US Army Corps of Engineers®

Oakland Harbor Turning Basins Widening

Revised Draft Integrated Feasibility Report and Environmental Assessment

APPENDIX A10a:

Response to Public Comments
Comments #1 - 62

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The U.S. Army Corps of Engineers (USACE) and the Port of Oakland thank the public for their comments on the Draft Integrated Feasibility Report and Environmental Impact Statement / Environmental Impact Report (IFR) during the December 2021 – January 2022 comment period. This appendix provides responses to all comments received by mail or email during the public comment period. Repeated comments from both the public and other state and federal agencies, expressed concern over the potential for the proposed project to cause increased ship and landside traffic. These two concerns are framed as general comment themes and are displayed with responses in the first pages of each of the Public Review Comment appendices. All other comments and responses are included for each individual comment letter. The responses to each comment letter are summarized in a table followed by the specific comment letter.

The following tables are organized to display responses by USACE and the Port of Oakland as follows:

- First Column – numbers corresponding to comments highlighted in the comment letters, as shown in Attachment 2 of this appendix
- Second Column – USACE and Port of Oakland responses
- Third Column – Section of second draft integrated feasibility report where the revision(s)/updates(s) were included in response to each comment, as applicable.

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General Comments and Responses		
Response Number	**General Theme**	**Response**
General Comment (GC)- 1	Induced Growth & Cargo Throughput	The evaluation of the potential for induced growth is found in Section 5.7 of the Draft IFR/EA. This response is designed answer multiple comments regarding the potential for induced growth, increased capacity and impacts to Port operations from implementation of the project. The Recommended Plan is designed to improve both the efficiency and safety of vessel movements, thereby creating the savings that are the main driver of national economic development (NED) benefits. However, this design does not include any elements that can a) remove any barriers to growth, b) shift cargo from one port to another, or c) increase the Port's container handling capabilities. Accordingly, waterway improvements like the one proposed here would not increase cargo throughput or induce growth. For a container port, throughput is the amount of cargo that can pass through a port, measured in the amount of twenty-foot equivalent units (TEUs). A port's maximum practical throughput is called the terminal's container handling capacity, that is how many containers the terminal could handle given its size, configuration, and equipment. A terminal's capacity can be limited by 1) the number of vessels it can accept at a time (berth-constrained) or 2) by how much cargo its landside facilities (e.g., container yard, truck gate, pumps, pipelines, and storage tanks) can handle (yard-constrained). These barriers to growth or handling capacity are not modified by the Recommended Plan as it only increases the diameter of the two turning basins. It neither adds physical berthing space nor includes any landside facility elements, either of which would require its own project-specific environmental review. Without these two types of modifications, the Port's maximum capacity remains approximately 5.6 million TEUs (Appendix C). The San Francisco Bay Conservation and Development Commission (BCDC) developed the May 22, 2020, 2019-2050 Bay Area Seaport Forecast (2020 Tioga Report), incorporated by reference in the Draft IFR/EA, explains, analyzes, and forecasts container movements and capacity for Bay Area Ports, including the Port of Oakland. As explained in the 2020 Tioga Report, projected cargo volumes at the Port are determined by economic activity, specifically the volume of consumers served by the Port

		and the amount of goods that people buy and consume, both in the Bay Area itself and in the broader Central and Northern California market. It is the major economic factors such as recessions, trade conflicts, and global events like the novel Coronavirus, that impact trade and drives activity at Ports, rather than individual Port improvement projects like the Recommended Plan. The 2020 Tioga Report details how the turning basin's fail to impact growth by showing that should ships be limited to a 14,000 TEU capacity, the largest ship that can utilize the Inner Turning Basin, the Port could still accommodate moderate or high growth. The limitation simply shifts the forecasted vessel calls from 29 to 40-43 ships a week. The Port could still manage to accommodate this level of future growth albeit with restrictions, delays, and suboptimal navigational and environmental impacts. This scenario also illuminates how the Recommended Plan produces efficiency when compared to the future without project scenario. The Port's ability to continue to handle less than 30 larger vessels a week rather than attempt to accommodate 40-43 smaller ones, allows for improved planning of ship and cargo movements. Yet, the Port will never be limited to an entirely 14,000 TEU capacity ship future, because ULCVs with approximately 19,000 TEUs are able to call at the Port, though not easily since they are unable to use the turning basins. Therefore, the Port's ability to accommodate potential growth is not limited by its turning basins and the Recommended Plan cannot cause or allow growth. The Recommended Plan and its benefits are independent of growth.

General Comments and Responses		
Response Number	**General Theme**	**Response**
GC-2	Truck Management	The West Oakland Truck Management Plan is an action-based plan designed to reduce the effects of transport trucks on local streets in West Oakland. It was developed as a partnership between the City of Oakland, Port of Oakland, and the community members in which this plan applies and was approved by the City and Port in April 2019. On April 19, 2022, the City of Oakland adopted updates to the truck parking regulations in West Oakland (one of the ten strategies outlined in the Truck Management Plan). The City of Oakland and the Port are continuing to work on the approach to update the truck route network, another key strategy of the Truck

		Management Plan that includes a continued community driven process. Construction trucks will use the haul routes for the Recommended Plan as discussed in the revised EA under Navigation and Transportation. Additionally, the construction contractor would be required to prepare and implement a traffic control plan as part of the Recommended Plan construction. Construction trucks would be subject to and must comply with City of Oakland designated truck routes and parking regulations much like any other truck traveling within West Oakland. For a description of current truck operations at the Port, see Section 3.10.2.

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Environmental Protection Agency

1. Environmental Protection Agency		
Commenter: Connell Dunning		
Comment Number	**Response**	**Location in IFR/EA**
1	The draft Health Risk Assessment (HRA) is now being included as Appendix A-4b to the Draft IFR/EA for ease of everyone's review. In re-releasing the Draft IFR/EA, USACE considered your comments and preference for combining the NEPA and CEQA documents. However, the release of the CEQA document is not expected until late 2023. Such a delay would jeopardize USACE's ability to timely request authorization for the Recommended Plan. While USACE is actively coordinating with the Port in order to ensure alignment between the NEPA and CEQA documents, the preparation of these documents is too far along to integrate them at this time. Such integration would be time consuming, require significant public resources from both USACE and the Port, and delay any request for authorization, as explained previously. Therefore, USACE and the Port are unable to integrate the NEPA and CEQA document. USACE also considered EPA's preference for synchronizing the release of the NEPA and CEQA documents. However, in accordance with the realignment and updated project description as discussed at our February 1, 2023 Senior Leadership meeting, this would also would jeopardize USACE's ability to timely request authorization for the Recommended Plan. Further, an alignment of releases requires commenters to review both the NEPA and CEQA documents during an overlapping comment period, creating an extra burden on them. Therefore, USACE will not delay the re-release of the draft EA to align with the CEQA document release.	Appendix A-4b
2	Acknowledged. Additional GHG analysis has also been added. See Section 6.14	6.14
3	In response to EPA's comment, the USACE has considered the potential for changes to container movement associated with the Recommended Plan and determined that the Recommended Plan would not be expected to cause reasonably foreseeable shifts in container movement timing, scope, or location. See GC-1. Additional GHG analysis has also been	5.7, 6.14, Appendix A-7

	included in Draft IFR/EA Section 6.14. See Appendix A-7 for a list of all the emissions reduction strategies the Recommended Plan intends to implement. The efficiencies of ship movement resulting from the Recommended Plan are not expected to influence the timing, scope, and location of Port and/or freight throughput operations. The re-released Draft IFR/EA explains that container cargo volumes are independently forecasted to continue to grow in the future regardless of the Recommended Plan, which is consistent with previous analyses and other nationwide deep draft feasibility studies unrelated to this study. The Recommended Plan is not expected to induce cargo growth (shifts from other ports or new business) from the future without project baseline. However, the Recommended Plan would allow the Port to accommodate cargo vessels more efficiently, thereby maintaining economic benefits to the region over time. This vessel efficiency results in environmental and economic benefits.	
4	In response to comments received, an Outer Harbor Only Alternative with electric dredges was considered, but ultimately eliminated from further review because it would not provide the benefits of the NED Plan and electrification of dredging would increase the cost, thereby lowering the benefit cost ratio well below the alternatives carried forward for evaluation. The alternative of widening both turning basins with electric dredges was identified as the comprehensive benefit plan, which would maximize benefits across all benefit accounts USACE utilizes. Because an Outer Harbor only alternative would not maximize NED benefits, an Outer Harbor only alternative with electric dredges would not be a comprehensive benefit plan and therefore was not carried forward as such. Moreover, from the Environmental Justice perspective, an Outer Harbor Only alternative, regardless of dredging method, would potentially leave those communities adjacent to the Inner Harbor out of the localized air quality benefits stemming from more efficient ship traffic. See GHG analysis in Section 6.14. The West Oakland communities are closer to the Inner Harbor, where the Port has 11 container berths. Port configuration and the location of terminal operators often determines which ships utilize which berths, therefore, regardless of their size, ships are generally contractually obligated to use either the Inner or Outer berths based on their cargo. The Port does not have	Chapter 6, 6.14

	meaningful flexibility in directing ships to either the Inner or Outer based on their size. Thus, it is important to address the vessel movement inefficiencies at both turning basins. Expected benefits from addressing those inefficiencies include reductions in marine air pollution sources that would be caused by ships idling resulting in longer transit times in absence of the Recommended Plan.	
5	The ASA(CW) has approved the use of federal funds for beneficial use of all suitable dredged material from the Recommended Plan. Therefore, no material is expected to be disposed of at SF-DODs. Best management practices are proposed and will be implemented in the handling and transport of dredged material and construction debris are included in the Draft IFR/EA. See Appendix A-7 for a full list of all Avoidance and Minimization Measures, below are some examples: • Use of approved truck routes • Implement a traffic control plan for construction • Cover truck loads • Restricted hours of operation • Surface sweeping • Restriction on idling	Appendix A-7
6	The Draft IFR/EA includes an analysis of direct, indirect, and cumulative impacts resulting from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions. See Section 6.16.	6.16
7	See Response 1. At this time, USACE has made an initial determination that, with implementation of the recommended avoidance and minimization measures, the impacts of the Recommended Plan would be less than significant and thus an EA is appropriate in this situation. If new circumstances require USACE to pursue additional environmental analysis, the Agency will do so pursuant to NEPA.	Throughout
8	8a: The BAAQMD has been engaged with the study's Resource Agency Working Group and USACE will continue to coordinate with BAAQMD. The Draft IFR/EA includes air quality impact avoidance and minimization measures as a part of the Recommended Plan and the USACE will continue to	3.13, 5.7, Appendix A-4b, Appendix A-7

	consider other recommended measures to avoid or minimize air quality impacts associated with the Recommended Plan. 8b: The Recommended Plan is not expected to have reasonably foreseeable impacts on landside Port operations, such as the transport and movement of freight through the communities around the Port. See GC-1. Specifically, commodity volume is driven by regional demand for goods that are shipped in containers – i.e., the volume of consumers served by the Port and the amount of goods that people buy and consume. So, whether those containers arrive or depart the Port on fewer, bigger ships; or more, smaller ships; or are trucked in from a different port altogether, the demand remains independent of the vessel size. Widening the turning basins enables fewer, larger ships to carry the same number of containers, potentially reducing environmental impacts from those vessel operations. Landside operations are managed by marine terminal operators and the Recommended Plan would not modify marine terminals nor increase their capacity. These operators also have existing appointment systems to aid in the management of truck traffic. These operations are outside the scope of this effort. The Recommended Plan does not control or propose to modify or change how independent private marine terminal operators manage the receipt and delivery of containers. Forecasts project that container cargo volume will continue to grow regardless of the Recommended Plan. 8c: The Draft IFR/EA includes the draft HRA as an appendix (Appendix A-4b). The draft HRA analyzes the impacts of emissions from the Recommended Plan on receptors, including construction emissions. See Response 8b regarding landside operations. The Draft IFR/EA discusses beneficial reductions to emissions from vessel operation efficiencies associated with the Recommended Plan. 8d: The Draft IFR/EA identifies all avoidance, minimization, and mitigation measures included as part of the Recommended Plan. See Appendix A-7. 8e: See Response 8c. 8f: See Responses 8b. and 8d.	
9	9a. The Truck Management Plan was developed by the Port and City of Oakland and is enforced by the Oakland Police Department. This Truck Management Plan does not include a specific construction truck haul route for this Recommended	3.10.2, 6.10, Appendix

	Plan. However, construction trucks will be subject to the Truck Management Plan much like any other truck. The Truck Management Plan has already been designed to limit trucks driving or parking by residential areas and other sensitive land uses. The expected haul routes for the Recommended Plan are discussed in the Draft IFR/EA under Section 3.10.2 and 6.10. Additionally, the construction contractor would be required to prepare and implement a traffic management plan as part of the Recommended Plan's construction. See GC-2. 9b. The Recommended Plan includes the requirement to use EPA Tier 4 off-road engines to minimize emissions, among other requirements. See Appendix A-7. The Port of Oakland adopted an electric infrastructure plan for the maritime waterfront areas of Oakland. Additionally, the City of Oakland requires industrial and warehouse facilities to provide electrical connections for electric trucks in support of CARB regulations. Lastly the Port of Oakland supports the transition to zero-emission drayage truck commercialization efforts as part of the 2020 and Beyond Seaport Air Quality Plan. 9c. The Draft IFR/EA discusses these effects and includes a cumulative impact analysis. See Appendix A-7 for additional avoidance, minimization, or mitigation measures.	A-7
10	The Draft IFR/EA includes this analysis, see Section 6.14.	6.14
11	See Response 4.	
12	USACE, in conjunction with the Port, has conducted public meetings and additional meetings with West Oakland Community groups (Prescott, Acorn, and West Oakland Environmental Indicators) since the release of the initial draft study. USACE continues to work with EPA, Bay Conservation and Development Commission (BCDC), and Port of Oakland Environmental Justice leads to plan additional community meetings. USACE will continue to uphold Assembly Bill 617 by reducing exposure in communities most impacted by air pollution. 12a: USACE continues to engage with the public. The Draft IFR/EA includes responses to comments in Appendix A-10 and has incorporated changes in the revised Draft IFR/EA, as appropriate. Re-releasing the Draft IFR/EA will provide for another public review and comment period on the NEPA document and additional outreach and engagement opportunities with the public.	Appendix A-7

	12b. USACE continues to follow Plain Language Policy to ensure that reports are written in simple, easy-to-understand language, avoiding complicated scientific or engineering terms, jargon or acronyms that are difficult for the public and media to understand. Translated copies of the report will be posted and announced when ready. 12c. USACE continues to engage with the West Oakland community. See Appendix A-7 for air quality minimization and mitigation measures.	
13	13a. The Recommended Plan will limit sediment transport to designated trucking routes, which avoid local communities. See Appendix A-7 for transport minimization and mitigation. See GC-1 on how the Recommended Plan does not impact the operational activities of the Port. 13b. See Response 6. 13c. A summary of public outreach with the West Oakland Community is now provided in Section 6.1. 13d. Acknowledged and USACE appreciates working with Morgan Capilla.	5.7, 6.1, Appendix A-7
14	USACE appreciates this recommendation and will work to ensure study information and outreach is responsive to language needs of potentially affected individuals. Anticipated translated languages will be Spanish and Mandarin. The availability of the translated Draft IFR/EA will be advertised when complete.	N/A
15	Acknowledged. USACE continues to engage with the public with attention to disadvantaged communities, including compliance with the 15 Mar 2022 ASA Memo on Implementation of Environmental Justice and the Justice40 Initiative.	6.1
16	Acknowledged. Thank you.	N/A
17	The footprint of the Inner Harbor Turning Basin has been slightly realigned in response to public comment received on the initial draft report. This shift has resulted in the need for in-water fill and pile driving to install a small slope retaining feature in the water adjacent to the Schnitzer Steel property. While in-water fill was not originally included as a part of the Recommended Plan, the Draft IFR/EA now addresses fill in Waters of the US and therefore includes a 404(b)(1)	6.3, Appendix A-3

	assessment to demonstrate compliance with Clean Water Act (CWA) section 404. In water fill also triggers a need for compliance with CWA section 401. To comply with CWA section 401 a water quality certification will be sought after the feasibility phase during pre-construction engineering and design (PED).	
18	18a: USACE is proposing to conduct dredging activities during environmental work windows and to use silt curtains in areas where we would expect to find sediments with elevated contaminant concentrations. Environmental buckets will be used where technically feasible. See Appendix A-7. 18b: See response to comment 17. 18c: While the project still has no plans to employ ocean disposal, we will include a statement describing the governing statutes for ocean disposal. See Section 7.1.	Section 7.1, Appendix A-7
19	The Draft IFR/EA includes cumulative impacts and identifies appropriate mitigation measures. It also discusses how the new alignment fits with Howard Terminal. The Port has explained publicly that Howard Terminal plans considered and reserved ample space for the Inner Turning Basin expansion. The Port has enough additional acres to accommodate the loss of Howard Terminal from its current ancillary uses. Howard Terminal is not a currently active marine terminal.	2.2.1, 6.16

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105-3901

February 14, 2022

Eric Jolliffe
Environmental
Manager
United States Army Corps of Engineers, San Francisco
District 450 Golden Gate Ave, 4th Floor
San Francisco, California 94102

Subject: EPA Comments on the Oakland Harbor Turning Basins Widening Navigation Study, Draft Integrated Feasibility Report/Environmental Assessment, Alameda County, California

Dear Eric Jolliffe:

The U.S. Environmental Protection Agency has reviewed the above-referenced document. The Draft Integrated Feasibility Report/Draft Environmental Assessment analyzes the U.S. Army Corps of Engineers proposal to widen the federal navigation channels of Oakland Harbor turning basins to enable larger containerships to more efficiently enter the Port. The analysis identifies Alternative D-2 - Inner and Outer Harbor modifications using electric dredges and beneficial placement as the Tentatively Selected Plan. Our review is pursuant to the National Environmental Policy Act, Council on Environmental Quality regulations (40 CFR Parts 1500-1508), and our NEPA review authority under Section 309 of the Clean Air Act. We offer the following recommendations (described in further detail in the attachment) for consideration as the environmental analysis proceeds, and to assist USACE in determining if a draft Finding of No Significant Impact is supported, or if a supplemental Environmental Assessment or Environmental Impact Statement is necessary.

NEPA/CEQA Integration

Per information shared at the public meeting on January 12, 2022, USACE stated that some analyses regarding potential environmental impacts of concern to the public will be addressed pursuant to the California Environmental Quality Act through an Environmental Impact Report, which USACE has informed the EPA will be initiated in April 2022 and will be in preparation into the following year. The EPA strongly recommends that USACE consider linking NEPA and CEQA analysis to provide a more cohesive public engagement and feedback process and to reduce the potential need to revisit decisions based on additional environmental analyses that have yet to be finalized, have not been shared with decisionmakers and the public, and are still in process through the CEQA analysis. The yet-to-be released Notice of Preparation and associated scoping period, and subsequent months-long process to prepare the Draft EIR, provide an opportunity to synchronize NEPA next steps with CEQA document release milestone dates in accordance with the State of California and Council on Environmental Quality guidance (NEPA and CEQA: Integrating Federal and State Environmental Reviews (2014). [1]

1

Air Quality and Environmental Justice

The EPA appreciates that the Draft EA describes that The project area is located near the West Oakland community that faces a high cumulative exposure burden to criteria pollutants and toxic air contaminants. West Oakland was selected by the California Air Resources Board to participate in the state's Community Air Protection Program pursuant to California Assembly Bill 617. The Bay Area Air Quality Management District is working with the community to develop and implement an air quality emissions and exposure reductions programs to address disproportionate air pollution impacts. The EPA appreciates measures, including commitment for electric dredge, identified in the Draft EA to lessen potential adverse air quality impacts given that The project area experiences some of the worst air quality in the nation. Given The project's setting, the EPA recommends additional analyses and considerations to further reduce environmental impacts. 2

The Draft EA states that the Tentatively Selected Plan would increase the efficiency of ships entering/leaving the Oakland Harbor; therefore the EPA encourages USACE to work with the Port of Oakland to analyze and disclose how the resulting container movement efficiencies would influence the timing, scope, and location of port and freight throughput operations, and also impact local and regional air quality. Identifying all available construction and operational emissions reduction strategies and reducing emissions from the construction and widening activities, as well as from changes to port operations, is critical for protecting the health of the neighboring Oakland communities and the region. 3

Given that the Inner Harbor widening results in greater impacts across multiple resources, the EPA also strongly recommends USACE update the analysis and disclosure of the potential impacts of an Outer Harbor Only Alternative that integrates electric dredge commitments, and present this option, and all alternatives, in a summary table with a discussion of how an Outer Harbor Only Alternative with electric dredge may meet project goals. 4

Beneficial Reuse of Dredged Sediment

The Draft EA states that The project would generate roughly 1.98 million cubic yards of dredged sediment during construction, with an intention of USACE placing 1.67 million cubic yards of sediment at an upland beneficial placement site and disposing of the remaining 307,000 cubic yards at either San Francisco Deep Ocean Disposal Site or a Class I/Class II landfill. The EPA supports beneficial reuse where appropriate and are able to continue to work with you as opportunities for reuse are refined. We note that if widening the Inner Harbor Basin is retained as a part of The project moving forward, reducing the impacts of storing, transferring, and trucking/transporting dredged sediment from the Inner Harbor location to an offsite landfill will be critical for reducing impacts to West Oakland and the region. 5

Integration with Land Use Planning

The public and decisionmakers would benefit from a better understanding of how this project integrates with other planned actions at the Port and in the City of Oakland. Specifically, the EPA recommends a more thorough description of how environmental impacts from The project and connected actions would be less than significant when also considering other reasonably foreseeable future actions in and near the port. 6

The EPA appreciates the opportunity to review this Draft EA. When the Final EA is released for public review, please notify Andy Zellinger, and make an electronic copy available. If you have any questions, please contact me at (415) 947-4167, or contact Andy Zellinger, the lead reviewer for this project, at 415-972-3093 or zellinger.andrew@epa.gov.

Sincerely,

ONNELL DUNNING

Digitally signed by CONNELL DUNNING Date: 2022.02.14 17:23:27 -08'00'

for Jean Prijatel

Manager, Environmental Review Branch

Enclosures: EPA Detailed Comments

Cc via email: Bryan Brandes, Port of Oakland
Alison Kirk, Bay Area Air Quality Management District
Stanley Armstrong, California Air Resources Board
Julia Kelly, San Francisco Bay Conservation and Development Commission
Kevin Lunde, State Water Quality Control Board

Synchronizing NEPA and CEQA

A joint federal and state environmental review process integrating the requirements of the National Environmental Policy Act and the California Environmental Quality Act can avoid redundancy, improve efficiency and interagency cooperation, and be easier for citizens and applicants. The EPA recommends consulting the 2014 Handbook: NEPA and CEQA: Integrating Federal and State Environmental Reviews (2014) [2], developed by the State of California Office of Planning and Research in coordination with the Council on Environmental Quality. While NEPA and CEQA largely follow the same process for determining the need for an Environmental Impact Statement or Environmental Impact Report, or Environmental Assessment/Initial Study, it is recommended that state and federal agencies synchronize the processes so that the public is not presented with multiple commenting periods, and decisionmakers have the maximum suite of potential alternatives and project design options to consider without revisiting prior analyses and conclusions.

7

Recommendation:

- The EPA suggests USACE synchronize NEPA and CEQA for the remaining elements of the planning process.
- If USACE intends to continue to pursue an Environmental Assessment to demonstrate NEPA compliance for The project, we recommend publishing a supplemental EA at the same time as the publication of the Draft EIR and publishing the Final EA with the publication of the Final EIR.
- Should USACE determine that The project may result in remaining significant impacts, the EPA recommends synchronizing the release of a Draft EIS with the Draft EIR, and a Final EIS with the Final EIR.

Air Quality

The project area is located within the San Francisco Bay Area Air Basin, which faces some of the worst air quality in the country. The SFAAB is designated as nonattainment for the national 8-hour ozone and 24-hour $PM_{2.5}$ National Ambient Air Quality Standards and is considered in maintenance for CO, but the region has not exceeded that CO standard for many years. The Draft EA details how the Tentatively Selected Plan meets General Conformity requirements for the NAAQS and we appreciate that the USACE has incorporated mitigation for The project's construction phase, including the use of an electric dredge as a project commitment to reduce impacts from dredging.

The Tentatively Selected Plan would meet Clean Air Act General Conformity requirements; however, emissions related to The project may shift and potentially increase health impacts to receptors. While the EPA values the emissions mitigation strategies identified in the Draft EA, we recognize the need for immediate identification and implementation of additional, robust measures to achieve the cleanest air quality and improve public health in the region. We encourage USACE to support all additional project design changes and mitigation measures that would result in improved air quality.

Recommendations:

- Coordinate with the Bay Area Air Quality Management District to ensure a robust air quality analysis and potential additional emission reduction efforts to further reduce air impacts. 8a
- Disclose how widening the turning basins would affect timing and intensity of port operations, location and changes related to container offloading, and any changes to transport and movement of freight through the communities around the Port of Oakland. Add clarification to the final environmental document regarding additional air impacts to the community from any connected actions, including altered port operations, if applicable, related to the change in vessel/cargo processing. 8b
- Analyze and disclose adverse emissions and any beneficial reductions to emissions that receptors would experience both from construction and from changes to port operations. 8c
- Identify in the decision document all reasonable mitigation commitments available as a part of construction and operation of the port widening project, including mitigation measures that may be adjacent to the USACE project such as facility-based measures. 8d
- Include a description of air quality and health impacts that may result from the Tentatively Selected Plan and connected actions and the impacts that would result even if The project meets general conformity for NAAQS. 8e
- Incorporate all project features to avoid, minimize, and mitigate emissions from both construction and operational phases of The project as commitments in the final environmental document and decision. 8f

According to pages 174-176 of the Draft EA, construction of the Recommended Plan would increase truck traffic in The project area, an area that faces existing high volumes of truck traffic due to port and industrial activities. Truck traffic is a major concern for community members due to its localized impacts on community health and safety.

Recommendations:

- Describe how USACE and the Port would monitor and enforce construction truck haul routes as part of the Truck Management Plan. 9a
- In addition to the current features of the Truck Management Plan, include commitments to avoid designating truck routes in and near residential areas and other sensitive land uses.
- Consider deploying electric support equipment and electric haul trucks or best available control technologies to minimize 9b

tailpipe emission from truck activity associated with the project.

- Describe in the next environmental document the types of impacts that may result to the neighboring communities and any additional mitigation measures that may further reduce impacts to potentially affected communities.

9c

Section 6.10 of the Draft EA analyzes air quality impacts including air emissions calculations from construction schedule and phasing, proposed construction equipment lists, activity levels, and worker and construction truck trips by phase. However, air emissions calculations in the Draft EA lack an analysis of emissions from vessel operations from the Proposed Action compared to the No Action alternative. According to the Draft EA, expansion of the Inner and Outer Harbor Turning Basins would provide beneficial effects by improving operational efficiency and allow larger vessels to serve the Port (by providing appropriately sized turning basins) but would not increase overall vessel traffic (p. 176). Other environmental impacts such as underwater noise from an active turning event for a large container vessel (*One Aquila*) with three assist tugboats were analyzed in order to understand adverse/beneficial impacts from continued tug-based operations versus a future of vessels being able to turn in the Inner Harbor; however, air quality emissions from this type of turning event were not included in the Draft EA (p. 145). We note that Page 17 of the Draft EA describes current navigational limitations for large vessels calling at the Port of Oakland, including the requirement to back out of berth with multiple tugs and turn outside the Inner Harbor Channel. It further notes that these limitations have been adopted as standard practice for the pilots when handling PPX Gen IV vessels at the Port since 2016, including the four calls that occurred in 2020. The baseline emissions from these four calls may offer insight in predicting what actual air quality benefits may be realized when comparing current operations with what impacts are anticipated if larger vessels are able to turn around inside Inner Harbor.

10

Recommendations:

- Describe how widening the turning basins would impact navigation requirements and possibly eliminate the need for standard practice navigational limitations currently in place for PPX Gen IV vessels making call at the Port of Oakland.
- Identify projected emissions from an active turning event for a PPX Gen IV vessel under current standard practices (with navigational limitations) compared to an active turning event for a PPX Gen IV vessel with the proposed changes to existing turning basins (without navigational limitations). Clarify net emissions reductions/increases from both scenarios.

Revised Outer Harbor Only Alternative with Electric Dredge

Section 4.8.1 of the Draft EA describes how "Alternatives B, C, D-1, and D-2 all contribute to meeting the objectives of improving the efficiency of operations of containerships within Oakland Harbor and allowing for more efficient use of containerships" (p. 114). The Draft EA describes that Outer Harbor Only (Alternative C) could achieve The project objective while resulting in fewer impacts to multiple resource areas (including noise, potential disturbance to water quality from contaminated dredged material, and no required trucking dredged material to an offsite landfill), higher Benefit Cost Ratio[3], and shorter construction duration. The Draft EA notes that construction-related traffic associated with the Outer Harbor Turning Basin Expansion would occur over approximately 6 months, which is a much shorter duration than that of the Inner Harbor (2.5 years) (p. 177).

Based on Table 34 of the Draft EA, Alternative C would result in "moderate" construction related air quality emissions (mainly due to the use of diesel dredge for construction) while Alternative D-2 results in minor construction related air quality emissions (p. 118). The Draft EA does not analyze the benefits and impacts from a design alternative of Outer Harbor Only with a commitment for electric dredges, as was analyzed for the design alternatives including both Inner and Outer Harbor (Alternative D-2). While the Draft EA compares the impacts and benefits of the array of alternatives, the public and decision maker would benefit from further discussion and consideration of how Alternative C - Outer Harbor Only - with a commitment for electric dredge might adequately meet project objectives with fewer impacts.

Recommendations:

- Analyze the impacts from a design option for Alternative C - Outer Harbor Only - that includes use of electric dredge for construction and present the impacts in a revised summary table so that the decisionmaker and the public can compare the relative impacts and benefits.
- Confirm if this revised Alternative C with electric dredge adequately meets objectives of improving the efficiency of operations of containerships within Oakland Harbor and allowing for more efficient use of containerships. Clarify the relative difference in impacts between Alternative D-2 and the revised Alternative C with electric dredge.

11

[3] Table 32 of the Draft EA describes the Benefit Cost Ratio for Alternative C is 5.9 compared to 3.0 for Alternative D-2 (tentatively selected plan).

Environmental Justice and Civil Rights Act

Executive Order 12898, *Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations* (1994), directs federal agencies to pursue environmental justice to the greatest extent possible by identifying and addressing any disproportionately high and adverse human health or environmental effects that the agency's programs, policies, or activities may have on minority and low- income populations. Executive Order 14008 on Tackling the Climate Crisis at Home and Abroad (Jan. 27, 2021) recognizes the climate crisis is profound and directs the federal government to drive assessment, disclosure, and mitigation of climate pollution and climate-related risks. The EO also directs federal agencies to achieve environmental justice as a part of their missions by developing programs, policies, and activities to address the disproportionately high and adverse impacts on human health, environmental, climate-related, and other cumulative impacts on these communities, as well as the accompanying economic challenges of such impacts.

Community Engagement

The EPA appreciates that USACE acknowledges in the Draft EA that the communities of West Oakland nearest to the Port of Oakland have been historically, and are currently, burdened by disproportionate environmental impacts. During cooperating agency meetings for this project, the EPA highlighted concerns regarding The project's potential impacts to low-income populations and minority populations who live near The project area. The historic burden from disproportionate environmental impacts on the residents of West Oakland have been from multiple sources of pollution, including from port operations. Due to existing high cumulative exposure burden of air toxics and criteria pollutants, the West Oakland community was selected to participate in the first year of California's Clean Air Protection Program under California Assembly Bill 617. Residents have been working extensively over the past years in partnership with the Bay Area Air Quality Management District and a diverse array of stakeholders, including the Port of Oakland, to develop and implement a Community Air Action Plan to address existing pollution from major sources, including the Port. Community members have been highly concerned about air quality in this area and have been very interested in learning about and meaningfully informing any planned projects that could adversely affect air quality.

Recommendations:

- Continue and maintain community engagement throughout the planning process to ensure ample time to incorporate community feedback into The project and commit to robust outreach approaches to allow for active engagement, including community meetings designed to maximize community participation (e.g., promoting broadly within local community forums, sharing with existing relevant groups, sharing via social media).
- Conduct additional community outreach and engagement efforts, including:
  - Hold additional community meetings to ensure that potentially impacted residents understand the Recommended Plan and have the opportunity to inform The project's design and NEPA analysis.

12a

  - Ensure that all project-related information and updates are conveyed using plain language so that community members can readily understand The project and its potential impacts.[4] Describe any efforts that USACE undertook to address language barriers.

12b

- Given that the West Oakland AB617 group includes a diverse array of community representatives and other stakeholders who have deep community knowledge and desire to address disproportionate air quality impacts in the community, we continue to recommend that USACE engage with the West Oakland AB 617 Steering Committee.

12c

Environmental Justice Analysis

Pages 21-26 of the Draft EA describe the existing conditions that informed the environmental justice analysis. Demographic characteristics are provided for census tracts within both a 0.5-radius and 1-mile radius of dredging activities associated with The project, identifying census tracts with low-income and minority percentages that exceed the county average by 10% as the areas of EJ concern. Three of six tracts within a 0.5-mile radius and nine of nine tracts within a 1-mile radius appear to have meaningfully greater percentages of low-income and/or minority populations. The Draft EA concludes that The project would not result in disproportionate adverse impacts to communities with EJ concerns. Analysis of environmental justice impacts is inherently a cumulative impacts analysis and a more robust analysis and consideration of the cumulative setting and impacts, as described below, is critical for understanding if environmental justice impacts will result.

Recommendations:

- Ensure that the study area for the environmental justice analysis captures all project-related impacts. For example, the current study area does not appear to account for transporting sediment through communities to placement sites (e.g., landfills) or from offsite port-related operational activities (e.g., rail and truck activity).

13a

- Given the importance of cumulative impacts within an environmental justice analysis, provide additional information on other past, current, and planned activities that contribute to pollution near The project area. Confirm whether The project would result in significant adverse impacts to nearby communities when considering these past, current, and planned activities. Consider cumulative impacts of highways and other sources of pollution in the port and areas surrounding the port.

13b

- In addition to the summary of community outreach and feedback included on page 207 of the Draft EA, provide additional details on the community outreach that was undertaken, including the number of community meetings held, approaches that were taken to promote awareness of the meetings, and a description of meeting participants.

13c

- For additional suggestions for strengthening The project's environmental justice analysis, we recommend that USACE consider the Federal Interagency Working Group on Environmental Justice's *Promising Practices for EJ Methodologies in NEPA Reviews*.[5] The EPA is available to coordinate with USACE regarding the EJ analysis for this project. Please contact Morgan Capilla, Environmental Justice Coordinator, at 415-972-3504 or capilla.morgan@epa.gov with any questions.

13d

According to EPA's EJSCREEN mapping tool, several census block groups near The project area appear to have high concentrations of linguistically isolated populations. The Draft EA does not appear to discuss

language needs of potentially impacted communities, and it is unclear what efforts were made to address language barriers to ensure all affected populations were meaningfully engaged in the NEPA process.

Recommendation:

- Provide additional information about the language needs of communities that would be affected by The project.
- Describe efforts made by USACE to ensure that any linguistically isolated populations were meaningfully engaged during project development.
- Ensure that all additional community outreach is responsive to the language needs of potentially affected residents.

14

Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d

As the NEPA lead agency, the EPA recommends that USACE confirm all federal commitments which are relevant for this project, including Title VI of the Civil Rights Act of 1964 and the above Executive Orders. We note that in July 2019, the EPA's External Civil Rights and Compliance Office entered into an informal resolution agreement with the City of Oakland and Port of Oakland to resolve a Title VI complaint relating to a redevelopment project at the Port. That resolution agreement required, in part, that the City of Oakland and Port of Oakland submit for EPA approval a robust public engagement plan for the redevelopment project. The EPA and the Port of Oakland continue to review The project-specific public engagement plan to ensure that the community of West Oakland's concerns are addressed.

Recommendations:

- Given the federal government's renewed national EJ policy commitments, and the ongoing Title VI concerns at the Port of Oakland, the EPA reiterates the importance of meaningful public engagement and urges USACE to continue to refine public engagement best practices as The project evolves.
- While the past Title VI Complaint does not apply to the Oakland Harbor Basin Widening Project, the EPA recommends considering the public engagement plan that was established as a part of the informal resolution agreement as a starting point for outreach for the Oakland Harbor Widening Project.

15

Dredged Material Management

The EPA appreciates USACE's commitment to beneficial reuse of suitable dredged material and we note that the Draft EA analysis of beneficial reuse is consistent with Section 204(d) of Water Resources Development Act 1992 and Sections 124 and 125 of WRDA 2020. The EPA cannot comment on the accuracy of the anticipated dredged material volumes and expected disposal locations provided in the Draft EA on Table 38 and we encourage continued coordination as the information regarding dredged volume is refined. As the EPA stated during resource agency working group meetings, without initial sediment testing USACE cannot confirm the scope and extent of contamination at depth. However, Table 38 does err on the conservative assumption that the majority of the material may be suitable for beneficial reuse as foundation material (Draft EA p. 123).

16

In Chapter 3.4 of the Draft EA, Water Quality, pertinent Clean Water Act sections (404, 401 and 402) are listed; however, Table 57 indicates this project will not need authorization nor compliance with those CWA sections. Such a definitive assessment of future regulatory requirements prior to finalizing

17

a Project Action seems preemptive and unnecessarily narrow. As the Recommended Plan is refined, it is expected that The project description will evolve and may require re-evaluation of regulatory nexus (p. 200).

In Section 4.1 of the Draft EA, *Problem Identification and Opportunities*, USACE provides a succinct and clear summary of the joint efficiencies The project would provide to navigation and sea level rise resiliency through the beneficial reuse of suitable sediments. We encourage USACE to ensure that project logistics and funding enable beneficial use of sediment to the fullest extent. The selection of all-electric dredging equipment is an important factor in project compliance with Executive Order 12898 - Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations.

Recommendations:

- Once sediment testing is completed, consider the use of environmental clamshell buckets as an additional impact minimization measure when dredging areas with confirmed high concentrations of contaminants that require Class I and II disposal. 18a
- The EPA encourages USACE to take a broader stance in the final environmental document to indicate the potential for CWA discharges through the proposed action, and to identify avoidance, minimization, and mitigation measures required by the CWA permitting mechanisms as The project description is further refined. 18b
- Table 57 states that there would be no jurisdiction under the Marine Protection Research and Sanctuaries Act for The project as there would be no aquatic and ocean disposal. Clarify this statement to explain that, if ocean disposal is proposed in the future, MPRSA would be the guiding regulation (Draft EA p. 200). 18c

Integration with other Planned Projects

The Draft EA does not sufficiently describe how the Tentatively Selected Plan to widen the Oakland Harbor Turning Basins and connected actions would be coordinated with other reasonably foreseeable projects planned in the adjacent area. The Draft EA discloses that 4.9 acres of fast land would be removed at Alameda, 0.2 acres of fast land at Schnitzer Steel, and 2.3 acres of fast land at Howard Terminal, but there is insufficient detail regarding potential conflicts with other planned construction activities, and potential cumulative impacts to resources if multiple projects proceed at the same time. For example, the environmental planning process for the Oakland Harbor Turning Basins provides an opportunity to identify potential cumulative impacts to altered truck ingress/egress routes and truck traffic volume when considering all projects would be proceeding along identified timelines. The potential A's Stadium proposed for the Howard Terminal and the Eagle Rock Aggregates Oakland Terminal Project may also affect the timing, location, and scope of environmental impacts identified through the analysis for the Oakland Harbor Turning Basins and the NEPA process is the appropriate forum to identify commitments for reducing potential impacts from multiple ongoing projects anticipated to proceed concurrently.

Recommendations:

- In the next environmental document, include how the footprint of the Oakland Turning Basins project would impact both the footprint of the existing uses of Howard terminal (such as goods movement staging operations) and other planned and Recommended Plans potentially using Howard Terminal.
- Provide clarification on how the Recommended Plan would be integrated with other proposals for port operations, Howard Terminal and other Alameda land uses.

19

Consider cumulative impacts of proposed land use projects and identify mitigation measures to reduce impacts

California Department of Transportation

2. California Department of Transportation		
Commenter: Yunsheng Luo		
Comment Number	**Response**	**Location in IFR**
20	Tugboats were considered during the planning process. The Port of Oakland is already utilizing additional tugs in the turning basins to transit the vessels. Additional tug assistance would not improve the efficiency of the vessels transiting the channel; therefore the measure was not carried forward for further consideration. The team will continue to keep Caltrans Transportation Planning & Local Assistances Climate Change Branch informed through the study phase and, should this project move forward, the design phase.	4.5.1

From: Luo, Yunsheng@DOT <Yunsheng.Luo@dot.ca.gov>
Sent on: Friday, February 11, 2022 6:34:12 PM
To: Oakland Harbor Turning Basins Study <OaklandHarborTurningBasinsStudy@usace.army.mil>
CC: Leong, Mark@DOT <Mark.Leong@dot.ca.gov>
Subject: [Non-DoD Source] Oakland Harbor Turning Basins Widening project

Hello Eric,

This is Yunsheng Luo with Caltrans D4. Thank you for the opportunity to review the EA for the Oakland Harbor Turning Basins Widening project. We have completed the review of the report. In general, we do not have comments.

One of our reviewers would like to know if tugboats have been considered as an option for this project. Also, as this project moves forward, please keep Caltrans Transportation Planning & Local Assistance's Climate Change Branch informed about adaptation measures as they are developed and implemented near the Oakland Harbor shoreline. Caltrans Bay Area is interested in engaging in multi-agency collaboration early and often, to find multi-benefit sea level rise solutions when planning and implementing adaptation measures, including nature-based solutions. Please contact Vishal Ream-Rao, Climate Change Branch Chief, at vishal.ream-rao@dot.ca.gov with any questions.

20

Please feel free to reach out to me if you have any questions. Thank you!

Best,

Yunsheng Luo
Associate Transportation Planner
Local Development Review (LDR), Caltrans D4

City of Alameda, California

3. City of Alameda, California		
Commenters: Eric J. Levitt		
Comment Number	**Response**	**Location in IFR**
21	The Draft IFR/EA has been clarified to state that the project is taking place in the City of Oakland and the City of Alameda.	Throughout
22	In consideration of comments provided such as this one, the Draft IFR/EA revised the alignment of the Recommended Plan to reduce impacts to Bay Ship and Yacht operations, but will still impact the buildings to the east of the basin. The realignment also reduces impacts to Schnitzer Steel. Aligning the basin mid-point with mid channel improves safety and reduces risk to rotating ships and surrounding vessels during maneuvering. The design has been modified to minimize impacts to the Alameda shoreline as much as practicable.	Executive Summary (ES)
23	The City of Alameda has not provided substantiation for this assertion; therefore, USACE does not accept this claim as fact. The Recommended Plan will not alter the existing federal navigation channel and is not expected to affect the stability of the existing slopes. The Recommended Plan would have no effect on seismicity or geological resources. Any new bulkhead or sheetpile shoreline structures would comply with all applicable seismic standards.	3.3.2, 6.3
24	The Draft IFR/EA has been revised to better describe climate change impacts. See section 6.14.	6.14
25	The Draft IFR/EA now states that the turning basin expansion will not impact those projects.	6.9.1

City of Alameda California

February 14, 2022

Mr. Eric Jolliffe
U.S. Army Corps of Engineers San Francisco District (USACE)
450 Golden Gate Ave, 4th Floor
San Francisco, CA 94102

Subject: Draft Integrated Feasibility Report and National Environmental Policy Act Environmental Assessment as well as a draft Finding of No Significant Impact for the Oakland Harbor Turning Basins Widening Navigation Study in Oakland, California

Dear Mr. Jolliffe:

Thank you for the opportunity to comment on the scope of the draft Integrated Feasibility Report and National Environmental Policy Act Environmental Assessment, as well as a draft Finding of No Significant Impact for the Oakland Harbor Turning Basins Widening Navigation Study in Oakland, California. The City of Alameda supports the Port of Oakland's efforts to maintain, modernize and improve the shipping facilities and the turning basin for the benefit of the Region. However, there are a number of issues with the proposal that we would like the Army Corps to address in the feasibility report and environmental assessment:

An Oakland-Alameda Project. Throughout your report, this project is described as a project in the City of Oakland, yet over half of the work is located in the City of Alameda. We respectfully request that you revise your report to reference an "Oakland-Alameda Project" to clarify this fact. 21

Impacts to Alameda Maritime Use. The City of Alameda has a long history of supporting maritime industry and businesses. Bay Ship and Yacht (BSY) is Alameda's biggest maritime business and provides essential maritime services to maritime businesses, including the U.S. Coast Guard and the San Francisco Water Emergency Transit Agency. Unfortunately, the proposed basin design would significantly impact BSY's ability to operate effectively, as a result of the decision to shift the turning basin further into the City of Alameda. The negative impacts of the current design result from the Army Corps' decision to minimize loss of land in Oakland by taking twice as much land from Alameda than from Oakland. However, this design removes significantly more land from Alameda and Alameda maritime businesses than it does from Oakland and Oakland maritime businesses. (The preferred alternative takes 5.0 acres of maritime land from Alameda but only 2.5 acres from Oakland.) 22

This negative impact can be easily rectified by shifting the turning basin further into Oakland. By making the adjustment shown below, the impacts to the two cities will be more equally shared, and the impacts to BSY, a significant regional maritime resource, will be minimized. Exhibit A below shows the impact to BSY from the proposal.

Shoreline Stability. After the Port of Oakland and the Army Corps of Engineers completed the Oakland Harbor Navigation Improvement (-50 foot) projects, Alameda discovered that the resulting steep slope of the channel had destabilized the seismic stability of Alameda's shoreline along the channel. Our studies show that with a major earthquake, the northern shoreline of Alameda Point will fail due to this instability and will result in large areas of the Alameda shoreline sluffing off into the shipping channel. Please address these apparent risks in the draft Feasibility and Environmental Analysis and describe how the current project either worsens, or reduces, this threat.

23

Sea Level Rise. The City of Alameda is preparing for significant increases in sea levels as the result of climate change. Your environmental assessment does not include any discussion of the impact of this project on climate change, or how the proposed design of the project will address the impacts of climate change. The City of Alameda expects the project to be designed to address at least three (3) feet of sea level rise above 100 year storm tide level. The San Francisco Bay Conservation and Development Commission (BCDC) is probably the best source for those projections.

24

Transportation. The City of Alameda is working with our partners in Oakland and the region to create better and more environmentally sustainable transportation systems. We are working to build a bicycle pedestrian bridge from West Alameda to Jack London Square (east of the current turning basin and "back up area"), and working with our partners at WETA and others to increase water transit opportunities between Alameda and Oakland (east of the current turning basin and the Jack London Ferry Terminal). It does not appear that the project will negatively impact these efforts, but we would like to have your report confirm that assumption.

25

Alameda is committed to working with the U.S. Army Corps of Engineers San Francisco District and the Port of Oakland to make this project a reality for the benefit of the entire region. We appreciate your consideration of our concerns and requests.

Sincerely,

Eric J. Levitt
City Manager

EJL:mk

cc: Mayor Ezzy Ashcraft and City Council

Attachment: Exhibit a - Impact to Bay Ship and Yacht

Exhibit A:

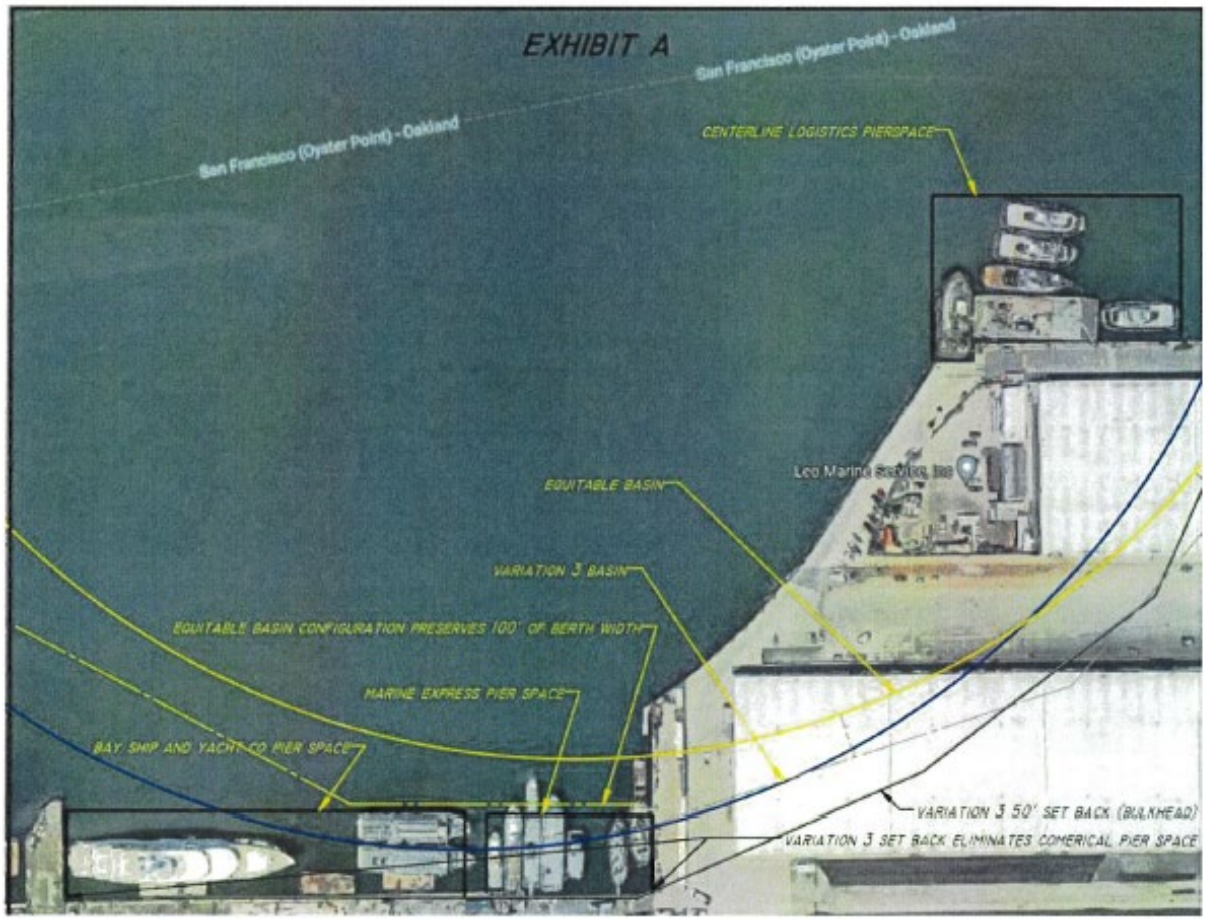
EXHIBIT A
San Francisco (Oyster Point) - Oakland
San Francisco (Oyster Point) - Oakland
CENTERLINE LOGISTICS PIERSPACE
EQUITABLE BASIN
VARIATION 3 BASIN
EQUITABLE BASIN CONFIGURATION PRESERVES 100' OF BERTH WIDTH
MARINE EXPRESS PIER SPACE
BAY SHIP AND YACHT CO PIER SPACE
VARIATION 3 50' SET BACK (BULKHEAD)
VARIATION 3 SET BACK ELIMINATES COMERICAL PIER SPACE

San Francisco Bay Regional Water Quality Control Board

4. San Francisco Bay Regional Water Quality Control Board		
Commenter: Xavier Fernandez		
Comment Number	**Response**	**Location in IFR**
26	Acknowledged. Thank you for your review.	N/A
27	The project footprint has been realigned in response to public comment. The revised EA addresses fill in us waters and aquatic piledriving and includes a 404(b)(1) assessment (Appendix A-3). USACE will request a Water Quality Certification from commenter during PED.	6.4.1 Appendix A-3
28	As a construction related permit, USACE will require the construction contractor to obtain it. The Draft IFR/EA includes the requirements in the Construction General Permit and will comply with all applicable NPDES requirements.	6.4.1, 6.4.3
29	As a federal project, USACE takes the position that only a 401 Water Quality Certification is required. One will be sought in PED.	N/A
30	USACE does not object to the Port of Oakland seeking permits as they see fit.	N/A

California Water Boards

Gavin Newsom, Governor

Jared Blumenfeld, Secretary for Environmental Protection

San Francisco Bay Regional Water Quality Control Board

Sent via electronic mail: No hard copy to follow

February 7, 2022
WDID: 2 CW 433008
Place ID: 815608

Mr. Eric Jolliffe
USACE San Francisco District
450 Golden Gate Ave, 4th Floor
San Francisco CA 94102
E-mail: OaklandHarborTurningBasinsStudy@usace.army.mil

Subject: Comments on Oakland Harbor Turning Basins Widening Navigation Study Draft Integrated Feasibility Report and Environmental Assessment

Dear Mr. Jolliffe:

The San Francisco Bay Regional Water Quality Control Board (Water Board) appreciates the invitation to comment on the Draft Integrated Feasibility Report and Environmental Assessment Document with the comment period ending February 14, 2022. To date, the Water Board has participated in both the public meetings and the Regulatory Advisory Workgroup Meetings. Our previous verbal comments asked the Corps to take all suitable dredged sediment to beneficial reuse sites and we are extremely pleased that on page iv of the document's Executive Summary, the Corps commits to take all suitable material, as defined by the Dredge Material Management Office, to an approved beneficial reuse site as either cover or non-cover material. The Corps estimates approximately 1,676,000 cy of sediment will help San Francisco Bay adapt to future sea level rise resulting from climate change.

26

We ask that the Corps clarify whether a water quality certification (Certification) under Section 401 of the Clean Water Act (CWA) is required for this project and whether it intends to request one from the Water Board. Chapter 7, Table 57 indicates, "If applicable, a water quality certification for the project will be obtained after the feasibility phase, in the pre-construction design phase." This statement shows the Corp's is not certain if the Certification is required. However, Corps staff indicated via email on January 11, 2022, that the current plan is to not request a Certification because the project does not result in fill of federal waters. The Water Board believes a Certification is required for this project, and we ask to meet with the Corps to discuss the basis for the Corps' recent communication that no Certification is required.

27

This Project is subject to CWA section 402 because it will result in pollutants being discharged in stormwater during and after the project. During construction, 7.4 acres of land currently with industrial and commercial uses will be disturbed thereby creating the potential for sediment and other pollutants to be entrained in stormwater and subsequently discharged to waters of the U.S. Further, the project will make "minor, permanent alterations to upland drainage patterns at Howard Terminal." Although CWA section 402 and National Pollutant Discharge Elimination System requirements relative to stormwater are discussed in Section 3.4.1 and 6.4.1, this CWA requirement and permit step were not mentioned in Section 7 as applying to the project. Projects that disturb one or more acres of soil are required to obtain coverage under the General Permit for Discharges of Storm Water Associated with Construction Activity Construction General Permit Order 2009-0009-DWQ. This project could qualify for coverage under Statewide Construction General Permit; however, the magnitude of potential water quality impacts associated with stormwater discharges from the project may warrant an individual construction stormwater permit issued by the Water Board.

28

We also believe the Corps is subject to the Porter-Cologne Water Quality Control Act (Porter Cologne). The project as described is discharging or proposing to discharge waste that could affect water quality (Water Code section 13260), which triggers the requirement for a report of waste discharge. Under CWA section 313, federal agencies "engaged in any activity resulting, or which may result, in the discharge or runoff of pollutants . . . shall be subject to, and comply with, all Federal, State, interstate, and local requirements and administrative authority, and process and sanctions respecting the control and abatement of water pollution in the same manner as any nongovernmental entity." (33 U.S.C. § 1323.) The Water Board intends to issue waste discharge requirements (WDRs) for this project. WDRs may be sought in a combined application for a Certification.

29

The Port of Oakland as described in section Chapter 8 is the local sponsor for the project. The local sponsor is responsible for funding 50 percent of the project design and 50 percent of project construction. In addition, the Port is the landowner for the affected land and according to information provided at the January 12, 2022, public meeting, is responsible for following requirements of California Environmental Quality Act (CEQA). Because of the above, we have determined that the Port of Oakland is a co-project proponent for the project and is also subject to both CWA and Porter Cologne. Therefore, the Port of Oakland shall co-apply with the Corps to receive Certification, NPDES permit, and WDRs for the project. These permits will ensure that best management practices are implemented to prevent spills and leaks of fuel, oil, soil, sediment, and other pollutants during the excavation, dredging, and transport of soil and sediment.

30

Should you have questions or concern, please send Kevin Lunde, of my staff, an email at Kevin.Lunde@waterboards.ca.gov.

Sincerely,

Digitally signed by Xavier Fernandez
Date: 2022.02.07 15:08:58 -08'00'
Water Boards

Xavier Fernandez
Planning Division Manager

Bay Area Air Quality Management District

4. Bay Area Air Quality Management District		
Commenter: Greg Nudd		
Comment Number	**Response**	**Location in IFR**
31	See GC-1, Response 8a. See Section 6.14 on how the Recommended Plan will improve emissions in comparison to a future without project.	5.7, 6.14
32	Acknowledged. Thank you for your review.	N/A
33	General conformity is a widely accepted NEPA threshold to assess air quality impacts of federal actions. See Section 6.13	6.13
34	The project is expected to reduce marine emissions by reducing vessel idle times. Further, the wetland creation from beneficial reuse of the dredged sediment would provide carbon sequestration. See Section 6.14.	6.14
35	See GC-1 – Induced Growth.	5.7
36	Air Quality analysis is provided in the Draft IFR/EA Section 6.13. USACE will direct your comment regarding CEQA to the Port of Oakland.	6.13
37	37a. The Draft IFR/EA provides this information at 6.13 and 6.14. See also GC-2 – Truck Management Plan. 37b. See GC-1 – Induced Growth. 37c. The Draft IFR/EA includes this analysis at Section 6.14. Increased navigation efficiency results in less time the vessel waits to dock or undock and decreased transit time, the time it takes for a ship to enter and depart the bay. All communities in the vicinity of the Port would benefit, including those adjacent to the Inner Turning Basin. 37d. The draft Health Risk Assessment (HRA) is now being included as Appendix A-4b.	5.7, 6.13, 6.14, Appendix A-4b
38	38a. At this time, USACE has made an initial determination that, with implementation of the recommended avoidance and minimization measures, the impacts of the Recommended Plan would be less than significant and thus an EA is appropriate in this situation. If new circumstances require USACE to pursue additional environmental analysis, the Agency will do so pursuant to NEPA. 38b. Draft IFR/EA includes this in section 6.13, 6.14.	6.13, 6.14, 6.16, Appendix A-4b, A-7

	38c. See GC-1 and Section 6.14 for how the Recommended Plan would result in reduced GHG emissions over time. 38d. See Response 37d. 38e. Cumulative analysis is included in each resource category due to new guidance in Section 6.16. See GC-1 for how the project will not impact Port operations. 38f. See GC-2 and Appendix A-7 for minimization and mitigation measures. 38g. USACE will direct this comment to the Port of Oakland, the CEQA lead.	

February 14, 2022

Mr. Eric Jolliffe
Environmental Manager
US Army Corps of Engineers
450 Golden Gate Ave 4th Floor
San Francisco, 94102

RE: Oakland Harbor Turning Basins Widening Navigation Study Project Draft Integrated Feasibility Report and Environmental Assessment

Dear Mr. Jolliffe:

Bay Area Air Quality Management District (Air District) staff has reviewed the Draft Integrated Feasibility Report and Environmental Assessment (Feasibility Report) for the Oakland Harbor Turning Basins Widening Navigation Study Project (Project). The United States Army Corps of Engineers (USACE) is the federal sponsor, and the Port of Oakland (Port) is the local sponsor of the Project. The stated purpose of the Feasibility Report is to determine if there is a technically feasible, economically justifiable, and environmentally acceptable recommendation for federal participation in an improvement project to the existing federal navigation channels of Oakland Harbor.

The Project proposes to expand the Outer Harbor Channel and Outer Harbor Turning Basin (OHTB) and the Inner Harbor Channel and Inner Harbor Turning Basin (IHTB). The OHTB is south of the San Francisco-Oakland Bay Bridge and is maintained to a depth of -50 feet mean lower low water (MLLW). The OHTB serves the existing TraPac and Ben E. Nutter terminals. The OHTB expansion would widen the existing turning basin from 1,650 to 1,965 feet, which would be dredged to a depth of -50 feet MLLW. The IHTB is approximately 2.5 miles from the Inner Harbor entrance and is maintained to -50 feet MLLW. The IHTB serves the existing Oakland International Container, Matson, and Schnitzer Steel terminals. The IHTB expansion would widen the existing turning basin from 1,500 feet to 1,834 feet, which would be dredged to a depth of -50 feet MLLW. In addition to in-water work to widen the IHTB, land at Schnitzer Steel, Howard Terminal, and private property located along the Alameda shoreline would be impacted.

The community of West Oakland is located east and northeast of the Outer Harbor Channel and Inner Harbor Channel, respectively, and the Feasibility Report identifies the West Clawson neighborhood of West Oakland as an Environmental Justice (EJ) community within one mile of the Project. The Air District and the West Oakland Environmental Indicators Project (WOEIP) worked with a community Steering Committee to develop the West Oakland Community Action Plan (WOCAP), adopted by the Air District Board of

Directors and the California Air Resources Board (CARB) in 2019. The WOCAP sets goals and targets for reducing exposure to fine particulate matter (PM2.5), diesel emissions and cancer risk from toxic air contaminants (TACs). Any increases in local PM2.5, diesel emissions or cancer risk would be inconsistent with the WOCAP and would hinder progress toward the agreed upon targets set by the West Oakland Steering Committee, the Air District and CARB. 31

The Air District commends the USACE and Port for selecting a project alternative that will employ electric-powered barge-mounted excavator dredging equipment. However, Air District staff remain concerned that the Feasibility Report and General Conformity criteria fail to accurately characterize the extent of the Project's air quality impacts. The Feasibility Report determines the Project would have no impact based solely on an evaluation of construction related emissions using the General Conformity criteria of not exceeding, in any calendar year during construction, the ozone precursors and fine particulate matter (PM2.5) *de minimis* threshold of 100 tons per year. Air District staff does not support the use of General Conformity de minimis levels as appropriate thresholds for identifying potentially significant local and regional air quality impacts. The Feasibility Report does not provide substantial evidence that Project-related emissions will not increase concentrations of PM2.5, diesel emissions, or cancer risk in local communities, including the (federally determined) EJ community of West Clawson. In addition, the Feasibility Report includes no information to support the conclusion that the Project would not result in an increase in criteria pollutants, TACs, or greenhouse gases due to the increased capacity at the Port. 32 33 34 35

Air District staff recommends that the USACE and the Port evaluate the Project's potential air quality impacts to local communities in a detailed and publicly accessible environmental analysis prepared pursuant to the California Environmental Quality Act (CEQA) and the National Environmental Protection Act (NEPA). We recommend the CEQA analysis rely on the Air District's current CEQA Air Quality Guidelines to establish thresholds, and fully evaluate the regional criteria pollutants, local risks and hazards, and greenhouse gases of the Project. 36

Comments on the Feasibility Report

The Feasibility Report should provide evidence to support the following aspects of the analysis:

(1) Additional information should be provided on the number and type of haul trucks that will be used during construction to substantiate the analysis. Disposal of excavated landside material, piles and debris from warehouse demolition would require approximately 31,310 truck trips during Project construction, likely adding new truck trips and associated emissions to already overburden communities. 37a

(2) Evidence should be provided to support the statement of no change in operational emissions at the Port, including documentation to support the claim that increased navigational efficiency will not result in an increase in the number of ship calls or 37b

throughput at the Port. Even if the number of ship calls were to remain unchanged, the Project would allow larger vessels – with different emissions profiles – to access the Port. The environmental analysis should clearly discuss the types of vessels (and the associated emissions) that could visit the Port as a result of the Project. 37b

(3) Evidence should be provided to support the statement that increased navigational efficiency would result in a decrease in emissions from ship idling and turning maneuvers, and documentation should be provided to confirm which EJ communities could benefit from these decreased emissions. 37c

(4) The Feasibility Report cites Appendix A-4 for documentation of the Port's Health Risk Assessment (HRA). However, Appendix A-4 only documents construction criteria pollutant emissions. To support the finding of no impact to nearby EJ communities, an HRA or similar localized health analysis must evaluate the potential increase in local risks and hazards from PM 2.5, diesel emissions, and TACs from the Project. Without this analysis, the Feasibility Report's finding of no impact cannot be substantiated. 37d

Further Recommendations for completion of an EIS/EIR

A joint EIS/EIR should be prepared and provide evidence to support all findings, including a full evaluation of regional criteria pollutants, local risks and hazards, and greenhouse gases, and commit to all mitigations to address impacts and protect health, including but not limited to the recommendations below: 38a

(1) Analyze construction phase emissions from all equipment, including tugboats and other marine vessels, on-road and off-road trucks, and other equipment. 38b

(2) Analyze all potential operational phase emissions, including any changes in emissions due to changes in vessel activity during ship calls, changes in types of vessels calling at the Port, increased ship calls, and any increased use of off-road equipment and on-road truck trips. 38c

(3) Complete an HRA to evaluate the potential increase in local emissions and exposure to PM2.5 and TACs from construction and operational phases of the Project in federally identified EJ communities, the entire community of West Oakland as described in the WOCAP, and any additional overburdened communities that may be impacted by travel to and from the Project site, such as Martinez, Bay Point, and Pittsburg. 38d

(4) Complete an analysis of air quality impacts of the Project's operational phase, including a cumulative analysis that considers all reasonability foreseeable projects with the potential to further burden West Oakland with exposure to emissions, such as the Eagle Rock Aggregate Project and the Oakland Waterfront Ballpark District Project. 38e

(5) Implement mitigation measures and/or Project alternatives to reduce emissions and local community health risk from the construction and operational phases, including selecting and enforcing truck routes, requiring use of zero-emission on-road trucks and off-road construction equipment, and implementing other strategies to reduce exposure consistent with the WOCAP. 38f

(6) Demonstrate the Project is consistent with the WOCAP per the California Environmental Quality Act (CEQA) Guidelines, Appendix G, https://opr.ca.gov/ceqa/guidelines/. The analysis should discuss how the Project supports the WOCAP goals and targets; identify which WOCAP strategies are incorporated into the Project, and justify the reasons, supported by substantial evidence, any strategies are not incorporated; and demonstrate that the Project would not cause disruption, delay, or otherwise hinder implementation of any WOCAP strategies. 38g

Air District staff is available to assist the USACE and Port in addressing these comments and to assist during the EIS/EIR development process. If you have questions or would like to discuss Air District recommendations, please contact Alison Kirk, Assistant Manager, at akirk@baaqmd.gov.

Sincerely,

Greg Nudd
Deputy Air Pollution Control Officer

Cc: BAAQMD Director John J. Bauters
BAAQMD Director Pauline Russo Cutter
BAAQMD Director David Haubert
BAAQMD Director Nate Miley
Stanley Armstrong, California Air Resources Board
Brian Beveridge, West Oakland Environmental Indicators Project
Connell Dunning, U.S. EPA Region 9
Ms. Margaret Gordon, West Oakland Environmental Indicators Project
Danny Wan, Port of Oakland

San Francisco Bay Conservation and Development Commission

5. San Francisco Bay Conservation and Development Commission		
Commenter: Julia Kelly		
Comment Number	**Response**	**Location in IFR**
39	A draft Consistency Determination (CD) has been prepared and circulated with the Draft IFR/EA. Concurrence will be requested later in the PED.	Appendix A-5
40	See Response 4. Note that the goal of the Recommended Plan is to improve navigational efficiencies and provide safe conditions in the Oakland Harbor for vessels currently calling at the Port, and vessels expected to call at the Port in the future.	Chapter 6
41	Acknowledged. Thank you for your review.	N/A
42	USACE has received an exemption from the SMART Planning 3x3x3. New data was obtained and USACE would like clarity as to what information you are referring to. Cumulative impacts are now included in Section 6.16.	6.16
43	Acknowledged. Thank you for your review.	N/A
44	See GC-1 – Induced Growth.	5.7
45	Increases in operations and maintenance dredging is now addressed in Draft IFR/EA Executive Summary (ES) and Section 6.16. The increase in volume falls within the range covered in the existing 2015 EA/EIR for federal maintenance dredging. The 2015 EA/EIR will be renewed in 2025 and will specifically address any increase in volume from the widening.	ES, Chapter 6, 6.16
46	USACE will continue to schedule dredging withing the window (June 1 - Nov 30). This increase is unlikely to affect compliance with maintenance windows. However, should shoaling increase more than expected, USACE would work with the LTMS to determine the best course of action as it does with all maintenance dredging. Disposal of material will be considered on a case-by-case basis, considering suitability and available placement sites as coordinated with the Dredged Material Management Office (DMMO). USACE expects to be able to utilize future funding sources such as Section 1122 and flexibilities provided by the Pilot Oakland 50/50 program, to place more material at beneficial use. USACE is also exploring partnership opportunities with other federal	Chapter 6

	projects in the Bay that will need dredged sediment.	
47	As explained in Draft IFR/EA Section 6.6.1 and 6.6.2, USACE will initiate ESA consultation with USFWS, similar to the permissions it has received for maintenance dredging, to start on June 1st. Least tern preferred feeding areas are not located by the Recommended Plan. A draft Biological Assessment is included in Appendix A-1. USACE will consult with USFWS to determine the best form of mitigation, which in the past has been predator management.	6.6.1, 6.6.2, Appendix A-1
48	The Draft IFR/EA explains that sediments will be appropriately tested and reviewed by the DMMO for suitability.	6.12
49	The Draft IFR/EA discusses groundwater and impacts in Section 3.4.4 and 6.4.	3.4.4, 6.4
50	USACE will continue to work with BCDC to determine what plans can be shared to assist in commenter's reviews under the Coastal Zone Management Act (CZMA).	
51	A letter was received by the Harbor Safety Committee identifying the sediment and land adjacent to the existing Inner Harbor turning basins as physical obstructions to safe navigation. PPX Gen III and IV vessels are projected to arrive at the Port of Oakland in greater numbers in both a future with and without project. Widening the Inner and Outer Harbor turning basins would reduce the number of navigation hazards for ULCVs to navigate while transiting the harbor and would therefore decrease the risk of oil spills.	1.2, 5.7
52	See Responses 34, 37 and Draft IFR/EA Sections 6.13, 6.14. The Recommended Plan expects to result in less emissions overtime from wetland sequestration and reduced vessel idle times. USACE will continue to work with BCDC, BAAQMD and other commenters on what types of monitoring are appropriate.	6.13, 6.14
53	The Draft IFR/EA includes a discussion of the Importance of Beneficial use in Section 5.4. Explanation for handling of landfill bound material is provided in Section 6.11.1.	5.4, 6.11.1
54	The project team held a public meeting with the broader West Oakland Community since the release of the first IFR/EA. More are planned in the near future. The report now includes discussion of these census tracts in a broader discussion of the project with respect to the West Oakland	6.1

	community. USACE will continue to hold and attend stakeholder meetings and strive to provide information in plain language. A summary of public engagement already done is found at Section 6.1.	
55	USACE plans to continue to engage with all communities listed by BCDC as well as other interested members of the public.	N/A
56	The Draft IFR/EA has been modified to explain that the new subtidal habitat created by the widening would be disturbed on a frequency similar to that of the habitat in the existing basin, and that it is not of the same quality as undisturbed areas.	6.4.1
57	See revised Appendix A-5. Draft IFR/EA Section 6.16 explains that wetland creation should offset habitat value loss from loss of subtidal benthic habitat.	6.16, Appendix A-5
58	See Response 57. The Draft IFR/EA has been revised due to the Inner Harbor realignment to include in water fill and pile driving.	6.4, Appendix A-5
59	The Recommended Plan does not currently include "surface treatments that would provide invertebrate habitat". USACE is opened to continue discussion with BCDC regarding its feasibility. Detailed engineering plans would be prepared in PED. In doing those plans, our engineers will only include the minimum fill necessary to ensure the future structural integrity and seismic safety of these structures.	N/A
60	The industrial nature around both turning basins prevents the creation of quality or safe public access. Schnitzer Steel is an active metal recycling plant and the Alameda side is an active Shipyard. The portion of Howard Terminal reserved for the turning basin is still being used for Port related activities. The Recommended Plan will not interfere with future plans for Howard Terminal redevelopment, which currently includes increased high quality public access.	3.8.2
61	USACE expects to be able to submit a request for concurrence on the Consistency Determination in the summer of 2023. USACE will coordinate with BCDC as the date gets closer.	N/A
62	The BCDC Commission approved the Bay Plan Amendment 2-19 on June 30, 2022. Therefore, no additional Bay Plan amendment is needed to accommodate the Recommended Plan.	N/A

San Francisco Bay Conservation and Development Commission
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State of California | Gavin Newsom – Governor | info@bcdc.ca.gov | www.bcdc.ca.gov

February 14, 2022

Via Electronic Mail Only: OaklandHarborTurningBasinsStudy@usace.army.mil

Mr. Eric Jolliffe
US Army Corps of Engineers, San Francisco District
450 Golden Gate Ave. 4th Floor
San Francisco, CA 94102

SUBJECT: DRAFT Integrated Feasibility Report and Environmental Assessment for the Oakland Harbor Turning Basins Widening Navigation Study

Dear Mr. Jolliffe:

Thank you for the opportunity to comment on the Draft Integrated Feasibility Report and Environmental Assessment (IFR/EA) as well as draft Finding of No Significant Impact (FONSI) for the proposed Oakland Harbor Turning Basins Widening Navigation Study in Oakland, California, dated December 2021 and received via email on December 17, 2021. The purpose of the U.S. Army Corps of Engineers' (USACE) proposed action is to widen the Inner Harbor Turning Basin (IHTB) and Outer Harbor Turning Basin (OHTB) to allow larger container vessels, including those with a 19,000 TEU (20-foot equivalent) capacity, to turn around more efficiently and make more frequent calls at the Port of Oakland (Port). The Proposed Action involves demolition of existing landside structures and landside excavation to accommodate widening of the IHTB, dredging to widen the IHTB and OHTB, and installation of bulkhead and new piles in the IHTB. The Tentatively Selected Plan (Alternative D-2) would require dredging and placement of approximately 1,983,000 cubic yards (cy) of sediment over 2.5 years with construction expected to commence in June 2027 and end in December 2029. Under Alternative D-2, the USACE proposes to expand the IHTB by approximately 551,000 square feet and the OHTB by approximately 458,000 square feet. Modifications to the IHTB would include installation of an estimated 2,500 linear feet of sheetpile bulkhead and removal of approximately 4.9 acres of fast land (land that is above the high-water mark) at the Alameda Gateway, 0.2 acres of fast land at Schnitzer Steel, and 2.3 acres of fast land at Howard Terminal.

Commission staff has reviewed the draft IFR/EA and although the Commission itself has not reviewed the draft IFR/EA, the staff comments discussed below are based on the federal Coastal Zone Management Act, as amended (CZMA), the Commission's federally approved CZMA Program for San Francisco Bay, which includes the McAteer-Petris Act and the San Francisco Bay Plan (Bay Plan), the Suisun Marsh Preservation Act and the Suisun Marsh Protection Plan. The proposed project and action are located within the Bay and have the potential to affect the San Francisco Bay Coastal Zone. Therefore, the project should be evaluated within the context of federal consistency with the federally approved San Francisco Bay CZMA Program. The following comments are offered for the USACE's consideration, and consist of both general and specific comments concerning the draft IFR/EA.

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General Comments

We understand that five study alternatives were analyzed: Alternative A – No Action; Alternative B – Inner Harbor Widening Only; Alternative C – Outer Harbor Widening Only; Alternative D-1 – Inner and Outer Harbor Widening with Beneficial Use; and Alternative D-2 – Inner and Outer Harbor Widening with Beneficial Use and Electric Dredges. The rationale for the necessity of widening of both turning basins is unclear. The IFR/EA states that Alternative C "does not require the acquisition of any fast land nor properties and would not be expected to have any negative impact to regional economic development" (page 115). BCDC views this option as the one with fewest impacts to Bay resources while achieving the same goals of the project, which are to enable larger container ships to safely turn and exit the harbor.

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BCDC staff do appreciate that the USACE is committed to beneficially reusing all suitable dredged sediment at a wetland restoration project site under every action alternative. Beneficial reuse sites could include the Montezuma Wetlands Restoration Project, Cullinan Ranch Restoration Project, or a new restoration project with approval for dredged sediment acceptance, should one become available. Widening of the OHTB is expected to yield 826,000 cubic yards (cy) of sediment of wetland foundation quality; and widening of the IHTB is expected to yield 621,000 cy of sediment of wetland foundation quality, and 193,000 cy of sediment of wetland cover quality. Sediment dredged during this widening project is considered new work dredging, which necessitates placement at a beneficial reuse site in alignment with the LTMS program. Furthermore, it was recently established in the Sediment for Survival Report that up to 650 million cy of sediment are needed to restore and sustain wetlands through the year 2100, and placement of dredged sediment at local restoration projects is the best way to meet this demand (SFEI, 2021).

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Lastly, while BCDC recognizes that the USACE is attempting to increase permitting efficiencies by preparing and releasing a draft IFR/EA and FONSI simultaneously, we believe there are significant issues that have not been fully analyzed. To meet the USACE's SMART Planning 3x3x3 constraints, no new data were collected for analysis during the feasibility study, and instead the analysis for this project is based on limited data from the prior Port of Oakland 50-Foot Deepening Project study, discussions with the Port, and professional judgment (as stated in Appendix B-1, Page 65). However, due to the limited scope of the project (construction only) and lack of data on the potential cumulative impacts, a more comprehensive and holistic analysis of the Turning Basins Widening Project is needed in order for us to understand the project's alternatives and their potential effects on the environment with respect to the Commission's laws and policies.

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Specific Comments

1. **Port of Oakland.** It is our understanding that the Port is the local project sponsor and is contributing 50% of the cost of both the planning activities and for the construction of the project. Further, the City of Oakland is the owner of the dock facility that will benefit from the federal sponsorship of the project, as well as the administrator of the Public Trust, and as such makes the determination of the Public Trust need for the project. The Commission also has Public Trust responsibility and must make a finding of consistency

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with the Public Trust uses of the Bay. Further, as the USACE is aware, it is the Commission's long-standing practice to complete consistency review with the federal partner and work with the local project sponsor to obtain a permit per its McAteer Petris Act authority. We anticipate this project would require a BCDC permit for the Port and look forward to the California Environmental Quality Act (CEQA) review and permit application for this project.

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2. **Indirect Impacts.** The IFR/EA focuses on the proposed action of widening the turning basins and looks at the direct impacts of the project over the 2.5-year construction implementation period, however, the scope of analysis is too narrow and a FONSI may be inappropriate given that larger turning basins will enable larger ships to call on the Port more frequently, which may significantly affect the quality of the human and aquatic environment. The impacts of the widening project are not just within the turning basins themselves. For example, the IFR/EA does not describe where the big ships will idle when waiting to call on the Port. The IFR/EA does not discuss the increased capacity needed for the Port to handle additional cargo, additional container storage, additional truck parking and idling, increased traffic, and resulting air quality impacts on adjacent and vulnerable communities (see Section on Seaport Plan below) that would occur as a result of this project.

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3. **Maintenance Dredging Program**. In Chapter 6 the EA states, "Expansion of one or both of the turning basins would incrementally increase the area of the maintained navigation channel; however, increases to maintenance dredging volumes, if any, would be negligible and the nature of impacts from maintenance dredging would be the same as those occurring with existing maintenance dredging which have been separately evaluated under NEPA and associated environmental laws and regulations. Therefore, operational effects associated with freight volumes and maintenance dredging are not discussed further in this analysis." However, the executive summary states that, "the cost of operation and maintenance is estimated to cost an incremental $1.1 million annually," which indicates maintenance costs are *not* negligible and additional dredging is anticipated on an annual basis. In addition, Appendix B4 uses hydrographic data to estimate shoaling rates in the turning basins and predicts an annual increase in the dredging volume of 70,000 cy.

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The overall footprint of the USACE's maintenance dredging program within the Oakland Inner and Outer harbor will increase as a result of this project and dredged into perpetuity. The larger dredge footprint will require additional time to complete and so it is not clear that USACE will be able to complete dredging activities within the current maintenance dredging environmental work windows in the future. Furthermore, please explain whether sediments dredged from the turning basins will continue to be placed at beneficial reuse sites during future dredging events.

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4. **Environmental Work Window.** We appreciate that the draft EA states that dredging would only occur during the applicable environmental work window for the project site. Because this is a new work dredging project it is not covered by the LTMS Programmatic

Biological Opinions. Further, as the proposed project includes dredging during May, June and July, consultation with NOAA Fisheries and USFWS will be required by those agencies. Notwithstanding this difference, the IFR/EA lists an environmental work window of June through November and some parts of the document state a construction start date of May 2028 (Appendix A-5, Section 5-1, pages not labeled). For both turning basin sites, the programmatic dredging work window for maintenance dredging is August 1st through November 30th which is protective of the California Least Tern breeding colonies that are located approximately 1.5 miles southwest of the Inner Harbor Turning Basin. While the USACE has started its maintenance dredging on June 1 in this area previously, it has done so with specific mitigations provided to the USFWS through project specific consultation. Please explain your mitigation plan for impacts of dredging during periods where impacts to native and listed species may occur.

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5. **Water Quality.** Water Quality Policy 1 of the Bay Plan states in part that, "Bay water pollution should be prevented to the greatest extent feasible." We appreciate the effort to predict sediment suitability based on historical testing results in order to show that 1,676,000 cubic yards of the dredged sediment is estimated to be suitable for and would go to a beneficial reuse site. Sediments proposed for dredging should be sampled and sediment quality tested based on the recommendations of the Dredged Material Management Office (DMMO), in order to ensure that dredged sediments meet the water quality requirements for placement. We recognize that detailed sediment testing and characterization was deferred to the preconstruction engineering and design phase, and we look forward to reviewing the sampling and analysis plan and testing results as part of the normal sediment suitability determination process.

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Furthermore, Dredging Policy 9 states that, "to protect underground freshwater reservoirs (aquifers): (a) all proposals for dredging or construction work that could penetrate the mud "cover" should be reviewed by the San Francisco Bay Regional Water Quality Control Board and the State Department of Water Resources; and (b) dredging or construction work should not be permitted that might reasonably be expected to damage an underground water reservoir. Applicants requesting permission to dredge should provide additional data on groundwater conditions in the area of construction to the extent necessary and reasonable in relation to the proposed project." Therefore, please provide data on groundwater conditions within and near to the IHTB action area so that we can confirm the project will not damage any aquifers.

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6. **Safety of Fills**. According to the Bay Plan Dredging Policy 7, all proposed channels, berths, turning basins, and other dredging projects should be carefully designed so as not to undermine the stability of any adjacent dikes, fills or fish and wildlife habitats. The proposed expansion of the Inner Harbor Turning Basin involves removal of terrestrial and aquatic sediment at Howard Terminal, Schnitzer Steel, and Alameda Gateway, which could impact the stability of adjacent fills and habitats, and therefore careful design is required. Appendix B3: Structural Engineering provides a feasibility recommendation for a sheet pile wall braced with batter piles, based on grossly assumed geotechnical design parameters, therefore we are unable to provide

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comments on the design because the actual design has not been finalized. Per the Safety of Fills Policies 1 and 2, it is likely that any future structural engineering plans will need to be evaluated by BCDC's Engineering Criteria Review Board.

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7 **Navigation Safety and Oil Spills**. We understand that the purpose of widening the turning basins is to increase navigational safety for very large containerships with a 19,000 TEU capacity. Per Navigational Safety and Oil Spill Policy 1, "Physical obstructions to safe navigation, as identified by the U.S. Coast Guard and the Harbor Safety Committee of the San Francisco Bay Region, should be removed to the maximum extent feasible when their removal would contribute to navigational safety and would not create significant adverse environmental impacts. Removal of obstructions should ensure that any detriments arising from a significant alteration of Bay habitats are clearly outweighed by the public and environmental benefits of reducing the risk to human safety or the risk of spills of hazardous materials, such as oil." Please provide evidence that the U.S. Coast Guard and the Harbor Safety Committee of the San Francisco Bay Region have identified the sediment and fast land at Schnitzer Steel, Alameda Gateway, and Howard Terminal to be a navigational safety risk that must be removed. Furthermore, given the fact that 19,000 TEU container vessels carry 4.5 million gallons of fuel, and more of these would be coming into the Bay and calling at the Port, please also explain how the risk of massive oil spills would be reduced and what oil spill prevention plans are in preparation.

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8. **Environmental Justice and Social Equity.** In 2019, the Commission adopted a Bay Plan Amendment to include Environmental Justice and Social Equity polices and is committed to eliminating disproportionate adverse economic, environmental, and social project impacts caused by Commission approvals, actions and activities, particularly in disadvantaged and vulnerable communities. As outlined in Policy 3, project applicants must conduct outreach and meaningfully involve potentially impacted community members throughout the Commission review process.

   The Port of Oakland is immediately adjacent to West Oakland, a community of approximately 25,000 people. West Oakland is a vulnerable community, and the residents face a disproportionate pollution burden that leads to negative health impacts. The Port, which moves the fourth highest international container volume in the U.S., is one reason the community of West Oakland is overburdened by pollution. As such, the Commission is committed to ensuring the West Oakland community participates in the planning of this project to ensure their concerns are addressed and incorporated. Commission staff attended the "Turning Basins Widening Study Community Stakeholder Meeting #2" held on January 12, 2022. There were only two participants at the meeting from the West Oakland community. These two participants were Mr. Margaret Gordon and Mr. Brian Beveridge, co-directors of the West Oakland Environmental Indicators Project (WOEIP), and both were very concerned about the potential direct health impacts of the project. They were also concerned about the comment period deadline, and we appreciate that the USACE considered this and

extended the public comment period to February 14, 2022. Below we outline some of the community's concerns that have not been well addressed by USACE and BCDC's potential role in these issues under our CZMA authority:

a. **Air Quality**. As you may be aware, West Oakland has higher rates of asthma, cardiovascular disease and premature death compared to the rest of Alameda County, which is an environmental justice issue. According to a 2019 *Owning Our Air* report by WOEIP and the Bay Area Air Quality Management District (BAAQMD), West Oakland is home to the highest levels of diesel particulate matter in the Bay Area and has higher concentrations of air pollutants like black carbon, NO and NO2. Neighborhoods near the Port and Seventh Street experience three times the cancer risk from local pollution sources compared to neighborhoods farther away. The 2019 report also states that, "about 33 percent of diesel particulate matter comes from ocean-going vessels associated with the Port." Although we recognize that the BAAQMD is the regulatory authority over stationary sources of air pollution, because the project has the potential to impact air quality both inside and outside the Commission's jurisdiction, BCDC can include conditions for projects such as requiring ground level monitoring of pollution to determine whether or not State or Federal air quality standards can be adhered to within the vicinity of the Port through our CZMA authority. As BAAQMD is part of the Commission's management network, we intend to coordinate on potential air quality impacts related to this project.

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b. **Sediment Contamination**. There was also concern raised regarding the export of contaminated sediment from West Oakland to another community where it could potentially cause harm. Beneficial reuse of the dredged sediment was not explained during the meeting, so no one had the opportunity to understand how placement of sediment with elevated levels of contaminants meeting foundation quality criteria in deep cells at a restoration project is not harmful to human health, and in fact provides the benefit of raising the elevation of subsided wetlands so that they may combat sea level rise. We request that the West Oakland Community be provided with an explanation using non-technical terms of how the dredged sediment will be handled, where it will be placed, and what beneficial reuse is. Further, if any sediment is contaminated enough to be place in a landfill, this should also be explained including USACE's efforts to reduce potential disproportionate impacts to communities that may result from landfill placement.

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The Commission's Environmental Justice and Social Equity Policy 4 states "if a project is proposed within an underrepresented and/or identified vulnerable and/or disadvantaged community, potential disproportionate impacts should be identified in collaboration with the potentially impacted communities." As you're aware, regarding the Community Stakeholder Meeting held on January 12, 2022, members of the West Oakland Community found that neither the agenda nor the presentation was community-friendly and expressed concern over the USACE's lack of engagement with the West Oakland community. A significant portion of the challenge was that the presentations were too technical in nature which prevented community members from

understanding the project and its potential impacts as well as measures that had been chosen to reduce impacts, such as the use of an electric dredge and beneficial reuse. We recommend that additional efforts be made to address their questions during future stakeholder meetings, including providing slides that show the potential impacts and how they were addressed in non-technical terms. This may help create an open dialogue which is a more effective way to increase community members' understanding. As noted in Environmental Justice and Social Equity Policy 3, evidence of how community concerns were addressed should be provided. The EA does not describe any previous engagement or outreach that was conducted as part of the project, though we understand that there was at least one previous meeting, nor does it report the concerns of the communities regarding the project.

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We understand that more community involvement will occur as part of the CEQA process, and per Environmental Justice and Social Equity Policy 2, Commission staff will continue to review the community engagement activities and provide feedback. We also recommend that, at a minimum, outreach be conducted to all 12 census tracts (CT 4017, CT 9820, CT 4287, CT 4022, CT 4025, CT4026, CT 4030, CT 4031, CT 4033, CT 4105, CT 4273, and CT 4276) within a one-mile radius that USACE identified as vulnerable so that they are given an opportunity for involvement during the planning stage of the project.

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9. **Fish, Other Aquatic Organisms, and Wildlife.** Appendix A, Section 6.1 discusses how the project would minimize adverse effects to special-status aquatic species. USACE has determined that the project may affect but is not likely to adversely affect (NLAA), federal ESA-listed threatened or endangered species or their critical habitats. USACE plans to submit NLAA determinations for the Proposed Action to NMFS and USFWS and request their concurrences. We appreciate that USACE plans to also submit a request for NMFS consultation on potential effects to essential fish habitat (EFH). However, Commission staff do not agree with the statement in this section that, "Overall, expansion of the IHTB would result in an increase of open waters and soft- substrate bottom, increasing the extent of EFH in the project area," because ongoing maintenance dredging of the turning basins would continually disrupt the benthic habitat, which does not equate to enhancing essential fish habitat in the project area. Please clarify the aforementioned statement and support it with any available information about dredging that may have been generated by research, site monitoring, or the review of related literature.

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Additionally, the proposed Alternative D-2 would impact about 9.8 acres of subtidal aquatic habitat in the Inner Harbor and 15.0 acres of subtidal aquatic habitat in the Outer Harbor (page 117). Subtidal Areas Policy 1 states, "Any proposed filling or dredging project in a subtidal area should be thoroughly evaluated to determine the local and Bay-wide effects of the project on: (a) the possible introduction or spread of invasive species; (b) tidal hydrology and sediment movement; (c) fish, other aquatic organisms and wildlife; (d) aquatic plants; and (e) the Bay's bathymetry. Projects in subtidal areas should be designed to minimize and, if feasible, avoid any harmful effects." The project involves new work dredging of subtidal habitat that has not been subject to dredging in the recent past. Therefore, the benthic community is considered

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to be relatively undisturbed and well-developed in these areas. New-work dredging would remove soft-bottom substrates, thereby removing subtidal habitat, which is not addressed in this section. Please also provide evidence to support your statement in Appendix A-5 Section 6 that, "Dredging could affect sediment movement by dredging the turning basins to the authorized depth and moving it to placement sites. However, this would not result in significant changes to sediment movement or bathymetry." Impacts to the subtidal habitat resulting from the new work dredging may require mitigation and trigger the need for consultation

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10. **Water Surface Area and Volume.** Please provide an analysis to support the statement in Appendix A-5, Section 6, "the project does not propose new fills, dikes, or piers or that would impact water circulation."

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11. **Shoreline Protection.** Shoreline Protection Policy 5 states in part that, "All shoreline protection projects should evaluate the use of natural and nature-based features … and should incorporate these features to the greatest extent practicable. Therefore, please explain whether or not sheet pile wall braced with batter piles that will be constructed along the Howard Terminal, Alameda Gateway, and Schnitzer Steel, can be modified to include surface treatments that would provide invertebrate habitat. Please also provide an engineering analysis to support the statement, "the project would involve only the minimum fill necessary to ensure the future structural integrity and seismic safety of the portion of the bulkhead being replaced."

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12. **Public Access and Views**. The Commission's federally approved San Francisco Bay CZMA program states that, "the McAteer-Petris Act requires the Commission 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." The USACE is proposing to install approximately 2,500 linear feet of new fill in the form of a sheet pile wall braced with batter piles along Alameda Gateway, Schnitzer Steel, and Howard Terminal to support the land that borders the Bay. Given that new fil in the Bay is proposed, please describe any public access features that could be provided as part of the project. We understand from the IFR/EA, Chapter 3, that pedestrian facilities and access in the immediate vicinity of the Inner Harbor Turning Basin study area on the Oakland side are quite limited with no sidewalks or crosswalk markings to help direct foot traffic. The IFR/EA also states that sidewalks are unimproved in many other locations within the Seaport. The Bay Plan's Appearance, Design, and Scenic Views Policy 5 states in part that, "to enhance the maritime atmosphere of the Bay Area, ports should be designed, whenever feasible, to permit public access and viewing of port activities by means of (a) viewpoints (e.g., piers, platforms, or towers), restaurants, etc." Therefore, please describe whether or not the Port plans to provide new viewing access to the turning basins or enhance any existing features to make them more accessible to the public. Understanding that public access with the Port's operational areas maybe infeasible, please describe any potential in lieu public access opportunities that may be available.

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13. **Coastal Zone Management Act Consistency Determination (Administrative Draft, Appendix A-5) of the Biological Assessment.** A draft Negative Determination is included in Appendix A-5 of Appendix A of the draft IFR/EA, however a request for a consistency determination has not yet been submitted to the Commission. More information is needed (as outlined above) in order to evaluate the project within the context of federal consistency with the CZMA Program. Please provide an approximate date by which BCDC can expect the USACE to submit a request for a consistency determination. We expect, given our current understanding of this project, that the project would need full Commission review, including a public hearing and vote.

61

14. **Consistency with the San Francisco Bay Area Seaport Plan (Seaport Plan).** The Seaport Plan is an element of the San Francisco Bay Plan and is used by BCDC in making port-related regulatory decisions on permit applications, consistency determinations, and related matters. (See section 66651 of the McAteer-Petris Act, codified at the Government Code.) One of the main goals of the Seaport Plan is to reserve sufficient shoreline area to accommodate future growth in maritime cargo, thereby minimizing the need for new Bay fill for port development. (See Seaport Plan, Introduction, Goal 5 at p. 1.)

    To achieve this goal, the Seaport Plan employs land use designations that BCDC and local governments use in land use and regulatory decisions. Specifically, areas determined to be necessary for future port development are designated as Port Priority Use Areas and are reserved for port-related and other uses that will not impede development of the sites for port purposes. (See Seaport Plan, Part I General Policies, Port Priority Use Areas Findings and Policies at pp. 8-9.) For your situational awareness, the following information is provided.

    Howard Terminal is included in the Port of Oakland Port Priority Use Area in the San Francisco Bay Plan and the existing Seaport Plan and is designated as a marine terminal for handling container, break bulk and steel cargo. (See Seaport Plan, Part II Designations, Port of Oakland Table 10 [Port of Oakland Current Facilities] at p. 25 and Figure 4 [Port of Oakland Port Priority Use Area] at p. 27; see also Bay Plan, Plan Map 4 at p. 131 and Plan Map 5 at p. 137.)

    The Turning Basin Tentatively Selected Plan would have the effect of removing a portion of Howard Terminal from Port Priority Use. General Policy 4 of the Seaport Plan states:

    > Deletions of the port priority use and marine terminal designations from this plan should not occur unless the person or organization requesting the deletion can demonstrate to the satisfaction of the Seaport Planning Advisory Committee that the deletion does not detract from the regional capability to meet the projected growth in cargo. Requests for deletions of port priority or marine terminal designations should include a justification for the proposed deletion and should demonstrate that the cargo forecast can be met with existing terminals.

    In this regard, BCDC notes that the Turning Basin Tentatively Selected Plan could trigger the need for a Bay Plan Amendment to remove this portion of Howard Terminal from Port Priority Use. In 2019, BCDC initiated Bay Plan Amendment 2-19, at the request of

62

the Oakland Athletics to remove the Port Priority Use Area designation from Howard Terminal (for the purpose of facilitating a project proposal by the Athletics). This Bay Plan Amendment request is active and will likely be considered by the Commission later this year. In the event that the Commission approves Bay Plan Amendment 2-19, the Priority Use Area designation for Howard Terminal would be entirely removed and no additional Bay Plan Amendment would be needed to accommodate the Tentatively Selected Plan. However, if Bay Plan Amendment 2-19 is not approved by the Commission, the Priority Use Area designation on Howard Terminal would remain, and therefore implementation of the turning basin expansion may require an application for a Bay Plan Amendment to remove the designation and Commission approval prior to issuing a Letter of Agreement or McAteer Petris Act permit for the removal of land from Howard Terminal within the Priority Use Area in order to accommodate the Tentatively Selected Plan.

62

In 2019, BCDC also initiated Bay Plan Amendment 1-19, a general update of the Seaport Plan. Bay Plan Amendment 1-19 is also under active consideration and involves a holistic update to general policies governing use for all Ports within the Port Priority Use Areas as well as policies specific to each Port. Whether or not Bay Plan Amendment 2-19 is approved, BCDC staff see an independent opportunity to collaborate with the Army Corps and the Port on forward-thinking and necessary revisions to the Port Priority Use Area maps and related policies as part of the Bay Plan Amendment 1-19 process.

Thank you for providing staff with the opportunity to review the draft IFR/EA and FONSI for the proposed project. If you should have questions regarding this letter, the San Francisco Bay Coastal Zone Management Program, or the Commission's policies or the consistency determination process, please feel free to contact me at (415) 352-3646 or julia.kelly@bcdc.ca.gov. We look forward to working with USACE to further evaluate this proposed project.

Sincerely,

DocuSigned by:
Julia Kelly
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JULIA KELLY, PhD
Environmental Scientist