

US EPA ARCHIVE DOCUMENT



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
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May 18, 2009

Ms. Joy Jaiswal, Chief
Ecosystem Planning Section
U.S. Army Corps of Engineers
Los Angeles District
Attn: Regulatory Division
P.O. Box 532711
Los Angeles, California 90053-2325

Subject: Final Supplemental Environmental Impact Statement (FSEIS) for the Port of Los Angeles Channel Deepening Project in the Port of Los Angeles, California (CEQ # 20090114)

Dear Ms. Jaiswal:

The U.S. Environmental Protection Agency (EPA) has reviewed the FSEIS for the Port of Los Angeles Channel Deepening Project (Project) in the Port of Los Angeles pursuant to the National Environmental Policy Act (NEPA), Council on Environmental Quality (CEQ) regulations (40 CFR Parts 1500-1508), and our NEPA review authority under Section 309 of the Clean Air Act. These comments were also prepared under the authority of, and in accordance with, the provisions of the Federal Guidelines (Guidelines) promulgated at 40 CFR 230 under Section 404(b)(1) of the Clean Water Act (CWA) and EPA's ocean dumping regulations promulgated at 40 CFR 220-227 under the Marine Protection, Research and Sanctuaries Act.

We recognize and appreciate the effort that the Corps and Port have made to respond to the EPA's concerns with the proposed Project and to address our comments in the FSEIS. The remainder of this letter acknowledges particular responses to our comments, and describes our continuing concerns.

Comments Addressed

Air Quality

Additional information added to the FSEIS air quality analysis and provided in the response to comments sufficiently addresses our request for additional information regarding the approach taken for the Project health risk assessment. Based on this information, we understand that the Project would not exceed South Coast Air Quality Management District (SCAQMD) daily

thresholds for particulate matter over the course of the two year construction period, and that cancer risk to all receptor types is determined to be less than significant.

With regard to our recommendation that the FSEIS demonstrate general conformity with the applicable State Implementation Plan, we appreciate the Corps providing a draft general conformity determination for the proposed Project with the FSEIS. The EPA will review and comment on the draft determination separate from the FSEIS and will coordinate with the Corps, Port, California Air Resources Board, and SCAQMD, as appropriate. For questions concerning general conformity in the South Coast Air Basin, please contact Wienke Tax at (520) 622-1622 or tax.wienke@epa.gov.

Environmental Justice

Revisions to the Environmental Justice section of the FSEIS sufficiently address our recommendations to include factoring the high cost of living into the low income calculations, and to include a summary of concerns expressed in public comments.

The EPA commends the Port for committing to support efforts of the EPA and others on a port-wide health impact assessment (HIA). We understand that this effort will not be directly associated with the Project, but, instead, will be intended to better understand potential impacts of all San Pedro Bay Port activities and associated goods movement in the context of current neighboring community conditions. We look forward to working with the Port and other HIA stakeholders towards the development and implementation of this important study.

The EPA's DSEIS comment letter, dated August 29, 2008, provided several additional mitigation recommendations for the Port and Corps to consider in light of the finding of significant and unavoidable disproportionate impacts to environmental justice communities. Thank you for addressing these recommendations individually in the FSEIS response to comments. It is our expectation that a port-wide HIA will help identify the appropriate additional mitigation measures that would most effectively offset these Port impacts.

Waters of the U.S.

The FSEIS has been revised to sufficiently address our concerns that ocean disposal is not an option for contaminated sediments; that the LA-2 ocean disposal site can accept only 1.0 million cubic yards of material per year; and that LA-3 is also a possible ocean disposal site for clean material generated from the Project. We appreciate the additional language in the FSEIS describing recent coordination between the Corps, Port, and the EPA to resolve our concerns related to overdepth dredging. Since commenting on the DSEIS, we have had a number of follow-up discussions with the Corps and the Port about controlling overdredging. Based on recent discussions between the EPA and the Corps, the issue has been resolved to our satisfaction. Specifically, consistent with Corps guidance on overdredging (ER 1130-2-250, and the Corps "Memorandum for Commanders, Major Subordinate Commands" dated January 17, 2006), the Corps LA District (District) requested approval from the Corps South Pacific Division (Division) for a maximum three-foot overdredge depth (two foot paid and one foot non-paid), based on specific conditions of the material to be dredged and of the Harbor itself. The Division approved the request on May 15, 2009, with the provision that work on the Project may be halted by the District if excessive, wide-spread, or intentional overdredging beyond the three-foot overall limit occurs. This provision should ensure that the total volume dredged will remain

within the limits evaluated by the FSEIS, and that excessive overdredging will not occur again on the Project, as it has in the past. This, in turn, will ensure that the volume of material needing ocean disposal (following full use of the beneficial reuse opportunities identified in the FSEIS selected alternative), will be minimized. We will prepare a separate Project-specific ocean disposal concurrence letter with the EPA's disposal site use conditions. That letter will transmit the EPA's detailed conditions for placement of dredged material at the LA-2 and/or LA-3 ocean disposal sites. We appreciate the efforts of personnel from the District and Division to address our concerns about managing overdredging.

The EPA supports the Corps' and Port's proposal to engineer Berths 243-245 to serve as a Confined Aquatic Disposal (CAD) site, consistent with our enclosed April 16, 2009 email to Dr. Ralph Appy, Environmental Planning Director for the Port. As stated in our email, "EPA has strongly encouraged, and will continue to strongly encourage, the incorporation of contaminated sediments into otherwise approved, and properly engineered, Port fill projects." The proposed Project includes the use of Berths 243-245 as a CAD, and Alternative 2 does not. For this reason, the EPA agreed that the proposed Project is the environmentally superior alternative. We also concur with including Berths 243-245 as a CAD as part of the Contaminated Sediment Management Plan for the Project.

Primary Continuing Concerns

Air Quality

The Corps should commit in the Record of Decision (ROD) that all construction equipment will meet Tier 3 or cleaner non-road engine standards. In our DSEIS comment letter, the EPA recommended the Corps and Port commit to fully implement mitigations to reduce construction emissions and health risks. To reduce construction emissions, we recommended the use of equipment meeting EPA Tier 3 or greater non-road engine standards to the maximum extent feasible. The SCAQMD also recommended that construction equipment meet Tier 3 non-road engine standards, at a minimum, in their August 29, 2008 DSEIS comment letter. The FSEIS response to comments indicates that all feasible mitigation measures have been included in the FSEIS and that construction equipment meeting Tier 3 non-road engine standards would not be used until January 1, 2012, a date which falls after the proposed June 2011 end of construction schedule. The EPA recently reviewed the FEIS for the proposed Port of Long Beach Middle Harbor Redevelopment Project and we note that the Port of Long Beach and Corps committed to using Tier 3 non-road engine standards, at a minimum, and Tier 4 engine standards where feasible. Construction for that project is proposed to begin in late 2009, similar to the proposed Project. The EPA continues to recommend the use of construction equipment using Tier 3 or greater engine standards, to the maximum extent feasible, to reduce Project construction emissions.

Waters of the U.S.

The Port and Corps should seek additional beneficial reuse opportunities for dredge material. The DSEIS described the need for disposal of approximately 4,000 cubic yards of dredged material at the EPA approved LA-2 ocean disposal site. Thank you for addressing our comments in the FSEIS and clarifying that contaminated sediment disposal is not an option for ocean disposal, and that the LA-3 ocean disposal site could also be available for clean material

disposal. Unfortunately, the response to comments did not address our suggestion to consider the proposed Port of Long Beach Middle Harbor Redevelopment Project as a possible option for sediment disposal, given the projected shortfall of required fill material for that project.

As described in the FSEIS, because the Eelgrass Habitat Area has been eliminated as a disposal site for clean sediment under the proposed Project, the volume of dredge material that would be designated for ocean disposal would now be approximately 804,000 cubic yards. While we appreciate the Port's and Corps' efforts to identify beneficial reuse opportunities for the proposed Project, we continue to encourage coordination between the Ports to determine whether the surplus 804,000 cubic yards of material from the proposed Project could be reused to address the projected deficit of fill material for the proposed Port of Long Beach project or other appropriate beneficial reuse opportunities. The EPA would appreciate direct involvement in these discussions, or at a minimum, a written summary of the results of these discussions.

Figures illustrating the proposed configuration of the rock dike and fill in the Northwest Slip remain inconsistent and unclear. The EPA DSEIS comment letter for the Project recommended the FSEIS clarify the configuration of the proposed fill at the Northwest Slip and the contradicting figures in the DSEIS. The FSEIS Response to Comments states that Figure 2-2 has been revised to clarify the configuration. Based on our review of the FSEIS, the figures depicting the Northwest Slip remain inconsistent and unclear as they were in the DSEIS. Specifically, Figure 2-5 continues to show a fill design that appears to constrict navigation, in contrast to a more open slip entrance depicted in Figure 2-2. We recommend the ROD correct the figures so they are consistent and discuss whether navigation in and out of the Northwest Slip would be constricted if the fill configuration in Figure 2-5 is implemented.

We appreciate the opportunity to review this FSEIS, and look forward to continued coordination with the Corps and the Port. When the ROD is published, please send a copy of it to us at the address above (Mail Code: CED-2). If you have any questions, please contact Paul Amato, the lead reviewer for this project, at 415-972-3847 or amato.paul@epa.gov; or contact me at 415-972-3521 or goforth.kathleen@epa.gov.

Sincerely,

Kathleen M. Goforth, Manager
Environmental Review Office

Enclosures: April 16, 2009 Email from EPA to the Port of LA

cc: Dr. Ralph Appy, Director, Environmental Management Division, Port of LA;
Mr. John Foxworthy, Project Manager, Port of LA;
Ms. Cynthia Marvin, Assistant Division Chief for Planning and Technical Support,
California Air Resources Board;
Ms. Susan Nakamura, South Coast Air Quality Management District;
Mr. Hassan Ikrhata, Executive Director, Southern California Association of
Governments;

Mr. Richard Cameron, Director of Environmental Planning, Port of Long Beach;
Dr. Paul Simon, Director, Division of Chronic Disease & Injury Prevention, Los Angeles
County Department of Health