

San Francisco Bay Conservation and Development Commission

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December 18, 2023

Ms. Khamly Chuop
Port of Oakland
530 Water Street
Oakland, CA 94607
Via Email: <TurningBasins@portoakland.com>

**SUBJECT: DRAFT CEQA Environmental Impact Report for the Oakland Harbor Turning Basins
Widening Navigation Study**

Dear Ms. Chuop:

Thank you for the opportunity to comment on the Port of Oakland's (Port) *Draft Environmental Impact Report (DEIR) for the proposed Widening of the Oakland Harbor's Inner and Outer Turning Basin*, dated October 2023, with notice of availability received via email on October 3, 2023. The comment period for the revised document was initially until November 17, 2023, but upon request from commentors who were seeking an extension for the review period, the Port provided an additional 31-days to review and comment, until December 18, 2023. As you are aware, the U.S. Army Corps of Engineers (USACE) has submitted a consistency determination request for the project at the feasibility stage of project planning. The Commission will vote on the feasibility stage consistency determination request on December 21, 2023. The Commission's review of this document is independent of that analysis and vote as the federal consistency determination is reviewed under the Coastal Zone Management Act, As Amended, and the federally- approved Coastal Zone Management Program for the San Francisco Bay Segment of the California Coastal Zone.

Commission staff has reviewed the Draft EIR for the project though the Commission itself has not reviewed the DEIR. The staff comments discussed below are based the California Environmental Quality Act (CEQA) requirements as a responsible agency that requires a permit under its state authority granted through the McAteer-Petris Act, and in accord with the findings and policies of the San Francisco Bay Plan (Bay Plan), the Suisun Marsh Preservation Act and the Suisun Marsh Protection Plan, though this project is in not located within Suisun Bay, one of the proposed placement sites, Montezuma Wetlands Restoration Project is and has a Suisun Marsh Development Permit. The proposed project and actions are located within the Bay and the 100-foot shoreline band. The following comments are offered for the Port's consideration and consist of both general and specific comments concerning the DEIR.

According to the DEIR, the purpose of the proposed project is to widen the Port of Oakland's Inner Harbor Turning Basin (IHTB) and Outer Harbor Turning Basin (OHTB) to improve navigational efficiencies and safety, and reduce restrictions for container vessels currently traversing the Port today and predicted in the future. The proposed widening of the IHTB



involves demolition of existing landside structures at both Howard Terminal and at Alameda Landing (300 Mitchell Avenue, Alameda) including wharves; fast land excavation; dredging; installation of bulkheads; rip-rap; and new piles (sheet piles, batter piles, and anchor tie-backs). At Schnitzer Steel Industries/Radius Recycling, install a subtidal retaining wall and rip rap to stabilize the subtidal slope. The OHTB widening will include dredging areas of subtidal habitat not previously dredged.

In the DEIR, an impact analysis was used to determine an environmentally superior alternative for the project. The document states that if the “No Project Alternative” is chosen, the DEIR must then select the next most environmentally superior alternative. The DEIR for the Widening of the Oakland Turning Basins identified the no project alternative as the environmentally superior alternative and identified “Alternative 2: Widening of the OHTB” as the second most environmentally superior alternative. The “No Project Alternative” was selected as the environmentally superior option because it would not cause any impacts to communities, fish and wildlife, habitat, and the environment even though the project objectives would not be met. The widening of the OHTB only was considered as the second most environmentally superior project as it would be able to partially meet the project objectives, while having less impacts to communities and the environment. In addition, the Port would also use electrical dredges for the betterment of the project under this second alternative.

We thank the Port for committing to the use of an electric dredge, as we believe this is a vitally important way to address impacts to the surrounding communities, as specifically, the West Oakland Communities have been classified as disadvantaged communities under Assembly Bill (AB) 617 (Garcia, Chapter 136, Statutes of 2017), is an environmental justice community that is overburdened by pollution impacts of the Port activities, most specifically, the emissions from dredges; vessels coming to call; as well as truck exhaust and traffic congestion.

General Comments

Regarding the CEQA Draft EIR review process, the Commission continues to believe that the USACE and the Port should have aligned the release of the NEPA and CEQA documents at the same time and contain consistent, but improved language that is allowable and required under the various NEPA and CEQA laws. Aligning these two processes would have reduced government waste and provided for more efficient coordination, further it would have lessened the burden on the communities that are also reviewing and commenting on the project. Development of a short document that highlights the differences between the federal and state environmental analysis would be helpful, even at this stage in the CEQA review.

Specific Comments

1. **Proposed Project and Equipment.** Under Section ES.3. (Proposed Project) is states that the project “*involves the widening of both Inner and Outer Turning Basins*” to accommodate larger vessels, while also improving both efficiency and safety. It is understood that the Port will be providing electrical dredges and are to be used under all alternatives for the proposed project to reduce impacts to communities and the environment. However, section ES.5 (Alternatives Considered) and 5.5.3 specify that

diesel-powered dredges will be used under Alternative No. Three (Widening of both the Inner and Outer Turning Basin). May you please clarify if the titles and description under Alternative No. Three for sections ES.5 and 5.5.3 are a typo or if this information accurate? If the information under these sections is incorrect, please revise each section to include the appropriate description and analyses.

The Draft EIR states the Port's "*container-handling capacities*" will not increase and is assumed "*the Port's total projected volume serviced would remain the same*" whether the turning basins are widened. Currently, the Port receives calls from container vessel that have a varying carrying capacity (range of <2,800 to 15,001+ TEU) based on Table 2.3-1. Implementation of the proposed project, container vessels visiting the Port will have a carrying capacity of 19,000 TEU. Regarding the Port's services remaining constant, consumer demand may stay the same, but operations to transport those goods to consumers will see an increase. Please clarify how this is not seen as an increase to carrying capacity. Furthermore, please provide support indicating the Port's services will remain the same with or without widening the turning basins. This remains an unclear issue in the project analysis.

2. **Indirect Impacts, Growth Inducement, and Air Quality.** We understand that the Port is focused on efficiencies within the inner and outer harbor, and that the Port has limited capability to accommodate an infinite amount of cargo due to availability of berths, time to load and offload vessels, and landside space and other constraints. However, the Port currently has 28 ships call on average a week. By increasing efficiency, up to 43 ships could come to call on an average week, thereby increasing the number of large ships coming to call, and thereby the flow of goods and trucks on and off Port facilities. Please explain whether an expanded turning basin would *encourage* the private terminal operators to make investments to upgrade their cargo handling capacity in response to the increase in larger ships calling more frequently at the Port, and whether that would in turn lead to *higher-than-expected growth*. If this is the case, please explain if *this higher-than-expected growth* would then in turn increase the emissions from vessels and trucks, as well as traffic congestion resulting from the proposed project. Please provide information regarding the Port's Zero Emission's program, its timing, and how the program would interface with the vessels coming to call and the Port's process and transport.
3. **Beneficial Reuse of Dredged Sediment and Soils.** The Commission staff continues to appreciate the Port's commitment to beneficially reuse the sediment dredged and excavated from the Proposed Project. We note that Table 2.5-3 outlines an estimated volume of dredged sediment and terrestrial soils; for beneficial reuse it states that only 454,400 cy of this volume is designated as cover quality material, compared to 1.7 million cy for foundation quality. As previously stated in the NEPA comment letter, the same problem persists in that, based on the amounts indicated above, it does not seem possible to cover the foundation sediment layer with the necessary three feet of cover

quality sediment. Please explain where the Port anticipates obtaining the cover quality sediment necessary to cover the foundation quality sediment. In addition, please describe whether the USACE anticipates beneficially reusing the additional annual maintenance dredged sediment from the larger turning basins.

- 4. Greenhouse Gas Emissions.** Thank you for including an impact analysis on the potential greenhouse gas (GHG) emissions for this proposed project. Section 4.9, Accumulative Greenhouse Gas Emissions, states that the potential impacts from the proposed project will be less than significant with mitigation and carbon sequestration will offset construction emissions by beneficially reusing dredged sediment. This statement appears to be farfetched as the Draft EIR only cites one source for support and the project proponents – the USACE and the Port – have yet to test this assumption. Carbon sequestration, based on existing literature, may occur in as little as two years¹ or several years after dredged sediment is placed at a wetland restoration site. Additionally, there is evidence that suggests young-restored wetlands may also be sequestering carbon at lower rates²³⁴⁵, when compared to the global estimate⁶ of approximately 220 g C m⁻² year⁻¹ for tidal salt marshes. The impacts of dredge sediment on carbon sequestration for restored wetlands is challenging to answer as this is a critical knowledge gap that requires further investigation. Please provide additional information or sources that support the claim “*construction emissions would be offset by the carbon sequestration of the beneficially reused sediment.*”

In addition, we must also acknowledge that there is a potential for GHG to be released from dredged sediment as it is exposed to the atmosphere⁷⁸ and when terrestrial soils are disturbed⁹. Thus, we believe that further analysis should be considered regarding the release of GHG from not only construction activities but from natural resources (i.e., dredged sediment and disturbed terrestrial soils) as well. Furthermore, Section 4.9 is missing a description of the considered mitigation measures that is referenced (Mitigation Measure GHG-1) in the body of the “Impact Analysis” paragraph.

- 5. Environmental Work Window.** Thank you for the commitment to work within the environmental work windows for salmonids and herring, and explaining the USACE anticipates that USFWS will authorize work during the least tern breeding season and allow in water work prior to August 1st each year. We look forward to reviewing the USFWS’s opinion in this regard as well as receiving California Department of Fish and Wildlife’s position on this issue.

While the DEIR acknowledges the federal agencies authority regarding the federal Endangered Species Act, it does not fully acknowledge the California Endangered Species Act and the State’s role in managing both listed and fully protected species. As the Port is aware, it will likely need to apply for either an incidental take permit or a stream bed alteration permit from CDFW, which will include analysis, mitigation, and minimization measures for take of state - listed species that the USACE may not be subject to.

6. **Water Quality and Contaminated Sediment.** As discussed with the Port and the USACE, the Commission cannot further review this project without additional information regarding the areas of known or suspected contamination at Howard Terminal, Alameda Landing, and the sediments that would be dredged or disturbed as part of the proposed project. Please work with the Dredged Material Management Office to develop a full sampling and analysis plan, as well as the resulting analysis to further refine how the sediment could be used or disposed.

Similarly, additional information is needed regarding the areas to be demolished such that appropriate controls and minimization measures can be implemented.

7. **Environmental Justice and Social Equity.** Thank you for your continued work to provide meaningful community engagement with the local community. We appreciate your work with our Environmental Justice Manager in this regard and have noted the additional meetings in the effected community. As the Port is aware, the communities surrounding the project do not feel the engagement has been sufficient and continue to raise concerns regarding the lack of discussion, particularly around ways the project can minimize impacts from the construction equipment and materials moving through their communities. The Commission remains concerned about the impacts to the communities, while it recognizes its limited authority, particularly regarding air emissions, noise, traffic, and safety issues, and hopes that the Port continues to engage with the community, seeking their input on how impacts can be further minimized and mitigated.
8. **Biological Resources.** Section 3.4.4 discusses the impacts and mitigation measures to biological resources (i.e., terrestrial, pelagic, intertidal, and benthic habitat; terrestrial and aquatic vegetation; essential fish habitat; and special-status species). Under Section 3.4.4 (Impacts BIO-2: Impacts to EFH), it mentions the introduction of nonnative species via *“dredging vessels that may come from outside of the Bay Area.”* If the proposed project allows more larger vessels to call the Port via efficiencies, this could lead to the introduction of more invasive species to the Bay Area. We suggest that this should be addressed as its own impact and more thoroughly as this may pose a significant issue.

Section 3.4.4 (Impacts BIO-2: Impacts to Eelgrass), describes the implementation of pre- and post-construction surveys which is consistent to the California Eelgrass Mitigation Policy and Implementation Guidelines. Due to the increase in turbidity, as a result of dredging 24 hours/day for 5 months, we recommend additional eelgrass surveys be considered during construction to ensure no eelgrass function is lost.

Furthermore, under Section 3.4.4 (Impacts BIO-3: Impact Analysis) it states *“Wildlife nursery sites are locations where fish or wildlife concentrate for hatching and raising young.... There are no established native wildlife nursery sites in, or in the immediate vicinity of the Proposed project landside or in-water work locations that could be affected by construction activities.”* The Commission notes that there are nearby eelgrass patches to the north of the OHTB site and within the 250-meter buffer zone. Therefore, according

to the definition of a wildlife-nursery site given in the DEIR, there is indeed a presence of a hatching and/or nesting area within the vicinity of the proposed project in-water work location that may be affected by dredge-related activities.

Under Section 6.2 (Significant Irreversible Impacts), it states that *“expansion of the IHTB would permanently convert approximately 10 acres of terrestrial land into intertidal or subtidal habitat”* and *“this permanent conversion of land to open water would create additional habitat for aquatic species and have negligible impacts to terrestrial species.”* The Commission understands the terrestrial habitat is likely of little value to wildlife as it is within a Port terminal and a developed area. However, staff notes that the increases 10 acres of subtidal habitat is also of little value as it is within an active Port within significant ship traffic. Further, annual maintenance dredging at the IHTB will be required to maintain safe and efficient navigation. Therefore, such activity will continually disturb the benthic habitat, which is not consistent with the description of *“creating additional habitat for aquatic species.”* Further, the Outer Harbor expansion would also convert 20 acres of undisturbed shallow water habitat to annually disturbed deep-water habitat, an additional permanent impact to subtidal habitat of the Bay.

The Commission, as discussed above, is concerned with impacts to visually foraging bird species, including California least tern and brown pelicans, will occur as temporary increases to turbidity may cause fish to migrate out of the project area or make it difficult to seek the fish from the air. Further, it remains that Port is not considering potential impacts from dredging the OHTB which is closer and more likely to affect foraging as the area proposed for deepening is shallow water habitat favored by the terns and other diving piscivores. Please further describe how these potential effects can be minimized or avoided.

In addition to the dredging work, we’d also like to note that the pile driving effects as well and turbidity from the in-water work may disturb the fish that the nesting terns rely on for forage. This may in turn require terns to forage further from the nesting site leading to poor nesting success. Further, as noted from the Biological Assessment the assumption is being made that the noise created by work in the inner channel may be contained by the surrounding land, but it may in fact be amplified by the narrowness of the channel. This potential amplification should be further investigated or better explained why it would not occur. Further, it appears that the Port is only considering the impacts the least tern from the IHTB work, while the OHTB is closer and more likely to affect the least tern foraging as the area proposed for deepening is shallow water habitat favored by the terns and other diving piscivores. Please further describe how these potential effects can be minimized or avoided.

9. **Public Access and Recreation.** As discussed with the Port, the Commission policies direct it to ensure that *“any project within its jurisdiction provide maximum feasible public access to the Bay’s shoreline consistent with the project.”* Public Access Policy 1 states in part that, *“A proposed fill project should increase public access to the Bay to the maximum extent feasible.”* When public access is not feasible on site, the Commission looks to the project proponent to provide offsite, but nearby public access, such as

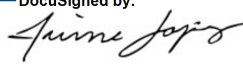
overlooks and viewing opportunities, or funds for alternate public access in the affected community commensurate with the project. Further, when in lieu public access is necessary and cannot be located nearby the project, the policies support developing public access in vulnerable communities. Please address how the project will provide the maximum feasible public access consistent with the project.

Regarding impact to existing recreational activities, we appreciate the impact analysis discussing how the project would impact public access and recreational views during and post-construction. Under section 3.13.4, Impact REC-1 and Impact REC-2, it states that the expansion of the Turning Basins will cause temporary noise, air, and vision quality impacts, which may limit use at recreational facilities in the area. Thus, causing the public to relocate to other locations from the project area. As mentioned in the NEPA comment letter, we suggest *“providing information (e.g., signage) to the public about the project’s purpose, temporary impacts, and alternative recreational opportunities nearby not affected by the project, and/or provide options for public use during the two-plus-year construction period. Similarly, information should be provided to the recreational fishing community and boating community about the timing and potential limitations of estuary use during and post dredging and construction.”*

10. **Consistency with the San Francisco Bay Area Seaport Plan (Seaport Plan).** The Seaport Plan is an element of the Bay Plan and is used by BCDC in making port-related regulatory decisions on permit applications, and related matters (See Section 66651 of the McAtteer-Petris Act, codified at the Government Code). BCDC recently undertook a general update to the Seaport Plan (Bay Plan Amendment 1-19). While the Seaport Plan Amendment received approval at the November 16, 2023, Commission meeting, it has not yet been reviewed and approved by the Office of Administrative Law, therefore is not yet in affect. However, the Commission anticipates the review to be complete prior to permitting this project, so the 2023 revisions should be considered as the Port moves forward in its planning process.

Thank you for providing staff with the opportunity to review the Draft EIR for the proposed project. If you should have questions regarding this letter or the Commission’s policies, please feel free to contact me at (415) 352-3648 or jaime.lopez@bcdca.gov. We look forward to working with the Port to further evaluate this proposed project.

Sincerely,

DocuSigned by:

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Jaime Lopez
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¹ Valach, Alex C., et al. "Productive wetlands restored for carbon sequestration quickly become net CO₂ sinks with site-level factors driving uptake variability." *PloS one* 16.3 (2021): e0248398.

² Callaway, John C., et al. "Carbon Sequestration and Sediment Accretion in San Francisco Bay Tidal Wetlands." *Estuaries and Coasts*, vol. 35, no. 5, Sept. 2012: 1163-1181

³ Bernal, Blanca, and William J. Mitsch. "Carbon sequestration in two created riverine wetlands in the Midwestern United States." *Journal of Environmental Quality* 42.4 (2013): 1236-1244

⁴ Vaudrey, Jamie MP et al. "Restored Living Shorelines: A comparison of ecosystem services relative to natural marshes." (2019)

⁵ Mason, Victoria G., et al. "Blue carbon benefits from global saltmarsh restoration." *Global Change Biology* (2023): 6517-6545

⁶ Chmura, Gail L., et al. "Global carbon sequestration in tidal, saline wetland soils." *Global biogeochemical cycles* 17.4 (2003).

⁷ Kosten, Sarian, et al. "Extreme drought boosts CO₂ and CH₄ emissions from reservoir drawdown areas." *Inland waters* 8.3 (2018): 329-340.

⁸ Paranaíba, José R., et al. "CO₂, CH₄, and N₂O emissions from dredged material exposed to drying and zeolite addition under field and laboratory conditions." *Environmental Pollution* 337 (2023): 122627.

⁹ Rastogi, Monika, Shalini Singh, and H. Pathak. "Emission of carbon dioxide from soil." *Current science* 82.5 (2002): 510-517.