



COASTAL SAN PEDRO NEIGHBORHOOD COUNCIL

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January 15, 2022

Chris Cannon
Director of Environmental Management
City of Los Angeles Harbor Department
425 S. Palos Verdes St.
San Pedro, CA. 90731

Subject: Berths 148-151 Wharf Improvement Project Mitigated Negative Declaration

Dear Mr. Cannon,

We appreciate the work by the Environmental Management Division in preparation of the Subject MND and request consideration and response for the comments below.

- 1) We request that a more comprehensive, full Environmental Impact Report be completed for the following reasons:
 - a. The magnitude of expansion and increased activity that would result from the proposed project is significantly beyond the existing facility;
 - b. The reported plan for a potential lease period of 40 years would allow for currently aging technologies and operational methods to continue without upgrade or improvement through post mid-century by when State and Federal environmental policies require zero emission technologies and operations; and,
 - c. The original marine oil terminal was constructed prior to requirements that would have ensured environmental review, such as a full Environmental Impact Report that we request.
- 2) We request that the air quality impacts, a significant increase in all criteria pollutants except for Nitrogen Oxide, be mitigated through technology or operational methods such that the impacts are reduced in a manner consistent with the San Pedro Bay Ports' public efforts to reduce pollution from Port operations.
- 3) We request that study of the specific Water Quality impacts be re-evaluated in a full EIR to objectively define the estimated or modeled impacts resulting from wharf demolition, pile installation, platform construction, and dredging required for construction of the Project and that the mitigations to reduce the impact to Water Quality be defined in the full EIR.

4) We support the intent and requests stated in the Northwest San Pedro Neighborhood Council letter, "Re: Phillips 66 Wharf Improvement Project MND," and ask that the Environmental Division provide public response for the concerns defined in the letter.

We look forward to your response and appreciate your consideration.

Sincerely,

A handwritten signature in black ink that reads "Douglas Epperhart". The signature is written in a cursive style with a long, sweeping tail on the letter 't'.

Doug Epperhart, President
On behalf of the Coastal San Pedro Neighborhood Council Board

Attachment:
Northwest San Pedro Neighborhood Council Letter Re: Phillips 66 Wharf Improvement
Project MND

Christian Guzman, President
Chris Valle, Vice President
Melanie Labrecque, Treasurer
Victor Christensen, Secretary



Certified Neighborhood Council
Certification Date 02-12-02
NW San Pedro Neighborhood Council
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January 15, 2022

Chris Cannon
Director of Environmental Management
City of Los Angeles Harbor Department
425 S. Palos Verdes St.
San Pedro, CA. 90731

Re: Phillips 66 Wharf Improvement Project MND

Dear Mr. Cannon,

Thank you for the opportunity to comment on the Phillips 66 Wharf Improvement Project draft MND.

This is the third of three recent projects which the port has proposed an MND or an ND rather than a more substantial environmental analysis.¹ As was the case in the other two proposals, this proposal has significant negative environmental impacts that have not been evaluated. We believe the proposed MND should be withdrawn and an EIR prepared and circulated.

Defining the Project

The proposed project includes demolishing and replacing the existing wharves and the following additional items:

- A new 40-year lease [20-year base term and two 10-year extensions].
- A 33% increase in vessel calls,
- Increasing product throughput from about 7,658,573 barrels per year to 13,724,000 barrels per year,
- A six-year construction schedule,
- Demolishing, replacing and expanding both wharves, including pilings,
- Removing, renovating, replacing and refurbishing surge and finished product tanks and constructing additional new ones,

¹ Star-Kist Demolition Project
Phillips 66 Project
Gibson Blvd. Container Parking Lot

- Removing or abandoning in place more than 20 pipelines and replacing them with new ones, and
- Disturbing seriously contaminated soil and groundwater with no plans to remove/treat it or enforce the requirements that previous or present occupants of the project area fulfill their obligations to remediate.

CEQA became law in 1970. This has been a marine terminal since 1919. This area has never been subjected to a full CEQA evaluation.

Granting a New Permit Without Enforcing the Remediation Provisions of the Prior/Existing Agreements Is Itself a Significant Negative Environmental Impact

The Terminal has been used as a marine oil terminal since 1919. A portion of the site, in the center especially, was sublet to various users [Olympic Chemical, Hooker Chemical, LA Terminals] for use as a rail and truck loading rack, to distribute chemicals and petroleum byproducts from the refineries associated with the terminal. The soil and groundwater beneath the Terminal, and probably the wharves, is known to be seriously contaminated with various compounds, including volatile organic compounds, "VOC"s. See Pg. 75, MND.

The Project includes granting a 20-year permit with two 10-year extensions. The last term permit for the area expired in 1990. Presumably it required site remediation upon expiration. None has been performed. Since the old permit expired, occupants have operated there pursuant to a Revocable Permit, a thirty-day term agreement generally used for short term purposes. Phillips 66 assumed the Revocable Permit at some point during the last 31 years. One key provision applicable to Phillips is that it is only responsible for contamination it has added to the site. This means cleanup and site remediation for contamination over most of the last 100 years may be the responsibility of prior users and the Port, rather than the current applicant.

As custodian/trustees of the Tidelands Trust, the Port is expected to enforce its contractual and statutory rights to require remediation of the site. Failure to do so, essentially allowing another 40 years of no cleanup, is a conscious decision that itself creates a substantial negative environmental impact due to migration of pollutants through the soil and groundwater to the adjacent navigable waterways. This will occur due to rising sea levels from climate change, natural migration, tidal pumping, and construction activities related to pipeline and tank replacement. It is also concerning because the Port is allowing Phillips to abandon more than 20 pipelines in place.

None of these impacts or probabilities have been evaluated under CEQA.

Contamination due to Construction/Replacement Activities

Soil and groundwater contamination is common in marine oil terminal areas, under and around old tanks, wharves and pipelines. This is especially true in the central area of the Phillips terminal because it was sublet for years to companies such as Hooker Chemical, Olympic Chemical, and LA Terminals. Among other things, two serious chlorine spills occurred in that area and may be the source of the VOC chlorinated solvents reported in the soils.

The MND declares in one section of the document that no soil disturbance will occur. The document then contradicts itself and states that in one location 5,000 cubic yards of soil will need to be replaced. This terminal's construction dates from 1919 and is undoubtedly sited on riparian sediment which is very permeable and is more likely to permit contaminants to migrate into groundwater via tidal pumping. See also the article on sea rise on toxic sites². Extensive work on replacing and remediating 11 existing tanks, constructing at least three new ones, and replacing at least 20 underground pipelines will take place over the six-year construction period. The construction schedule, for example page A-20 of the MND, lists demolition, construction, refurbishment of tanks but there are no line items for soil remediation/replacement for any of them and no time set aside for those tasks. Similarly, there is no mention of soil remediation or replacement for the pipeline abandonments and replacements.

Current maps of tidal flooding and rising sea levels for the project area should increase the Port's concern over tidal pumping, contamination, storm surge and tsunami zones. See the maps in the Appendix.

We request that the Port establish whether there has ever been a pipeline or tank project that did not result in soil contamination. In fact, it is because of leakage that such replacement projects are undertaken.

The Project is Essentially a New Project, Not a Lease Renewal; All Emissions Calculations Should be Based on a Zero Emission Basis With No Credits for Past Activity

The proposed project includes major improvements which would result in a new terminal, not a continuation of past use where emission baselines can be carried forward. Whatever holdover Phillips is operating on currently can't be renewed as is, and in fact half the property has been closed and unused since 2008 because it is unsafe.

The present terminal was opened in 1919, more than 50 years before the California Environmental Quality Act became law, and as such was never analyzed for environmental impacts under CEQA. As the draft indicates, half the facility is unsafe and unused since 2008. In the meanwhile, the California MOTEMS program has been codified so that very substantial demolition and reconstruction of the entire facility is required before an operating marine oil terminal agreement can be granted.

Phillips currently has no rights to a new term permit for the site. We understand the difficulty in deciding whether a full environmental assessment is necessary for lease renewals, especially oil terminals, but here, all of it is deficient and half of it can't be used at all. Also, it is doubtful whether any environmental assessment has ever been done for the facility.

The Impacts of the Projected Increased Throughput Have Not Been Evaluated

The "baseline and future year operational levels" chart on Page 8 on the MND indicates there will be an increase of 77 vessel call per year, or 33% increase.

This increase in ship traffic will nearly double the throughput from 7,658,573 barrels per year to 13,724,000 barrels per year. The draft MND does not say whether this is an increase in refinery feed stock, feed stock to other refiners connected through the pipeline system, or exports. We

² <https://www.latimes.com/environment/story/2021-11-30/toxic-tides-sea-level-rise>

cannot therefore comment on whether this represents a growth inducing impact that has not been evaluated. Of particular concern is whether the lines could be used for either the import or export of butane or LPG to or from the Rancho facility on North Gaffey St. or from some other facility via USDOT connected pipelines.

The MND Uses Improper Calculations of Air Quality Impacts

A 77-vessel increase is 33.7%. Nevertheless, the draft claims it is an insignificant increase compared to the 1800 ship calls per year in the Port.

This is a misleading and improper way to calculate impacts. First, this is essentially a new project. Past usage should not be credited against the overall pollution created. Second, by way of analogy, the method used to calculate impacts is tantamount to saying that adding 100,000 cars per day to San Pedro and Wilmington roads would be an insignificant impact because there are millions of cars in Los Angeles County.

The impacts analysis should be based on an operational baseline of zero, given the length of time since the expiration of the past permit, and the absence of any prior CEQA analysis of the terminal operations.

Pipeline Demolition and Replacement, Environmental Impacts

In the past, a compelling reason to insist on an environmental assessment of marine oil facilities before renewing a lease, has been the pipelines. Pipelines leak. When they leak, they contaminate the soil in the area of the leaks and leach into the groundwater and/or adjacent open sea water. That is certainly true for a terminal that has been in use for over 100 years.

This project includes removing and replacing dozens of pipelines which we expect will be done under current environmental standards including a soils investigation to locate contamination and then, preparation of a cleanup plan. While it may be that an investigation was done, we have not found it in the IS/MND. We did, however, examine the work flow charts and did not find any line items [nor time set aside] for contamination cleanup. See for example, page A-20 of the draft MND. We note also that the prior permit required remediation, none of which has been performed.

Our pipeline concerns relate also to the loading racks and underground pipelines in the blue outlined area as shown in the figure on page 7 of the IS/MND. That area was formerly rented by the Southern Pacific Railroad and the oil terminal operator [for many years this was Union Oil] to companies such as Hooker Chemical and Olympic Chemical. The products dispersed from associated tanks via the loading racks to rail cars and some trucks, were especially toxic chemicals such as chlorine. There are at least two well documented spills there, resulting in injuries and shutdown of a wide area, including Todd Shipyards just across from the site. We do not find any discussion of whether those uses have a residual impact on the soils and groundwater in the area.

Matters to Address in a Full EIR

We request that a more comprehensive, full Environmental Impact Report be completed because the magnitude of expansion and increased activity that would result from the proposed project is significantly beyond the existing operations. The proposed plan for a lease period of 40

years would allow currently aging technologies and operational methods to continue without upgrade or improvement through post mid-century. By this time State and Federal environmental policies will require zero emission technologies and operations. The original marine oil terminal was constructed prior to requirements that would have ensured environmental review. For this reason, we request a full Environmental Impact Report be prepared and circulated.

We further request that the air quality impacts which include a significant increase in all criteria pollutants except for Nitrogen Oxide, be mitigated through technology or operational methods. These impacts must be reduced in a manner consistent with the San Pedro Bay Ports' public efforts to reduce pollution from Port operations.

We further request that the EIR address the contamination of the site and the methods for remediating it. Now is the time for remediating the soils and waters in and around the tanks, the pipelines, and the area that has been prohibited from use since 2008 for safety reasons. We request that the Board of Harbor Commissioners fulfill its trustee responsibility to care for the sovereign lands by remediating the lands and waters contained in the site.

Proposed Mitigation/Lease Agreement Terms

We request that the Board of Harbor Commissioners adopt as a policy the Clydebank Declaration for Green Shipping Corridors³ and that compliance with the Declaration be included as a requirement in any terminal agreement with Phillips.

We further request that any agreement for use of the terminal include compliance with the Resolution of the Los Angeles City Council adopted on November 9, 2021, calling for the transition to 100% Zero Emission shipping at the Port of Los Angeles by 2030 (reference Council File 21-0002-S175).

Thank you for your consideration and your cooperation in providing us with requested documents.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Christian Guzman', with a stylized flourish at the end.

Christian Guzman, President
On Behalf of the Northwest San Pedro Neighborhood Council

This letter approved by the Northwest San Pedro Neighborhood Council Board on 1/10/22.

³ <https://ukcop26.org/cop-26-clydebank-declaration-for-green-shipping-corridors/>