

DRAFT FINDINGS OF FACT AND STATEMENT OF OVERRIDING CONSIDERATIONS

Document considered draft until Board action

Berths 97-109 (China Shipping) Container Terminal Project Supplemental Environmental Impact Report (SEIR)

(SCH NO. 2003061153, APP No. 150224-504)

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FINDINGS OF FACT AND STATEMENT OF OVERRIDING CONSIDERATIONS

1 Introduction

These Findings of Fact have been prepared by the Los Angeles Harbor Department (LAHD, or Port) as the Lead Agency pursuant to § 21081 of the Public Resources Code (PRC) and § 15091 of the State California Environmental Quality Act (CEQA) Guidelines to support a decision to approve continued operation of the Berths 97-109 (China Shipping) Container Terminal Project under new and/or modified mitigation measures (the Revised Project), based upon a Supplemental Environmental Impact Report (“SEIR”) under Public Resources Code (“PRC”) § 21166 and 14 California Code of Regulations [CCR] § 15162 (“CEQA Guidelines” § 15162). Section 21081 of the Public Resources Code and § 15091 of the CEQA Guidelines provide that no public agency shall approve or carry out a project for which an Environmental Impact Report (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 SEIR.
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 SEIR.

Additionally, the Lead Agency shall 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 (PRC § 21081(b); CEQA Guidelines § 15093). The LAHD has prepared the Statement of Overriding Considerations to document and substantiate the reasons to support its action based on the Final SEIR and other information contained in the record.

In accordance with the provisions of CEQA, the Board of Harbor Commissioners (Board) adopts the Findings and Statement of Overriding Considerations as set forth below, as part of the certification of the Final SEIR and approval of the Revised Project. As required by CEQA, the Board in adopting these findings, also adopts a Revised Mitigation Monitoring and Reporting Program (MMRP) for the Revised Project. The Board finds that the MMRP, which is incorporated by reference and made a part of

1 these findings, meets the requirements of CEQA Section 21081.6 by providing for the
2 implementation and monitoring of measures intended to mitigate potentially significant
3 effects of the proposed program. Pursuant to CEQA Section 21082.1(c)(3), the Board
4 also finds that the SEIR reflects the Port’s independent judgment as the lead agency for
5 the Revised Project.

6 **2 Revised Project Overview**

7 **2.1 Introduction**

8 This section describes the Revised Project analyzed in the Berths 97-109 (China
9 Shipping) Container Terminal Project Supplemental EIR (SEIR). The China Shipping
10 (“CS”) Terminal is located within the Port of Los Angeles in the community of San
11 Pedro in the City of Los Angeles. The Revised Project involves the continued operation
12 of the CS Terminal under new and/or modified mitigation measures compared to those
13 approved by the LAHD in 2008 through the original EIS/EIR prepared by the Los
14 Angeles Harbor Department (LAHD) and the U.S. Army Corps of Engineers (USACE).

15 The 2008 EIS/EIR described the construction and operation of the CS Terminal and
16 imposed 52 mitigation and lease measures to address the environmental impacts of the
17 project described in that document (the Approved Project). Most of the mitigation
18 measures in the 2008 EIS/EIR have either been completed or will be completed within
19 the time period for implementation. Accordingly, those measures are outside of the
20 scope of the Revised Project and are not considered in the SEIR. In addition, a number
21 of measures imposed by the 2004 Amended Stipulated Judgement (ASJ) in a lawsuit
22 challenging LAHD approval of a permit for the CS Terminal have been met and are also
23 outside the scope of Revised Project and are not considered in the SEIR.

24 Of the 52 measures adopted in the 2008 EIS/EIR, 10 mitigation measures and one lease
25 measure have not yet been fully implemented. A re-evaluation of those measures, based
26 on the feasibility of some of the measures, the subsequent availability of alternative
27 technologies, and the actual need, has indicated that some of those measures are
28 unnecessary, others have been superseded by advances in technology, and still others
29 need to be either modified to ensure their feasibility. The Revised Project includes
30 changes to those measures to effectuate these purposes.

31 **2.2 Revised Project Purpose**

32 In the 2008 EIS/EIR, the LAHD’s overall objectives for the CS Container Terminal
33 Project were threefold: (1) provide a portion of the facilities needed to accommodate the
34 projected growth in the volume of containerized cargo through the Port; (2) comply with
35 the Mayor’s goal for the Port to increase growth while mitigating the impacts of that
36 growth on the local communities and the Los Angeles region by implementing pollution
37 control measures, including the elements of the Clean Air Action Plan (CAAP)
38 applicable to the Revised Project; and (3) comply with the Port Strategic Plan to
39 maximize the efficiency and capacity of terminals while raising environmental standards
40 through application of all feasible mitigation measures.

41 The overall purpose of the Revised Project is to further the second and third objectives by
42 eliminating some previously adopted measures that have proved to be infeasible or
43 unnecessary; instituting new, feasible, mitigation measures; and modifying other existing
44 measures to enhance their effectiveness.

2.3 Revised Project Description

The Revised Project involves the continued operation of the CS Container Terminal under new or modified mitigation measures, described below, compared to those set forth in the 2008 EIS/EIR for the Approved Project. The revisions to mitigation measures in some cases modify details of the implementation of a measure, in other cases substitute a new measure, and in still other cases eliminate the measure altogether as being infeasible or no longer necessary. All other aspects of the Approved Project, including construction and the physical operation of the CS Container Terminal and all other mitigation measures, remain the same as those evaluated in the 2008 EIS/EIR, although the circumstances surrounding operation of the CS Container Terminal have changed to reflect an updated assessment of the terminal's maximum throughput (i.e., its capacity).

The modifications proposed under the Revised Project are analyzed in the SEIR with the physical elements of the Approved Project described in the 2008 EIS/EIR as they now exist, and the operation of those elements, including the completed mitigation measures and the ongoing mitigation measures, using updated cargo and activity projections and current analytical techniques. Finally, the Revised Project includes the "partial implementation period," when some of the measures were not fully complied with between 2008, when the measures were imposed, and 2019, when the proposed mitigations under Revised Project are assumed to begin for purposes of this analysis. Therefore, the years analyzed under this "partial implementation period" are 2012, 2014, and 2018.

2.3.1 Operation of the CS Container Terminal, 2008 - 2045

The SEIR compares future operations as analyzed in the 2008 EIS/EIR and as now projected to occur. This analysis is based on the recognition that changes in throughput, technology, and other factors have occurred, and that the original mitigation measures are, in many cases, obsolete or infeasible.

There are differences in the analysis years between the 2008 EIS/EIR and the SEIR. The SEIR analyzes additional interim years: 2012, 2014, 2018, 2023 and 2036, which were not analyzed in the 2008 EIS/EIR. Year 2012 was chosen to illustrate conditions at a time when most of the requirements of the ASJ and the 2008 EIS/EIR's mitigation measures would be in effect. Year 2018 was added to the analysis as being the last year before the mitigation measures in the Revised Project could begin implementation. Year 2023 was chosen to provide information on conditions that would pertain when regulatory requirements would be fully implemented. Year 2036 was chosen as an interim year between 2030 and 2045.

2.3.2 Revised Project Elements

2.3.2.1 Proposed Modifications to 2008 EIR Mitigation Measures and Lease Measures

MM AQ-9 – Alternative Maritime Power (AMP)

MM AQ-9 in the 2008 EIS/EIR required that China Shipping ships calling at Berths 97-109 must use AMP in the following percentages while hoteling in the Port: January 1 – June 30 2005: 60% of total ship calls; 1 July 2005: 70% of total ship calls (ASJ requirement); 1 January 2010: 90% of ship calls; 1 January 2011 and thereafter: 100% of ship calls. Additionally, by 2010, all ships retrofitted for AMP shall be required to use

1 AMP while hoteling at a 100 percent compliance rate, with the exception of
2 circumstances when an AMP-capable berth is unavailable due to utilization by another
3 AMP-capable ship.

4 China Shipping vessels achieved the earlier requirements (Table 2-1): in 2005, 97% of
5 CS vessel calls used AMP. In 2010 and thereafter, compliance did not meet the higher
6 requirements of 90% and then 100%, although 93% compliance was achieved in 2014.

7 Although the goal of the Approved Project was 100 percent compliance for China
8 Shipping vessels, the LAHD (as well as CARB) recognizes that the factors summarized
9 above may prevent China Shipping from always achieving that goal. The Revised
10 Project requires that:

11 Starting on the effective date of a new lease amendment between the
12 Tenant and the LAHD and annually thereafter, all ships calling at
13 Berths 97-109 must use AMP while hoteling in the Port, with a 95
14 percent compliance rate. Exceptions may be made if one of the
15 following circumstances or conditions exists:

- 16 1) Emergencies
- 17 2) An AMP-capable berth is unavailable
- 18 3) An AMP-capable ship is not able to plug in
- 19 4) The vessel is not AMP-capable.

20 In the event one of these circumstances or conditions exist, an
21 equivalent alternative at-berth emission control capture system shall
22 be deployed, if feasible, based on availability, scheduling,
23 operational feasibility, and contracting requirements between the
24 provider of the equivalent alternative technology and the terminal
25 operator. The equivalent alternative technology must, at a minimum,
26 meet the emissions reductions that would be achieved from AMP.

27 **MM AQ-10 – Vessel Speed Reduction Program**

28 MM AQ-10 in the 2008 EIS/EIR required that as of 2009, 100% of oceangoing vessels
29 calling the CS Container Terminal comply with the Vessel Speed Reduction Program
30 (VSRP) within a 40-nautical-mile (nm) radius of Point Fermin. The VSRP was initially
31 (2005) established as a 20-nm-radius, but MM AQ-10 extended the radius to 40 nautical
32 miles.

33 Although the compliance rate of vessels calling the CS Terminal approached 100% in
34 2014, not all vessels will be able to comply with VSRP requirements due to unavoidable
35 practical need to increase speed for various reasons. Accordingly, the LAHD proposes
36 that MM AQ-10 be revised to require that:

37 Starting on the effective date of a new lease amendment between the
38 Tenant and the LAHD and annually thereafter, at least 95 percent of
39 vessels calling at Berths 97-109 shall comply with the expanded
40 VSRP of 12 knots between 40 nm from Point Fermin and the
41 Precautionary Area.

42 **MM AQ-15 –Yard Tractors**

43 MM AQ-15 in the 2008 EIS/EIR required all yard tractors to run on alternative fuel
44 (LPG) between September 30, 2004, and December 31, 2014, and that beginning January

1, 2015, all yard tractors must be the cleanest available NO_x alternative-fueled engine meeting 0.015 gm/hp-hr for PM.

As of the end of 2014, all yard tractors operating at the CS Terminal were alternative fuel-powered, and thus complied with the provision of MM AQ-15 requiring alternative-fuel power. However, in light of subsequent changes in engine technology, including indications that new engines can meet an ultra-low NO_x standard, the measure has been modified in the Revised Project to require yard tractors to meet Tier 4 and ultra-low NO_x standards. Accordingly, for the Revised Project, MM AQ-15 requires that:

- No later than one year after the effective date of a new lease amendment between the Tenant and the LAHD, all LPG yard tractors of model years 2007 or older shall be replaced with alternative-fuel units that meet or are lower than a NO_x emission rate of 0.02 g/bhp-hr and Tier 4 final off-road emission rates for other criteria pollutants.
- No later than five years after the effective date of a new lease amendment between the Tenant and the LAHD, all LPG yard tractors of model years 2011 or older shall be replaced with alternative fuel units that meet or are lower than a NO_x emission rate of 0.02 g/bhp-hr and Tier 4 final off-road engine emission rates for other criteria pollutants.

MM AQ-16 – Railyard Cargo-Handling Equipment

In accordance with the ASJ, MM AQ-16 required that the CHE at the WBICTF on-dock railyard be exclusively LPG-fueled from 2004 to 2014. The measure further required that by end of 2014, all such equipment meet Tier 4 off-road or on-road engine standards. The equipment used at the railyard is the same CHE used in the container yards of the CS and Yang Ming (“YM”) terminals, i.e., yard tractors that transfer containers between the container yard and the railyard, and toppicks that load and unload trains and trucks. Accordingly, the intent of this measure is fulfilled by controlling yard tractors and CHE through MM AQ-15 and MM AQ-17, and MM AQ-16 has been combined with MM AQ-17 under the Revised Project.

MM AQ-17 – Cargo Handling Equipment

In accordance with the ASJ, MM AQ-17 required that by September 30, 2004 all toppicks be equipped with diesel oxidation catalysts (DOCs) and use emulsified diesel fuel. MM AQ-17 further required that, beginning in 2009, all RTGs must be electric powered, all toppicks must have cleanest available NO_x alternative fuel engine meeting EPA Tier 4 standards for PM, and new equipment purchases must be either cleanest alternative fuel or cleanest diesel with cleanest verified control equipment; by the end of 2012, all equipment less than 750 hp (which includes all CHE at the CS Terminal) must meet EPA Tier 4 off-road or on-road engine standards; and by the end of 2014, all equipment must meet Tier 4 non-road engine standards.

By 2004, all of the forklifts and top handlers met the ASJ requirements for emulsified diesel and DOCs. Since the further provisions of MM AQ-17 were not in effect until 2009, the CHE working at the CS Terminal in 2008 complied with the measure’s requirements. The requirements for all-electric RTGs and cleanest-available top-picks in 2009 were not met. The implementation dates for the conversion of all other CHE to Tier 4 non-road standards were also not met.

All-electric RTGs are not only much more expensive to purchase than either diesel powered or hybrid units, but their installation at a container terminal requires substantial

1 and costly modifications of the container yard to accommodate the necessary power
2 trenches and transformers. In addition, space constraints in much of the container yard
3 prevent the installation of electric RTGs throughout the terminal; in most of the container
4 yard the RTGs operate on short rows of containers which precludes the efficient
5 deployment of electric RTGs because the electrical infrastructure does not permit electric
6 RTGs to operate on multiple rows.

7 Moreover, China Shipping informed the Port that replacing the top picks and side-picks
8 with Tier 4 non-road standard compliant units would be prohibitively expensive and
9 require the retirement of units with useful life remaining. The same economic constraints
10 would apply to other cargo-handling equipment such as forklifts.

11 Accordingly, the Revised Project modifies MM AQ-17 to require replacement of existing
12 toppicks and heavy-duty forklifts with units meeting Tier 4 standards, the replacement of
13 lighter-duty forklifts with electric units, and the replacement of sweepers with cleanest-
14 available units, and the replacement of shuttle buses with zero-emissions units by 2025.
15 The replacement schedule for CHE incorporated the useful economic service life of the
16 existing equipment and the high capital costs (e.g., \$650,000 per unit for top-picks) but
17 accelerated the replacement. The Revised Project further modifies the measure to replace
18 the calendar day compliance dates with dates related to the execution of a new lease
19 amendment.

20 For the Revised Project, MM AQ-17 is revised as follows: all yard equipment at the
21 terminal except yard tractors shall implement the following requirements:

22 Forklifts:

- 23 • By one year after the effective date of a new lease amendment
24 between the Tenant and the LAHD, all 18-ton diesel forklifts of
25 model years 2004 and older shall be replaced with units that
26 meet or are lower than Tier 4 final off-road engine emission rates
27 for PM and NOx.
- 28 • By two years after the effective date of a new lease amendment
29 between the Tenant and the LAHD, all 18-ton diesel forklifts of
30 model years 2005 and older shall be replaced with units that
31 meet or are lower than Tier 4 final off-road engine emission rates
32 for PM and NOx.
- 33 • By two years after the effective date of a new lease amendment
34 between the Tenant and the LAHD, all 5-ton forklifts of model
35 years 2011 or older shall be replaced with zero-emission units.
- 36 • By three years after the effective date of a new lease amendment
37 between the Tenant and the LAHD, all 18-ton diesel forklifts of
38 model years 2007 and older shall be replaced with units that
39 meet or are lower than Tier 4 final off-road engine emission rates
40 for PM and NOx.

41 Toppicks:

- 42 • By one year after the effective date of a new lease amendment
43 between the Tenant and the LAHD, all diesel top-picks of model
44 years 2006 and older shall be replaced with units that meet or are
45 lower than Tier 4 final off-road engine emission rates for PM
46 and NOx.
- 47 • By three years after the effective date of a new lease amendment
48 between the Tenant and the LAHD, all diesel top-picks of model

1 years 2007 and older shall be replaced with units that meet or are
2 lower than Tier 4 final off-road engine emission rates for PM
3 and NOx.

- 4 • By five years after the effective date of a new lease amendment
5 between the Tenant and the LAHD, all diesel top-picks of model
6 years 2014 and older shall be replaced with units that meet or are
7 lower than Tier 4 final off-road engine emission rates for PM
8 and NOx.

9 Rubber-Tired Gantries:

- 10 • By three years after the effective date of a new lease amendment
11 between the Tenant and the LAHD, all diesel RTG cranes of
12 model years 2003 and older shall be replaced with diesel-electric
13 hybrid units with diesel engines that meet or are lower than Tier
14 4 final off-road engine emission rates for PM and NOx.
- 15 • By five years after the effective date of a new lease amendment
16 between the Tenant and the LAHD, all diesel RTG cranes of
17 model years 2004 and older shall be replaced with diesel-electric
18 hybrid units with diesel engines that meet or are lower than Tier
19 4 final off-road engine emission rates for PM and NOx.
- 20 • By seven years after the effective date of a new lease amendment
21 between the Tenant and the LAHD, four RTG cranes of model
22 years 2005 and older shall be replaced with all-electric units, and
23 one diesel RTG crane of model year 2005 shall be replaced with
24 a diesel-electric hybrid unit with a diesel engine that meets or is
25 lower than Tier 4 final off-road engine emission rates for PM
26 and NOx.

27 Sweepers:

- 28 • Sweeper(s) shall be alternative fuel or the cleanest available by
29 six years after the effective date of a new lease amendment
30 between the Tenant and the LAHD.

31 Shuttle Buses:

- 32 • Gasoline shuttle buses shall be zero-emission units by seven
33 years after the effective date of a new lease amendment between
34 the Tenant and the LAHD.

35 **MM AQ-20 – LNG Trucks**

36 The 2008 EIS/EIR proposed MM AQ-20 to reduce the emissions of drayage trucks
37 arriving at and departing from the CS Terminal. The measure required that LNG-fueled
38 drayage trucks be used to convey containers to and from the terminal. The requirement
39 has three phases: from 2012 through 2014, at least 50% of drayage trucks calling the
40 terminal must be LNG-powered, from 2015 through 2017 at least 70%, and thereafter
41 100%. The 2008 EIS/EIR envisioned that LAHD would be responsible for the trucks and
42 WBCT (the terminal operator) would be responsible for necessary gate modifications and
43 operations to ensure compliance.

44 As described in a study of the port drayage industry conducted by LAHD, “Assessment
45 of the Feasibility of Requiring Alternative-Technology Drayage Trucks at Individual
46 Container Terminals, Final Report,” April, 2017, the requirement of MM AQ-20 is

1 infeasible at this time because of industry structural constraints, truck technology
2 constraints, and financial constraints described in Section 2.5.2.1 of the Recirculated
3 Draft SEIR. Accordingly, MM AQ-20 is not included in the Revised Project.

4 **LM AQ-23 Throughput Tracking**

5 The 2008 EIS/EIR included MM AQ-23, which required assessments of whether actual
6 future operations of the CS Container Terminal exceeded the throughput assumptions on
7 which the impact assessments, and therefore the mitigation measures, were based. If that
8 occurred, then staff would evaluate actual air emissions for comparison with the 2008
9 EIS/EIR, and if that evaluation showed that criteria pollutant emissions exceeded those in
10 the 2008 EIS/EIR, then new or additional mitigations would be applied through MM AQ-
11 22 Periodic Review of New Technology and Regulations. The measure was re-
12 designated a lease amendment, since it did not mitigate an identified impact, but it was
13 never implemented because no lease amendment that included the measure took effect.

14 Actual throughput has generally exceeded the projections in the 2008 EIS/EIR.
15 However, the new analysis in the SEIR already takes into account the maximum capacity
16 of the terminal and growth in TEU volume and applies all feasible mitigation measures to
17 address future air quality impacts. Accordingly, periodic reviews of throughput are
18 unnecessary. Furthermore, new technologies would continue to be considered and
19 applied under Lease Measure AQ-22 Periodic Review of New Technology and
20 Regulations, since this requirement is not being changed. Finally, new Lease Measure
21 AQ-1, below, would ensure a regular check-in process and evaluation of the cleanest
22 available technology when equipment is purchased or replaced by the tenant. A comment
23 by the Natural Resources Defense Council on the Recirculated DSEIR requested that LM
24 AQ-23 be retained, but for the reasons discussed above, the measure is not included in
25 the Revised Project.

26 **MM TRANS-2, TRANS-3, TRANS-4, and TRANS-6**

27 The 2008 EIS/EIR included several mitigation measures related to roadway
28 improvements needed to reduce the impacts of truck traffic at certain Port-area
29 intersections. Three of those measures (MM TRANS-2 through MM TRANS-4) were
30 not implemented by the dates specified in the measures. In addition, conditions have
31 changed since the certification of the 2008 EIS/EIR, which calls into question the need
32 for and/or effectiveness of some of these mitigation measures.

33 The LAHD conducted a screening analysis of traffic that included the locations that
34 would be affected by the mitigation measures and determined that the three locations at
35 which no mitigation was undertaken would not experience an impact from the CS
36 Terminal's traffic, and that the mitigation is therefore not needed. For the fourth measure
37 (MM TRANS-6), a separate but related transportation improvement project, the Navy
38 Way and Seaside Interchange Project, will eliminate the impact, removing the need for
39 the measure. Accordingly, none of the transportation measures are included in the
40 Revised Project. However, mitigation measures MM TRANS-2 and MM TRANS-3,
41 revised to incorporate new implementation schedules and new information regarding
42 feasibility, were re-imposed on the Revised Project by the Recirculated DSEIR.

43 Summary

44 The revised mitigation measures that are included in the Revised Project take into
45 account the uncertainty in the timing of the measures given the time needed to certify the
46 SEIR and execute a new lease amendment. The revised measures will also ensure that
47 the CS Terminal will transition to the then-current cleanest available technology for most

1 major cargo-handling equipment within five years of the new lease amendment. For the
2 longer term, however, the 2017 CAAP envisions that by 2030 the Port will rely on zero-
3 and near-zero-emissions technologies for all cargo-handling equipment, consistent with
4 CARB's March, 2017, initiative to amend the cargo-handling regulation to achieve up to
5 100% zero-emissions technology by 2030.

6 **3 CEQA Findings**

7 The Findings of Fact are based on information contained in the Recirculated DSEIR and
8 the Final SEIR (FSEIR) for the Revised Project, as well as information contained within
9 the administrative record. The administrative record includes, but is not limited to, staff
10 reports on the Project, public hearing records, correspondence on the Revised Project,
11 public notices, written comments on the Revised Project and responses to those
12 comments, proposed decisions and findings on the Revised Project, and other documents
13 relating to the Board's decision on the Revised Project.

14 The Recirculated DSEIR addressed the Revised Project's potential effects on the
15 environment and was circulated for public review and comment pursuant to the State
16 CEQA Guidelines for a period of 90 days (including an extension) and 45 days,
17 respectively.

18 The Recirculated DSEIR addressed only those issues that could be affected by the
19 Revised Project. All other resource areas considered in the 2008 EIS/EIR were not
20 addressed in the Recirculated DSEIR because the new information added or changes
21 made to the Revised Project would not affect those areas. Those impact areas are
22 Aesthetics, Biological Resources, Cultural Resources, Geology, Hazards and Hazardous
23 Materials, Land Use, Marine Transportation, Noise, Recreation, Utilities; Water Quality,
24 Sediments, and Oceanography, and Socioeconomics. Accordingly, the Recirculated
25 DSEIR consisted of the following chapters, sections, and appendices:

- 26 • Executive Summary
- 27 • Chapter 1 Introduction
- 28 • Chapter 2 Project Description
- 29 • Chapter 3 Environmental Analysis
- 30 • Section 3.1 Air Quality and Meteorology
- 31 • Section 3.2 Greenhouse Gas Emissions and Climate Change
- 32 • Section 3.3 Transportation/Circulation
- 33 • Chapter 4 Cumulative Analysis
- 34 • Chapter 5 References
- 35 • Chapter 6 List of Preparers and Contributors
- 36 • Chapter 7 Acronyms
- 37 • Appendix A Notice of Preparation
- 38 • Appendix B1 through B3 (Air Quality Appendices)
- 39 • Appendix C1 and C2 (Transportation Appendices)
- 40 • Appendix D1 Screening Analysis
- 41 • Appendix D2 Noise Screening Study
- 42 • Appendix E Energy Conservation

Comments were received from a variety of public agencies, organizations, and individuals. The Final SEIR contains copies of all comments and recommendations received on the Recirculated DSEIR; a list of persons, organizations and public agencies commenting on the Recirculated DSEIR; responses to comments received during the public review on the Recirculated DSEIR. The Final SEIR also identifies changes to the Recirculated DSEIR.

3.1 Environmental Impacts of the Revised Project

Findings are provided for significant and unavoidable environmental impacts and significant impacts that are mitigated to less than significant. Where mitigation measures are proposed, these mitigation measures are included in a Mitigation Monitoring Reporting Plan (MMRP), which has been prepared separately from these findings.

3.1.1 Environmental Impacts Found to Be Significant and Unavoidable

The SEIR concludes that some, but not all, significant impacts of the Revised Project related to Air Quality, Greenhouse Gases, and Ground Transportation would remain significant and unavoidable despite the incorporation of all feasible mitigation.

The Board hereby finds that, despite the incorporation of all feasible mitigation, including mitigation measures (MM) and lease measures (LM), the environmental impacts of the Revised Project as summarized in Table 1 are significant and unavoidable.

Table 1. Significant and unavoidable adverse environmental impacts of the Revised Project.

Environmental Impacts	Impact Determination	New Measures Added by the SEIR ^a	Impacts after Mitigation
Air Quality and Meteorology			
AQ-3: Would the Revised Project result in operational emissions that exceed an SCAQMD threshold of significance in Table 3.1-7?	Significant for CO in 2012 to 2023, VOC in 2014 to 2045, and NOx in 2014 to 2036.	LM AQ-1: Cleanest Available Cargo-Handling Equipment LM AQ-2: Priority Access for Drayage LM AQ-3: Demonstration of Zero-Emissions Equipment	Significant and unavoidable
AQ-4: Would Revised Project operations result in offsite ambient air pollutant concentrations that exceed a SCAQMD threshold of significance?	Significant for NO ₂ in 2014 and 2018 and PM ₁₀ in 2014 through 2045		Significant and unavoidable
AQ-7: Would the Revised Project expose receptors to significant levels of TACs?	Significant for residential, occupational, and sensitive individual cancer risk		Significant and unavoidable
Greenhouse Gas Emissions and Climate Change			
GHG-1: Would the Revised Project generate GHG emissions, either directly or indirectly that would exceed the SCAQMD 10,000 mty CO ₂ e threshold?	Significant impact in 2012 through 2045	MM GHG-1: LED Lighting LM GHG-1: GHG Credit Fund	Significant and unavoidable

Environmental Impacts	Impact Determination	New Measures Added by the SEIR ^a	Impacts after Mitigation
Ground Transportation			
TRANS- 2: Would vehicular traffic associated with the Revised Project increase an intersection’s V/C ratio in accordance with applicable guidelines?	Significant impact at intersection of Alameda and Anaheim Streets	MM TRANS-2: Alameda & Anaheim Streets	Significant and unavoidable
Cumulative Impacts			
Air Quality and Meteorology			
Cumulative Impact AQ-3: Would operation of the Revised Project produce a cumulatively considerable increase of a criteria pollutant that exceeds the SCAQMD threshold of significance in Table 3.16?	Cumulatively considerable for CO, NO _x , and VOC	LM AQ-1: Cleanest Available Cargo-Handling Equipment LM AQ-2: Priority Access for Drayage LM AQ-3: Demonstration of Zero-Emissions Equipment	Cumulatively considerable and unavoidable
Cumulative Impact AQ-4: Would operation of the Revised Project result in offsite ambient air pollutant concentrations that cumulatively exceed a SCAQMD threshold of significance?	Cumulatively considerable for NO _x and PM ₁₀		Cumulatively considerable and unavoidable
Cumulative Impact AQ-7: Would the Revised Project make a cumulatively considerable contribution to exposure of receptors to significant levels of toxic air contaminants?	Cumulatively considerable for individual cancer risk		Cumulatively considerable and unavoidable
Greenhouse Gas Emissions and Climate Change			
Cumulative Impact GHG-1: Would the Revised Project make a cumulatively considerable contribution to a significant cumulative impact due to GHG emissions?	Cumulatively considerable	MM GHG-1: LED Lighting LM GHG-1: GHG Credit Fund	Cumulatively considerable and unavoidable
Ground Transportation			
Cumulative Impact TRANS-2: Would vehicular traffic associated with the Revised Project increase an intersection’s V/C ratio in accordance with applicable guidelines?	Cumulatively considerable at location #3 (Alameda and Anaheim Streets)	MM TRANS-2: Alameda and Anaheim Streets	Cumulatively considerable and unavoidable

^a Mitigation measures that constitute the Revised Project are described in Section 2.3 in this document and are not identified in this table as new measures added by the SEIR.

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3.1.2 Environmental Impacts Found to Be Less Than Significant after Mitigation

The SEIR concludes, and the Board hereby finds, that the following significant impact of the Revised Project would be less than significant after implementation of mitigation.

1 **Table 2. Significant and unavoidable adverse environmental impacts of the Revised Project found**
 2 **to be less than significant after mitigation.**

Environmental Impacts	Impact Determination	Mitigation Measures	Impacts after Mitigation
Cumulative Impacts			
Ground Transportation			
Cumulative Impact TRANS-2: Would vehicular traffic associated with the Revised Project increase an intersection's V/C ratio in accordance with applicable guidelines?	Cumulatively considerable at location #7 (John S. Gibson Boulevard at I-110 N/B Ramps)	MM TRANS-3: John S. Gibson Boulevard at I-110 N/B Ramps	Less than significant

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4 **3.1.3 Environmental Impacts Found to Be Less Than Significant**

5 The SEIR concludes that some, but not all, of the impacts of the Revised Project related
 6 to Air Quality and Ground Transportation are less than significant and require no
 7 mitigation.

8 The Board hereby finds that some of the environmental impacts of the Revised Project, as
 9 summarized in Table 3, are less than significant, and hereby makes the same
 10 determination based on the conclusions in the Final SEIR. Under CEQA, no mitigation
 11 measures are required for impacts that are less than significant (14 Cal. Code Regs. §
 12 15126.4(a)(3)).

13 **Table 3. Less than significant impacts of the Revised Project.**

Environmental Impacts	Impact Determination	Mitigation Measures
Air Quality and Meteorology		
AQ-8: Would the Revised Project conflict with or obstruct implementation of an applicable AQMP?	Less than significant	Mitigation not required.
Ground Transportation		
TRANS-4: Would the Revised Project result in a less than significant increase in highway congestion?	Less than significant	Mitigation not required.
TRANS-5: Would operation of the Revised Project cause an increase in rail activity and delays in regional traffic.?	Less than significant	Mitigation not required.

Environmental Impacts	Impact Determination	Mitigation Measures
Cumulative Impacts		
Air Quality and Meteorology		
Cumulative Impact AQ-7: Would the Revised Project make a cumulatively considerable contribution to exposure of receptors to significant levels of toxic air contaminants?	Not cumulatively considerable for non-cancer chronic or acute health impacts or cancer burden	Mitigation not required.
Ground Transportation		
Cumulative Impact TRANS-4: Would Revised Project operations result in a cumulatively considerable contribution to a significant cumulative impact related to freeway congestion?	Not cumulatively considerable	Mitigation not required.
Cumulative Impact TRANS-5: Would the Revised Project cause a cumulatively considerable contribution to a significant cumulative increase in rail activity and/or delays in regional highway traffic due to an increase in rail activity?	Not cumulatively considerable	Mitigation not required.

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3.2 Findings Regarding Environmental Impacts Found to Be Significant and Unavoidable

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The SEIR concludes that unavoidable significant impacts on the following environmental resources would occur if the Revised Project were to be implemented.

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- Air Quality and Meteorology
- Greenhouse Gas Emissions and Climate Change
- Ground Transportation

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All available feasible mitigation measures have been incorporated into the Revised Project to reduce significant impacts. However, even with the incorporation of all feasible mitigation measures, impacts on these environmental resources would remain significant and unavoidable. The Board has determined that no additional feasible mitigation measures would reduce significant impacts to less-than-significant levels, and in light of specific economic, legal, social, technological, and other considerations, the Board intends to adopt a Statement of Overriding Considerations (see Section 1 of this document for additional details). The impacts, mitigation measures, findings, and rationale for the findings are presented below for all significant and unavoidable impacts identified in the Final SEIR.

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3.2.1 Air Quality and Meteorology

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As discussed in Section 3.1 of the Final SEIR, there would be three unavoidable significant impacts to Air Quality and Meteorology related to operation of the Revised Project. The impacts and mitigation measures are discussed below.

21

22

1 **Impact AQ-3: The Revised Project operation would result in**
2 **operational emissions that exceed a SCAQMD threshold of**
3 **significance in Table 3.1-7.**

4 As shown in Table 3.1-9 of the Final SEIR, the Revised Project's incremental peak daily
5 emissions relative to the 2008 Actual Baseline for CO would exceed the SCAQMD
6 thresholds in analysis years 2012 to 2023; VOC emissions would exceed the SCAQMD
7 thresholds in analysis years 2014 to 2045; and NOx thresholds would be exceeded in
8 analysis years 2014 to 2036.

9 **Finding**

10 The Board hereby finds that changes or alterations have been required in, or incorporated
11 into, the Revised Project that lessen the significant environmental impacts identified in
12 the Final SEIR. Specifically, the Revised Project includes three lease measures, LM AQ-
13 1 through LM AQ-3, that would reduce emissions of criteria pollutants, although the
14 reductions cannot be quantified. As shown in Table 3.1-9, operational emissions would
15 remain significant and unavoidable for CO during analysis years 2012-2023, VOC during
16 analysis years 2014-2045 and NOx during analysis years 2014-2036. The Board finds
17 that specific economic, legal, social, technological, or other considerations make
18 infeasible any additional mitigation measures. The following lease measures have been
19 included to reduce impacts:

20 **LM AQ-1: Cleanest Available Cargo Handling Equipment.** Subject to zero and
21 near-zero emissions feasibility assessments that shall be carried out by
22 LAHD, with input from Tenant as part of the CAAP process, Tenant
23 shall replace cargo handling equipment with the cleanest available
24 equipment anytime new or replacement equipment is purchased, with a
25 first preference for zero-emission equipment, a second preference for
26 near-zero equipment, and then for the cleanest available if zero or near-
27 zero equipment is not feasible, provided that LAHD shall conduct
28 engineering assessments to confirm that such equipment is capable of
29 installation at the terminal.

30 Starting one year after the effective date of a new lease amendment
31 between the Tenant and the LAHD, tenant shall submit to the Port an
32 equipment inventory and 10-year procurement plan for new cargo-
33 handling equipment, and infrastructure, and will update the procurement
34 plan annually in order to assist with planning for transition of equipment
35 to zero emissions in accordance with the forgoing paragraph.

36 LAHD will include a summary of zero and near-zero emission
37 equipment operating at the terminal each year as part of mitigation
38 measure tracking.

39 **LM AQ-2: Priority Access for Drayage.** A priority access system shall be
40 implemented at the terminal to provide preferential access to zero- and
41 near-zero-emission trucks.

42 **LM AQ-3: Demonstration of Zero Emissions Equipment.** Tenant shall conduct a
43 one-year zero emission demonstration project with at least 10 units of
44 zero-emission cargo handling equipment. Upon completion, tenant shall
45 submit a report to LAHD that evaluates the feasibility of permanent use
46 of the tested equipment. Tenant shall continue to test zero-emission

1 equipment and provide feasibility assessments and progress reports in
2 2020 and 2025 to evaluate the status of zero- emission technologies and
3 infrastructure as well as operational and financial considerations, with a
4 goal of 100% zero-emission cargo handling equipment by 2030.

5 **Rationale for Finding**

6 Changes or alterations have been incorporated into the Revised Project in the form of
7 lease measures LM AQ-1 through LM AQ-3 which would reduce the impact. Although
8 reduced as a result of the lease measures, operational emissions would remain significant
9 and unavoidable for CO during analysis years 2012-2023, VOC during analysis years
10 2014-2045 and NOx during analysis years 2014-2036. Emissions would largely come
11 from diesel-powered cargo-handling equipment (CHE), on-road trucks, line-haul rail
12 locomotives, and oceangoing cargo vessels.

13 The Recirculated DSEIR considered additional mitigation measures and revisions to the
14 existing mitigation measures that constitute the Revised Project (see Section 2.3.2,
15 above), including measures aimed at accelerating CHE, truck, and vessel fleet turnover to
16 newer, cleaner equipment such as all-electric technology, adding retrofit devices, and
17 increasing operational efficiency.

18 In addition, the Final SEIR considered mitigation measures suggested by public
19 comments. These included automating the CS Terminal, converting drayage trucks and
20 cargo-handling equipment to zero-emission technology, requiring the use of alternative
21 emissions capture technologies, imposing fees for non-compliance, requiring various
22 terminal efficiency measures, establishing mitigation funds for off-port projects,
23 requiring increased use of on-dock rail, and various measures aimed at oceangoing
24 vessels. These measures were evaluated in terms of whether they were capable of being
25 accomplished in a successful manner within a reasonable period of time, taking into
26 account economic, environmental, legal, social, and technological factors. The SEIR
27 determined that no additional mitigation beyond that identified in the Final SEIR is
28 feasible at this time. The SEIR's consideration of these measures is presented in Chapter
29 2, Responses to Comments, of the Final SEIR, and summarized in Section 4.5 of these
30 Findings.

31 **Impact AQ-4: Would operation of the Revised Project result in offsite** 32 **ambient air pollutant concentrations that would exceed a SCAQMD** 33 **threshold of significance?**

34 Dispersion modeling of onsite and offsite Revised Project operational emissions was
35 performed to assess the impact of the Revised Project on local offsite air concentrations.
36 A summary of the dispersion modeling results is presented here, and the complete
37 dispersion modeling report is included in Appendix B of the Recirculated DSEIR.

38 Tables 3.1-12 and 3.1-14 of the Recirculated DSEIR show that impacts of the Revised
39 Project would exceed the significance thresholds for federal 1-hour NO₂ in 2014 and
40 2018, state 1-hour NO₂ in 2014, annual NO₂ in 2014 and 2018, 24-hour PM₁₀ in 2014
41 through 2045, and annual PM₁₀ in 2014 through 2045. Therefore, maximum off-site
42 ambient pollutant concentrations associated with the Revised Project would be significant
43 for NO₂ (state and federal 1-hour and annual) and PM₁₀ (24-hour and annual).

Finding

The Board hereby finds that changes or alterations have been incorporated into the Revised Project that would lessen the significant environmental effect identified in the Final SEIR. Specifically, the Revised Project includes three lease measures, LM AQ-1 through LM AQ-3 (see above), that would reduce emissions of criteria pollutants, although the reductions cannot be quantified because the future technologies and systems that may be implemented have not yet been identified. Accordingly, the maximum mitigated Revised Project operations would still exceed the for federal 1-hour NO₂ in 2014 and 2018, state 1-hour NO₂ in 2014, annual NO₂ in 2014 and 2018, 24-hour PM₁₀ in 2014 through 2045, and annual PM₁₀ in 2014 through 2045. The Board finds that specific economic, legal, social, technological, or other considerations make infeasible any additional mitigation measures.

Rationale for Finding

Changes or alterations that would reduce the impact have been incorporated into the Revised Project in the form of lease measures LM AQ-1 through LM AQ-3. Although reduced, ambient air concentrations would remain significant and unavoidable for federal 1-hour NO₂ in 2014 and 2018, state 1-hour NO₂ in 2014, annual NO₂ in 2014 and 2018, 24-hour PM₁₀ in 2014 through 2045, and annual PM₁₀ in 2014 through 2045.

As described for impact AQ-3, above, additional mitigation measures (some of which were identified in comment letters on the Recirculated DSEIR) were considered for reducing operational emissions, thereby reducing off-site ambient pollutant concentrations. These measures were evaluated in terms of whether they were capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors. The SEIR determined that no additional mitigation beyond that identified in the Final SEIR is feasible at this time. The SEIR's consideration of these measures is presented in Chapter 2, Responses to Comments, of the Final SEIR, and summarized in Section 4.5 of these Findings.

Impact AQ-7: Would the Revised Project expose receptors to significant levels of TACs?

The LAHD has developed a health risk assessment (HRA) methodology, consistent with OEHHA's Air Toxics Hot Spots Program Risk Assessment Guidelines and SCAQMD's Supplemental Guidelines for Preparing Risk Assessments for the Air Toxics "Hot Spots" Information and Assessment Act, for assessing mortality and morbidity in CEQA documents. The methodology is based on the health effects associated with changes in PM_{2.5} concentrations. Consistent with the HRA protocol, human health risks associated with the emissions of TACs from the Revised Project were estimated and the Revised Project's impacts were reported as its incremental health risks. Details of the HRA analysis, including TAC emission calculations, dispersion modeling, and risk calculations, are presented in Appendix B-3 of the Recirculated DSEIR.

As Table 3.1-18 of the Recirculated DSEIR shows, the maximum incremental individual cancer risk associated with the Revised Project would be greater than 10 in a million at residential, sensitive, and occupational receptors. Figure 3.1-2 of the Recirculated DSEIR shows that the significant impact would be largely restricted to port terminals and water areas. However, a small area outside the Port near the terminal boundary would lie within the 10-in-a-million isopleth. Accordingly, the maximum cancer risk at a

1 residential receptor is predicted to be 25.4 in a million and would occur on Knoll Hill.
2 Therefore, maximum incremental health impacts of the Revised Project for individual
3 cancer risk would be significant.

4 **Finding**

5 The Board hereby finds that changes or alterations have been incorporated into the
6 Revised Project that would lessen the significant environmental effect identified in the
7 SEIR. Specifically, the Revised Project includes three lease measures, LM AQ-1 through
8 LM AQ-3 (see above), that would reduce emissions of criteria pollutants, although the
9 reductions cannot be quantified. Accordingly, the maximum incremental health impacts
10 from the Revised Project for individual cancer risk would still exceed the threshold of 10
11 in a million. The Board finds that specific economic, legal, social, technological, or other
12 considerations make infeasible any additional mitigation measures.

13 **Rationale for Finding**

14 Changes or alterations that would reduce the impact have been incorporated into the
15 Revised Project in the form of lease measures LM AQ-1 through LM AQ-3. However,
16 because no additional mitigation measures are feasible, the impact would remain
17 significant. As discussed in Section 2.5.2 of the Recirculated DSEIR and in Chapter 2,
18 Responses to Comments, of the Final SEIR, the LAHD considered additional mitigation
19 measures that could reduce health risks from the Revised Project, but determined that no
20 additional mitigation beyond that identified in the Final SEIR is feasible at this time. The
21 SEIR's consideration of these measures is presented in Chapter 2, Responses to
22 Comments, of the Final SEIR, and summarized in Section 4.5 of these Findings.

23 **3.2.2 Greenhouse Gas Emissions and Climate Change**

24 As discussed in Section 3.2 of the SEIR, there would be one significant and unavoidable
25 impact to Greenhouse Gas Emissions as a result of the Revised Project.

26 **Impact GHG-1: Would the Revised Project generate GHG emissions, 27 either directly or indirectly, that would exceed the SCAQMD 10,000 28 mty CO₂e threshold?**

29 The major sources of GHG from operation of the Revised Project would be the
30 combustion of fossil fuels by oceangoing vessels, cargo-handling equipment, and drayage
31 trucks, as detailed in Table 3.2-3 of the Recirculated DSEIR. The incremental GHG
32 emissions of the Revised Project would exceed the SCAQMD significance threshold in
33 all analysis years. The maximum increment of 139,336 metric tons of CO₂e would occur
34 in 2030. As those emissions would exceed the threshold of significance, significant
35 impacts would occur from operation of the Revised Project.

36 Lease measures LM AQ-1 through LM AQ-3 could not be reasonably quantified as to
37 GHG reductions. A number of project features would reduce GHG emissions, including
38 the requirements related to phasing in zero- and near-zero-emission cargo-handling
39 equipment, the use of AMP, and compliance with the VSRP. Mitigation measure MM
40 GHG-1 would reduce GHG emissions from electricity generation by replacing high-mast
41 lights with LED technology. The Revised Project includes lease measure LM GHG-1
42 that would require the LAHD to establish a greenhouse gas fund and obligate the tenant
43 to contribute to that fund. The funds would either support GHG-reducing projects and
44 programs approved by the Port of Los Angeles or provide an offset for the Revised
45 Project's GHG emissions, but would not directly reduce those emissions. As Table 3.2-4

1 in the Recirculated DSEIR shows, the residual impacts of the Revised Project, even after
2 application of mitigation measure MM GHG-1 (which begins upon execution of a new
3 lease amendment), would remain significant and unavoidable in years 2023, 2030, 2036
4 and 2045.

5 **Finding**

6 The Board hereby finds that changes or alterations have been required in, or incorporated
7 into, the Revised Project, in the form of MM GHG-1 and LM GHG-1, below, that lessen
8 the significant environmental effect identified in the Final SEIR. However, incorporation
9 of these measures would not reduce GHG emissions below significance. The Board finds
10 that specific economic, legal, social, technological, or other considerations make
11 infeasible any additional mitigation measures.

12 **MM GHG-1: LED Lighting.** All lighting within the interior of buildings on the
13 premises and outdoor high mast terminal lighting will be replaced with LED
14 lighting or a technology with similar energy-saving capabilities within two years
15 after the effective date of the new lease amendment between the Tenant and the
16 LAHD or by no later than 2023.

17 **LM GHG-1 GHG Credit Fund:** LAHD shall establish a Greenhouse Gas Fund,
18 which LAHD shall have the option to accomplish through a Memorandum of
19 Understanding (MOU) with the California Air Resources Board (CARB) or
20 another appropriate entity. The fund shall be used for GHG-reducing projects and
21 programs approved by the Port of Los Angeles, or through the purchase of
22 emission reduction credits from a CARB approved offset registry. It shall be the
23 responsibility of the Tenant to make contributions to the fund in the amount of
24 \$250,000 per year, for a total of eight years, for the funding of GHG reducing
25 projects or the purchase of GHG emission reduction credits, commencing after
26 the date that the SEIR is conclusively determined to be valid, either by operation
27 of Public Resources Code Section 21167.2 or by final judgment or final
28 adjudication (“Conclusive Determination of Validity Date”), as described below.
29 The fund contribution amount is established as follows: (i) the peak year of GHG
30 operational emissions (2030), after application of mitigation, that exceed the
31 established threshold for the Revised Project, estimated in the SEIR to be
32 129,336 metric tons CO₂e, multiplied by (ii) the current (2019) market value of
33 carbon credits established by CARB at \$15.62 per metric ton CO₂e. The
34 payment for the first year shall be due within ninety (90) days of the Conclusive
35 Determination of Validity Date, and the payment for each successive year shall
36 be due on the anniversary of the Conclusive Determination of Validity Date. If
37 LAHD is unable to establish the fund through an MOU with CARB within one
38 year prior to when any year’s payment is due, the Tenant shall instead apply that
39 year’s payment, using the same methodology described in parts (i) and (ii) above,
40 to purchase emission reduction credits from a CARB approved GHG offset
41 registry.

42 **Rationale for Finding**

43 GHG mitigation measure MM GHG-1 and lease measure LM GHG-1 would not achieve
44 substantial future year GHG emissions reductions. Therefore, the GHG emissions during
45 operation would remain significant and unavoidable.

1 Comments were received on the Recirculated DSEIR regarding additional mitigation to
 2 reduce air emissions that could have the added effect of reducing GHG impacts. These
 3 included automating the CS Terminal, converting drayage trucks and cargo-handling
 4 equipment to zero-emission technology, requiring the use of alternative emissions capture
 5 technologies, requiring various terminal efficiency measures, establishing mitigation
 6 funds for off-port projects, requiring increased use of on-dock rail, and various measures
 7 aimed at oceangoing vessels. These measures were evaluated in terms of whether they
 8 were capable of being accomplished in a successful manner within a reasonable period of
 9 time, taking into account economic, environmental, legal, social, and technological
 10 factors. The SEIR determined that no additional mitigation beyond that identified in the
 11 Final SEIR is feasible at this time. The SEIR's consideration of these measures is
 12 presented in Chapter 2, Responses to Comments, of the Final SEIR, and summarized in
 13 Section 4.5 of these Findings.

14 **3.2.3 Ground Transportation**

15 As discussed in Section 3.3 of the Recirculated DSEIR, there would be one significant
 16 and unavoidable impact to Ground Transportation as a result of the Revised Project.

17 **Impact TRANS-2: Would vehicular traffic associated with the Revised** 18 **Project result in a significant impact in study intersection** 19 **volume/capacity ratios or level of service?**

20 As shown in Table 3.3-6 of the Recirculated DSEIR, the Revised Project would result in
 21 an increase in V/C of 0.096 with LOS D at study location #3 (Alameda Street and
 22 Anaheim Street) during the P.M. peak hour. This increase would cause a decline in LOS
 23 from C to D and would therefore exceed the City of Los Angeles significance threshold
 24 of 0.02. Accordingly, the Revised Project would have a significant impact on that
 25 intersection. The Recirculated DSEIR re-imposes mitigation measure MM TRANS-2
 26 requiring modification of the intersection at Alameda & Anaheim Streets, which was
 27 included in the 2008 EIS/EIR but dropped from the Revised Project because a screening
 28 study indicated it was no longer required.

29 As described in Section 3.3.2.2 of the Recirculated DSEIR, implementation of MM
 30 TRANS-2 would be coordinated with a project under design by LADOT and the City of
 31 Los Angeles Department of Public Works, in funding partnership with LAHD, that would
 32 implement roadway improvements to Alameda Street. However, because the property
 33 needed to implement this measure is not controlled by the Harbor Department,
 34 implementation of MM TRANS-2 would require approval by LADOT. If LADOT
 35 approves the implementation of this mitigation measure, then the impact would be
 36 reduced to less than significant, but because LADOT approval is not guaranteed, the
 37 impact is significant and unavoidable.

38 **Finding**

39 The Board hereby finds that no change or alteration in the Revised Project could avoid or
 40 substantially lessen the significant environmental effect identified in the Final EIR. The
 41 following mitigation measure would reduce the significant impact of operation if it could
 42 be implemented.

43 **MM TRANS-2 Alameda & Anaheim Streets:** Provide an additional eastbound
 44 through-lane on Anaheim Street. This mitigation measure shall be implemented at
 45 the same time as the City's planned improvement project at this location, subject to

1 LADOT approval and in coordination with the Bureau of Engineering’s construction
2 schedule.

3 **Rationale for Finding**

4 Changes or alterations have been required in or incorporated into the Revised Project in
5 the form of mitigation measure MM TRANS-2, but because the LAHD cannot ensure
6 that the measure can be implemented, traffic impacts at the Alameda Street and Anaheim
7 Street intersection would remain significant and unavoidable. No further feasible
8 mitigation is available to reduce this impact to less than significant.

9 **3.3 Cumulative Impacts**

10 State CEQA Guidelines (§ 15130) require an EIR to discuss cumulative impacts of a
11 project when the project’s incremental effect is cumulatively considerable. Cumulative
12 impacts include “two or more individual effects which, when considered together, are
13 considerable or which compound or increase other environmental impacts” (CEQA
14 Guidelines, § 15355). When the combined cumulative impact associated with the
15 project’s incremental effect and the effects of other projects is not significant, the EIR
16 shall briefly indicate why the cumulative impact is not significant and is not discussed in
17 further detail in the EIR. If the cumulative impact is significant, the EIR shall determine
18 whether the contribution of the project to that cumulative impact is cumulatively
19 considerable. If it is, reasonable feasible mitigation shall be required to reduce or avoid
20 the project’s contribution to the significant cumulative impact (CEQA Guidelines §
21 15130(b)(5).)

22 As shown on Figure 4-1 and detailed in Table 4-1 of the Recirculated DSEIR, a total of
23 72 recent, current, or reasonably foreseeable future projects (approved or proposed) were
24 identified within the general vicinity of the Revised Project that could contribute to
25 cumulative impacts. The discussion below identifies significant cumulative impacts to
26 which the Revised Project’s contribution is cumulatively considerable, that either can be
27 mitigated to a less than significant level or cannot be mitigated to a less than significant
28 level and therefore represent unavoidable significant impacts. As required by CEQA
29 Guidelines § 15130(b), the SEIR’s discussion of cumulative impacts reflects the severity
30 of the impacts and their likelihood of occurrence, but not at the level of detail provided
31 for the effects attributable to the Revised Project alone.

32 All feasible mitigation measures to reduce or avoid the cumulatively considerable
33 contribution of the Revised Project to these significant cumulative impacts have been
34 required in, or incorporated into, the Revised Project.

35 **3.3.1 Air Quality and Meteorology**

36 **Cumulative Impact AQ-3: Would operation of the Revised Project 37 produce a cumulatively considerable increase of a criteria pollutant 38 that exceeds the SCAQMD threshold of significance in Table 3.1-7?**

39 The past, present, and reasonably foreseeable future projects would have a significant
40 cumulative impact if their combined operational emissions would exceed the SCAQMD
41 daily emission thresholds for operations. Because this almost certainly would be the case
42 for all analyzed criteria pollutants, the past, present, and reasonably foreseeable future
43 projects would result in a significant cumulative air quality impact.

Finding

As described in Table 3.1-9 of the Recirculated DSEIR, Revised Project operational emissions would exceed SCAQMD significance thresholds for CO in analysis years 2012, 2014, 2018, and 2023, for NO_x in 2014, 2018, 2023, 2030, and 2036, and for VOC in all analysis years except 2012; emissions of the remaining criteria pollutants would be below SCAQMD significance thresholds (Table 3.1-9). These impacts, combined with impacts from concurrent related projects, would be cumulatively significant. As a result, operational emissions would make a cumulatively considerable contribution to an existing significant cumulative impact for CO, NO_x, and VOC.

The Board hereby finds that changes or alterations have been incorporated into the Revised Project that substantially lessen the significant environmental effect identified in the Final SEIR. All feasible mitigation measures for operational emissions associated with the Revised Project, as well as lease measures LM AQ1 through LM AQ-3 (see Section 2.3.2), have been applied. The Board hereby finds that specific economic, legal, social, technological, or other considerations make infeasible any additional mitigation measures.

Rationale for Finding

All feasible mitigation measures for operational emissions associated with the Revised Project have been applied, as described in Section 3.1.4.4 of the Recirculated DSEIR and in Chapter 2 of the Final SEIR.

Cumulative Impact AQ-4: Would operation of the Revised Project result in offsite ambient air pollutant concentrations that cumulatively exceed a SCAQMD threshold of significance?

The past, present, and reasonably foreseeable future projects would result in significant cumulative impacts if their combined ambient concentration levels during operations would exceed the SCAQMD ambient concentration thresholds for operations. Although there is no way to be certain if a cumulative exceedance of the thresholds would happen for any pollutant without performing dispersion modeling of the other projects, it is reasonable to assume that cumulative air emissions are likely to exceed the thresholds for PM₁₀, PM_{2.5}, and NO₂, and are unlikely to exceed the thresholds for CO and SO₂ (the SCAB is not in nonattainment for CO and SO₂, and concentrations of both pollutants in the SCAB have been declining for a number of years). Consequently, operation of the related projects would result in a significant cumulative air quality impact for PM₁₀, PM_{2.5}, and NO₂.

Operation of the Revised Project would result in NO₂ and PM₁₀ concentrations that would exceed the 1-hr federal and state thresholds for NO₂, the annual threshold for PM₁₀ and NO₂, and the 24-hr threshold for PM₁₀. Accordingly, without mitigation, impacts from Revised Project operations would make a cumulatively considerable contribution to an existing significant cumulative impact related to ambient NO₂ and PM₁₀ levels.

Finding

The Board hereby finds that no feasible mitigation beyond the measures included in the Revised Project and lease measures is available to reduce operational emissions, and consequently, ambient criteria pollutant concentrations. Accordingly, ambient pollutant concentrations for PM₁₀ and NO_x would continue to exceed significance thresholds under

1 the Revised Project. These impacts would combine with impacts from concurrent related
2 projects, which would already be cumulatively significant. Therefore, the Revised
3 Project would make a cumulatively considerable and unavoidable contribution to an
4 existing significant cumulative impact for NO₂ and PM₁₀. The Board hereby finds that
5 specific economic, legal, social, technological, or other considerations make infeasible
6 any additional mitigation measures.

7 **Rationale for Finding**

8 Changes or alterations have been incorporated into the Revised Project in the form of
9 lease measures LM AQ-1 through LM AQ-3 which would be implemented during
10 operation of the Revised Project. Even with these measures, the Revised Project would
11 make a cumulatively considerable and unavoidable contribution to a significant
12 cumulative impact.

13 **Cumulative Impact AQ-7: Would the Revised Project make a** 14 **cumulatively considerable contribution to exposure of receptors to** 15 **significant levels of toxic air contaminants?**

16 The Multiple Air Toxics Exposure Study (MATES-IV) conducted by SCAQMD in 2015
17 estimated the existing cancer risk from toxic air contaminants (TACs) in the San Pedro
18 and Wilmington areas to be approximately 480 in a million on a population-weighted
19 average basis. In the Diesel Particulate Matter Exposure Assessment Study for the Ports
20 of Los Angeles and Long Beach, CARB estimated that elevated levels of cancer risk due
21 to operational emissions from port-area sources occur within and near the Ports. Based
22 on this information, cancer risk from TAC emissions within the project region, including
23 the past, present, and reasonably foreseeable future projects is considered a significant
24 cumulative impact.

25 Operational emissions of TACs from the Revised Project would increase incremental
26 individual cancer risks above the significance threshold of 10 in a million for residential,
27 occupational, and sensitive receptors. As a result, without mitigation, the Revised Project
28 would make a cumulatively considerable contribution to an existing significant
29 cumulative impact for cancer risk.

30 As shown in Section 3.1.4.4 of the Recirculated DSEIR, the Revised Project would not
31 increase non-cancer chronic or acute impacts, or the cancer burden, above significance
32 thresholds. As a result, without mitigation, the Revised Project would not make a
33 considerable contribution to significant cumulative non-cancer chronic or acute health
34 impacts or the cancer burden.

35 **Finding**

36 The Board hereby finds that changes or alterations have been incorporated into the
37 Revised Project that lessen the significant environmental effect identified in the Final
38 SEIR. Lease measures LM AQ-1 through LM AQ-2 applied in Impact AQ-3 would
39 reduce the impacts from the Revised Project by reducing operational TAC emissions, and
40 therefore, likely to reduce cancer risks. However, those reductions cannot be quantified,
41 because the future technologies and systems that may be implemented have not yet been
42 identified and would not be expected to reduce TAC emissions enough to reduce the
43 cancer risk impact to less than significant. Accordingly, the Revised Project after
44 mitigation would make a cumulatively considerable contribution to a significant
45 cumulative impact related to cancer risk. The Board hereby finds that specific economic,

1 legal, social, technological, or other considerations make infeasible any additional
2 mitigation measures.

3 **Rationale for Finding**

4 The Ports have approved port-wide air pollution control measures through the 2017
5 CAAP. Implementation of these measures will reduce the health risk impacts from the
6 Revised Project and past, present, and reasonably foreseeable future related projects.
7 Currently adopted regulations and future rules proposed by CARB and USEPA will
8 further reduce air emissions and associated cumulative health impacts from area
9 industrial facilities heavy-duty trucks traveling along local streets, and past, present, and
10 reasonably foreseeable future projects not subject to the CAAP. However, because future
11 proposed regulatory measures, the CAAP measures, and mitigation imposed through
12 CEQA on related projects have not yet been fully implemented, they have not yet
13 reduced cumulative health risk impacts to less than significant. Therefore, the cancer risk
14 due to TAC emissions within the region in the future must be considered a significant
15 cumulative impact.

16 Implementation of the mitigation and lease measures proposed for the Revised Project
17 would reduce TAC emissions, but the Revised Project would still cumulative impact
18 would remain significant. As described in Section 3.1.4.4 of the Recirculated DSEIR and
19 in Chapter 2 of the Final SEIR, no feasible mitigation beyond the measures included in
20 the Revised Project is available to reduce operational emissions of TACs. Therefore, the
21 Revised Project would continue to make a cumulatively considerable and unavoidable
22 contribution to an existing significant cumulative impact for cancer risk.

23 **3.3.2 Greenhouse Gas Emissions and Climate Change**

24 **Cumulative Impact GHG-1: Would the Revised Project make a** 25 **cumulatively considerable contribution to a significant cumulative** 26 **impact due to GHG emissions?**

27 Past, present, and reasonably foreseeable future projects in the area have generated, and
28 will continue to generate, GHGs from the combustion of fossil fuels and the use of
29 coatings, solvents, refrigerants, and other products. Current and future projects will
30 incorporate a variety of GHG reduction measures in response to federal, state, and local
31 mandates and initiatives, and these measures are expected to reduce GHG emissions from
32 future projects. However, because of the long-lived nature of GHGs in the atmosphere,
33 and the global nature of GHG emissions impacts, no specific quantitative level of GHG
34 emissions from related projects in the region, or state-wide has been identified below
35 which no impacts would occur. Therefore, these emissions are considered to represent a
36 significant cumulative impact.

37 Operation of the Revised Project would generate GHGs that would exceed SCAQMD's
38 threshold in all analysis years. Impacts of the Revised Project would combine with
39 impacts from related projects, which would already be cumulatively significant. As a
40 result, without mitigation, impacts from Revised Project operation would make a
41 cumulatively considerable contribution to an existing significant cumulative impact
42 related to GHG.

1 **Finding**

2 The Board hereby finds that changes or alterations have been required in, or incorporated
3 into, the Revised Project that lessen the significant environmental effect identified in the
4 Final SEIR. However, as the mitigation and lease measures would not reduce emissions
5 to their baseline levels, incorporation of these measures would not reduce GHG
6 emissions below significance, and impacts from Revised Project operation would make a
7 cumulatively considerable contribution to an existing significant cumulative impact
8 related to GHG. The Board finds that specific economic, legal, social, technological, or
9 other considerations make infeasible any additional mitigation measures.

10 **Rationale for Finding**

11 Changes or alterations have been required in or incorporated into the Revised Project in
12 the form of mitigation and lease measures MM GHG-1 and LM GHG-1. However, the
13 reductions from those measures cannot be quantified; furthermore, as described in
14 described in Sections 2.5.2.2 and 3.1.4.4 of the Recirculated DSEIR and Chapter 2 of the
15 Final SEIR, no feasible mitigation beyond the measures included in the Revised Project is
16 available to reduce operational emissions and whose effects can be quantified.
17 Accordingly, the Revised Project would continue to make a cumulatively considerable
18 contribution to a significant cumulative impact.

19 **3.3.3 Ground Transportation**

20 **Cumulative Impact TRANS-2: Would vehicular traffic associated with**
21 **the Revised Project's operations result in a cumulatively**
22 **considerable contribution to a significant cumulative impact in study**
23 **intersection volume/ capacity ratios or level of service?**

24 As shown in Section 4.3.3 of the Recirculated DSEIR, increases in traffic volumes on the
25 surrounding roadways due to cumulative projects would result in a cumulative effect on
26 the operating conditions of area intersections and roadways, causing seven study
27 intersections to operate at LOS D or worse during a peak hour. This is true whether or
28 not the proposed ICTF Expansion and SCIG projects were to be implemented.
29 Accordingly, the past, present, and reasonably foreseeable future projects would have a
30 significant cumulative impact on the study intersections.

31 The Revised Project would contribute to significant cumulative impacts at the following
32 locations and peak hours:

- 33 • #3 Alameda Street at Anaheim Street – 2015 P.M., 2030 and 2045 A.M. and
34 P.M.
- 35 • #7 John S. Gibson Boulevard at I-110 Northbound Ramps – 2030 and 2045
36 A.M., M.D., and P.M.

37 No other intersection would experience a significant cumulative impact to which the
38 Revised Project would contribute in any future year. Accordingly, the Revised Project
39 would make a cumulatively considerable contribution to a significant cumulative impact
40 at study intersection locations #3 and #7.

41 **Finding**

42 The Board finds that the Revised Project would make cumulatively considerable
43 contributions to significant cumulative impacts at two study intersections: Alameda Street

1 at Anaheim Street and John S. Gibson Boulevard at I-110 N/B Ramps. Mitigation
2 Measures imposed in the 2008 EIS/EIR would, if implemented, reduce the impacts to less
3 than significant.

4 **MM TRANS-2 Alameda and Anaheim Streets:** Provide an additional eastbound
5 through-lane on Anaheim Street. This mitigation measure shall be implemented at
6 the same time as the City's planned improvement project at the location, subject to
7 LADOT approval and in coordination with the Bureau of Engineering's construction
8 schedule.

9 **MM TRANS-3 John S. Gibson Boulevard and I-110 N/B Ramps:** Provide an
10 additional westbound right-turn lane with westbound right-turn overlap phasing and
11 an additional southbound left-turn lane. LAHD shall monitor the intersection LOS
12 annually beginning in 2019, and shall implement the mitigation within three years
13 after the intersection LOS is measured as D or worse, and the China Shipping
14 terminal is found to contribute to the cumulative impact, with the concurrence of
15 LADOT.

16 As shown in Table 4-12 of the Recirculated DSEIR, the application of MM TRANS-2
17 would result in intersection conditions improving to LOS C or better in all analysis years,
18 mitigating the cumulatively considerable contribution of the Revised Project. However,
19 because LADOT approval is not guaranteed, the impact is considered cumulatively
20 significant and unavoidable. The Board hereby finds that specific economic, legal,
21 social, technological, or other considerations make infeasible additional mitigation
22 measures.

23 As Table 4-13 of the Recirculated DSEIR shows, MM TRANS-3 would fully mitigate the
24 cumulatively considerable contribution of the Revised Project to the significant
25 cumulative impact.

26 **Rationale for Finding**

27 Cumulative ground transportation impacts related to the increase in traffic volumes
28 would be significant and unavoidable from part, present, and reasonably foreseeable
29 future projects at several study intersections, and the Revised Project would make a
30 cumulatively considerable contribution to those impacts at study intersections #3:
31 Alameda Street and Anaheim Street and #7: John S. Gibson Avenue at I-110 N/B Ramps.

32 Because intersection #3 is controlled by LADOT, the Board finds that no feasible
33 mitigation within the LAHD's control is available to reduce the Revised Project's
34 cumulatively considerable contributions to a significant cumulative impact. If LADOT
35 concurs with implementation of MM TRANS-2, there would be no cumulatively
36 considerable contribution to a significant cumulative impact.

37 Implementation of MM TRANS-3 would mitigate the cumulatively considerable
38 contribution to the significant cumulative impact at intersection #7.

39 **3.4 Findings on Measures Suggested as Part of** 40 **Public Comment on the Recirculated DSEIR**

41 Comment letters were received on the Recirculated DSEIR suggesting the Port adopt
42 additional measures. The suggested measures and the reasons supporting why the
43 recommended measure was accepted or rejected are summarized below; additional detail
44 can be found in the comments and responses to comments in Chapter 2 of the FSEIR.

Zero Emissions Technologies

One commenter, Citizens for A Safe Environment (CFASE), suggested mitigation for air quality impacts in the form of various zero-emissions truck, train, and cargo-handling equipment that the commenter claimed is available and could be required for the CS Terminal. The commenter offered a list of over 400 models of equipment. As explained in Response to Comment CFASE-10, the Port's review of that list (Initial Equipment Screening for China Shipping's Supplemental Environmental Impact Assessment) determined that the majority of the listed models are either irrelevant or unsuited to container terminal operations (e.g., light-duty trucks and vans, construction equipment, passenger trains, school buses, taxis, and fire and refuse trucks). Of the remaining models, most, including heavy-duty trucks, yard tractors, and top handlers, are still in the demonstration mode to determine whether they are suitable for operation in the port environment, and are therefore not yet feasible technologies. A few of the models, specifically small forklifts and hybrid and electric gantry cranes, are appropriate for container terminal operations and were already included in the Revised Project in MM AQ-17.

The same commenter suggested the zero-emissions container movement systems (ZECMS) technologies are already being evaluated by the Ports and requested that the LAHD fund demonstration projects for locomotives and electrified rail systems. As explained in Chapter 2 of the Final SEIR (Master Responses 2 and 3 and various individual Responses to Comments) the Port's review determined that in addition to being prohibitively expensive (a first phase was estimated at over four billion dollars in 2008) and outside the Port's jurisdiction to implement, the technologies being requested do not exist in commercially available applications, and thus cannot be considered feasible. As further explained, the Port has determined that such systems are infeasible to apply to a single terminal project, being at least port-wide and more likely region-wide in nature. Master Response 3 provided details of the zero-emissions programs that have been evaluated and described the technological and financial factors that make zero-emissions technologies infeasible for deployment as cargo movers in the port environment at this time. Accordingly, the commenter's suggestions were not adopted as mitigation measures in the SEIR.

On-Dock Railyards

The Natural Resources Defense Council (NRDC) requested that the SEIR impose a mitigation measure that commits the CS Terminal to move 50% of its cargo by on-dock rail. In its Response to Comment NRDC-43 in Chapter 2 of the Final SEIR, the Port rejected that request on the grounds that the CS Terminal's cargo is largely destined for nearby locations that are not served by rail, but rather by drayage truck; in 2014 only 22% of the cargo left by on-dock rail. In addition, 50% represents a goal far in excess of the Port's expectations for the foreseeable future, since the 2017 CAAP has a goal of 35% on-dock rail by 2035. Finally, the LAHD has no authority to dictate modes of cargo transport to a given terminal.

Operational Emission Reduction Measures

Various suggestions were made to impose operational measures on the CS Terminal that purported to reduce emissions. These suggestions were addressed in detail in the individual Responses to Comments in Chapter 2 of the Final SEIR and are summarized below.

Several commenters requested that **MM AQ-15** and **MM AQ-17** be revised to incorporate more stringent emissions requirements for cargo handling equipment or more

1 aggressive implementation schedules. Master Response 2 and various individual
2 Responses to Comments in the Final SEIR explain that the emissions requirements in the
3 mitigation measures reflect the best available feasible technology. The implementation
4 schedules reflect the reality of equipment fleet turnover, which discourages scrapping
5 equipment with substantial useful life remaining, and the substantial costs involved in
6 replacing hundreds of pieces of equipment. In addition, LM AQ-1 added to the Revised
7 Project will require that the CS Terminal incorporate zero- and near-zero-equipment into
8 the terminal's fleet as that equipment becomes available.

9 Comments suggested that the CS Terminal be required to implement various operational
10 measures such as offering financial or operational incentives for cleaner trucks or
11 utilizing a particular terminal operating system. As explained in individual Responses to
12 Comments in the FEIR, the Port has determined most of these to be either infeasible or
13 beyond the Port's authority, but the Revised Project does include a lease measure
14 requiring the terminal to develop and implement a priority access system for clean trucks.

15 Terminal Automation

16 One comment requested that the CS Terminal incorporate the types of automated,
17 electric-powered cargo-handling equipment, which the commenter stated were recently
18 deployed in the Trapac and Middle Harbor container terminals. In its Response to
19 Comment NRDC-27, the Final SEIR pointed out that Trapac and Middle Harbor are the
20 only terminals in the two San Pedro Bay ports that employ substantial quantities of zero-
21 emissions equipment and that they underwent massive physical reconfigurations to
22 accommodate that equipment, which relies on substantial electrical infrastructure.

23 Employing those types of equipment at the CS Terminal as a mitigation measure would
24 require a substantial redevelopment of the terminal, with an estimated construction cost
25 of \$396 million, to reconfigure the container yard and to install electrical infrastructure
26 and facilities (see Master Response 2: Zero- and Near-Zero-Emission Technologies).
27 New equipment purchases and business disruption during the three-to-five-year
28 construction period would add many millions of dollars to that cost.

29 LNG and Zero-Emission Drayage Trucks

30 Commenters requested that MM AQ-20 (LNG Trucks), which was imposed by the 2008
31 EIS/EIR but not included in the Revised Project, be re-instated, claiming that it is
32 feasible. As explained in Section 2.5.2 of the Recirculated DSEIR, the measure was
33 removed from the Revised Project because requiring a single terminal to admit only a
34 limited type of vehicle (LNG trucks make up less than 8% of the drayage fleet) would put
35 that terminal at a severe competitive disadvantage; in addition, the CS Terminal has no
36 control over the selection of which trucks deliver and pick up the cargo. The conversion
37 of the drayage fleet to near-zero- and ultimately zero-emissions technology is, as
38 explained in the Final SEIR (Master Responses 2 and 3 of Chapter 2 of the Final SEIR), a
39 port-wide issue and is being approached on a port-wide basis through the 2017 CAAP.
40 Accordingly, the Port declines to re-instate MM AQ-20 into the Revised Project.

41 NRDC and CFASE suggested that the Port develop a mitigation measure aimed at
42 employing zero-emission drayage trucks in short-haul service. Responses to Comment
43 CFASE-2 and NRDC-34 point out that the suggestions lacked enough detail to be
44 evaluated or responded to in this Final SEIR, and furthermore that such a measure could
45 not be imposed on a single terminal because the terminal has no control over drayage.
46 However, the Port is evaluating the feasibility of a port-wide program to encourage the
47 use of zero-emission drayage trucks to serve peel-off yards and local destinations.

Alternative Emission Capture Technology

One commenter suggested that oceangoing vessels could achieve 100% elimination of at-berth emissions by using alternative emissions capture systems whenever AMP could not be employed. The Final SEIR (Chapter 2, Responses to Comments) pointed out that that MM AQ-9 already mandates the use of an alternative system whenever feasible, but that possible shortages of such systems and other factors such as emergencies or equipment failure make 100% compliance infeasible.

Oceangoing Vessel Measures

The South Coast Air Quality Management District recommended that the Port include a new mitigation measure to demonstrate feasible emission control technology that could be retrofit onto oceangoing vessels calling at the CS Terminal. The response to the comment points out that 1) a demonstration project would not achieve appreciable emissions reductions, 2) such programs were already ongoing, and 3) that the 2008 EIS/EIR imposed several similar mitigation measures that were still in effect for the CS Terminal.

The NRDC suggested that the 2008 EIS/EIR's MM AQ-13 Re-Route Cleaner Ships (which is still in effect) be revised to specify particular percentages and deadlines for re-routing Tier 3 vessels (the measure as worded applies to Tier 1 and Tier 2 vessels). The response to this comment points out that the timing and magnitude of the introduction of Tier 3 vessels into the world fleet is entirely speculative for a number of reasons. Accordingly, a measure that mandates certain percentages of Tier 3 vessels by certain dates would be unrealistic and unjustified by any data.

Other Measures

The NRDC suggested that the SEIR impose mitigation measures that would accelerate the turnover of harbor craft (i.e., tugboats) and locomotives to cleaner models. Responses to Comments NRDC-44 and NRDC-45 explained that because the CS Terminal has no control over the operation of either tugboats or locomotives, such measures would be infeasible to implement. The responses point out, however, that port-wide programs are addressing harborcraft and locomotive emissions control.

Several commenters suggested that certain of the Revised Project's mitigation measures include fees or other penalties for non-compliance. The SEIR points out (e.g., Response to Comment CFASE-9) that a penalty for non-compliance is not a mitigation measure under CEQA and that it would not be effective mitigation because it could actually encourage non-compliance, as an operator could opt to pay the penalty rather than comply with the mitigation measure. Furthermore, the commenters provided no indication of how the suggested penalties or fees would be proportional to the environmental impact.

One comment stated that the carbon credit funding proposed in LM GHG-1 is inadequate as mitigation for GHG impacts and suggested that it be increased in amount and be paid into the Harbor Community Benefit Fund (HCBF). The SEIR points out (Response to Comment CFASE-14) that LM GHG-1 is not a mitigation measure designed to directly reduce impacts under CEQA, but is instead a lease measure aimed at either funding GHG-reducing programs or offsetting a portion of the Revised Project's GHG emissions. As worded in the FSEIR, the measure does not restrict funds to being used only on Port property. At this time there have been no determinations as to which entities will receive funding under LM GHG-1.

1 Finally, the NRDC, two neighborhood groups, and an individual requested that the
 2 Mitigation Monitoring and Reporting Program include a public process, including
 3 independent oversight and regular (annual or more frequently) disclosure of progress in
 4 implementing the MMRP and enforcing the mitigation measures. The SEIR points out
 5 (Responses to Comment CeSPNC-2 through CeSPNC-4) that such measures would not
 6 mitigate an identified impact, are not required by CEQA, and are therefore outside the
 7 scope of the SEIR, but that the Board may consider the requests as part of its action on
 8 the Revised Project.

9 **4 Changes to the Recirculated DSEIR**

10 Changes were made to the Recirculated DSEIR following the public review period.
 11 Actual changes to the text and tables can be found in Chapter 3, Modifications to the
 12 Recirculated DSEIR, of the Final SEIR. Changes are identified by text strikeout and
 13 underline. Changes to the Recirculated DSEIR include:

- 14 • Modifications to MM AQ-10 (VSRP) in Section 3.1, Air Quality and
 15 Meteorology (and resultant corrections of the measure’s statement throughout the
 16 document) and modification of MM TRANS-2 in Section 3.3, Ground
 17 Transportation, to revise the implementation schedule
- 18 • Minor text edits throughout the document to correct inconsistencies and
 19 typographical errors
- 20 • Modifications to operational daily oceangoing vessel emissions in Section 3.1.4.4
- 21 • Addition of text and figures to Section 3.1 Air Quality and Meteorology to
 22 address the requirements of the recent Friant Ranch case.
- 23 • Revision of Lease Measure LM GHG-1 to alter the formula by which the funding
 24 amount is calculated, to increase the funding amount, and to revise the
 25 implementation mechanism and schedule.

26 **Finding and Rationale – Recirculation**

27 One comment by NRDC urged the Board of Harbor Commissioners to recirculate the
 28 SEIR for a second time. CEQA requires a lead agency to recirculate an EIR only when
 29 “significant new information” is added to the EIR after public notice is given of the
 30 availability of the draft EIR for public review but before certification. (CEQA Guidelines
 31 Section 15088.5(a).)

32 The Final SEIR includes new information and clarification, generated in response to
 33 comments received on the Recirculated DSEIR. In addition, the Final SEIR includes
 34 assessments of the potential health effects of the various criteria air pollutants emitted by
 35 the Revised Project, in accordance with the findings of the legal case *Sierra Club v.*
 36 *County of Fresno* (2018), commonly called “Friant Ranch.” These assessments were
 37 conducted in addition to the Health Risk Assessment (HRA) routinely conducted to
 38 evaluate the impacts of toxic air contaminants, which was also provided in the SEIR.

39 This information and clarification included in the Final SEIR is not significant new
 40 information requiring recirculation, as defined by CEQA. For instance, no new
 41 information was included that would result in: (1) a new significant environmental impact
 42 resulting from the Revised Project or from a new mitigation measure proposed to be
 43 implemented; (2) a substantial increase in the severity of an environmental impact unless
 44 mitigation measures are adopted that reduce the impact to a level of insignificance;
 45 and/or (3) a feasible project alternative or mitigation measure considerably different from

1 others previously analyzed were added that would clearly lessen the environmental
2 impacts of the Revised Project (CEQA Guidelines Section 15088.5(a).) Furthermore, the
3 information and clarification included in the Final SEIR does not constitute significant
4 new information requiring recirculation because the SEIR is not changed in a way that
5 deprives the public of a meaningful opportunity to comment upon a substantial adverse
6 environmental effect of the Revised Project. This information does not result in or
7 disclose any new significant impacts or a substantial increase in the severity of any
8 impact already identified in the Recirculated DSEIR or Final SEIR. Accordingly, The
9 Board finds that recirculation is not required.

10 **5 Findings Regarding Other CEQA** 11 **Considerations**

12 Irreversible and irretrievable environmental changes caused by a project include uses of
13 nonrenewable resources during construction and operation, long-term or permanent
14 access to previously inaccessible areas, and irreversible damages that may result from
15 project-related accidents.

16 **Finding and Rationale**

17 The Revised Project would require the use of nonrenewable resources. Fossil fuels and
18 energy would be consumed during operations. These energy resources would for the most
19 part be irretrievable and would cause irreversible changes in supplies of fossil fuel
20 available for other uses. However, some electricity provided by the LADWP is provided
21 from renewable sources and recently adopted legislation raises California's renewable
22 portfolio requirements for retail electricity sales.

23 No non-recoverable material resources would be committed to the Revised Project other
24 than fossil fuels because the Revised Project does not include significant construction
25 (minor work would be necessary to install the new lighting required by MM GHG-1).
26 The irreversible changes discussed above are justified by the decreased emissions that the
27 Revised Project would provide compared to baseline conditions.

28 **6 Statement of Overriding Considerations**

29 Pursuant to § 21081 of the Public Resources Code and § 15093 of the CEQA Guidelines,
30 the Board must balance the benefits of the Revised Project against unavoidable
31 environmental risks in determining whether to approve the Revised Project. The Revised
32 Project would result in significant unavoidable impacts to Air Quality and Greenhouse
33 Gases. The Revised Project would also result in a cumulatively considerable contribution
34 to significant cumulative impacts to Air Quality, Greenhouse Gases, Ground
35 Transportation.

36 **6.1 Significant and Unavoidable Impacts**

37 The potential environmental impacts of the project were evaluated in the 2008 EIS/EIR,
38 as revised by the SEIR. The 2008 EIS/EIR determined that these impacts, even with
39 implementation of all mitigation measures, remained significant and unavoidable for the
40 CS Container Terminal Project. These impacts remain significant and unavoidable with
41 the Revised Project; the only difference would be a change in the severity of such
42 impacts. As described above, the Revised Project would result in significant unavoidable

1 impacts to air quality during operation even with the adoption and implementation of
2 mitigation measures. Specifically, operations would result in exceedances of priority
3 pollutant significance thresholds (Impact AQ-3), offsite ambient air pollutant
4 concentrations that exceed the SCAQMD threshold of significance (Impact AQ-4), and
5 exceedances of the significance threshold for cancer risk (Impact AQ-7). As provided in
6 the Findings above, there would also be cumulative air quality impacts (Cumulative
7 Impacts AQ-3, AQ-4, and AQ-7) that would remain significant and unavoidable.

8 Operation of the Revised Project would result in significant and unavoidable impacts to
9 GHG emissions (Impact GHG-1). As provided in the Findings above, there would also
10 be a significant and unavoidable cumulative GHG impact (Cumulative Impact GHG-1).

11 Operation of the Revised Project would have a significant and unavoidable impact
12 (Impact TRANS-2) on one of the study intersections in the region. As provided in the
13 Findings above, there would also be a cumulative traffic impact (Cumulative Impact
14 TRANS-2 that would remain significant and unavoidable.

15 6.2 Revised Project Benefits

16 The Revised Project offers several benefits that outweigh the unavoidable adverse
17 environmental effects of the Revised Project. The Board of Harbor Commissioners
18 adopts the following Statement of Overriding Considerations. The Board recognizes that
19 significant and unavoidable impacts will result from implementation of the Revised
20 Project, as discussed above. Having (i) adopted all feasible mitigation measures, (ii)
21 rejected as infeasible any alternatives which would avoid or reduce the significant
22 impacts of the Revised Project, as discussed above, (iii) recognized all significant,
23 unavoidable impacts, and (iv) balanced the benefits of the Revised Project against the
24 Revised Project's significant and unavoidable impacts, the Board hereby finds that the
25 benefits outweigh and override the significant unavoidable impacts for the reasons stated
26 below.

27 The following material summarizes the benefits, goals, and objectives of the Revised
28 Project and provide the rationale for the economic, legal, social, technological and other
29 benefits of the Revised Project. These overriding considerations justify adoption of the
30 Project and certification of the completed Final SEIR. Any of these overriding
31 considerations individually would be sufficient to outweigh the adverse environmental
32 impacts of the Revised Project. These benefits include the following:

- 33 • **Fulfills Port legal mandates and objectives.** The Revised Project would fulfill
34 LAHD's legal mandate under the Port of Los Angeles Tidelands Trust (Los
35 Angeles City Charter, Article VI, Sec. 601; California Tidelands Trust Act of
36 1911) to promote and develop commerce, navigation and fisheries, and other
37 uses of statewide interest and benefit including industrial and transportation uses
38 and the California Coastal Act (PRC Division 20, Section 30700, et seq.), which
39 identifies the Port and its facilities as a primary economic/coastal resource of the
40 state and an essential element of the national maritime industry and obligates the
41 Harbor Department to accommodate the demands of foreign and domestic
42 waterborne commerce and other traditional water-dependent and related facilities
43 in order to preclude the necessity for developing new ports elsewhere in the state.
44 Further, the California Coastal Act provides that the Harbor Department should
45 give highest priority to the use of existing land space within harbors for port
46 purposes, including, but not limited to navigational facilities, shipping industries

1 and necessary support and access facilities. The Revised Project would also meet
2 the Harbor Department's strategic green growth objectives by maximizing the
3 efficiency and the capacity of facilities while applying mitigation measures that
4 adhere to and/or exceed the San Pedro Bay Clean Air Action Plan (CAAP)
5 requirements and raise environmental standards.

- 6 • **Implements the San Pedro Bay Clean Air Action Plan (CAAP).** The Revised
7 Project incorporates many environmental features consistent with the CAAP, and
8 additional mitigation measures and lease measures have been identified through
9 the CEQA findings of the Recirculated DSEIR that meet CAAP requirements
10 and objectives.
- 11 • **Implements feasible mitigation measures on the existing CS Container**
12 **Terminal Project, to replace mitigation measures identified in 2008 EIS/EIR**
13 **that have not been fully implemented.** The Revised Project would eliminate
14 some existing mitigation measures that have proved to be infeasible or
15 unnecessary, institute new mitigation measures, and modify other existing
16 measures to enhance their effectiveness. In proposing these changes, the Revised
17 Project would advance the original goals and objectives of the CS Container
18 Terminal Project to maximize the efficiency and capacity of the terminal while
19 raising environmental standards through the application of all feasible mitigation
20 measures. Those objectives may not be met under the previously approved CS
21 Container Terminal Project because impacts would remain unaddressed despite
22 the availability of alternative feasible mitigation, as identified in the SEIR.
- 23 • **Allows for continued operation of the CS Terminal under feasible mitigation**
24 **measures, providing economic benefits to the Port and the community.** The
25 Revised Project will allow for the continued operation of the terminal, generating
26 revenues to the Port of Los Angeles over the life of the Revised Project. These
27 funds are included in the Harbor Revenue fund for the purposes of operating,
28 maintaining and improving the Port in accordance with the Tidelands Trust.
29 Revenues from operation of the CS Terminal also provide for environmental
30 improvements, including incentive programs associated with the CAAP for
31 reduction of truck emissions and advancing clean technology, and support the
32 construction of necessary infrastructure for waterfront commercial and
33 recreational improvements in Wilmington and San Pedro.

34 In summary, the Revised Project would allow the Port to meet its legal mandates to
35 accommodate growing international commerce and would permit LAHD to continue to
36 comply with the CAAP and other measures designed to reduce overall emissions over
37 time. The Board hereby finds that the benefits of the Revised Project described above
38 outweigh the significant and unavoidable environmental effects of the Revised Project,
39 which are therefore considered acceptable.

40 **7 Location and Custodian of Records**

41 The documents and other materials that constitute the administrative record for the
42 LAHD's actions related to the Revised Project are located at the office of the Director of
43 Environmental Management, Los Angeles Harbor Department, 222 W. 6th Street, 10th
44 floor, San Pedro, California 90731.