



December 18, 2023

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Khamly Chuop
Port Associate Environmental Planner and Scientist
Port of Oakland
530 Water Street
Oakland, CA 94607

Subject: Port of Oakland Harbor Turning Basins Widening Draft Environmental Impact Report (DEIR)

Dear Khamly Chuop:

Bay Area Air Quality Management District (Air District) staff has reviewed the Draft Environmental Impact Report (DEIR) for the Oakland Harbor Turning Basins Widening Project (Project) to evaluate the potential widening of Oakland's turning basins. The Project proposes to increase the width of the Port of Oakland's (Port) two existing turning basins – the Outer Harbor Turning Basin (OHTB), and the Inner Harbor Turning Basin (IHTB) – to accommodate vessels that are 1,310 feet long and 193 feet wide, with an estimated cargo capacity of 19,000 twenty-foot equivalent units (TEU). The expansion consists of widening the existing OHTB by an additional 315 feet and the IHTB by an additional 334 feet.

The Project will require federal approval under the National Environmental Policy Act (NEPA). The U.S. Army Corps of Engineers (USACE), in partnership with the Port, released the Project's draft Environmental Assessment (EA) pursuant to NEPA on December 17, 2021, and the Air District provided comments on the draft EA on February 14, 2022. The Air District also provided comments on the California Environmental Quality Act (CEQA) Notice of Preparation (NOP) on July 5, 2022.¹ The DEIR should address all Air District comments submitted on both the EA and the NOP.

The Air District continues to have concerns about the Project, especially regarding the air pollution impacts to the community of West Oakland, located east of the Outer Harbor Channel and north of the Inner Harbor Channel. The Air District is concerned with the Project's cumulatively considerable net increase of NO_x and PM_{2.5} criteria pollutants, and cancer risk for sensitive receptors, during construction phases. Furthermore, the Project's potential operational impacts including increases to twenty-foot equivalent unit (TEU) conflicts with the goals of both the

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¹ Both comment letters can be found the Air District's website at: <https://www.baaqmd.gov/plans-and-climate/california-environmental-quality-act-ceqa/ceqa-comment-letters>

Air District's 2017 Clean Air Plan (2017 CAP)² and the West Oakland Community Action Plan (WOCAP).³

As the DEIR correctly identifies, West Oakland is a community characterized by a cumulative air pollution exposure burden. There are multiple existing sources of air pollution within and adjacent to West Oakland, and the community is already subject to elevated air pollution emissions from nearby highways, cargo shipping, trucking, and industrial facilities. The combination of these sources has resulted in disproportionate adverse health impacts on the West Oakland community. This heightened exposure and health burden is important context for the thorough evaluation of any additional impacts arising from both the construction and operations of the Project.

Environmental Justice

The Project is situated near the West Oakland community, which holds designations under AB 617, SB 1000, and also is an Overburdened Community as defined by the Air District.⁴ The Air District strongly urges the Port review and implement best practices to center environmental justice (EJ), health, and equity in the **construction and operations** phases of this Project as illustrated in chapter two (2) of the Air District's 2022 California Environmental Quality Act (CEQA) Guidelines.⁵

EJ relates to the relationship between social and economic factors and environmental impacts on people and their communities. Thus, consideration of race, demographics, and health outcomes of an impacted community are crucial to a thorough and sensitive environmental review.

The Air District recommends the following:

- Prepare a racial impact statement – an analysis of how a proposed action affects racial, ethnic, or national origin groups – to ensure and demonstrate nondiscrimination under Title VI of the 1964 Civil Rights Act. Please contact Air District staff for resources and tools to help prepare a racial impact statement.

² Bay Area Air Quality Management District, 2017. Spare the Air: Cool the Climate, Final 2017 Clean Air Plan, https://www.baaqmd.gov/~media/files/planning-and-research/plans/2017-clean-air-plan/attachment-a_-_proposed-final-cap-vol-1-pdf.pdf

³ Bay Area Air Quality Management District, October 2019. Owning Our Air. The West Oakland Community Action Plan – Volume 1: The Plan, <https://www.baaqmd.gov/~media/files/ab617-community-health/west-oakland/100219-files/final-plan-vol-1-100219-pdf.pdf>

⁴ Bay Area Air Quality Management District, 2021. Regulation 2: Permits, Rule 1: General Requirements, Section 2-1-243, Overburdened Community, https://www.baaqmd.gov/~media/dotgov/files/rules/reg-2-permits/2021-amendments/documents/20211215_rg0201-pdf.pdf?rev=103cc60e706947d3ad1e4f5a090483c1

⁵ Bay Area Air Quality Management District, 2022. California Environmental Quality Act (CEQA) Guidelines, Chapter 2, Best Practices for Centering Environmental Justice, Health, and Equity, <https://www.baaqmd.gov/~media/files/planning-and-research/ceqa/ceqa-guidelines-2022/ceqa-guidelines-chapter-2-environmental-justicefinal-pdf.pdf>

- Identify each census tract designated as a Disadvantaged Community per SB 535, locally designated per SB 1000, an AB 617 Community, or an Air District Overburdened Community. For each identified census tract please show its location on a map. Further, specific information on each of these census tracts should be included in the DEIR Air Quality Section Environmental Setting. This may include information on racial and ethnic composition, and sensitive population health indicators (e.g., asthma, cardiovascular disease, infants with low birth weight) and socioeconomic factor indicators (e.g., educational attainment, housing-burdened low-income households, linguistic isolation, poverty, unemployment) included in CalEnviroScreen 4.0.

WOCAP Implementation

The Air District and the West Oakland Environmental Indicators Project (WOEIP) worked with a community Steering Committee to develop the 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 PM_{2.5} and diesel emissions, and reducing cancer risk from toxic air contaminants (TACs). Any increases in local PM_{2.5}, diesel emissions or cancer risk would be inconsistent with the WOCAP and would hinder progress toward the agreed upon targets set by the WOCAP Steering Committee, the Air District, and the California Air Resources Board (CARB).

The Air District commends the Port for its participation as a member of the WOCAP Steering Committee and encourages continued engagement in WOCAP implementation. Further robust engagement can help identify opportunities to implement strategies and meet the WOCAP goals and targets. Therefore, the Air District recommends the following:

- The Air District acknowledges the Port's incorporation of mitigation measures that correspond with multiple WOCAP strategies that pertain to the Project's construction phase. The Air District advises the Port to engage with the WOCAP Steering Committee to identify mitigation measures aimed at minimizing air quality impacts during operational phases that are consistent with WOCAP goals and strategies.
- Create a Community Benefits Agreement (CBA) in consultation with the WOCAP Steering Committee, to develop a package that includes benefits most important to community members.
- Collaborate with the WOCAP Steering Committee to deliver a presentation on the implementation of any prospective Mitigation Monitoring or Reporting Program (MMRP) adopted for the Project.

Consistency with Adopted Plans

As mentioned earlier, the Air District is concerned with the Project's *significant and unavoidable impact* due to the Project's inconsistency with the 2017 CAP and the WOCAP.

As described in the section above, the Port should engage the WOCAP Steering Committee to identify mitigations that align with WOCAP strategies, goals and targets to avoid additional cumulative pollution impacts on a community already affected by environmental pollution and experiencing significant health disparities.

Continued Implementation of the Seaport Air Quality 2020 and Beyond Plan

Given the substantial impact on air quality, the Port should continue to implement strategies outlined in the Port's Seaport Air Quality 2020 and Beyond Plan (Seaport Air Quality Plan) to achieve its zero-emissions Port operations vision. In the interest of fostering transparency and accountability, the Air District strongly recommends several measures:

- Provide accessible links to the latest Annual Reports presented to the Board of Commissioners, as described on page 44 of the Seaport Air Quality Plan.
- Provide a detailed status update on the Near-Term Action Plan (Years 2019-2023) included on page 27 of the Seaport Air Quality Plan. This update should include a breakdown of completed actions, providing links to any concluded studies for further reference. Additionally, for actions that remain outstanding, we urge the inclusion of an estimate for their time of completion and a summary outlining challenges encountered during implementation.
- Along with the status update on the NTAP mentioned above, the Port should identify the Intermediate-Term Implementing Actions that can be put into effect now, accompanied by a clear roadmap and timeline for their implementation.

These measures will facilitate a proactive approach to address air quality concerns regarding Port operations.

Evaluate Air Quality & Climate Impacts from Project Operations

The DEIR states that if approved, the Project will not result in increased cargo throughput or modification of land-based operations at the Seaport, with negligible changes in criteria pollutant and greenhouse gas (GHG) emissions linked to these operations. This finding is based on the *2019-2050 Bay Area Seaport Forecast* prepared for the San Francisco Bay Conservation and Development Commission (BCDC) which found that, under a moderate-growth scenario, the Port will undergo an annual cargo growth of 2.1 percent irrespective of the implementation of the

Project.⁶ Given this analysis, the DEIR utilizes a future operational baseline for air quality and GHG impacts, rather than the existing conditions at the time the NOP was published, citing that *“The use of the future operational baseline rather than the existing baseline is appropriate for this situation, and allowed under CEQA because the vessel fleet would likely change in the future as a result of other economic and global influences to the shipping industry, including growth, efficiency improvements, and vessel emission improvements as well as the physical change to the turning basins.”*⁷ Baseline emissions constitute the starting point for the impact analysis, meaning that a project’s potential impacts are measured from those baseline levels to the future scenario. The DEIR should also conduct an analysis of impacts using the current existing operations scenario as the baseline.

The DEIR indicates that the fleet mix and frequency of ocean-going vessels (OGVs) are anticipated to change as a result of economic trends and physical changes to the size of the turning basins. These future changes in fleet mix and vessel calls are summarized in Table 3.1-1 of the DEIR. These anticipated changes are expected to be notably different from both the existing OGV fleet mix visiting the Port and the current number of vessel calls. This implies a substantial departure from current operations. This further illustrates the need to evaluate the Project’s impacts with a current existing operations scenario, as an accurate baseline is critical to the proper evaluation of the Project’s potential impacts.

While the DEIR asserts that the proposed Project is not anticipated to augment cargo throughput or alter landside operations at the Port, a Project objective is to optimize transit efficiencies for large vessels with a cargo capacity of 19,000 TEUs. This efficiency improvement raises substantial concerns about potential operational landside impacts, including impacts from truck and rail trips to and from the Port, parking access, and traffic flow within the West Oakland community. These impacts may conflict with the West Oakland Truck Management Plan, which was designed to reduce the effects of transport trucks on local streets in West Oakland.⁸

Considering the significant health disparities and the disproportionate exposure to elevated levels of air pollution experienced in West Oakland, the Air District recommends that the Port:

- Conduct an additional impact analysis utilizing the emissions baseline existing at the time of the notice of preparation (NOP). This approach will facilitate a comprehensive understanding of air quality and GHG impacts during the Project’s operation phase, enabling local decision-makers, community members, and the Air District to propose informed recommendations to mitigate significant impacts.
- Include a comprehensive impact analysis of the anticipated emissions of air pollutants and GHGs resulting from any increased use of off-road equipment and on-road truck trips resulting from the projected growth of goods movement in and out of the Port.

⁶ Port of Oakland, Oakland Harbor Turning Basins Widening DEIR, October 2023. p. 175.

⁷ Port of Oakland, Oakland Harbor Turning Basins Widening DEIR, October 2023. p. 102.

⁸ City of Oakland, West Oakland Truck Management Plan, May 2019, <https://www.oaklandca.gov/documents/-2>

Implement All Feasible Mitigation Measures to Reduce Air Pollution and Health Impacts

The Health Risk Assessment (HRA) indicates significant and unavoidable impacts on air quality and health, with significant and unavoidable cancer risk and PM_{2.5} impacts during the construction phase, exceeding Air District thresholds. Despite mitigations, the HRA reveals that excess lifetime cancer risk for the maximally exposed resident is roughly 10 times above the Air District's recommended threshold. Simultaneously, the maximum PM_{2.5} concentration resulting from construction activities, even with mitigations, is approximately 66 times higher than the Air District's threshold. During the second and third years of construction, the mitigated emissions for NO_x also surpass the Air District's threshold. Therefore, the substantial impact on public health and air quality requires feasible mitigation measures during the construction and operations phases of the Project.

The DEIR should implement all feasible measures to minimize air quality impacts to the greatest extent possible. Emission reduction measures the DEIR should evaluate and consider for both construction and operational phases include:

- Prohibit or minimize the use of diesel fuel, consistent with the Air District's Diesel Free By '33 initiative (<http://dieselfree33.baaqmd.gov/>).
- Require the use of grid power for construction activities whenever possible; if grid power is not available, use of alternative power such as battery storage, hydrogen fuel cells, or, if no other options are available, use of Final Tier 4 generators using renewable diesel fuel.
- Accelerate and maximize the use of renewable diesel alternatives to the Port's diesel-powered equipment and vehicle fleet consistent with the Port's Seaport Air Quality Plan.
- Accelerate implementation of zero-emission equipment, vehicles and supporting infrastructure to mitigate air pollution and GHG impacts. The Port should also accelerate the phase out of non-zero-emission combustion powered drayage trucks as defined under CARB's Advanced Clean Fleets Regulation.
- Prohibit trucks from idling for more than two minutes or prohibit idling altogether.
- Implement a program that incentivizes construction workers to carpool, use EVs, or use public transit to commute to and from the site. The program may include the following features, as feasible: providing a shuttle service to and from BART; preferential parking to carpool vehicles, vanpool vehicles, and EVs; and scheduling work shifts to be compatible with the schedules of local transit services.
- Incorporate mitigation measures into the Project's permit, with clear expectations, milestones, enforcement and oversight.

Additional Recommendations

- The DEIR should include a discussion of compliance with Air District Regulation 6, Rule 6: Prohibition of Trackout for construction sites where the total land area covered by

construction activities and/or disturbed surfaces at the site are one acre or larger as it applies to the Project. To review the regulation, please visit <https://www.baaqmd.gov/rules-and-compliance/rules/regulation-6-rule-6-prohibitionof-trackout> and consult with staff from the Air District's Compliance and Enforcement Division at (415) 749-4795 or compliance@baaqmd.gov.

- Certain aspects of the Project may require an air quality permit (Authority to Construct/Permit to Operate) from the Air District (for example, diesel generators, certain portable equipment being used in a stationary manner). Any applicable Air District permit requirements should be discussed in the DEIR. For instance, Table 2.6.-1, "Permits and Approvals Anticipated for the Proposed Project" of the DEIR omits the Air District. Additionally, under Appendix B "Air Quality and GHG Technical Report" of the DEIR, two sources are mentioned that will likely require an Authority to Construct/Permit to Operate from the Air District:
 - Page 25 mentions a diesel engine used to power a crane at Berth 10, which is described in the DEIR's Page 2-8 as a rehandling dredged material area.
 - Page 30 mentions fugitive dust from storage piles, which are controlled by watering. Appendix B states that Berth 10 is assumed to have up to 4.4 acres of storage piles.

Please contact Barry Young, Senior Advanced Projects Advisor in the Air District's Engineering Division, at (415) 749-4721 or byoung@baaqmd.gov to discuss permit requirements.

Air District Planning staff are available to assist the Port in addressing these comments. If you have any questions or would like to discuss Air District recommendations further, please contact Diana Perez-Domencich, Environmental Planner, dperez-domencich@baaqmd.gov and Mark Tang, Acting Assistant Manager, at mtang@baaqmd.gov.

Sincerely,



Greg Nudd
Deputy Executive Officer of Science and Policy

cc: BAAQMD Chair John J. Bauters
BAAQMD Director Juan Gonzalez
BAAQMD Director David Haubert
BAAQMD Director Nate Miley
Stanley Armstrong, California Air Resources Board
Ms. Margaret Gordon, West Oakland Environmental Indicators Project
Brian Beveridge, West Oakland Environmental Indicators Project

Attachment: Air District comment letter to Mr. Eric Jolliffe, US Army Corps of Engineers, dated February 14, 2022, "Oakland Harbor Turning Basins Widening Navigation Study Project Draft Integrated Feasibility Report and Environmental Assessment"



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Attachment: Air District comment letter to Mr. Eric Jolliffe, US Army Corps of Engineers, dated February 14, 2022, "Oakland Harbor Turning Basins Widening Navigation Study Project Draft Integrated Feasibility Report and Environmental Assessment"

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.

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.

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.

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.
- (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

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.

- (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.
- (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.

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:

- (1) Analyze construction phase emissions from all equipment, including tugboats and other marine vessels, on-road and off-road trucks, and other equipment.
- (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.
- (3) Complete an HRA to evaluate the potential increase in local emissions and exposure to PM_{2.5} 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.
- (4) Complete an analysis of air quality impacts of the Project's operational phase, including a cumulative analysis that considers all reasonably 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.

- (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.
- (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.

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