission Control System (AMECS).⁴²

The agencies should require that future growth be consistent with the Port’s commitments to achieve 100% zero emission cargo handling equipment by 2030, and 100% zero emission trucks by 2035, as outlined in the 2017 San Pedro Bay Ports Clean Air Action Plan and directed by the

³⁷ *Id.* at 115.

³⁸ *Id.* at 240.

³⁹ *Id.* at 248.

⁴⁰ 40 C.F.R. § 1508.27(b)(10).

⁴¹ CARB, Updates to At Berth Emissions Inventory for Ocean-Going Vessels (OGV) (2019), at 36, *available at* <https://ww3.arb.ca.gov/msei/ordiesel/feb19ogvinv.pdf>.

⁴² “The at-berth OGV emissions reflect that in 2017, an average of 39 percent of all vessel calls (72 percent of container vessels, 95 percent of cruise vessels, 4 percent of tankers, 100 percent of Ro/Ro off vessels, and 0 percent of all other vessels) used shore power; and 1 percent used the Advanced Maritime Emission Control System (AMECS).” Draft Port Master Plan Update Program Environmental Impact Report at 3.2-9, *available at* <http://www.polb.com/civica/filebank/blobdload.asp?BlobID=15228>.

Mayors of LA and Long Beach in their 2017 Executive Directive. To achieve this, the Port should mandate usage of shoreside power for all vessels, not only construction-related harbor craft, and consider AMECS and other mitigation measures to reduce emissions at-berth. The Draft Report must also consider readily available zero-emission technologies. In 2018, the Ports of LA and Long Beach published feasibility assessments for zero emission trucks and cargo handling equipment. These studies recognized that several types of zero-emission technologies are available to deploy today.⁴³ The Port and Army Corps should incorporate zero-emission technologies where applicable in its mitigation measures.

2. The Greenhouse Gas and Global Climate Change Impacts Analysis Is Insufficient

Like the air quality analysis, the global climate change analysis is legally deficient because of its narrow focus on greenhouse gas (GHG) emissions solely from construction activities.

While the Draft Report acknowledges the effects of global climate change and sea level rise, the analysis conveniently omits any discussion of how this channel deepening may facilitate more GHG emissions. Port operations – ocean-going vessels, tugboats, cargo handling equipment, trucks, and locomotives – constitute major sources of GHG and other air pollutant emissions, approximately 10 percent of the region’s pollutants.⁴⁴ The primary purpose of the project is to reduce transportation costs and increase deep draft navigation efficiency at the Port. This project would allow larger vessels with greater capacity to operate at the Port, thereby increasing freight transport in the area. Yet, the Draft Report does not account for operational GHG emissions, and thus wrongly concludes that the global climate change impacts will be less than significant and mitigation measures are not required.

The GHG analysis also fails to consider the impacts of increased crude oil imports and exports of petroleum products. The Draft Report recognizes the benefits that the project will have on crude oil imports. In its discussion of the project purpose and need, the Draft Report states that transportation costs and inefficiencies at the Port have thus far affected up to 15 percent of crude oil imports.⁴⁵ It is clear from the Draft Report that the harbor deepening will expand the capacity of the Port and facilitate more cargo throughput.⁴⁶ This will in turn lead to more oil production, refinement, coal exports, and freight transportation, and increased emissions of criteria pollutants. The activities facilitated by the Project will accelerate climate change and impede state and local goals for GHG reduction.

In 2006, Governor Schwarzenegger signed AB 32, a landmark law to control and reduce the emission of global warming gases in California along with the companion statute SB 1368,

⁴³ San Pedro Bay Ports, Clean Air Action Plan, 2018 Feasibility Assessment for Cargo-Handling Equipment (Sept. 2019), at 29, *available at* <http://www.cleanairactionplan.org/documents/final-cargo-handling-equipment-che-feasibility-assessment.pdf/>.

⁴⁴ Port of Long Beach, Port Emissions, http://www.polb.com/environment/air/port_emissions.asp (last visited Dec. 2, 2019).

⁴⁵ DEIS/DEIR, 64.

⁴⁶ According to the DEIS/DEIR, top imports at the Port of Long Beach are crude oil, electronics, plastics, and furniture. Top exports are petroleum products, chemicals, and agriculture. *Id.* at 8.

which prohibits California utilities from making long term investments in coal-based electricity generation. AB 32 requires both reporting of GHG emissions and their reduction on an ambitious timeline, including a reduction of CO2 emissions to 1990 levels by 2020. Looking beyond 2020, Executive Order S-3-05 sets an emissions reduction target of 80 percent below 1990 levels by 2050. Under Executive Order B-55-18, California's goal is to achieve carbon neutrality by no later than 2045. Executive Order B-32-15, taking into account the state's GHG reduction targets, directed state agencies to establish an action plan and set clear targets to ensure progress towards the sustainable movement of goods.

In 2017, the Port of Long Beach, in conjunction with the Port of Los Angeles, issued the Clean Air Action Plan Update (CAAP), further committing to the zero-emission goals, setting new GHG reduction targets, and reaffirming previous emissions goals:

- Reduce GHGs from port-related sources to 40 percent below 1990 levels by 2030
- Reduce GHGs from port-related sources to 80 percent below 1990 levels by 2050
- By 2014, reduce port-related emissions by 22 percent for NOx, 93 percent for SOx and 72 percent for DPM.
- By 2023, reduce port-related emissions by 59 percent for NOx, 93 percent for SOx and 77 percent for DPM.
- By 2020, reduce residential cancer risk from port-related DPM emissions by 85 percent.⁴⁷

In addition to accommodating greater volumes of petroleum imports and exports, this project would facilitate increased oil production and refinement, and does not align at all with state and local efforts to mitigate the effects of climate change and reduce GHG emissions. The Draft Report is silent on these issues, which means it fails to take the requisite "hard look" required by NEPA.

3. Significant Threats to Endangered Species from Shipping Remain Undisclosed and Unmitigated

The threats to marine ecosystems from shipping are well-known: oil spills and other water pollution, air pollution, anchor scouring, biological invasions, container loss, chronic noise and collisions with large whales and sea turtles.⁴⁸ Deepening Port of Long Beach will worsen these serious, prevalent problems.

The Corps must quantify and evaluate the impacts of the increased volume and intensity of shipping traffic. Port of Long Beach has about 2000 vessel calls per year. Not only is the volume of traffic likely to increase with the project, but also the intensity of traffic will increase because of the larger vessels that the project is designed to accommodate.

In the Draft Report, the Corps assumes that deepening the channel will lead to reduced overall vessel traffic. The Draft Report's assumption is not based on any evidence nor is there a legally

⁴⁷ San Pedro Bay Ports, Clean Air Action Plan 2017, <http://www.cleanairactionplan.org/documents/final-2017-clean-air-action-plan-update.pdf/>.

⁴⁸ T.J. Moore et al, Exploring ship traffic variability off California, 163 Ocean & Coastal Management 515-527 (2018).

binding limit that would restrict the number of vessels. There is a greater likelihood of increased vessel traffic and growth. Any number of factors could lead to an increase in the number of vessels transiting beyond what is forecast and analyzed in the Draft Report, with a concomitant increase in vessel impacts on fish and wildlife species.

Even assuming the overall reduction in vessel traffic holds, the Draft Report nonetheless forecasts an “increase in larger Post-Panamax vessels.”⁴⁹ The increased presence of these larger vessels—in addition to a potential increase in size or number of accompanying tending vessels—may introduce significantly more noise into the marine environment, particularly if they have larger positioning thrusters and propulsion units.⁵⁰ The threat to marine mammals of ship strike also would increase with any increase in large vessel traffic enabled by the proposed dredging project. Effects of ship strike and noise are discussed in more detail below. Vessel traffic and noise caused by the project has the potential to cause serious harm to marine mammals, including the blue whale population. Additionally, the Draft Report fails to consider that the large ships will call on other ports under the no action alternative, which could decrease vessel traffic to the Port of Long Beach.

a) Vessel Noise from the Project Harms Marine Mammals

The Corps also must conduct a more searching analysis on the effects of project-associated noise on regional wildlife. The noise associated with the dredging project itself must be better analyzed—including behavioral disturbances of fish and marine mammals such as reduced foraging, reduced ability to avoid predators, and increased flight/avoidance behavior, as well as neurological stress and hearing threshold shifts.

Noise associated with the project also will come from the ships utilizing the navigation channel—both while the vessels are transiting the channel and during their approach. The Corps never discusses the noise generated by shipping, and it neglects to adequately analyze how shipping noise associated with use of a deepened channel will affect regional wildlife.

Kaplan and Solomon (2016) estimate that commercial shipping noise could increase by 87-102% by 2030 due to the combined effects of an increase in the volume of goods shipped, an increase in larger and noisier ships, and an increase in distance goods are shipped.⁵¹ Oil tankers noise specifically is projected to increase by 11%.⁵² Because much of the increased noise pollution will be concentrated near harbors and shipping lanes including those in and around the Santa Barbara Channel and Port of Long Beach, it is particularly important that this proposed dredging project address the issue of noise pollution from commercial shipping in more depth.

⁴⁹ DEIS/DEIR, 66.

⁵⁰ M.B. Kaplan & S. Solomon, A coming boom in commercial shipping? The potential for rapid growth of noise from commercial ships by 2030, 73 Marine Policy 119, 120 (2016).

⁵¹ *Id.*

⁵² *Id.*

Anthropogenic noise pollution can mask marine mammal communications at almost all frequencies these mammals use.⁵³ “Masking” is a “reduction in an animal’s ability to detect relevant sounds in the presence of other sounds.”⁵⁴ Ambient ship noise can cover important frequencies these animals use for more complex communications.⁵⁵ Some species, such as the highly endangered right whale, are especially vulnerable to masking.⁵⁶ Ship noise can completely and continuously mask right whale sounds at all frequencies.⁵⁷ Masking may affect marine mammal survival and reproduction by decreasing these animals’ ability to “[a]ttract mates, [d]efend territories or resources, [e]stablish social relationships, [c]oordinate feeding, [i]nteract with parents, or offspring, [and] [a]void predators or threats.”⁵⁸

In addition to masking effects, marine mammals have displayed a suite of stress-related responses from increased ambient and localized noise levels. These include “rapid swimming away from [] ship[s] for distances up to 80 km; changes in surfacing, breathing, and diving patterns; changes in group composition; and changes in vocalizations.”⁵⁹ For example, researchers documented chronic stress in North Atlantic right whales associated with exposure to low frequency noise from ship traffic, which can cause long-term reductions in fertility and decreased reproductive behavior, increased vulnerability to diseases, and permanent cognitive impairment.⁶⁰ Some avoidance responses to localized marine sounds may even lead to individual

⁵³ See, e.g., John Hildebrand, Impacts of Anthropogenic Sound on Cetaceans, in *Marine Mammal Research: Conservation Beyond Crisis* (Reynolds, J.E. III et al. eds., 2006); L. S. Weilgart., *The Impacts of Anthropogenic Ocean Noise on Cetaceans and Implications for Management*, 85 *Canadian J. Zoology* 1091-1116 (2007).

⁵⁴ *Ocean Noise and Marine Mammals*, Nat’l Res. Council 96 (2003), available at http://www.nap.edu/openbook.php?record_id=10564&page=R1.

⁵⁵ *Id.* at 42, 100 (“An even higher level, an understanding threshold” may be necessary for an animal to glean all information from complex signals.”)

⁵⁶ C.W. Clark et al., *Acoustic Masking in Marine Ecosystems: Intuitions, Analysis, and Implication*, 395 *Marine Ecology Progress Series* 201, 218-19 (2009), available at <http://www.int-res.com/articles/theme/m395p201.pdf>; C.W. Clark et al., *Acoustic Masking in Marine Ecosystems as a Function of Anthropogenic Sound Sources*, at *17, fig. 8, available at

https://www.academia.edu/5100506/Acoustic_Masking_in_Marine_Ecosystems_as_a_Function_of_Anthropogenic_Sound_Sources (last visited Oct. 29, 2014) [hereinafter *Acoustic Masking & Anthropogenic Sound Sources*].

⁵⁷ See *Acoustic Masking & Function of Anthropogenic Sound Sources*, *supra* note 56 (showing anthropogenic noise masking 100 percent of the frequencies right whales used over the majority of a six-hour study).

⁵⁸ Jason Gedamke, *Ocean Sound & Ocean Noise: Increasing Knowledge Through Research Partnerships*, NOAA 2 (2014), available at <http://cetsound.noaa.gov/Assets/cetsound/documents/MMC%20Annual%20Meeting%20Intro.pdf>; *Acoustic Masking & Anthropogenic Sound Sources*, *supra* note 56, at *3.

⁵⁹ *Ocean Noise and Marine Mammals*, *supra* note 54, at 94.

⁶⁰ R.M. Rolland et al., Evidence that ship noise increases stress in right whales, *Proceedings of the Royal Society B* (2012); R.M. Rolland et al., The inner whale: hormones, biotoxins and parasites, in *The Urban Whale: North Atlantic Right Whales at the Crossroads* (Kraus S.D. & R.M. Rolland eds., 2007).

or mass strandings.⁶¹ Louder anthropogenic sounds may also lead to permanent hearing loss in marine mammals.⁶²

The greatest source of human-caused marine noise by far is ship propeller cavitation—the sound poorly designed propellers make as they spin through the water.⁶³ Cavitation accounts for as much as 85 percent of human caused noise in the world’s oceans.⁶⁴ Cavitation may also increase due to hull designs that create non-homogenous wake fields behind ships.⁶⁵ And even well-designed propellers and hulls may begin to cavitate if they are not regularly cleaned and smoothed.⁶⁶ Another significant source of anthropogenic marine noise is on-board machinery, especially diesel engines.⁶⁷ Other onboard machines may also cause vibrations that migrate underwater.⁶⁸ Finally, ship noise increases at higher speeds, as this increases the degree and volume of cavitation and onboard machine sounds.⁶⁹

The Corps has underestimated the impacts of the project’s noise from construction, and it has completely failed to analyze the impacts from both the larger ships and the likely increase in vessel traffic that will result from the project.

b) Increased ship size and traffic will increase the risk of ship strikes.

The Corps entirely failed to analyze the threat that shipping traffic associated with this navigation channel poses to marine mammals. Ship strikes serve as a primary cause of mortality for large whales. Large vessels (i.e., those ≥ 80 m, which includes Panamax, Aframax, and Suezmax) are responsible for most of the collisions leading to whale death or severe injury.⁷⁰ For

⁶¹ Ocean Noise and Marine Mammals, *supra* note 54, at 132; Brandon L. Southall et al., Final Report of the Independent Scientific Review Panel Investigating Potential Contributing Factors to a 2008 Mass Stranding of Melon-Headed Whales 3 (*Peponocephala electra*) in Antsohihy, Madagascar, Int’l Whaling Comm’n 4 (2013), available at

<https://iwc.int/private/downloads/SLvy5e15tG6X7IECFfK0aQ/Madagascar%20ISRP%20FINAL%20REPORT.pdf>.

⁶² D. Kastak et al., Noise-Induced Permanent Threshold Shift in a Harbor Seal, 123 J. Acoustical Soc’y of Am. 2986 (2008); S.G. Kujawa & M.C. Liberman, Adding Insult to Injury: Cochlear Nerve Degeneration After “Temporary” Noise-Induced Hearing Loss, 29 J. Neuroscience 14077.

⁶³ Joseph J. Cox, Evolving Noise Reduction Requirements in the Marine Environment, Marine Mammal Comm’n: Congressional Briefing on Ocean Noise at 12 (2014), available at https://www.mmc.gov/wp-content/uploads/cox_capitolhill_briefing_0914.pdf; International Maritime Organization, Guidelines for the reduction of underwater noise from commercial shipping to address adverse impacts on marine life (2014), <http://www.imo.org/en/MediaCentre/HotTopics/Documents/833%20Guidance%20on%20reducing%20underwater%20noise%20from%20commercial%20shipping%2C.pdf> [hereinafter IMO Underwater Noise Reduction Guidelines].

⁶⁴ Cox, *supra* note 63.

⁶⁵ IMO Underwater Noise Reduction Guidelines, *supra* note 63.

⁶⁶ *Id.* at 5.

⁶⁷ *Id.* at 4.

⁶⁸ *Id.*

⁶⁹ *Id.* at 5.

⁷⁰ Caitlin M. Jensen et al., Spatial and Temporal Variability in Shipping Traffic Off San Francisco, California, 43 Coastal Mgmt. 575 (2015).

imperiled populations, “death from vessel collisions may be a significant impediment to population growth and recovery.”⁷¹

The Santa Barbara channel hosts the world’s largest aggregation of blue whales that are put in peril as a result of the proposed project. There are fewer than 2,000 blue whales in the population, and a recent report cites that ship strikes are a reason that blue whales have not recovered.⁷² Blue whales have a limited ability to avoid collisions with ships.⁷³ The blue whale recovery plan recommends actions to reduce the threat of ship strikes and it concludes that “implementation of appropriate measures designed to reduce or eliminate such problems are essential to recovery” and that such actions “must be taken to prevent a significant decline in population numbers.”⁷⁴ In its most recent stock assessment reports for marine mammals in the Pacific, National Marine Fisheries Service has also documented numerous vessel-related mortalities and serious injuries for humpback whales, fin whales, killer whales, and other species on the West Coast, including some off of Oregon and Washington.⁷⁵ In 2016, NOAA determined that humpback whales off California consist of two separate distinct populations – Central America and Mexico. The Central America humpback population consists of fewer than 800 individuals. The combined serious injury and mortality from vessel collisions and other anthropogenic threats is already in excess of potential biological removal for blue and humpback whales.

Ship strikes are known to be a huge problem in the Santa Barbara Channel and voluntary efforts to reduce the risk have been ineffective. The primary initiative to cut air pollution and protect endangered whales in the Santa Barbara Channel region is a voluntary and incentive-based vessel speed reduction program, known as Protecting Blue Whales and Blue Skies.⁷⁶ Because the program is not mandatory, only a small fraction of vessels participate (125 transits participated in 2017 compared to 2,500 container ships that travel through Santa Barbara Channel each year).⁷⁷

Vessel collisions are a severe threat to the conservation and recovery of large whales.⁷⁸ Between 1986 and 2018, the National Marine Fisheries Service documented 143 vessel collisions with

⁷¹ R.C. Rockwood, J. Calambokidis, & J. Jahncke, High mortality of blue, humpback and fin whales from modeling of vessel collisions on the U.S. West Coast suggests population impacts and insufficient protection, 12 PLoS ONE e0183052 (2017).

⁷² Virginia Morrell, Blue whales being struck by ships, Science Magazine, Jul. 23, 2014, available at <http://www.sciencemag.org/news/2014/07/blue-whales-being-struck-ships>.

⁷³ M.F. McKenna et al., Simultaneous tracking of blue whales and large ships demonstrates limited behavioral responses for avoiding collision, 27 Endangered Species Research 219-232 (2015)

⁷⁴ National Marine Fisheries Service, Recovery Plan for the Blue Whale (1998); National Marine Fisheries Service, Draft Recovery Plan for the Blue Whale (*Balaenoptera musculus*) Revision (2018).

⁷⁵ J.V. Caretta et al., U.S. Pacific Marine Mammal Stock Assessments: 2018 (2019), available at <https://repository.library.noaa.gov/view/noaa/20266>.

⁷⁶ Twelve global shipping companies slowed transits in 2018 program off California coast to protect blue whales and blue skies, March 14, 2019, <https://www.ourair.org/wp-content/uploads/031419-VSR.pdf>.

⁷⁷ Jesse Ryan, Whales are facing a big, deadly threat along West Coast: Massive ships, Washington Post, Mar. 18, 2019, available at https://www.washingtonpost.com/national/health-science/whales-are-facing-a-big-deadly-threat-along-west-coast-massive-container-ships/2019/03/15/cebee6e8-3eb0-11e9-a0d3-1210e58a94cf_story.html (last visited Apr. 1, 2019).

⁷⁸ Caretta et al., *supra* note 74.

large whales off the California Coast.⁷⁹ Most of them resulted in mortality. California had at least ten whale deaths attributed to ship strikes in 2018; this is the highest on record since tracking began in 1982.⁸⁰

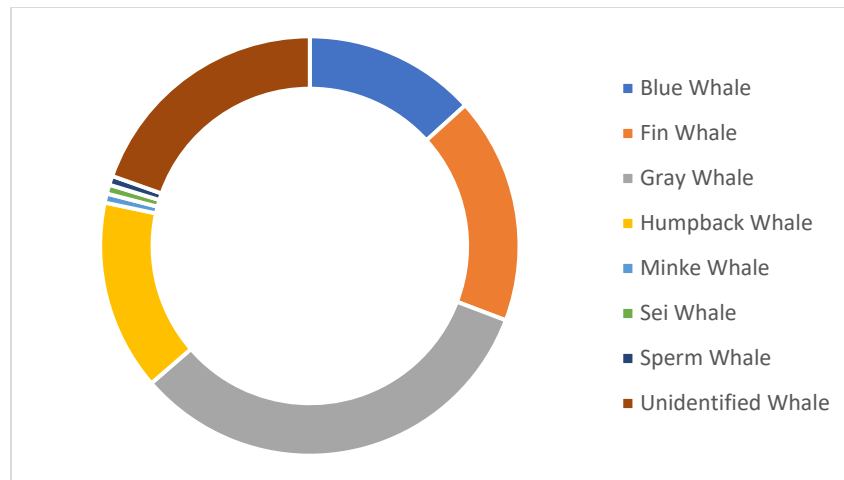


Figure 1. Ship Strikes Off the California Coast. National Marine Fisheries Service Large Whale Ship Strike Data 1986-2018

Scientists estimate that 80 whales each year die from ship strikes off the West Coast.⁸¹ Rockwood et al. 2017 reports a best conservative estimate of 18 blue and 22 humpback whale deaths from ship strikes per 6-month season.⁸² Based on these predictions and the average annual strike reports from 2006-2016 (1.0 for blue and 1.4 for humpback whale), they calculated that 95 percent of blue whale and 94 percent of humpback whale strike deaths go undocumented.⁸³ Given the uncertainty in accounting for whale collision avoidance, they also calculated strike mortality in the case of no avoidance, producing estimates of 40 blue and 48 humpback whale deaths.⁸⁴

Higher traffic volumes of larger ships calling on the Port of Long Beach will increase the risk of collisions with large whales and sea turtles. Larger vessels account for a disproportionate number of ship strikes—especially fatal ship strikes.⁸⁵ Partly due to their greater weight and partly

⁷⁹ National Marine Fisheries Service, Large Whale Ship Strike Data 1986-2018.

⁸⁰ Ryan, *supra* note 77.

⁸¹ Rockwood et al., *supra* note 71.

⁸² *Id.*

⁸³ *Id.*

⁸⁴ *Id.*

⁸⁵ Laist et al., Collisions Between Ships and Whales, 17 Marine Mammal Sci. 35, 54 (2001); Silber et al., Hydrodynamics of a Ship/Whale Collision, 391 J. Experimental Marine Biology & Ecology 11, 18-19 (2010) (ship size correlated to risk and severity of ship strike).

because of their decreased maneuverability, “most, if not all, lethal collisions are caused by large ships rather than small vessels.”⁸⁶ Most ship strikes to large whales result in death.⁸⁷

Figure 2 below shows the impacts of shipping on protected species off the West Coast. (Maxwell et al. 2013.) The map shows that despite the proximity of national marine sanctuaries and other protections, the impact of shipping on southern California ecosystems is high.

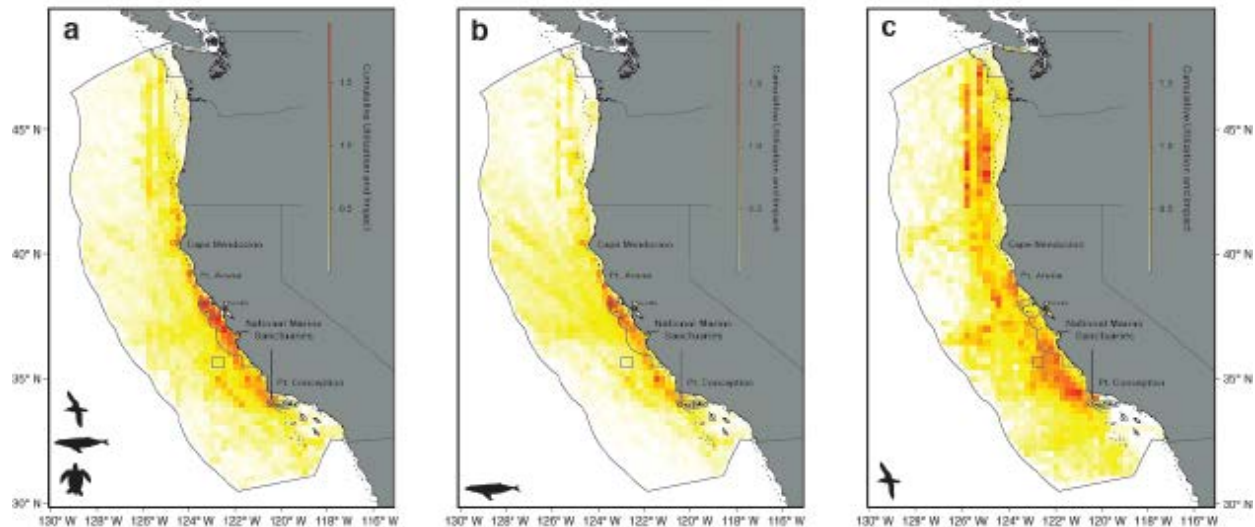


Figure 2. Shipping cumulative utilization and impact for (a) all species combined, (b) marine mammals and (c) seabirds. Solid outer line represents U.S. EEZ, solid inner lines represent National Marine Sanctuaries and dashed lines represent 200 m isobaths. (Source: Maxwell et al. 2013 Supp. fig. S4.)

Requiring ships to limit their speed to 10-knots would reduce threats from ships traveling to the Port of Long Beach. Scientific research has shown that there is a direct correlation between vessel speed and ship strikes resulting in whale mortality.⁸⁸ Ship speed affects the likelihood of whale mortality in two ways. First, slower ship speeds provide whales with a greater opportunity to detect the approaching ship and avoid being hit by it. Second, whales that are hit by slower moving ships are less likely to suffer serious injury or death. Finally, scientists recommend reducing ship speeds to 10-knots to mitigate the harmful impacts of ship noise.⁸⁹ The Corps should evaluate a 10-knot speed limit for vessels as an alternative, or mitigation.

4. The Report Underestimates the Impacts of Dredging

⁸⁶ *Id.*

⁸⁷ A.S. Jansen & G.K. Silber, Large Whale Ship Strike Database, NOAA Technical Memorandum, NMFS-OPR-25 9, fig. 4 (2004).

⁸⁸ Silber et al., *supra* note 85.

⁸⁹ R.L. Putland et al., Vessel noise cuts down communication space for vocalizing fish and marine mammals, 24(4) Global change biology 1708-21 (2018).

While the Draft Report addresses some of the water quality impacts of the project, it must conduct a more comprehensive evaluation of the water quality impacts of dredging, dumping and transit of dredged material.

The analysis in the Draft Report minimizes the water quality impacts of the project. The Corps anticipates 4.9 to 11.9 million cubic yards of dredged material. Dredging resuspends sediment and associated organic material, including any contamination within the sediments. This can lead to temporary increases in turbidity and nutrients, reductions in dissolved oxygen, and/or changes in temperature and pH. These water quality impacts can harm fish, benthic animals, and marine mammal foraging. The transit of dredged material can have spills and the disposal can also resuspend dredged materials. Additionally, resuspension of contaminated sediments accompanying the proposed dredging project poses a substantial risk to marine life in the project vicinity.

Notably, the Corps underestimates the plume that the dredging, transport and dumping of dredged material will create. In a similar harbor expansion for Port of Miami, the Army Corps severely underestimated impacts and area of damage from dredging that killed a half-million corals. The Army Corps settled litigation over the issue with coral mitigation and other restoration. Multiple studies from the Miami Harbor dredging project, such as Ross 2019,⁹⁰ show conclusively that sediment from dredging travels further than 1,000 feet from the site of dredging – and caused permanent impacts at distances more than 10 times that far. The Corps has also failed to consider how runoff from the Los Angeles River during rain events will impact the travel of sediment from dredging.

Additionally, the Corps has underestimated the hazardous materials that may affect water quality and marine wildlife due to dredging the contaminated Port of Long Beach channel. Because the Draft Report has underestimated the resuspension and impact zone of the dredged material, it has also underestimated the significance of the impacts from hazardous materials that contaminate the approach channel for the Port of Long Beach.

5. The Analysis of the Risk of Spills Is Inadequate

The proposed project threatens to increase the risk, severity and the magnitude of oil spills. There is a steady stream of oil tanker traffic. The Draft Report states that in 2016, there were 17 million tons of oil calling on the Port of Long Beach, and that this is predicted to remain steady. The Draft Report fails to analyze the heightened risk of larger oil spills as a result of the proposed project.

6. The Report Fails to Consider Important Cultural Resources and Environmental Justice Impacts

The Draft Report's conclusion that there are no significant impacts for cultural resources, socioeconomic and environmental justice is arbitrary. In failing to properly analyze the numerous environmental impacts of this Project, the Draft Report also inadequately considers the

⁹⁰ R. Cunning et al., Extensive coral mortality and critical habitat loss following dredging and their association with remotely-sensed sediment plumes, *Marine Pollution Bulletin* (2019).

impacts on the environmental justice communities that live within the study area, and on cultural resources important to Native American tribes of California.

Contrary to the assumptions underlying this Report, the proposed project is directly linked to future growth at the Port. The Port of Long Beach's Draft Port Master Plan Update acknowledges that certain planned actions will aid the Port's projected growth target of more than doubling cargo throughput over the next 20 years.⁹¹ The Port's own master planning document identifies channel deepening as necessary "to accommodate larger ships and crucial cargo."⁹² In fact, part of this Project includes channel deepening to allow larger ships at Pier T, which includes "the only very large crude carriers berth on the West Coast."⁹³ The Port Master Plan update concedes "liquid bulk vessel movements along the main channel are constrained by current conditions."⁹⁴ Projects that encourage this growth in liquid bulk and containers, including this channel deepening, will have adverse consequences on the daily lives of residents living near the Ports, railyards, warehouses, the I-710 corridor, and the inland port communities in the Inland Valley.

In its 2016 letter to the Corps, the United States Environmental Protection Agency recommended that the Draft Environmental Impact Statement identify communities with potential environmental justice concerns that could be affected by the proposed project and assess potential health impacts and impact avoidance measures:

"The increased volume of freight traffic that will likely occur in conjunction with the navigation improvements may result in additional conventional truck traffic along the freight corridor, which would contribute to increases in roadway-related MSAT and criteria pollutant emissions impacting already heavily burdened, low income and minority communities along the I-710 Corridor and other freight corridors."⁹⁵

It is evident that the permanent expansion of the Port achieved through this project and others will facilitate increased cargo and liquid bulk growth in the future. However, this Draft Report only considers construction impacts, while completely ignoring the significant air pollution that will result from increased throughput of containers and liquid bulk. The harbor deepening will allow the Port to accommodate additional cargo, and lead to greater truck, rail, and vessel traffic. This increase in goods movement will affect freight-impacted environmental justice communities, who continue to suffer from increased health risks associated with the goods movement.

Additionally, the larger vessels calling on the Port of Long Beach have a potential to affect cultural resources beyond the dredging area, such as in the Santa Barbara Channel. For example, the Corps should consult with the Chumash because the Santa Barbara Channel contains a number of underwater Chumash cultural and historic resources and traditional fishing grounds.

⁹¹ Port of Long Beach, Draft Port Master Plan Update, 2-12.

⁹² *Id.*, at 5-13.

⁹³ *Id.*, at 6-28.

⁹⁴ *Id.*, at 6-29.

⁹⁵ DEIS/DEIR, Appendix A, Attachment 2.

Under CEQA, agencies must, when feasible, avoid damaging tribal cultural resources, which include sites, features, places, cultural landscapes, sacred places, and objects with cultural value to California's Native American tribes.⁹⁶ Among other cultural resources impacts, the proposal may threaten sacred waters and wildlife that sustain Chumash culture, religious practices, and lifeways.

D. The Agencies Failed to Evaluate the Cumulative Effects and Connected Actions

The cumulative effects and connected actions⁹⁷ of several related efforts to widen and deepen shipping channels must be evaluated – for this project (as cumulative impacts), as well as in a programmatic environmental review. The agencies' evaluation and approval of widening and deepening ports throughout the coastal U.S. are connected actions that should be evaluated in a programmatic environmental review. Cumulative environmental effects can be defined as effects on the environment which are caused by the combined results of past, current and future activities.⁹⁸ There are numerous feasibility studies occurring at ports and harbors throughout the United States to widen and deepen navigation channels to allow larger vessels. These actions are all related and foreseeable. Additionally, many will have impacts in multiple locations for species that migrate. Specifically, with more of these larger vessels being able to go into numerous ports, this will increase vessel traffic in the ocean that will be louder and more likely to collide with marine mammals.

Along the West Coast, in addition to the Port of Long Beach, there are several proposals pending to deepen and widen navigation channels to accommodate larger ships, including at the Port of Seattle, Port of San Francisco, Port of Los Angeles, Port of Tacoma, Coos Bay, and probably others. These projects are within the same region, impacting the same waterbody, the Pacific Ocean, along the migratory path of blue whales, humpback whales, killer whales and other protected species. Many of the marine species affected by the Port of Long Beach project will therefore be affected by the vessel traffic and other navigation channel deepening and widening projects along the entire west coast because of the migratory nature of these animals.

E. The Draft Report's Conclusion on Significant Effects and Failure to Mitigate Them Is Flawed

The Draft Report concludes that there will be no significant effects on geology and topography, oceanographic and coastal processes, water and sediment quality, greenhouse gases, aesthetics, cultural resources, noise, socioeconomics, transportation, land use, recreation, public safety, and public utilities. It only found air quality significant effects from toxic emissions from construction equipment needing mitigation.

As discussed above, there are several shortcomings and remaining concerns about the impacts of the proposed project. A meaningful evaluation would demonstrate that there are significant

⁹⁶ Cal. Pub. Res. Code § 21084.3.

⁹⁷ See 40 C.F.R. § 1508.25 (defining connected actions as those that are "closely related and therefore should be discussed in the same impact statement").

⁹⁸ 40 C.F.R. §1508.7; 14 Cal. Code Regs. § 15355.

impacts needing mitigation, such as reducing ship speeds to address ship strikes, noise, and air pollution. Additional mitigation is also needed to address the impacts of cargo growth on freight-impacted communities, such as ensuring goods are handled and transported using zero emission technologies.

2) The Corps must complete consultation under section 7 of the ESA because its action may affect listed species, and it must obtain a permit under the MMPA.

Section 7(a)(2) of the ESA requires federal agencies to “insure that any action authorized, funded, or carried out by such agency . . . is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the adverse modification of habitat of such species . . . determined . . . to be critical”⁹⁹ To accomplish this goal, agencies must consult with the delegated agency of the Secretary of Commerce or Interior whenever their actions “may affect” a listed species.¹⁰⁰

The ESA’s consultation requirement applies to Federal agencies taking *any action*.¹⁰¹ “Action means all activities or programs of any kind authorized, funded, or carried out, in whole or in part, by Federal agencies in the United States or upon the high seas” including “the granting of licenses, contracts, leases, easements, rights-of-way, permits, or grants-in-aid.”¹⁰² The Supreme Court noted that ESA’s section 7 command to Federal agencies “admits of no exception.”¹⁰³ Moreover, the use of the word “shall” in a statute indicates Congress’ intent to impose a mandatory duty.¹⁰⁴

The project may affect listed species such as blue whales, humpback whales, and several species of imperiled salmon, among other listed species, and therefore the Corps must engage in consultation with the National Marine Fisheries Service and Fish and Wildlife Service. Moreover, the Corps should undertake programmatic consultation on the impacts of the numerous channel deepening and widening projects that are occurring throughout the US.

Additionally, the Corps needs an authorization under the Marine Mammal Protection Act (MMPA). The MMPA prohibits the taking of marine mammals, unless the take falls within certain statutory exceptions.¹⁰⁵ The statute defines “take” is as “to harass, hunt, capture, collect, or kill, or attempt to harass, hunt, capture, collect or kill, any marine mammal.”¹⁰⁶ Here, the project will harass and harm marine mammals and such authorization is required before the project can proceed.

II. Conclusion

⁹⁹ 16 U.S.C. § 1536(a)(2); 50 C.F.R. § 402.14(a).

¹⁰⁰ *Id.*

¹⁰¹ 16 U.S.C. § 1536(a)(2).

¹⁰² 50 C.F.R. § 402.02 (emphasis added).

¹⁰³ *Tenn. Valley Auth. v. Hill*, 437 U.S. 153, 173 (1978). *See also Pacific Rivers Council v. Thomas*, 30 F.3d 1050, 1054-55 (9th Cir. 1994) (recognizing that Congress intended “agency action” to be interpreted broadly, admitting of no limitations.)

¹⁰⁴ *Bennett v. Spear*, 520 U.S. 154, 172 (1997) (use of “shall” creates a “categorical requirement”).

¹⁰⁵ 16 U.S.C. § 1371(a)(3).

¹⁰⁶ 50 C.F.R. § 216.3; 16 U.S.C. § 1362(13).

Because the Draft Report for the Project fails to consider the impacts of shipping on marine ecosystems, it does not comply with either CEQA or NEPA. The Corps and the Port must revise the Draft Report to include missing scientific studies, specific management actions that address the needs of the listed species and develop alternatives that provide a meaningful assessment.

The Draft Report must also be revised to fully address and disclose the significant environmental effects of the project, including the operational impacts of the channel deepening. The agencies must fulfill their duties under CEQA and NEPA to provide a meaningful environmental impact analysis that informs the public, especially communities most impacted by the project, of the associated impacts.

Thank you for your consideration of these comments, and please do not hesitate to reach out if you have any questions.

Sincerely,

Miyoko Sakashita

Miyoko Sakashita
Oceans Program Director
Center for Biological Diversity
1212 Broadway #800
Oakland, CA 94612
miyoko@biologicaldiversity.org

Adrian Martinez
Regina Hsu
Earthjustice
707 Wilshire Blvd., Suite 4300
Los Angeles, CA 90017
amartinez@earthjustice.org
rhsu@earthjustice.org

Carlo De La Cruz
Sierra Club
714 W. Olympic Blvd., Suite 1000
Los Angeles, CA 90015
carlo.delacruz@sierraclub.org

Peter M. Warren
San Pedro & Peninsula Homeowners' Coalition
P.O. Box 1106
San Pedro, CA 90733
pmwarren@cox.net

Theral Golden
West Long Beach Association
P.O. Box 9422
Long Beach, CA 90810
theraltg@msn.com

Taylor Thomas
East Yard Communities for Environmental Justice
2448 Santa Fe Ave.
Long Beach, CA 90810
tbthomas@eycej.org

Heather Kryczka
Natural Resources Defense Council
1314 Second St.
Santa Monica, CA 90401
hkryczka@nrdc.org

Dianne Petrich Flowers
5557 Cerritos Ave.
Long Beach, CA 90805
twoflowers@verizon.net

INDEX OF ATTACHMENTS IN SUPPORT OF COMMENTS

Attachments viewable at <https://earthjustice.sharefile.com/d-sd3085066b0a04a4080cc36ac60037349>.

A – San Pedro Bay Ports Documents

A1 – Port of Long Beach, Draft Port Master Plan Update 2020 (Jul. 2019), available at <http://www.polb.com/civica/filebank/blobdload.asp?BlobID=15173>

A2 – Port of Long Beach, Port Master Plan Update Draft Program Environmental Impact Report (Aug. 2019), available at <http://www.polb.com/civica/filebank/blobdload.asp?BlobID=15228>

A3 – San Pedro Bay Ports, Clean Air Action Plan 2017, available at <http://www.cleanairactionplan.org/documents/final-2017-clean-air-action-plan-update.pdf/>

A4 – San Pedro Bay Ports, Clean Air Action Plan, 2018 Feasibility Assessment for Cargo-Handling Equipment (Sept. 2019), available at <http://www.cleanairactionplan.org/documents/final-cargo-handling-equipment-che-feasibility-assessment.pdf/>

B – State, Federal, and Intergovernmental Documents

B1 – South Coast Air Quality Management District, *Multiple Air Toxics Exposure Study in the South Coast Air Basin, MATES IV* (2012), at 4-16, available at <https://www.aqmd.gov/docs/default-source/air-quality/air-toxic-studies/mates-iv/mates-iv-final-draft-report-4-1-15.pdf?sfvrsn=7>

B2 – CARB, Updates to At Berth Emissions Inventory for Ocean-Going Vessels (OGV) (2019), at 36, available at <https://ww3.arb.ca.gov/msei/ordiesel/feb19ogvinv.pdf>

B3 – Jason Gedamke, Ocean Sound & Ocean Noise: Increasing Knowledge Through Research Partnerships, NOAA 2 (2014), available at <http://cetsound.noaa.gov/Assets/cetsound/documents/MMC%20Annual%20Meeting%20Intro.pdf>

B4 – International Maritime Organization, Guidelines for the reduction of underwater noise from commercial shipping to address adverse impacts on marine life (2014), <http://www.imo.org/en/MediaCentre/HotTopics/Documents/833%20Guidance%20on%20reducing%20underwater%20noise%20from%20commercial%20shipping%2C.pdf>

B5 – National Marine Fisheries Service, Recovery Plan for the Blue Whale (1998)

B6 – National Marine Fisheries Service, Draft Recovery Plan for the Blue Whale (*Balaenoptera musculus*) Revision (2018)

B7 – J.V. Caretta et al, U.S. Pacific Marine Mammal Stock Assessments: 2018 (2019), available at <https://repository.library.noaa.gov/view/noaa/20266>

B8 – National Marine Fisheries Service, Large Whale Ship Strike Data 1986-2018

B9 – A.S. Jansen & G.K. Silber, Large Whale Ship Strike Database, NOAA Technical Memorandum, NMFS-OPR-25 (2004).

C – Academic and other independent studies

C1 – T.J. Moore et al, Exploring ship traffic variability off California, 163 Ocean & Coastal Management 515-527 (2018)

C2 – M.B. Kaplan & S. Solomon, A coming boom in commercial shipping? The potential for rapid growth of noise from commercial ships by 2030, 73 Marine Policy 119, 120 (2016)

C3 – John Hildebrand, Impacts of Anthropogenic Sound on Cetaceans, in Marine Mammal Research: Conservation Beyond Crisis (Reynolds, J.E. III et al. eds., 2006)

C4 – L. S. Weilgart, The Impacts of Anthropogenic Ocean Noise on Cetaceans and Implications for Management, 85 Canadian J. Zoology 1091-1116 (2007)

C5 – Ocean Noise and Marine Mammals, Nat'l Res. Council 96 (2003), available at http://www.nap.edu/openbook.php?record_id=10564&page=R1

C6 – C.W. Clark et al., Acoustic Masking in Marine Ecosystems: Intuitions, Analysis, and Implication, 395 Marine Ecology Progress Series 201 (2009), available at <http://www.int-res.com/articles/theme/m395p201.pdf>

C7 – C.W. Clark et al., Acoustic Masking in Marine Ecosystems as a Function of Anthropogenic Sound Sources, available at https://www.academia.edu/5100506/Acoustic_Masking_in_Marine_Ecosystems_as_a_Function_of_Anthropogenic_Sound_Sources

C8 – Brandon L. Southall et al., Final Report of the Independent Scientific Review Panel Investigating Potential Contributing Factors to a 2008 Mass Stranding of Melon-Headed Whales 3 (*Peponocephala electra*) in Antsohihy, Madagascar, Int'l Whaling Comm'n 4 (2013), available at <https://iwc.int/private/downloads/SLvy5e15tG6X7IECFfK0aQ/Madagascar%20ISRP%20FINAL%20REPORT.pdf>

C9 – D. Kastak et al., Noise-Induced Permanent Threshold Shift in a Harbor Seal, 123 J. Acoustical Soc'y of Am. 2986 (2008)

C10 – S.G. Kujawa & M.C. Liberman, Adding Insult to Injury: Cochlear Nerve Degeneration After “Temporary” Noise-Induced Hearing Loss, 29 J. Neuroscience 14077

C11 – Joseph J. Cox, Evolving Noise Reduction Requirements in the Marine Environment, Marine Mammal Comm’n: Congressional Briefing on Ocean Noise at 12 (2014), available at https://www.mmc.gov/wp-content/uploads/cox_capitalhill_briefing_0914.pdf

C12 – Caitlin M. Jensen et al., Spatial and Temporal Variability in Shipping Traffic Off San Francisco, California, 43 Coastal Mgmt. 575 (2015)

C13 – R.C. Rockwood, J. Calambokidis, & J. Jahncke, High mortality of blue, humpback and fin whales from modeling of vessel collisions on the U.S. West Coast suggests population impacts and insufficient protection, 12 PLoS ONE e0183052 (2017)

C14 – Virginia Morrell, Blue whales being struck by ships, Science Magazine, Jul. 23, 2014, available at <http://www.sciencemag.org/news/2014/07/blue-whales-being-struck-ships>

C15 – M.F. McKenna et al., Simultaneous tracking of blue whales and large ships demonstrates limited behavioral responses for avoiding collision, 27 Endangered Species Research 219-232 (2015)

C16 – *Twelve global shipping companies slowed transits in 2018 program off California coast to protect blue whales and blue skies*, March 14, 2019, <https://www.ourair.org/wp-content/uploads/031419-VSR.pdf>

C17 – Jesse Ryan, Whales are facing a big, deadly threat along West Coast: Massive ships, Washington Post, Mar. 18, 2019, available at https://www.washingtonpost.com/national/health-science/whales-are-facing-a-big-deadly-threat-along-west-coast-massive-container-ships/2019/03/15/cebee6e8-3eb0-11e9-a0d3-1210e58a94cf_story.html

C18 – Laist et al., Collisions Between Ships and Whales, 17 Marine Mammal Sci. 35, 54 (2001)

C19 – Silber et al., Hydrodynamics of a Ship/Whale Collision, 391 J. Experimental Marine Biology & Ecology 11, 18-19 (2010)

C20 – R.L. Putland et al., Vessel noise cuts down communication space for vocalizing fish and marine mammals, 24(4) Global change biology 1708-21 (2018)

C21 – R. Cuning et al., Extensive coral mortality and critical habitat loss following dredging and their association with remotely-sensed sediment plumes, Marine Pollution Bulletin (2019)

ATTACHMENT 9

Detailed Responses of Harbor Department to the Issues on Appeal of the Long Beach Board of Harbor Commission's Approval of the Deep Draft Navigation Feasibility Study and Channel Deepening Project and Certification of the Final Environmental Impact Report ("EIR")

Raised by:

Earthjustice, Center for Biological Diversity, East Yard Communities for Environmental Justice, Natural Resources Defense Council, Pacific Environment, Sierra Club, and West Long Beach Association (Collectively, "Appellants")

I. Introduction

On September 26, 2022, Appellants timely filed an appeal to the Long Beach City Council of the Long Beach Board of Harbor Commissioners' (Harbor Commission) September 12, 2022 certification of the Environmental Impact Report (EIR) pursuant to the California Environmental Quality Act (CEQA) for the Port of Long Beach (Port) Deep Draft Navigation Feasibility Study and Channel Deepening Project (Project), and approval of the Project.

The issues set forth in Appellants' appeal were previously raised during the EIR review process, and were considered and addressed by the United States Army Corps of Engineers (USACE) and the Port in the Final Integrated Feasibility Report (IFR) with Environmental Impact Statement (EIS)/EIR. Appellants' previous comment letter and the Responses to Appellants' comments are provided starting at page 22 of Appendix O (Comments and Responses to Comments) to the Final IFR-EIS/EIR. The Harbor Department's detailed responses to each of Appellants' issues/grounds for appeal are provided herein.

The Harbor Department respectfully recommends that the City Council deny the appeal because Appellants have failed to demonstrate how the Harbor Commission failed to comply with CEQA and have not shown that the Harbor Commission's determination is not supported by substantial evidence. Long Beach Municipal Code (LBMC) section 21.21.507, subsection E.2, requires that Appellants specify in detail why they contend that the environmental determination does not comply with CEQA. Appellants have not demonstrated how the Long Beach Harbor Commission's certification of the EIR does not comply with CEQA or how it is not supported by substantial evidence in light of the whole record. State CEQA Guidelines section 15384(a) defines "substantial evidence" in relevant part as "enough relevant information and reasonable inferences from this information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached...Argument, speculation, unsubstantiated opinion or narrative, evidence which is clearly erroneous or inaccurate...which do not contribute to or are not caused by physical impacts on the environment does not constitute substantial evidence."

Appellants have submitted no substantial evidence or factual foundation that supports their grounds for appeal that the Project would have a significant effect on the environment beyond the significant unavoidable air quality impact, which has been fully analyzed and disclosed. The EIR, prepared in conjunction with the USACE's IFR and EIS, is comprehensive and provides substantial evidence necessary to support the Harbor Commission's findings and certification of the EIR in full compliance with CEQA. As discussed in the Harbor Department's following detailed responses to the grounds for appeal, no new impacts or substantial increase in previously identified impacts would result from the Project. Appellants fail to raise any meritorious grounds for appeal. As such, the appeal should be denied.

II. Harbor Department General Responses

The following are the Harbor Department's general responses to Appellants' overarching issues related to vessel activity and Port cargo capacity and throughput.

a) Harbor Department General Response to Grounds for Appeal – Vessel Activity

Chapter 12 of the USACE's IFR-EIS/EIR for the Project, entitled "Environmental Impact Report," serves as the functional equivalent of an EIR pursuant to CEQA. The Project evaluated in the EIR consists of construction activities to deepen and widen various channels in the Port to increase vessel transportation efficiencies and improve safety for container and liquid bulk vessels. Vessel operations are not a part of the scope of the environmental evaluation. Projecting the numbers and types of vessels in the future would require pure speculation, and any analysis would not provide reliable or meaningful information to the public or decisionmakers. Furthermore, any hypothetical change in the vessel fleet would not alter the capacities of the marine terminals. Generally, the deployment of large container vessels filled to their capacities allows for more efficient transport of cargo and goods, requiring fewer trips to and from the Port, which would result in fewer emissions from ocean-going vessels, as demonstrated in the Port's air emissions inventories as early as 2010 (available online at www.polb.com/emissions and incorporated herein by reference).

Section 12.1.2 of the EIR, at page 240 of the Final IFR-EIS/EIR, identifies the following as objectives of the Project:

- Reduce transportation costs by allowing a more efficient future fleet mix (e.g., displace Panamax and smaller-scale Post-Panamax vessels with larger-scale Post-Panamax vessels, which have increased cargo capacity);
- Reduce vessel congestion in the Port;

- Increase channel depth to encourage shippers to replace smaller, less efficient vessels with larger, more efficient vessels on Long Beach route services.
- Remove channel restrictions to increase vessels' maximum loading capacity, thereby resulting in fewer vessel trips to transport the forecasted cargo.
- Reduce vessel wait times within the harbor to reduce loading and unloading delays for deeper drafting liquid bulk vessels and to provide a safe area to anchor adjacent to the Main Channel during equipment failures.

Existing channel restrictions limit a ship's capacity by limiting its draft. Deepening the channel's depth reduces this constraint, and the ship's maximum practical capacity increases towards its design capacity, which in turn results in fewer vessel trips to transport the forecasted cargo. With larger ships able to transport goods, smaller, older, and less efficient ships can be displaced, decreasing the number of vessel trips. The efficiencies afforded by the Project to accommodate additional large, fully-loaded vessels with no navigational restrictions would in turn increase transportation efficiencies and safety, thereby reducing the total number of vessels calling at the Port over time, shortening vessel wait times in the harbor, and decreasing the need for light-loading and lightering.

The same predicted volume of cargo is estimated to move through the Port with or without the Project. Port operations following implementation of the Project are not a "consequence" of the Project, as there are no physical improvements or modifications to Port marine terminals that are a part of, or dependent on, the Project, no changes to how the marine terminals operate, and no impact on the marine terminals' capacity. Furthermore, Port operations would not change the scope or nature of the Project or its environmental effects because the infrastructure, operational capabilities, and capacities at the marine terminals would remain the same. Regardless of whether the Project proceeds or not, the impacts Appellants allege are not foreseeable outcomes of this Project.

If the Project were not completed and implemented, container and liquid bulk vessels that call at the Port would continue to arrive and depart the Port as they currently do. However, the inefficiencies and safety concerns associated with perpetuation of the existing conditions involving the use of smaller ships having to make more trips to transport goods, and larger vessels having to light-load, lighter, and wait for high tide in order to maneuver into and out of the Port, and anchor in the Harbor, rather than berth at a dock, would continue, and potentially worsen over time with the industry trend toward expanded use of large vessels.

**b) Harbor Department General Response to Grounds for Appeal –
Port Capacity and Cargo Throughput**

Appellants mischaracterize the Project as an “expansion project” that will enable the growth of cargo into the Port of Long Beach and lead to impacts of shipping traffic and other environmental effects. To the contrary, the Project is not an expansion project, as it will merely consist of dredging of various areas of the Port to improve channel depths and widths to accommodate the global fleet of large vessels to enter and depart the Port safely and more efficiently. Currently, large container vessels calling at the Port must ride the tides and enter and leave the Port’s West Basin and Pier J Basin only during high tides or “light-load” (not fill the vessel to capacity with cargo) to ensure a shallower draft to safely enter and leave these areas of the Port. Liquid bulk vessels must currently enter and exit the two-mile long Approach Channel one at a time due to existing channel width limitations, which results in increased delays.

Contrary to Appellants’ assertions, the Project does not include any changes to Port marine terminals that will increase the marine terminals’ capacity or operations. To increase capacity or alter operations, marine terminal infrastructure would require improvements, which would require project-specific environmental review, during which the potential environmental impacts associated with the operation of vessels, as well as other goods movement-related sources such as trucks, rail locomotives, harbor craft, and cargo-handling equipment, would be evaluated as appropriate in accordance with CEQA. Therefore, the efficiencies afforded by the Project would not influence or alter marine terminal capacities or operations.

III. Harbor Department Responses to Appellants’ Specific Grounds for Appeal

The Harbor Department’s responses to each of Appellants’ specific grounds for appeal are provided herein.

Ground for Appeal No. 1 – Scope of Project

Appellants contend that the scope of the Project and its impacts are improperly narrow. According to Appellants, the EIR erroneously limits the Project to dredging and construction activities, and therefore does not analyze operational and cumulative environmental and public health impacts and fails to disclose all environmental impacts that might result from all phases of project planning, implementation, and operation, including any growth-inducing impacts and trends. Appellants assert the Project will expand the Port’s capacity to bring in larger ships and process more cargo than it currently handles, and thereby lead to increased impacts of shipping traffic and other environmental effects.

Harbor Department Response to Ground for Appeal No. 1 – Scope of Project

This ground for appeal has no merit and should be denied. Long Beach Municipal Code (LBMC) section 21.21.507, subsection E.2, requires appellants to specify in detail why the appellant contends that the environmental determination does not comply with CEQA. Appellants have submitted no evidence that supports their conclusion that the Project or introduction of additional large ships will expand the Port's capacity to process more cargo than it currently handles leading to increased impacts of shipping traffic and other environmental effects. The IFR-EIS/EIR provides extensive detail to the contrary—the Project would not result in increased terminal capacity or more vessel trips required to transport forecasted cargo.

The Project description in the IFR-EIS/EIR is accurate and allows for an intelligent evaluation of the potential environmental impacts; the EIR analyzes and discloses each of the potentially significant environmental effects that could result from the implementation of the Project. USACE and Port responses to the Appellants' previous comments on this issue are provided in Appendix O (Comments and Responses to Comments) to the Final IFR-EIS/EIR as General Response No. 1, Response to Comment 9-1 through 9-6, 9-9, 9-12 through 9-15, and 9-19.

The scope of the Project and analysis of potential impacts in the EIR and channel-deepening activities is prepared in accordance with Section 15126.2 of the State CEQA Guidelines, which states, in relevant part: "In assessing the impact of a proposed project on the environment, the lead agency should normally limit its examination to changes in the existing physical conditions in the affected area as they exist at the time the notice of preparation is published, or where no notice of preparation is published, at the time the environmental analysis is commenced." Similarly, State CEQA Guidelines Section 15125(a) states that the existing physical environmental conditions at the time of the Notice of Preparation will normally constitute the baseline for determining whether impacts are significant. A Notice of Preparation was published in November 2016 and an amended Notice of Preparation of the Draft IFR-EIS/EIR was issued in January 2019. The EIR appropriately focuses on the changes to the existing physical conditions as of 2016 (the CEQA baseline) and does not speculate about potential future changes to Port operations.

While CEQA mandates consideration of "reasonably foreseeable indirect physical changes in the environment," a change that is "speculative or unlikely to occur" is not reasonably foreseeable (State CEQA Guidelines Section 15064(d)). The California Supreme Court, in *Laurel Heights Improvement Assn. v. Regents of the University of California* (1988) 47 Cal. 3d 376, 396, stated that "an EIR must include an analysis of the environmental effects of future expansion or other action if: (1) it is a reasonably foreseeable consequence of the initial project; and (2) the future expansion or action will be significant in that it will likely change the scope or nature of the initial project or its environmental effects."

Under this test, the scope of the Project and the analysis in the EIR comply with CEQA because: (1) Project implementation does not result in changes to how the marine terminals operate or their cargo capacities and therefore, marine terminal operations following implementation of the Project are not a “consequence” of the Project; and (2) marine terminal operations would not change the scope or nature of the Project or its environmental effects.

Under CEQA, growth inducement is defined by ways in which a project could foster economic or population growth in the surrounding environment, either directly or indirectly. Included in this definition are projects which would remove obstacles to growth or trigger the construction of new community services facilities that could cause significant effects (State CEQA Guidelines Section 15126.2). Growth inducement is discussed in Section 12.8 of the Final IFR-EIS/EIR. Page 335 of the Final IFR-EIS/EIR states that the Project would (1) not involve the development of new housing; (2) not significantly affect the economy of the region; and (3) not influence throughput of containerized or liquid bulk cargo. While the Project would result in the ability of large vessels to navigate more efficiently and safely at the Port, the efficiencies afforded by accommodating these vessels would in turn reduce the number of smaller vessels calling at the Port over time. Furthermore, while larger vessels could accommodate larger container and liquid bulk cargo loads, the overall throughput and capacities of marine terminals or landside cargo-handling equipment at the Port would not be influenced by the Project.

Therefore, the Project would not generate significant direct or indirect growth-inducing impacts; the Project would not trigger the construction of new community service facilities that could increase the capacity of infrastructure in an area that currently meet the demands (e.g., an increase in the capacity of a sewer treatment plant or the construction or widening of a roadway beyond that which is needed to meet existing demand). The EIR adequately analyzes the potential impacts from the Project and does not fail to analyze direct or indirect impacts, as Appellants assert.

Appellants misconstrue a statement from the Final IFR-EIS/EIR (Section 4.4, Planning Objectives, page 68), which states that the Project “...would induce changes in the operations and composition of the future fleet mix at the Port of Long Beach.” Such changes would include: (1) an increase in a vessel’s maximum practicable loading capacity; (2) an increase in the reliability of water depth, encouraging the deployment of larger vessels to the Port; and (3) an increase in larger vessels, which will displace less economically efficient smaller vessels.

Appellants, however, gloss over the third change, which is environmentally beneficial, and argue that the planning objectives contradict the assumption that the channel deepening will not facilitate the Port’s growth. Contrary to Appellants argument, the statement above referenced by Appellants refers specifically to potential future vessel fleet mixes that are influenced by many factors. It would be speculative to predict and

assign future fleet mixes resulting from the Project. As previously discussed in the Harbor Department's Response to Ground for Appeal No. 1, operational activities are not a component of the Project, and the Project would not change or expand operations or capacities at the marine terminals. The statement reiterates the objectives that the Project would help achieve — improved transportation efficiencies and safety for vessels arriving at and departing from the Port.

Ground for Appeal No. 2 – Air Quality and Health Risk Assessment

Appellants assert the Air Quality and Health Risk Assessment in the Final EIR is insufficient; the EIR arbitrarily concludes that the Project will only result in short-term emissions and significant air quality impacts in certain years during construction, neglecting to consider the growth-inducing effects of the Project and emissions resulting from expanded Port operations which will require more cargo-handling equipment, rail, and truck visits at any given time to handle the influx of larger cargo loads. Appellants also assert the Final EIR fails to examine emissions from the Project in accordance with the most recent federal and state air quality standards.

Harbor Department Response to Ground for Appeal No. 2 – Air Quality and Health Risk Assessment

This issue was previously raised by Appellants during the Draft EIR review and are addressed by the USACE and Port with responses to Appellants' comments provided in Appendix O (Comments and Responses to Comments) to the Final IFR-EIS/EIR starting at page 23.

The Final IFR-EIS/EIR adequately discloses the potential air emissions associated with the Project in full compliance with CEQA. This ground for appeal should be denied because Appellants' claims are conclusory and do not provide any details as to how the environmental determination does not comply with CEQA, as required by LBMC Section 21.21.507, subsection E.2.

The Final EIR, starting at Section 12.2.3 at page 245 provides a detailed discussion of the Air Quality and Health Risk Assessment for purposes of the CEQA analysis. Section 3.5 of the IFR-EIS/EIR further discusses air quality conditions in the study area.

As previously discussed in the Harbor Department's Response to Ground for Appeal No. 1, operational activities are not a component of the Project, and the Project would not change or "expand" operations at the marine terminals to require more cargo-handling equipment, rail, and/or truck visits. Therefore, the EIR appropriately does not analyze emissions from speculative potential changes in future operations or expansion of Port operations.

Contrary to Appellants' claim, the EIR does, in fact, examine Project-related emissions in accordance with the most recent federal and state air quality standards. Tables 12-4 and 12-5 and the associated text, starting on page 254 of the IFR EIS/EIR, discuss the air quality impacts evaluated and present the South Coast Air Quality Management District (AQMD) Daily Emissions Thresholds and Ambient Air Pollutant Concentration Thresholds. Table 12-6 (page 257, Peak Daily Construction Emissions without mitigation) and Table 12-7 (page 259, Peak Daily Emissions with Mitigation) show the air emissions associated with construction activities. As shown in Table 12-7 on page 259 of the IFR-EIS/EIR, with the implementation of mitigation measures, construction of the Project would produce emissions that exceed the South Coast AQMD daily thresholds of significance for nitrogen oxides (NO_x) in years 2024, 2025, 2026, and 2027, and particulate matter 2.5 microns or less ($\text{PM}_{2.5}$), carbon monoxide (CO), and volatile organic compounds in 2025. With implementation of mitigation measures, the Project would generate offsite ambient air pollutant concentrations that would exceed the 1-hour federal NO_2 as shown on Table 12-10 at page 261 of the Final IFR-EIS/EIR.

The proposed Project would produce toxic air contaminant (TAC) emissions only temporarily during construction activities and emissions would occur at a considerable distance from the nearest residential and sensitive receptors; therefore, a detailed health risk assessment was not performed. Instead, the maximum results of the particulate matter less than ten microns (PM_{10}) dispersion modeling, detailed in Appendix H2 of the Final IFR-EIS/EIR, and CARB's Hotspots Analysis and Reporting Program (HARP) were used to estimate potential maximum cancer risks and chronic non-cancer hazard indices.

Air quality emissions analysis details and assumptions are presented in Appendix H4 of the Final IFR-EIS/EIR. Potential impacts related to acute non-cancer hazard indices and population cancer burden are discussed qualitatively in Section 12.2.3 (Air Quality and Health Risk Assessment) and Impact AQ-4 of the Final IFR-EIS/EIR. As discussed on page 42 of the Final IFR-EIS/EIR, the nearest residential receptors to the Project site are live-aboards, located approximately 1 mile to the north of the West Basin, in the Yacht Marina and Island Yacht Anchorage. The nearest school is Cesar Chavez Elementary School, on W. 3rd Street, approximately 1.3 miles northeast of the Project site. The nearest hospital is St. Mary Medical Center, on Linden Ave., approximately 2.7 miles north of the Project site. The nearest convalescent home is Bay Breeze Care on Santa Fe Ave, approximately 2.4 miles north of the Project site. As shown in Table 12-12 (Maximum Cancer Risk and Non-Cancer Chronic Impacts), Project activities would not expose the public to significant levels of toxic air contaminants. Therefore, impacts would be less than significant and mitigation is not required.

Ground for Appeal No. 3 – Greenhouse Gas Emissions

Appellants argue that in limiting the assessment of greenhouse gas emissions to only the construction activities of the Project, the EIR fails to analyze how the channel deepening may facilitate more GHG emissions due to expanded operations and the impacts on the region to meet state and local greenhouse gas targets. Appellants contend the Project is, in part, intended to increase the Port's capacity to import crude oil, and argue that the Project therefore will lead to more oil production, refinement, coal exports, and freight transportation, and increased emissions of criteria pollutants. Appellants assert the Final EIR wrongly concludes that the global climate change impacts from the Project will be less than significant and mitigation measures are not required.

Harbor Department Response to Ground for Appeal No. 3 – Greenhouse Gas Emissions

This ground for appeal has no merit and should be denied because Appellants have provided no evidence that supports their conclusion that the Project would increase the Port's capacity for import of crude oil resulting in more oil production, refining, coal exports, and freight transportation thereby increasing greenhouse gas emissions above CEQA levels of significance.

Appellants err in their claim on page 6 of their appeal letter and do not provide reference or citation to the statement they claim is in the Final-IFR EIS/EIR of the Port's "acknowledgement" that "the Project is, in part, intended to increase the Port's capacity to import crude oil, leading to more oil production, refinement, coal exports, and freight transportation, and increased emissions of criteria pollutants." In fact, the Responses to Comments received on the Draft IFR-EIS/EIR provided in Appendix O of Final IFR-EIS/EIR, starting at page 9, states:

"The [proposed] Project will facilitate the safe and efficient transportation of all types of cargo into and out of the POLB because larger vessels are calling at the POLB that need deeper and wider channels to safely operate...The quantity of oil and gas deliveries will not materially change due to this project, it will simply be handled in a safer and more cost-effective manner."

The Project does not include any modifications to existing liquid bulk terminals, storage, transmission, or refinery capacities, all of which are beyond the scope of the Project. Supply of and demand for oil, gas, and other energy resources fluctuates over time, and those factors are not significantly impacted or influenced by the Project. Further, the analysis Appellants suggest would require pure speculation as to future market considerations, and as such would not be meaningful to the public or decisionmakers.

Section 12.3.2 (Impact Analysis of Mitigation), starting at page 317 of the Final IFR-EIS/EIR, discusses the annual greenhouse gas emissions associated with the Project after implementation of mitigation measures. Mitigation measures include the use of electric dredge equipment. As shown in Table 12-16 of the Final IFR-EIS/EIR, the Project's greenhouse gas emissions in carbon monoxide equivalent (CO_{2e}), amortized over 30 years in accordance with South Coast AQMD guidance, would be 614 metric tons, well below the South Coast AQMD significance threshold for industrial projects of 10,000 metric tons of CO_{2e}. Therefore, the greenhouse gas emissions associated with the Project would be less than significant.

Furthermore, Section 12.2.17 (Global Climate Change) discusses the Project's potential to conflict with an applicable plan, policy, or regulations adopted for the purpose of reducing greenhouse gas emissions (Impact GCC-2). Table 12-15 evaluates all relevant greenhouse gas plans, policies, and regulations, including Assembly Bill (AB) 32 (California Global Warming Solutions Act (2006)), CARB's AB 32 Scoping Plan, the Port's Green Port Policy and Clean Air Action Plan, and the City of Long Beach's Sustainable City Action Plan. The Project would not conflict with greenhouse gas emissions targets or any applicable federal, state, regional, or local greenhouse gas emissions reduction plans, policies, or regulations.

Ground for Appeal No. 4 – Endangered Species

Appellants assert the Final EIR's analysis of impacts on endangered species is insufficient. Appellants argue the Project is likely to facilitate increased vessel traffic and growth at the Port, which will increase oil spills and other water pollution, anchor scouring, biological invasions, container loss, chronic noise, and collisions with large whales and sea turtles.

Harbor Department Response to Ground for Appeal No. 4 – Endangered Species

As discussed in the Harbor Department's Response to Ground No. 1 – Scope of Project, the EIR appropriately focuses on the changes to the existing physical conditions associated with the Project as of 2016 (the CEQA baseline), and does not speculate about potential future changes to vessel fleet mixes, vessel activities or marine terminal operations and capacities. The Final IFR-EIS/EIR demonstrates that the potential environmental impacts to endangered species associated with construction of the Project have been fully analyzed, while Appellants' claims are conclusory and devoid of specific evidence that the Project will contribute to increased risks to endangered species.

The Final IFR-EIS/EIR provides detailed evaluation of the potential environmental impacts to endangered species in Section 5.4 (Biological Resource) and Section 12.2.4 (Biota and Habitats). Starting at page 119 of the Final IFR-EIS/EIR, detailed discussion of threatened and endangered species, as defined by the federal Endangered Species

Act and the California Endangered Species Act, is provided, including the California Least Tern, Green Sea Turtle, and Marine Mammals (blue whale, fin whale, humpback whale, and grey whale). Special-status species and their habitats known to exist in the harbor area are protected under numerous laws and regulations, including the federal Endangered Species Act, the California Endangered Species Act, the Marine Mammal Protection Act, administered by the United States Fish and Wildlife Service, National Ocean and Atmospheric Association Fisheries, and California Department of Fish and Wildlife. Further, any analysis of impacts of large ship traffic on such species would require speculation, and would not provide meaningful information to the public or decisionmakers. In addition, the Project objectives to increase transportation efficiencies and navigational safety would potentially reduce the total number of vessels calling at the Port over time, which would inherently reduce the risk impacts to endangered and/or special status species.

Oil Spills

Appellants assert that the Project will increase oil spills. As discussed in Appendix O of the Final IFR-EIS/EIR at page 31, currently, liquid bulk vessels must engage in lightering, an activity where petroleum material is transferred from one ship to a second ship offshore, which allows each ship to lighten their load and reduce their draft (lessen the ship's depth) when entering the Port. Reducing the number of lightering events inherently will reduce the risk of oil spills from the transfer of liquid bulk cargo from one vessel to another. The Project would also increase safety by widening the channels to facilitate safer maneuvering for liquid bulk vessels. Because of constraints on liquid bulk storage areas, improvements to terminal facilities that handle liquid bulk would require project-specific environmental review, including the potential for heightened risk of oil spill in accordance with CEQA. Furthermore, marine oil terminals in California are required to comply with Marine Oil Terminal Engineering Maintenance Standards (MOTEMS). MOTEMS establish the minimum engineering, inspection, and maintenance criteria for marine oil terminals to protect public health, safety and the environment by governing the upgrade and design of oil terminals to ensure better resistance to earthquakes and reduce the potential of oil spills. Therefore, Appellants' claim that the Project will result in increased risk to endangered species from oil spills is speculative. Further, compliance with all applicable regulatory standards also serves to address any potential issues.

Water Pollution

As previously discussed, the Project would not facilitate increased vessel traffic and growth and, therefore, only construction activities were evaluated in the EIR. Section 12.2.8 of the Final IFR-EIS/EIR discusses the Project's potential impacts to hydrology and water quality associated with construction. The IFR-EIS/EIR acknowledges that construction activities could temporarily increase turbidity, thereby degrading water quality that could affect fish and other marine life movement in the area. Motile species

are expected to relocate out of the immediate area until dredging activities are completed. Some benthic populations would be removed by dredging, but would recolonize the area following completion of dredging. Any effects to essential fish habitat would be temporary and limited to the dredging or disposal area. Fish would be able to avoid the construction area during construction, physical disturbances would rapidly dissipate, and disturbed sediment and rock dike areas would return to their pre-construction state.

As discussed in Section 3.3 (Water and Sediment Quality) and Section 12.2.8 (Hydrology and Water Quality), the implementation of a water quality monitoring program at the dredge and placement sites will be implemented by the USACE, which would include weekly monitoring of salinity, pH, dissolved oxygen, temperature, total suspended solids, and percent light transmissivity. Monthly water samples would be taken downcurrent of dredge areas for analysis of total suspended solids, total petroleum hydrocarbons, and other contaminants of concern identified during sediment sampling and analysis during the design phase of the Project. With the implementation of water quality monitoring and management strategies as part of Project design, the Project impacts would be less than significant.

Anchor Scouring and Biological Invasions

Appellants also contend that the Project would increase anchor scouring and biological invasions. Anchor scouring refers to the process by which oceangoing vessels, particularly cruise ships, may drag their anchors and chain mechanically along the sea floor as the tide ebbs and flows, thus potentially disturbing marine organisms in the uppermost sedimentary layers, often in circular scars, of the seabed. Ships utilizing Long Beach Harbor are restricted to only dropping anchor in established anchorage areas. The Project will not change the location or layout of these established anchorage areas; accordingly, the Project will not increase the risk of anchor scouring. Furthermore, the Project would not introduce new uses or activities that are incompatible with existing Port operations. Dredging activities are common within Port environments for channel deepening and maintenance of existing channels. All vessels calling at the Port are required to comply with all applicable ballast water discharge and hull maintenance standards in accordance with the performance standards set forth by the California State Lands Commission, thus negating further concern for new/future biological invasions.

Container Loss

Appellants do not provide any factual context or evidence that the CEQA analysis is lacking with regard to their statement that the Project will increase container loss, nor do Appellants discuss how container loss might occur. As discussed in the Harbor Department's Response to the Ground for Appeal No. 1, while the Project will facilitate the more efficient and safer maneuvering of container vessels in and out of the Port, the

Project does not include an analysis of container vessels' operational activity because this is outside the scope of the Project and would require undue speculation. Therefore, it is not possible to respond further at this juncture.

Chronic Noise

The Project objectives to increase transportation efficiencies and navigational safety, thereby reducing the total number of vessels calling at the Port over time, will inherently reduce the risk of noise impacts. As discussed in the Harbor Department's Response to Ground No. 1 – Scope of Project, the EIR appropriately focuses on the changes to the existing physical conditions as of 2016 (the CEQA baseline) associated with the Project and does not speculate about potential future changes to vessel activities or marine terminal operations. Nevertheless, noise impacts associated with construction of the Project were fully and adequately evaluated for the scope of the Project {See Sections 3.9 (Noise) and 12.2.10 (Noise) of the Final IFR-EIS/EIR}.

As stated at page 268 of the Final IFR-EIS/EIR, due to the temporary nature of increases in noise, vibration, or turbidity and the "soft start" used for pile-driving at the Pier J breakwaters, all of the special-status species, being highly mobile, would be readily available to avoid the construction areas. "Soft start" means that pile driving would be initiated at reduced energy to give marine wildlife the opportunity to vacate the vicinity of the pile-driving activity. Therefore, the temporary noise effects of the Project are not expected to pose a significant impact on any endangered or special-status species.

Collisions with Large Whales and Sea Turtles

In Section 5.4 (Biological Resources) of the Final IFR-EIS/EIR, the USACE would conduct monitoring for sea turtles, as well as marine mammals, including the presence of whales and dolphins. Monitors will note marine mammal presence and any behaviors indicative of potential harassment under the Marine Mammal Protection Act. These behaviors could include startled response, irregular diving, or flushing from haul-out positions in the vicinity of the Project area. Monitors will carefully record the behavior of any marine mammals that do occur within the proposed Project area. Implementation of the proposed monitoring and avoidance measures for marine mammals is anticipated to minimize the potential for marine mammal harassment or injury resulting from this proposed activity. If the proposed Project results in disturbance to marine mammals, activities will be ceased, and the Port and the National Marine Fisheries Service will be contacted before any construction activities proceed further. As the total number of vessels calling at the Port over time is expected to decline as a result of the proposed Project post-construction, increased risk for chronic underwater noise and/or collisions with marine mammals is also expected to be reduced with fewer vessel trips to and from the Port.

Section 12.2.4 (Biota and Habitats) at page 268 of the IFR EIS-EIR states that the primary threat to listed whale species in the study area is strikes by fast-moving, large vessels. Within the harbor operating dredges are either stationary (clamshell dredges) or moving at a speed of 1-3 knots (hopper dredges). Neither type of dredge equipment poses a threat to any listed whale species because whales rarely occur inside the harbor and can readily avoid such slow-moving objects. Further, the EIR acknowledges at page 268, that outside the harbor, while dredge equipment and tugboat/barge combinations transporting dredged material to disposal sites could encounter whales, particularly during migrations, there would be “little to no threat” to listed whale species because the dredge equipment and tugboats/barges would move relatively slowly (5-10 knots, depending on sea conditions).

As discussed on page 268 of the IFR-EIS/EIR, the Project is not likely to adversely affect Eastern Pacific green sea turtles, one of the four species of sea turtles that are federally listed as threatened or endangered. Only the Eastern Pacific green sea turtle has a low probability of occurring in the study area based on the low likelihood of the species being in the proposed dredge and construction areas and avoidance and minimization measures included in the environmental commitments. In consultation with the National Marine and Fisheries Service, a suite of measures was established for the Project to protect Eastern Pacific green sea turtles. The monitoring and avoidance measures will ensure that construction or placement activities will not adversely affect green sea turtles. Measures include monitoring of dredging and disposal activities, along with mandatory avoidance procedures to be employed if any green sea turtles are present during dredging and sediment disposal to limit the potential for activities resulting in adverse effects. The probability that turtles will be present within the Port areas for extended periods of time is expected to be negligible due to the lack of important foraging habitat features near Project areas, and the harbor overall, where dredging and disposal will occur. This minimizes the risk of adverse effects or disturbance resulting from exposure to Project activities.

Section 5.4 (Biological Resources) of the Final IFR-EIS/EIR provides analysis and discussion of threatened and endangered species, as defined by the federal Endangered Species Act and the California Endangered Species Act. Discussion regarding specific listed species, including the California Least Tern, Green Sea Turtle, and Marine Mammals (blue whale, fin whale, humpback whale, and grey whale), is also included in Section 5.4 (Biological Resources), starting at page 119. Section 12.2.4 (Biota and Habitats) provides detailed discussion of potential impacts to Biota and Habitats in accordance with CEQA. Special-status species and their habitats known to exist in the harbor area are protected under numerous laws and regulations, including the federal Endangered Species Act, the California Endangered Species Act, and the Marine Mammal Protection Act, administered by the United States Fish and Wildlife Service, National Oceanic and Atmospheric Administration Fisheries, and California Department of Fish and Wildlife.

In light of the reasons discussed, Appellants' Ground for Appeal No. 4 has no merit and should be denied. The IFR-EIS/EIR demonstrates that the potential environmental impacts to endangered species associated with construction of the Project have been fully analyzed, while Appellants' claims are conclusory and devoid of specific evidence that the Project will contribute to increased risks to endangered species associated with oil spills, anchor scouring, water pollution, noise, container loss, or collisions with sea turtles or whales.

Ground for Appeal No. 5 – Environmental Justice

Appellants assert that the Final EIR fails to analyze and mitigate environmental justice impacts. The Project, and port operations generally, will occur in close proximity to the communities of West Long Beach, Wilmington, and Carson.

Harbor Department Response to Ground for Appeal No. 5 – Environmental Justice

This ground for appeal should be denied because CEQA does not explicitly require the evaluation of Environmental Justice, and there are no specific thresholds of significance for environmental justice. Rather, CEQA requires a lead agency to exercise its own best judgment to, “balance a variety of public objectives, including economic, environmental, and social factors and in particular the goal of providing a decent home and satisfying living environment for every Californian.” State CEQA Guidelines Section 15021(d). The Board of Harbor Commissioners recognizes that significant and unavoidable environmental impacts will result from implementation of the Project. In accordance with CEQA, the Statement of Overriding Considerations for the Project details the balance of specific economic, legal, social, technological, or other benefits, including region-wide and statewide environmental benefits of the Project against its unavoidable environmental risks. The overriding considerations include (1) improved transportation efficiencies; (2) improved navigational safety; (3) reduced delay and wait times; (4) reduced transportation and product costs; (5) fewer vessel trips; and (6) contribution to the Community Grants Program.

As discussed in Section 12.2.3 (Air Quality and Health Risk Assessment), the EIR includes all applicable and feasible mitigation measures to reduce air quality and greenhouse gas emissions associated with construction activities associated with the Project. The EIR also acknowledges that the greatest cumulative impact on the air quality of the regional air basin would be the incremental addition of pollution associated with the use of construction-related heavy-duty equipment and trucks.

The Port's Community Grants Program was established to address cumulative air and health impacts from the new development projects at the Port. Since 2009, the Port has set aside nearly \$65 million for grants to improve the health of children, seniors and other vulnerable populations, reduce GHG emissions, and enhance the environment.

Projects funded under the program have included development of public parks, water quality improvements, light-emitting diode (LED) lighting, healthcare programs, facility-based energy efficiency projects, trees and landscaping, solar panels, electric vehicles, air filtration, and noise abatement measures. The Community Grants Program, approved by the Board of Harbor Commissioners in 2016, identifies areas that have experienced the highest impact from Port-related operations. In addition to the City of Long Beach (including West Long Beach), the communities of Wilmington, Carson, Compton, and Paramount are encompassed within the geographic area identified by the Community Grants Program to apply for grant funding. A Community Grants Advisory Committee appointed by the Mayor of Long Beach assists in selecting projects for funding. Before any funding is awarded, the Port conducts a thorough review of all applications prior to presenting them to the Board of Harbor Commissioners for approval in accordance with the public trust doctrine and guidance from the California State Lands Commission.

CEQA does not require an analysis of Environmental Justice. However, in recognition of the potential effects construction of the Project would have on surrounding communities, the Port will make a contribution of \$146,753 to the Community Grants Program to address the cumulative impacts to air quality associated with construction of the Project. The Program funds projects to improve the health of communities surrounding the Port, including West Long Beach, Wilmington, and Carson. The EIR was prepared in full accordance with CEQA. Therefore, this Ground for Appeal should be denied.

Ground for Appeal No. 6 – Cumulative Impacts

Appellants argue the Final EIR ignores the growth-inducing effects of the Project and its environmental impacts. Looking to the Port's record-breaking cargo numbers, Appellants assert the Project is one of the several expansion projects that the Port is undertaking to increase capacity and overall throughput. Appellants further contend that the Final EIR disregards interrelated expansion projects at the ports of Long Beach and Los Angeles, as well as other channel deepening projects at ports throughout the coastal U.S. and does not consider the indirect and cumulative air quality and greenhouse gas impacts, as well as the impacts to several whale species.

Harbor Department Response to Ground for Appeal No. 6 – Cumulative Impacts

This ground for appeal should be denied. Appellants err in their assertion that the Project is an “expansion project”. The Project is not an expansion project, nor would it enable the growth of cargo into the Port or lead to impacts on shipping traffic or other environmental effects, as discussed in the Harbor Department’s General Response – Port Capacity and Throughput and Response to Ground for Appeal No. 1 – Scope of Project. LBMC Section 21.21.507, subsection E.2, requires appellants to, “specify in detail why the appellant contends that the environmental determination does not comply

with CEQA.” Appellants do not point to or reference any specific projects to support their claim.

Nonetheless, Section 2-2 (Terminal Expansions) of the Final IFR-EIS/EIR includes discussion of existing container facilities and infrastructure at the Port, as well as the Port’s capital improvement projects that have been approved pursuant to CEQA and/or NEPA. These projects, including the Middle Harbor Redevelopment Project, Gerald Desmond Bridge Replacement Project, Pier B On-Dock Rail Support Facility Project, the Pier G & J Terminal Development Project are not dependent on, or a consequence of the Channel Deepening Project.

The Project will merely provide for dredging of various areas of the Port to allow for the improvement to channel depths to accommodate large vessels, the mix of which the Port has no control or influence over, entering and departing the Port safely and more efficiently. The Project itself will not influence cargo throughput or capacity. In order to expand capacity and throughput beyond the capabilities of the existing marine terminals and their operations, the marine terminal infrastructure would need to be redesigned and updated. This would require project-specific environmental review, during which time the potential environmental impacts associated with the operation of vessels, as well as other goods movement-related sources such as trucks, rail locomotives, harbor craft, and cargo-handling equipment, would be evaluated as appropriate. Potential environmental impacts associated with those vessels would be evaluated to the extent feasible—including the potential direct, indirect, and cumulative impacts related to air quality, greenhouse gas emissions, noise, and impacts to marine mammals.

The Final IFR-EIS/EIR, starting at page 319, provides a discussion of the cumulative projects considered in the cumulative impact analyses. As discussed previously, Appellants misconstrue the Project as an “expansion project.” Because the predicted impacts from the Project are only construction impacts, Table 6-1 of the Final IFR-EIS/EIR includes a listing of related Port of Long Beach and Port of Los Angeles projects that could overlap with the Project’s construction period of 2025 through 2027. The Region of Influence for cumulative impacts is defined in Section 6.1 of the Final IFR-EIS/EIR as “from the Inner Harbor Channels of the Ports of Los Angeles and Long Beach in the north to the outer breakwater in the south.”

Appellants contend that “proposals to deepen and widen navigation channels to accommodate larger ships at other ports on the western coast of the United States from California to Washington State, are within the same region, intersecting the migratory path of several whale species....Many of the marine species affected by the Port of Long Beach project will therefore be affected by the vessel traffic and other navigational channel deepening and widening projects along the entire west coast because of the migratory nature of these animals.”

Section 15130(b) of the State CEQA Guidelines states, in part: “The discussion [of cumulative impacts] should be guided by the standards of practicality and reasonableness, and should focus on the cumulative impact to which the identified other projects contribute rather than the attributes of other projects which do not contribute to the cumulative impact.” It would be unreasonable and unwarranted to consider other “deepening projects at ports throughout the coastal U.S.” beyond the neighboring Port of Los Angeles as part of the geographical scope of the cumulative analysis. As an example, it would be extremely speculative to assess the impacts associated with a project occurring at the Port of Coos Bay, located more than 885 miles away. Per CEQA Guidelines Section 15124, “The description of the project shall contain...information but should not supply extensive detail beyond that needed for evaluation and review of the environmental impact.” The IFR-EIS/EIR does just this. Therefore, this ground for appeal should be denied.

Ground for Appeal No. 7 – Mitigation Measures

Appellants assert that instead of identifying appropriately tailored, updated mitigation measures that address the harmful externalities of expanded freight activities resulting from the Project, the Final EIR only identifies mitigation measures for environmental impacts stemming from construction that will do little to reduce the impacts from the Project and concomitant growth of freight activities at the Port and ignores commercially available zero-emission equipment, such as trucks, cargo-handling equipment, and harbor craft that could be deployed at the Port to reduce the air quality impacts from both construction and operations, in addition to failing to consider mandating the usage of shoreside power for all vessels, not only construction-related harbor craft.

Harbor Department Response to Ground for Appeal No. 7 – Mitigation Measures

This ground for appeal is without merit and should be denied. CEQA requires public lead agencies to impose feasible mitigation measures as part of the approval of a project in order to substantially lessen or avoid the significant adverse effects of the project on the physical environment. As previously discussed in the prior responses to the Appellants’ grounds for appeals, the EIR did not evaluate the potential impacts associated with future vessel activities and marine terminal operations, which would be speculative. Furthermore, there are no land-side improvements or modifications associated with the Project that would facilitate increased capacity. The Project’s environmental impacts and discussion of all applicable and feasible mitigation measures are detailed in the Final IFR-EIS/EIR, the Findings of Fact/Statement of Overriding Considerations, and Mitigation Monitoring Reporting Plan, all prepared in accordance with CEQA.

Section 15126.4(a)(4)(A) of the State CEQA Guidelines states that, “[t]here must be an essential nexus (i.e. connection) between the mitigation measure and a legitimate governmental interest.” There is no nexus between the marine terminals’ activities for

goods movement such as the operation of trucks, cargo-handling equipment, harbor craft, and ocean-going vessels at berth and the construction activities occurring as part of the Project.

Mitigation measures to reduce impacts to air quality associated with the Project would require use of an electric dredge; use of construction-related harbor craft that meet at least United States Environmental Protection Agency (USEPA) Tier 3 marine engine standards; use of off-road construction equipment that meet USEPA Tier 4 Final engine emission standards; and application of best management practices by maintaining construction equipment according to the manufacturer's specifications and limiting idling to 5 minutes.

The Port has demonstrated in the Final IFR-EIS/EIR that all feasible mitigation measures associated with the construction activities defined in the scope of the Project have been applied, in full compliance with CEQA. Appellants' Ground for Appeal that the Project "will result in harmful externalities of expanded freight activities" is conclusory and devoid of evidence and should be denied because they provide no factual support to their claim that "concomitant growth of freight activities at the Port" and significant impacts would result from the Project.