

Chapter 1

Introduction

The Los Angeles Harbor Department (LAHD), an agency of the City of Los Angeles, also referred to as Port of Los Angeles (Port) has prepared this Recirculated Draft Supplemental Environmental Impact Report (SEIR) to identify and evaluate the potential environmental impacts associated with implementation of the proposed development of the West Channel/Cabrillo Marina Phase II Development Project (Cabrillo Way Marina). The project applicant, Westrec Marinas, proposes to redevelop 48 acres of land and 37 acres of water in the West Channel, which is the subject of this Recirculated Draft SEIR. In addition to the Cabrillo Way Marina components discussed above, the proposed project also includes the consideration of establishing a new public boat launch facility within the Port. The nine potential boat launch facility sites are described in detail in Chapter 2, “Project Description,” and in Chapter 5, “Boat Launch Analysis.”

The California Environmental Quality Act (CEQA) requires that all state and local government agencies, as well as special districts, consider the environmental consequences of projects over which they have discretionary authority before taking action on them. The purpose of this Recirculated Draft SEIR is to inform agencies and the public of significant environmental effects associated with the proposed project, to describe and evaluate reasonable alternatives to the project, and to propose mitigation measures that would avoid or reduce the project’s significant effects.

In accordance with State CEQA Guidelines, this document has been submitted to the State Clearinghouse for distribution to interested state agencies. As mandated by CEQA, this document is being circulated for 45 days.

1.1 Purpose and Use of the EIR

According to Section 15121(a) of the State CEQA Guidelines (California Administrative Code, Title 14, Division 6, Chapter 3), the purpose of an Environmental Impact Report (EIR) is to serve as an informational document that

will inform public agency decision-makers and the public generally of the significant environmental effect of a project, identify possible ways to minimize the significant effects, and describe reasonable alternatives to the project.

The Board of Harbor Commissioners originally certified a Final EIR in 1980 for the West Channel/Cabrillo Beach Recreational Complex (LAHD 1980a). That document assessed the West Channel/Cabrillo Marina Phase I Development Project (now called Cabrillo Marina Phase I), which was subsequently constructed and has been in operation since 1986. The document also discussed the Phase II Development at a programmatic level. In 1998, the Phase II Development component changed substantially from that which was described in the 1980 Final EIR. Consequently, a Draft SEIR was prepared and circulated for public review in November 1998 (LAHD 1998). That Draft SEIR evaluated the changes between the 1980 EIR project and the 1998 Cabrillo Way Marina development plans. However, for various reasons, the project was placed on hold and the Final EIR was not completed.

Since 1998, the proposed Cabrillo Way Marina project has undergone several minor site plan and marina slip layout revisions, as well as the introduction of the two Miner Street/22nd Street intersection configuration options, the extension of Miner Street south of 22nd Street, and the inclusion of a boat launch siting study. Thus, the revised project description is the subject of this current Recirculated Draft SEIR, which evaluates the direct, indirect, and cumulative impacts of the proposed project in accordance with the provisions set forth in the State CEQA Guidelines. It will be used to address potentially significant environmental issues and to recommend adequate and feasible mitigation measures, where possible, that could reduce or eliminate significant environmental impacts.

1.2 Lead, Responsible, and Trustee Agencies

The LAHD is the lead agency for the proposed project pursuant to Section 15367 of the State CEQA Guidelines, since it has the greatest degree of discretion to approve or deny the proposed project. In addition to the lead agency, several other agencies have special roles with respect to the proposed project. Other agencies will use this Recirculated Draft SEIR as the basis for their decisions to issue any approvals and/or permits that may be required. Section 15381 of the State CEQA Guidelines defines a “responsible agency” as

a public agency which proposes to carry out or approve a project, for which a Lead Agency is preparing or has prepared an EIR or Negative Declaration. For purposes of CEQA, responsible agencies include all public agencies other than the lead agency that have discretionary approval authority over the project.

Additionally, Section 15386 of the State CEQA Guidelines defines a “trustee agency” as “a state agency having jurisdiction by law over natural resources affected by a project which are held in trust for the people of the State of California.” The following responsible and trustee agencies may rely upon this Recirculated Draft SEIR in a review capacity or as a basis for issuance of permits for the proposed project.

- Federal Agencies
 - U.S. Coast Guard (USCG)
 - U.S. Environmental Protection Agency (EPA)
 - U.S. Fish and Wildlife Service (USFWS)
 - National Marine Fisheries Service (NMFS)
 - U.S. Army Corps of Engineers (ACOE)
- State Agencies
 - California Department of Fish and Game (DFG)
 - State Lands Commission (SLC)
 - California Air Resources Board (CARB)
 - California Coastal Commission (CCC)
 - California Integrated Waste Management Board (CIWMB)
 - California Environmental Protection Agency (Cal-EPA)
 - California Department of Boating and Waterways (DBAW)
 - California Department of Transportation (Caltrans)
- Regional Agencies
 - South Coast Air Quality Management District (SCAQMD)
 - Southern California Association of Governments (SCAG)
 - California Regional Water Quality Control Board, Los Angeles Region (LARWQCB)
 - Los Angeles County Fire Department (LACFD)
- Local Agencies
 - City of Los Angeles Building & Safety Department (LABSD)
 - City of Los Angeles Bureau of Engineering
 - City of Los Angeles Bureau of Sanitation
 - City of Los Angeles Fire Department (LAFD)
 - City of Los Angeles Harbor Department (LAHD)
 - City of Los Angeles Department of Transportation (LADOT)

The jurisdictions and authorities of these agencies are discussed below.

1.2.1 Federal Agencies

Although federal agencies are not formally “responsible” or “trustee agencies,” as defined by the State CEQA Guidelines, the following agencies may have jurisdiction over specific aspects of the project.

U.S. Coast Guard

The USCG has jurisdiction over marine facilities and over the Marine Terminal Operations Plan, which governs transportation-related onshore and offshore facilities capable of transferring oil in bulk. The USCG is responsible for ensuring safe navigation, and for preventing and responding to oil or hazardous materials releases in the marine environment.

U.S. Environmental Protection Agency

Under Section 102 of the Marine Protection, Research and Sanctuaries Act, the EPA is responsible for evaluating dredge materials for suitability for ocean disposal. The EPA has a consultation role to the ACOE under the Fish and Wildlife Coordination Act. The EPA also oversees federal air pollution programs under the Clean Air Act, including conformity determinations.

U.S. Fish and Wildlife Service

The USFWS has a consultation role to the ACOE under the Fish and Wildlife Coordination Act, the Endangered Species Act, and the Marine Mammal Protection Act.

National Marine Fisheries Service

The NMFS has a consultation role to the ACOE under the Fish and Wildlife Coordination Act, and the Endangered Species Act, and the Magnuson-Stevens Act (Essential Fish Habitat).

U.S. Army Corps of Engineers

The ACOE has permitting authority under Section 10 of the Rivers and Harbors Act (dredging permits), Section 404 of the Clean Water Act (CWA) (discharge of dredge or fill material into waters of United States), and Section 103 of the Marine Protection, Research and Sanctuaries Act (ocean disposal of dredged material).

1.2.2 State Agencies

California Department of Fish and Game

The DFG is entrusted by the state with responsibility over the natural resources within the state and is a trustee agency for the plant and animal resources of the site. The DFG may review and submit recommendations in accordance with CEQA and the Fish and Wildlife Coordination Act.

State Lands Commission

The SLC has oversight responsibility for tidal and submerged lands legislatively granted in trust to local jurisdictions. The SLC has adopted regulations for the inspection and monitoring of marine terminals. The SLC inspects and monitors all marine facilities for effects on public health, safety, and the environment.

California Air Resources Board

The CARB coordinates and oversees both state and federal air pollution control programs in California. The CARB retains permit authority for mobile sources.

California Coastal Commission

The CCC has authority to approve amendments to the Port Master Plan (PMP) (and/or to issue Coastal Development Permits), and to review Coastal Development Permits issued by the Board of Harbor Commissioners. Marina projects are appealable to the Coastal Commission.

California Integrated Waste Management Board

The CIWMB has overall statutory and regulatory authority to control the handling and disposal of solid, non-hazardous waste in a manner that protects public safety, health, and the environment. State law assigns specific responsibilities for solid waste management to local governments. To ensure compliance with state policy, the CIWMB reviews and concurs on local permit decisions. The Waste Management Board has water quality protection regulations that require monitoring of groundwater quality and the collection, treatment, and disposal of leachate at solid waste landfills.

California Environmental Protection Agency

Cal-EPA, via the Department of Toxic Substances Control (DTSC), regulates underground tanks that store hazardous materials—a responsibility shared with the State Water Resources Control Board (SWRCB)—and implements the State Toxic Injection Well Control Act of 1985. Inspection of underground tanks in Los Angeles has been delegated to the LAFD. This department regulates disposal of hazardous waste into underground injection wells, issues permits for hazardous waste generators and disposal facilities, and implements enforcement actions and remediation activities in accordance with the provisions of the Resource Conservation and Recovery Act (RCRA). The SWRCB and the Regional Water Quality Control Board (RWQCB) implement groundwater monitoring provisions of RCRA under an interagency agreement with the California DTSC.

California Department of Boating and Waterways

The DBAW is concerned with the safety of and the provision of facilities for the boating public. The DBAW reviews the planning and design of boating facilities, and it issues loans and grants for the construction of small craft harbors and boat launching facilities.

California Department of Transportation

Caltrans reviews and submits recommendations in accordance with CEQA. Caltrans has permitting authority for the transportation of construction-related equipment and materials.

1.2.3 Regional Agencies

South Coast Air Quality Management District

The SCAQMD has permit authority over stationary and area sources for approving emissions from construction and operation of emission-producing equipment, and for regulating air toxics and other air quality nuisance sources. The SCAQMD prepares the South Coast Air Basin (SCAB) Air Quality Management Plan (AQMP) and has review and approval authority for various air quality plans required by various rules.

Southern California Association of Governments

SCAG is responsible for developing regional plans for transportation management, growth, and land use, as well as developing the growth factors used in forecasting air emissions in the SCAB. SCAG has developed a Growth Management Plan (GMP), a Regional Housing Needs Assessment, a Regional Mobility Program (RMP), and, in cooperation with the SCAQMD, the AQMP.

California Regional Water Quality Control Board, Los Angeles Region

The LARWQCB has permit authority for Waste Discharge Orders and National Pollutant Discharge Elimination System (NPDES) permits for discharge of wastewater into surface waters. The LARWQCB also has permit authority for dredging and dredged material disposal activities.

Los Angeles County Fire Department

LACFD licenses and inspects all hazardous waste generation in the City of Los Angeles. It provides regulation and oversight of site remediation projects involving hazardous waste generators, where surface and subsurface soils are contaminated with hazardous substances.

1.2.4 Local Agencies

City of Los Angeles Building & Safety Department

The LABSD has permit authority for issuing building and grading permits.

City of Los Angeles Bureau of Engineering

The City of Los Angeles Bureau of Engineering has permit authority for issuing Storm Drain Connection Permits for discharges of stormwater and/or connections of storm drains into the City's storm drain system.

City of Los Angeles Bureau of Sanitation

The City of Los Angeles Bureau of Sanitation has permit authority for issuing Industrial Waste Permits for discharges of industrial wastewater to the city sewer system.

City of Los Angeles Fire Department

The LAFD approves business plans and risk management and prevention programs. The LAFD also reviews and submits recommendations regarding design for purposes of issuing building permits. The Underground Tank Unit of the LAFD is responsible for inspecting specific underground tanks. This authority is delegated by the RWQCB. The SWRCB and the DTSC of Cal-EPA share the responsibility of regulating underground tanks that contain hazardous materials.

City of Los Angeles Harbor Department

The LAHD has leasing authority for Port land and water areas. The LAHD serves as permit authority for coastal development, engineering, and construction. It is the lead agency for EIR review and project review with regard to regulatory requirements. The LAHD issues Coastal Development Permits for activities included in an approved PMP.

City of Los Angeles Department of Transportation

The LADOT reviews and approves changes in city street design, construction, signalization, signage, and traffic counts.

1.3 Recirculation of the Draft SEIR

A Draft EIR is required to be recirculated if “significant new information” is added to the EIR after the close of the public comment period on the Draft EIR, but before the certification of the Final EIR. In accordance with CEQA Guidelines Section 15088.5, recirculation is required when new significant information identifies:

- new significant environmental impacts resulting from the project or from a new mitigation measure proposed to be implemented;
- substantial increase in the severity of an environmental impact unless mitigation measures are adopted that reduce the impact to a level of insignificance;
- feasible project alternatives or mitigation measures, considerably different from others previously analyzed, that would clearly lessen the environmental impacts of the project, but the project's proponents decline to adopt; or
- the Draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded.

The LAHD has decided to revise and recirculate the Draft SEIR because the proposed project scenario meets the criteria set forth above in the Guidelines requiring the recirculation of a Draft EIR. The CEQA Guidelines therefore require that the revised EIR include a summary of the revisions made to the previously circulated Draft EIR. The following summary includes the changes to the Draft SEIR that have occurred since the previous circulation of the 1998 Draft EIR in accordance with Section 15088.5(g) of the CEQA Guidelines:

- changes to the proposed project description involving:
 - changes in dredge and fill quantities;
 - addition of more boat storage capacity in the dry stack boat storage;
 - minor changes to the number, configuration, and size of proposed boat slips;
 - addition of boat launch facility options to the proposed project as a result of public comments received during the previous review of the 1998 Draft SEIR;
 - proposed institution of a boat launch reservation system at the existing Cabrillo Beach Launch Ramp and the opening of Shoshonean Road to incoming boat trailers only;
 - changes to site access configuration and modifications to the 22nd Street/Miner Street intersection, and widening and realignment of Miner Street; and
 - substitution of yacht club facilities in place of the youth activity center;
- comprehensive reformatting to update the environmental setting and impact analyses;
- revisions to significance criteria and thresholds of significance to be consistent with the *Draft Los Angeles CEQA Thresholds Guide*;
- new analyses for the following environmental issues:
 - light and glare and
 - environmental justice;
 - new environmental analyses related to the new boat launch options; and
- analysis of new alternatives, including analysis of the proposed project from the 1998 Draft SEIR.

1.4 Scope and Content of the Recirculated Draft SEIR

This Recirculated Draft SEIR has been prepared in conformance with CEQA (Public Resources Code, Section 21000 et seq.), the State CEQA Guidelines (14 CCR Section 15000 et seq.), and City Guidelines for the Implementation of

CEQA, as amended. The criteria for determining significance applied to the environmental impact analysis are described within each chapter. The “threshold of significance” for a given environmental effect is the level at which the LAHD, as lead agency, finds the effect on the project to be significant. “Threshold of significance” can be defined as:

a quantitative or qualitative standard, or set of criteria, pursuant to which significance of a given environmental effect may be determined. (CEQA Guidelines Section 15064.7 [a]).

This Recirculated Draft SEIR has been prepared by LAHD with the assistance of Jones & Stokes. The scope of the document, methods of analysis, and conclusions represent the independent judgment of the LAHD. Staff members who helped prepare this SEIR, from the LAHD and Jones & Stokes, are identified in Chapter 10, “List of Preparers.”

The scope of this Recirculated Draft SEIR was established based on the Notice of Preparation (NOP) for the 1998 Draft SEIR (LAHD 1998), the analysis in the 1998 Draft SEIR, the original Draft EIR for the West Channel/Cabrillo Beach Recreational Complex (LAHD 1980a), and comments received on these documents. The following issues have been determined to be potentially significant and are therefore evaluated in this Recirculated Draft SEIR:

- land use,
- transportation and circulation,
- meteorology and air quality,
- noise,
- aesthetics,
- light and glare,
- geology,
- groundwater and soils,
- water quality and oceanography,
- biota and habitats,
- cultural resources,
- public services and utilities,
- recreation, and
- risk of upset.

Chapters 3.1 through 3.14 discuss the issues found to have the potential to be significantly affected by the proposed project. These issues are discussed within each chapter, and mitigation measures to reduce impacts to a less-than-significant level are proposed whenever possible. Although not required under CEQA, Chapter 4 provides an analysis of potential disproportionately high and adverse

human health or environmental effects to low-income or minority populations that is consistent with the environmental justice guidelines for National Environmental Protection Act (NEPA) documents in the federal document *Environmental Justice: Guidance Under the National Environmental Policy Act* (Council on Environmental Quality 1997).

This Recirculated Draft SEIR also includes all of the sections required by CEQA. Table 1-1 on the following page contains a list of sections required under CEQA (including the section providing the requirements for content) and references the specific chapter in this Recirculated Draft SEIR where a response to these items can be found.

Table 1-1. Required EIR Contents

Requirement/CEQA Section	Location in this Recirculated Draft SEIR
Table of contents (Section 15122)	Table of Contents
Summary (Section 15123)	Executive Summary
Project description (Section 15124)	Chapter 2
Environmental setting (Section 15125)	Chapters 3.1-3.14
Plan inconsistencies (Section 15125.26)	Chapter 3.1
Significant environmental impacts (Section 15126.2)	Chapters 3.1-3.14
Unavoidable significant environmental impacts (Section 15126.2)	Chapters 3.1-3.14
Mitigation measures (Section 15126.4)	Chapters 3.1-3.14
Cumulative impacts (Section 15130)	Chapters 3.1-3.14
Alternatives to the proposed project (Section 15126.6)	Chapter 6
Growth-inducing impacts (Section 15126.2)	Chapter 7
Effects found not to be significant (Section 15128)	Chapters 3.1-3.14
Organizations and persons consulted (Section 15129)	Chapter 9
List of preparers (Section 15129)	Chapter 10

1.5 Recirculated Draft SEIR Organization

The content and format of this Recirculated Draft SEIR are designed to meet the current requirements of CEQA and the State CEQA Guidelines. In order to easily obtain information about the project and its specific issues, the Recirculated Draft SEIR is organized into the following chapters:

“Executive Summary” presents a summary of the proposed project and alternatives, potential impacts and mitigation measures, and impact conclusions regarding growth inducement and cumulative impacts.

Chapter 1, “Introduction,” describes the purpose and use of the Recirculated Draft SEIR, provides a brief overview of the proposed project, and outlines the organization of the Recirculated Draft SEIR.

Chapter 2, “Project Description,” describes the project location, project details, and the objectives for the proposed project.

Chapter 3, “Environmental Analysis,” describes for each environmental issue the existing conditions, or setting, before project implementation; methods and assumptions used in impact analysis; thresholds of significance; impacts that would result from the proposed project (both project-specific and cumulative impacts); and applicable mitigation measures that would eliminate or reduce significant impacts.

Chapter 4, “Environmental Justice,” analyzes the potential for disproportionately high and adverse human health or environmental effects to low-income or minority populations, consistent with the environmental justice guidelines for NEPA documents in the federal document *Environmental Justice: Guidance Under the National Environmental Policy Act* (Council on Environmental Quality 1997).

Chapter 5, “Boat Launch Analysis,” evaluates the general environmental effects of constructing and operating a public boat launch at one or more of 9 potential launch site locations.

Chapter 6, “Alternatives,” evaluates the environmental effects of project alternatives.

Chapter 7, “Growth-Inducing Impacts,” includes a discussion of direct and indirect growth-inducing impacts that could be caused by the proposed project.

Chapter 8, “Significant Irreversible Changes,” includes a discussion of significant adverse irretrievable commitments of resources caused by the project.

Chapter 9, “References Cited,” identifies the documents (printed references) and individuals (personal communications) consulted in preparing the Recirculated Draft SEIR. This chapter includes the organizations and persons consulted to ascertain supporting information to support the Recirculated Draft SEIR analysis.

Chapter 10, “List of Preparers,” lists the individuals involved in preparing the Recirculated Draft SEIR.

Chapter 11, “Acronyms and Abbreviations,” presents a list of the acronyms and abbreviations used in the Recirculated Draft SEIR.

Volume 2, “Technical Appendices,” presents additional background information and technical detail for several of the resource areas. Appendices are available upon request.

1.6 Key Principles Guiding Preparation of this Recirculated Draft SEIR

1.6.1 Emphasis on Significant Environmental Effects

This Recirculated Draft SEIR focuses on the proposed project’s significant environmental impacts and their relevance to the decision-making process. Environmental impacts, as defined by CEQA, include physical effects on the environment. The State CEQA Guidelines (Section 15360) define the “environment” as

“The *physical conditions* [emphasis added] which exist within the areas which will be affected by a proposed project, including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance.”

This definition does not include strictly economic impacts (e.g., changes in property values) or social impacts (e.g., a particular group of persons moving into an area). The CEQA Guidelines (Section 15131[a]) state, “economic or social effects of a project shall not be treated as significant effects on the environment.” However, economic or social effects are relevant to physical effects in two situations. In the first, according to Section 15131(a) of the State CEQA Guidelines, “an EIR may trace a chain of cause and effect from a proposed decision on a project through anticipated economic or social changes to physical changes caused in turn by the economic or social changes.” In other words, if a physical impact leads to an economic impact, which then leads to another physical impact, that ultimate physical impact must be evaluated in the EIR. In the second instance, according to Section 15131(b) of the Guidelines, “economic or social effects of a project may be used to determine the significance of a physical change caused by a project.” For example, the closure and demolition of a fully occupied commercial building could be considered more significant than the demolition of a similar vacant building, even though the physical effects are the same.

As with economic or social impacts, psychological impacts are outside the definition of the term “environmental.” While not specifically discussed in the State CEQA Guidelines, the exclusion of psychological impacts was specifically affirmed in a recent court decision (*National Parks and Recreation Association v. County of Riverside* [1999]).

In view of these legal precedents, the LAHD is not required to treat economic, social, or psychological impacts as significant environmental impacts. Although such impacts may be of great interest to interested parties, they are only discussed to the extent necessary to determine the significance of the physical

impacts of the project. This Recirculated Draft SEIR, however, does include an Environmental Justice section in Chapter 4.

1.6.2 Forecasting and Speculation

In this Recirculated Draft SEIR, the LAHD and its consultants have made their best efforts to predict and evaluate the reasonable, foreseeable, direct, indirect, and cumulative environmental impacts of the proposed project. However, CEQA does not require the City to engage in speculation about impacts that are not reasonably foreseeable (Guidelines Sections 15144, 15145). In these instances, CEQA does not require a worst-case analysis.

1.6.3 Reliance on Environmental Thresholds and Substantial Evidence

The identification of impacts as “significant” or “less than significant” is one of the important functions of an EIR. While impacts determined to be “less than significant” need only be acknowledged as such, the EIR must identify mitigation measures for any impact identified as “significant.”

In preparing this document, the LAHD has based its conclusions about the “significance” of environmental impacts on identifiable thresholds (i.e., the *Draft Los Angeles CEQA Thresholds Guide*) and has supported these conclusions with substantial scientific evidence.

1.6.4 Disagreement among Experts

In accordance with the provisions of the CEQA Guidelines, where evidence and opinions of experts conflict on an issue concerning the environmental impacts of the proposed project, and the LAHD knows of these controversies in advance, this Recirculated Draft SEIR has identified the controversies, has summarized the conflicting opinions, and has included sufficient information to allow the public and decision makers to take intelligent account of the environmental consequences of their actions.

It is also possible that additional evidence that might raise further disagreements will be presented during the public review of the Recirculated Draft SEIR. Such disagreements will be noted and will be considered by the decision makers during the public hearing process. However, to be adequate under CEQA, the Recirculated Draft SEIR need not resolve all such disagreements.

In rendering a decision on a project where there is a disagreement among experts, the decision makers are not obligated to select the most conservative, environmentally protective, or liberal viewpoint. They may give more weight to

the views of one expert than to those of another, and need not resolve a dispute among experts. In their proceedings, they must consider the comments received and address objections, but need not follow said comments or objections so long as they state the basis for their decision and that decision is supported by substantial evidence.

1.6.5 Duty to Mitigate

According to CEQA Guideline 15126.4(a), each significant impact identified in an EIR must also include a discussion of feasible mitigation measures that would avoid or substantially reduce the significant environmental effect. To reduce significant effects mitigation measures must avoid, minimize, rectify, reduce, eliminate, or compensate for a given impact of the proposed project.

Mitigation measures must meet certain requirements in order to be considered adequate. Mitigation should be specific, define feasible actions that will actually improve adverse environmental conditions, and be measurable to allow monitoring of their implementation. Mitigation measures that only require further studies or consultation with regulatory agencies that are not tied to a specific action that would directly reduce impacts, or those that defer mitigation until some future time should be avoided. Accordingly, effective mitigation measures clearly explain objectives, how a given measure should be implemented, who is responsible for its implementation, and where and when the mitigation will occur.

State CEQA Guideline 15041 grants a public agency the authority to require feasible changes (mitigation) that would substantially lessen or avoid significant effect on the environment associated with all activities involved in a project. Public agencies, however, do not have unlimited authority to impose mitigation. An agency may exercise only those express or implied powers provided by law, aside from those provided by CEQA. However, where another law grants an agency discretionary powers, CEQA authorizes its use (CEQA Guideline 15040). In addition to limitations imposed by CEQA, the U.S. Constitution also limits the authority of regulatory agencies. The Constitution limits an agency's authority to impose conditions to those situations where there is a clear and direct connection ("nexus" in legal terms) between a project impact and the mitigation measure. Finally, there must be a proportional balance between the impact caused by the proposed project and the mitigation measure imposed upon the project applicant. A project applicant cannot be forced to pay more than its fair share of the mitigation, which should be in rough proportionality to the impacts caused by the proposed project.

1.7 "No Net Increase" Policy

On October 10, 2001, the Board of Harbor Commissioners, acting on the request of Mayor Jim Hahn, adopted an environmental policy regarding the Port of Los

Angeles operations. Specifically the Board of Harbor Commissioners stated "...and our goal will be that there will be no net increase in air emissions or traffic impact from future Port operations." The vehicle for this goal was the conduct of environmental studies to be carried out by LAHD staff in coordination with the newly formed Port Community Advisory Committee (PCAC). At the PCAC meeting of March 21, 2002, Board President Commissioner Tonsich established that the "no net increase" baseline date would be October 10, 2001.

In accordance with the wishes of the Board of Harbor Commissioners, LAHD staff prepared a concept plan (LAHD 2001) for the Board of Harbor Commissioners and PCAC, which was made available in January of 2002 and provided to the PCAC for their review. This concept plan included nine technical areas of study: air, transportation, water quality, lighting, aesthetics, seismic, noise, facility upset/evacuation, and CEQA. Each of these technical areas would be analyzed with a similar approach of: data gaps/needs assessment; inventory/special studies; technical evaluations/effects assessment; impact reduction measures and implementation plan. To date, the traffic study is underway, and the inventory portion of the air quality scope of work is beginning. Scopes of work for the remaining technical areas are being prepared for review by the PCAC.

In going forward to meet the goal of "no net increase," LAHD staff has established a number of basic assumptions based on the direction provided by the Board of Harbor Commissioners¹.

- The traffic impact and air studies being carried out in conjunction with the PCAC will be the vehicle of study for meeting the goal of "no net increase" for air emissions and traffic impacts.

¹ Excerpt from Los Angeles Board of Harbor Commissioners Hearing transcript of October 10, 2001:

"What I am going to request that the staff do, Mr. Keller, is to conduct a baseline air emission inventory of the Port, which focuses on diesel particulates. Secondly I would like the Port staff to conduct a baseline traffic study with an emphasis on intersections of critical importance to the community's of San Pedro and Wilmington and coordinate this effort with the Los Angeles Department of Transportation and CalTrans. The third study, which I would like staff to conduct and provide to the Port Community Advisory Committee, is to evaluate the effects of air emissions, particularly diesel particulates, from port operations in the local communities and coordinate with the appropriate regulatory agencies to define the methodologies. The fourth study is to identify the effects of Port operations on the environment of San Pedro and Wilmington including, but not limited to, the effects on water quality, transportation, lighting, aesthetics, and other community quality of life issues. The fifth study I would like to be performed is to identify real measures that will reduce the air emissions from Port operational activities. The sixth study in conjunction with that, is the staff should further identify a plan to implement a program that will provide for quantifiable reductions in diesel particulate emissions from Port operations. The seventh study I would like the staff to provide report which identifies facilities at the Port which may pose a risk to the community and document, and distribute an evacuation plan for the community in coordination with the Fire Department and other state, local, and federal agencies with authority in this area. I would like the staff to return to the Board within sixty days a plan and a schedule to carry this program forward and to develop these seven studies. Additionally, what I would like done is, in regards to the air study and the traffic study, I would like those baseline studies to be prepared and those will be provided to the Port Community Advisory Committee and the goal of this Commission, which is in conjunction with Mayor Hahn's request, that the Port have no further adverse impacts on the community, is that the air and the traffic study will be provided and our goal will be that there will be no net increase in air emissions or traffic impact from future Port operations."

- The year 2001 is the baseline year against which meeting the goal of “no net increase” will be measured. The air and traffic inventories being conducted by staff are a necessary first step in establishing the baseline and against which future determinations can be made as to whether the goal of “no net increase” is being achieved.
- The geographic focus for the studies is the adjacent communities of San Pedro and Wilmington (and by inference Harbor Gateway).
- The focus of the air study is diesel particulates from Port operations.
- The focus of the traffic study is intersections of critical importance to the communities of San Pedro and Wilmington from Port operations.
- The studies associated with the goal of “no net increase” would need to be coordinated with the appropriate regulatory bodies (e.g., AQMD, CARB, LADOT, and Caltrans).
- A time element will be necessary in meeting the goal of “no net increase” from “future Port operations.” LAHD staff believes that in its utilization of the words “net increase” and “future operations” and direction to conduct studies to develop inventories and impact reduction measures, it was not the intention of the Board of Harbor Commissioners to stop operational activity of the Port or Port improvements to achieve “no net increase.” Further, many measures for achieving the goal of “no net increase” are outside the authority of the Harbor Department, or require the approval of others and therefore have a time element involved.
- LAHD staff will apply ongoing highway, rail and water infrastructure planning and air emission reduction measures as well as new initiatives in meeting of the goal of “no net increase.”
- LAHD staff will apply approved air regulation towards meeting the goal of no net increase.

In the context of CEQA, LAHD staff will apply feasible mitigation measures to individual projects, and this will help towards meeting the Board of Harbor Commissioners’ goal. However, taking into account the direction provided by the Board of Harbor Commissioners (see above), staff does not believe it is the intention of the Board of Harbor Commissioners to hold individual projects immediately accountable for achieving “no net increase.”

1.8 Availability of the Recirculated Draft SEIR

The Recirculated Draft SEIR for the Cabrillo Way Marina was distributed directly to numerous agencies, organizations, and interested groups and persons for comment during the formal review period for the Recirculated Draft SEIR. During the public review period, the Recirculated Draft SEIR is available for review at the following locations:

Los Angeles Harbor Department
Environmental Management Division
425 S. Palos Verdes Street
San Pedro, CA 90731

L.A. Public Library
Central Branch
630 W. 5th Street
Los Angeles, CA 90071

L.A. Public Library
San Pedro Branch
921 S. Gaffey Street
San Pedro, CA 90731

L.A. Public Library
Wilmington Branch
1300 N. Avalon Blvd.
Wilmington, CA 90744

Long Beach Public Library
Main Branch
101 Pacific Avenue
Long Beach, CA 90822

The LAHD will receive public input on the project and Recirculated Draft SEIR at a hearing before making a recommendation to the Los Angeles Board of Harbor Commissioners. Comments from the community and interested parties are encouraged at all public hearings before the Board of Harbor Commissioners. Information concerning public meetings and the public review schedule for the Recirculated Draft SEIR as well as availability of the Final SEIR can be obtained by contacting the LAHD's Environmental Management Division at 425 S. Palos Verdes Street, San Pedro, CA 90731, or by calling (310) 732-3675.

In addition to the printed copies noted above, the Recirculated Draft SEIR is available in electronic format on the LAHD web site located at:
<http://www.portoflosangeles.org/Environmental/publicnotice.htm>.

Due to the size of the document, it has been prepared as a series of PDF files to facilitate downloading and printing. The same Recirculated Draft SEIR files on the LAHD web site are available as stand-alone CD-ROMs from the LAHD Environmental Management Division at the above address and phone number.

Resumen en idioma español. Para solicitar copias de la traducción al español del Resumen Ejecutivo, comuníquese con Gabriel Silva al (310)732-3915.