MINUTE ITEM
This Calendar Item No. C18 was approved as Minute Item No. 18 by the California State Lands Commission by a vote of 3 to 0 at its 9-3-99 meeting.

CALENDAR ITEM
C18

A 13

S 3

PRC 8102

09/03/99
W25574
M. Howe

DREDGING LEASE

APPLICANT:
Port of Oakland
P. O. Box 2064
530 Water Street
Oakland, California 94604-2064

AREA, LAND TYPE, AND LOCATION:
Granted sovereign lands with minerals reserved in San Francisco Bay at Berth 59, Port of Oakland, Alameda County.

AUTHORIZED USE:
Dredge a maximum of 305,000 cubic yards of material to maintain a navigable depth. Dredged material will be disposed of at a United States Army Corps of Engineers approved upland site and as fill in Middle Harbor, Port of Oakland.

LEASE TERM:
Five years, beginning October 1, 1999; through September 30, 2004.

CONSIDERATION:
No royalty will be charged for aquatic disposal; $0.25 per cubic yard will be charged for any material used for private benefit or for commercial sale purposes.

OTHER PERTINENT INFORMATION:

1. This project is part of a larger dredging project that involves a total 5,200,000 cubic yards from Berths 55-59. The State retained mineral rights to Berth 59 only. Total volume to be dredged from Berth 59 is 305,000 cubic yards.

2. An EIR was prepared and certified for this project by the Port of Oakland. The California State Lands Commission staff has

reviewed such document and the Mitigation Monitoring Program adopted by the lead agency.

3. Findings made in conformance with the State CEQA Guidelines (Title 14, California Code of Regulations, sections 15091 and 15096) are contained in Exhibit B, attached hereto.

4. A Statement of Overriding Considerations made in conformance with the State CEQA Guidelines (Title 14, California Code of Regulations, section 15093) is contained in Exhibit C, attached hereto.

5. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code sections 6370, et seq. Based upon the staff's consultation with the persons nominating such lands and through the CEQA review process, it is the staff's opinion that such project, is consistent with its use classification.

APPROVALS OBTAINED:

Port of Oakland; Regional Water Quality Control Board and San Francisco Bay Conservation and Development Commission .

FURTHER APPROVALS REQUIRED:

United State Army Corps of Engineers.

EXHIBITS:

A. Location and Site Map
B. CEQA Findings, Statement of Overriding Considerations and Mitigation Monitoring Program

PERMIT STREAMLINING ACT DEADLINE:

N/A

RECOMMENDED ACTION:

IT IS RECOMMENDED THAT THE COMMISSION:

CEQA FINDING:

FIND THAT AN EIR WAS PREPARED AND CERTIFIED FOR THIS PROJECT BY THE PORT OF OAKLAND AND THAT THE

COMMISSION HAS REVIEWED AND CONSIDERED THE INFORMATION CONTAINED THEREIN.

ADOPT THE FINDINGS MADE IN CONFORMANCE WITH TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTIONS 15091 AND 15096(h), AS CONTAINED IN EXHIBIT B, ATTACHED HERETO.

ADOPT THE STATEMENT OF OVERRIDING CONSIDERATIONS MADE IN CONFORMANCE WITH TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15093, AS CONTAINED IN EXHIBIT C, ATTACHED HERETO.

ADOPT THE MITIGATION MONITORING PROGRAM, AS CONTAINED IN EXHIBIT D, ATTACHED HERETO.

SIGNIFICANT LANDS INVENTORY FINDING:

FIND THAT THIS ACTIVITY IS CONSISTENT WITH THE USE CLASSIFICATION DESIGNATED FOR THE LAND PURSUANT TO PUBLIC RESOURCES CODE SECTION 6370, ET SEQ.

AUTHORIZATION:

AUTHORIZE THE ISSUANCE OF A DREDGING LEASE TO THE PORT OF OAKLAND BEGINNING OCTOBER 1, 1999, FOR A TERM OF FIVE YEARS, FOR DREDGING A MAXIMUM OF 305,000 CUBIC YARDS OF MATERIAL AT BERTH 59, AT THE PORT OF OAKLAND TO MAINTAIN A NAVIGABLE DEPTH. DREDGED MATERIALS WILL BE DISPOSED OF AT THE UNITED STATES ARMY CORPS OF ENGINEERS APPROVED UPLAND SITE AND AS FILL IN MIDDLE HARBOR, AT THE PORT OF OAKLAND. SUCH PERMITTED ACTIVITY IS CONTINGENT UPON APPLICANT'S COMPLIANCE WITH APPLICABLE PERMITS, RECOMMENDATIONS, OR LIMITATIONS ISSUED BY FEDERAL, STATE AND LOCAL GOVERNMENTS. NO ROYALTY SHALL BE CHARGED AS THE PROJECT WILL RESULT IN A PUBLIC BENEFIT; $0.25 PER CUBIC YARD SHALL BE CHARGED FOR ANY MATERIAL USED FOR PRIVATE BENEFIT OR COMMERCIAL SALE PURPOSES.

This Exhibit is solely for purpose of generally defining the lease premise, and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.

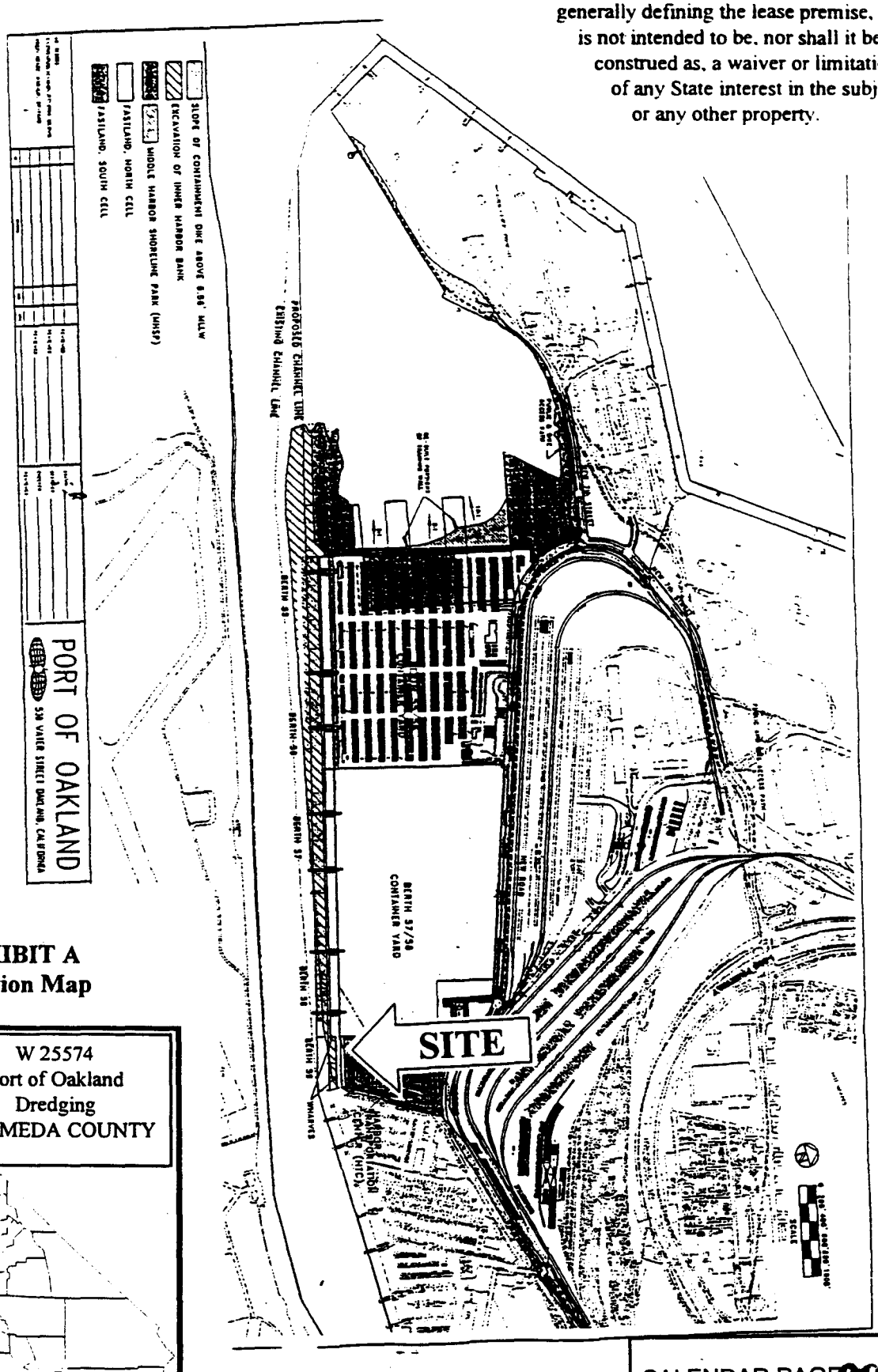
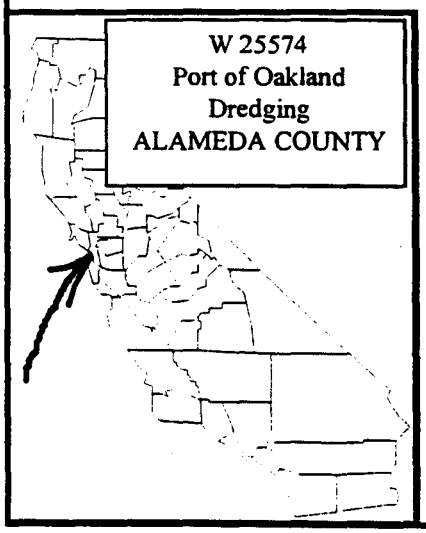


EXHIBIT A
Location Map



W 25574
Port of Oakland
Dredging
ALAMEDA COUNTY

CALENDAR PAGE 000074
MINUTE PAGE 006186

EXHIBIT B

BOARD OF PORT COMMISSIONERS
CITY OF OAKLAND

RESOLUTION NO. 99153

RESOLUTION DETERMINING THAT NEED TO TAKE IMMEDIATE ACTION IS NECESSARY TO PREVENT SERIOUS INJURY TO THE PUBLIC INTEREST IF ACTION WERE DEFERRED AND THAT THE NEED FOR SUCH ACTION CAME TO THE ATTENTION OF THE BOARD SUBSEQUENT TO THE AGENDA BEING POSTED (ADDITIONAL AIR QUALITY MITIGATION MEASURE FOR BERTHS 55-58 PROJECT).

RESOLVED, that the Board of Port Commissioners hereby determines that the need to take immediate action on Agenda Sheet Item No. 21A, proposing an additional air quality mitigation measure for the Berths 55-58 Project and Vision 2000 Program, is necessary to prevent serious injury to the public interest if action were deferred and that the need for such action came to the attention of the Board subsequent to the Agenda being posted.

At a regular meeting held April 20, 1999

Passed by the following vote:

Ayes: Commissioners Harris, Kiang, Neal, Taylor, Uribe and President Loh - 6

Noes: None

Absent: Commissioner Kramer - 1

CALENDAR PAGE 000075

MINUTE PAGE 006189

BOARD OF PORT COMMISSIONERS
CITY OF OAKLAND

RESOLUTION NO. 99154

CERTIFICATION OF THE BERTHS 55-58 PROJECT FINAL EIR, ADOPTION OF FINDINGS CONCERNING SIGNIFICANT EFFECTS OF THE PROJECT, ADOPTION OF MITIGATION MEASURES FOR THE PROJECT, ADOPTION OF MITIGATION MONITORING AND REPORTING PROGRAM, ADOPTION OF THE AIR QUALITY MITIGATION PROGRAM FOR THE VISION 2000 MARITIME DEVELOPMENT PROGRAM, ADOPTION OF STATEMENT OF OVERRIDING CONSIDERATIONS FOR THE UNAVOIDABLE ADVERSE IMPACTS AND APPROVAL OF THE BERTHS 55-58 PROJECT.

WHEREAS, on September 2, 1997, the Board of Port Commissioners certified the Final EIS/EIR on the Disposal and Reuse of Fleet and Industrial Supply Center, Oakland (FISCO)/Vision 2000 Maritime Development ("**Vision 2000 EIS/EIR**"). The Vision 2000 EIS/EIR provides a program-level evaluation of the Berths 55-58 Project (the "**Project**") as well as other improvements planned under the Vision 2000 Maritime Development Program. The primary purpose of the Vision 2000 EIS/EIR was to evaluate the overall effects of the Port of Oakland's ("**Port**") proposed course of action in developing the FISCO site and adjacent properties. The Vision 2000 EIS/EIR provides an analysis of alternative approaches to Port modernization and expansion, and identifies an environmentally superior alternative. The Port as the Lead Agency under the California Environmental Quality Act ("**CEQA**") has prepared the three volume document entitled the Berths 55-58 Project Final Environmental Impact Report ("**Berths 55-58 Project EIR**" or "**Final EIR**") which is tiered from the Vision 2000 EIS/EIR and incorporates by reference the discussion in the Vision 2000 EIS/EIR, addresses the impacts of Project construction activities and operations pursuant to design refinements developed subsequent to the Vision 2000 EIS/EIR, and provides new information that was not available when the Vision 2000 EIS/EIR was prepared. The Berths 55-58 Project EIR discusses land use, recreation and public access, transportation, air quality, noise, hazardous materials and waste, biological resources, cultural resources, geology, soils and seismicity, water resources, visual resources, and socioeconomics, public services and utilities. In addition to the eight alternatives already studied in the Vision 2000 EIR/EIS, the Berths 55-58 Project EIR evaluates a one terminal alternative, no Middle Harbor fill alternative, rock contaminant dike alternative, shallow shelf containment dike alternative, no project alternative, on-dock rail alternative and fully electrified yard alternative; and

WHEREAS, CEQA requires that an EIR analyze all aspects of a project including its planning, acquisition, development, and operation. Development ("**construction**") of the Berths 55-58

Project (the "**Project**") is planned to begin in mid-1999 and is projected to be completed in late 2002. Construction of the Project chiefly comprises the following activities: 1) widening of the north bank of the Inner Harbor to create the new berth areas; 2) building a containment dike and filling a portion of the Middle Harbor to create new land for the marine terminals and the promenade/beach section of Middle Harbor Shoreline Park; and 3) construction of the Project's principal components which are four new container berths, associated terminal wharves and container yards, a new access road ("**new road**") to the terminals, and Middle Harbor Shoreline Park. The Project's operations consist of its operational and maintenance characteristics. Terminal operations are planned to begin in early 2003. The new terminals would be maintained by the Port or its tenants and the new berths would be dredged on a periodic basis. Middle Harbor Shoreline Park is anticipated to open in 2003; and

WHEREAS, on October 22, 1997, the Port of Oakland issued a Notice of Preparation (NOP) of an Environmental Impact Report (EIR) for the Project. Subsequent to the issuance of the NOP, the Port held two scoping meetings for federal, state, and local agencies and the general public on November 3, 1997. The purpose of these meetings was to provide an early and open process for determining the scope of issues to be addressed related to the Project. Comments made at these meetings and written comments received by the Port on the NOP are included in Appendices A2 and A3 of the EIR; and

WHEREAS, on December 11, 1998, the Port issued a Draft EIR. The 50-day public comment period ended on January 29, 1999. Two public hearings occurred on January 20, 1999, at which time written and oral comments were received. A total of 30 entities provided comments on the Draft EIR. The Port prepared written responses to all written and oral comments received, as well as prepared modifications to the Draft EIR, all of which are contained in Volume 3 of the Final EIR. The Port issued a Final EIR for review by interested persons and public agencies on April 8, 1999; and

WHEREAS, Port Staff in Agenda Sheet Item Nos. 21 and 21A dated April 20, 1999 (herein collectively "**Agenda Sheet**"), recommends that the Board of Port Commissioners ("**Board**") certify the Final EIR, adopt the mitigation measures and a mitigation monitoring and reporting program, make certain findings and determinations regarding the Final EIR and the proposed Project, and, subject to said findings and the adoption of said mitigation measures and said mitigation and monitoring program, approve the proposed Project; now therefore be it

I. GENERAL FINDINGS AND OVERVIEW

A. Purpose

RESOLVED, that the findings and Statement of Overriding Considerations set forth below ("**findings**") are made and adopted by this Board as its findings under CEQA relating to the Project. The findings provide the written analysis and conclusions

Board regarding the environmental impacts of the Project, mitigation measures, alternatives to the Project and the overriding considerations that, in this Board's view, justify approval of the Project despite its environmental impacts; and be it

B. Description of Environmental Impact Report

FURTHER RESOLVED that for purposes of the findings, the Berths 55-58 Project EIR consists of the three-volume Berths 55-58 Project EIR and all appendices and documents incorporated by reference in the Berths 55-58 Project EIR. The volumes are as follows: Volume 1: Main Text, Volume 2: Appendices, Volume 3: Responses to Comments; and be it

C. Record of Proceedings and Custodian of Record

FURTHER RESOLVED that the record upon which this Board's findings and determination are based includes, but is not limited to, the following:

1) The Vision 2000 EIS/EIR;
2) The Berths 55-58 Project EIR;
3) All documentary and oral evidence submitted to the Port prior to the close of the Port's meeting on the Project;
4) All documents constituting the record pursuant to Public Resources Code section 21167.6; and
5) All matters of common knowledge to this Board, including, but not limited to, the Port's policies, guidelines and regulations; and be it

FURTHER RESOLVED that the custodian of documents described above constituting the record of proceedings is James McGrath, Manager, Port of Oakland Environmental Planning Department, 530 Water Street, Oakland, CA 94607; and be it

D. Consideration and Certification of the Environmental Impact Report

FURTHER RESOLVED that this Board hereby certifies that the Berths 55-58 Project EIR was presented to this Board, and that the members of this Board reviewed and considered the information in the Berths 55-58 Project EIR, pursuant to CEQA Guidelines section 15090(a); and be it

FURTHER RESOLVED that this Board certifies that the Final EIR has been completed in compliance with the California Environmental Quality Act; and be it

FURTHER RESOLVED that this Board hereby ratifies, adopts and incorporates the analysis, explanation, findings, responses to comments and conclusions of the Berths 55-58 Project EIR, except where they are specifically modified by this Board's findings; and be it

FURTHER RESOLVED that this Board hereby finds that the Berths 55-58 Project EIR represents the independent judgment of the Board; and be it

E. Changes to Environmental Impact Report

FURTHER RESOLVED that Volume 3 of the Berths 55-58 Project EIR contains additions, clarifications, modifications and other changes in response to comments on the Draft EIR and incorporates information obtained by the Port since the Draft EIR was issued. The Board hereby makes the following findings: The changes and additional information contained in Volume 3 of the Berths 55-58 Project EIR are not significant new information because they do not indicate that any new significant environmental impacts not already evaluated would result from the Project and they do not reflect any substantial increase in the severity of any environmental impact; no feasible mitigation measures considerably different from those previously analyzed in the Draft EIR have been proposed that would lessen significant environmental impacts of the Project; and no feasible alternatives considerably different from those analyzed in the Draft EIR have been proposed that would lessen significant environmental impacts of the Project; and be it

F. Severability

FURTHER RESOLVED that if any term, provision or portion of this Board's findings or the application of the same to a particular situation is held by a court to be invalid, void or unenforceable, the remaining provisions of the findings, or the application of same to other situations, shall continue in full force and effect unless amended or modified by this Board; and be it

II. RECOMMENDED FINDINGS RELATING TO MITIGATION MEASURES, ENVIRONMENTAL IMPACTS AND ALTERNATIVES

A. Findings Relating to Mitigation Measures

1. Adoption of Mitigation Measures.

FURTHER RESOLVED that this Board hereby adopts and incorporates, as conditions of approval for the Project, the mitigation measures set forth in column 2 of Appendix 1 to this Agenda Sheet as the mitigation measures applicable to the Project. Appendix 1 includes all mitigation measures recommended by the Final EIR. The mitigation measures contained in Appendix 1 are the mitigation measures for the Project upon which this Board's findings are based, and which are the measures this Board adopts as conditions of approval for the Project. Part A of Appendix 1 identifies mitigation measures for potentially significant impacts. Part B of Appendix 1 identifies mitigation measures for impacts which will be less than significant prior to implementation of the specified mitigation measures; and be it

FURTHER RESOLVED that in adopting these mitigation measures this Board hereby states its intention to adopt each

CALENDAR PAGE 000079

MINUTE PAGE 006193

the mitigation measures recommended in the Final EIR. Accordingly, in the event a mitigation measure recommended in the Final EIR has inadvertently been omitted from Appendix 1 that said mitigation measure is adopted and incorporated in Appendix 1 by reference; and be it

2. Adoption of Mitigation Monitoring and Reporting Program.

FURTHER RESOLVED that this Board adopts the mitigation monitoring and reporting program set forth in columns 4 through 6 of Appendix 1 as the mitigation monitoring and reporting program for the Project; and be it

3. Findings Regarding Modifications to Mitigation Measures Made in the Final EIR.

FURTHER RESOLVED that since the Draft EIR was published in December 1998, further information pertaining to mitigation of various potential project impacts was incorporated in the Final EIR. As a result of this further analysis in the Final EIR: (a) 4 mitigation measures recommended in the Draft EIR were found by the Final EIR to be unnecessary because of updated information; and (b) 6 mitigation measures identified in the Draft EIR were modified by the Final EIR. This Board hereby makes the following findings regarding said changes to the mitigation measures:

(a) The Draft EIR stated that approximately 500,000 cubic yards of material dredged from the north bank of Inner Harbor for the Project would be reused at the Galbraith Golf Course site. Further design calculations indicated that sufficient volume was available on the Project site to reuse all of this material. Therefore, reuse at the Galbraith Golf Course site is unnecessary and Biological Resources Impact 3.6-8, identified as potentially significant in the Draft EIR, would not occur. Mitigation Measures 3.6-8/M1 through 3.6-/M4 are no longer necessary because former Impact 3.6-8 would not occur.

(b) The following mitigation measures were modified by the Final EIR from those identified in the Draft EIR for the reasons stated below:

(1) Transportation. Mitigation Measure 3.2-4/M is modified to include a construction traffic management plan. The construction traffic management plan would include but would not be limited to the location of staging areas, identification of traffic routes, and identification of construction hours. The traffic management plan would be subject to review and acceptance by the City of Oakland. This measure is included to further ensure that the impact will be mitigated to a less than significant level and to comply with City of Oakland procedures.

(2) Biological Resources. The Draft EIR identified a significant impact, numbered 3.6-12, from the disturbance and possible removal of small amounts of eelgrass. Design refinements occurring after the Draft EIR was released demonstrated that although eelgrass might be disturbed by the

removal of a nearby "finger" from the mole, no eelgrass would be removed by Project construction. In addition, several commenters suggested that alternate mitigation measures should be provided in the event that the Middle Harbor Enhancement Area ("MHEA") could not be constructed and, therefore, would not be available to provide mitigation for any impact on eelgrass. Accordingly, the Final EIR modified Mitigation Measure 3.6-12/M to provide for pre- and post-construction surveys of the existing eelgrass. If the post-construction survey reveals damage to the eelgrass, and if MHEA is not permitted, an alternative mitigation plan would be implemented in consultation with the appropriate resource agencies. A shoal area on the inside of the third finger (toward Middle Harbor) would be created and a sand cap would be placed over the shoal. Eelgrass replacement would then occur at this location and would make use of the second remaining finger as a buffer from currents that would otherwise be too strong for the restored eelgrass bed. Finally, if eelgrass replacement were unsuccessful, a shallow hard bottom substrate would be created in the same area, providing for the establishment of microalgae to supply many of the same habitat values as would be supplied by eelgrass. Any of these mitigation measures would reduce the potential impact to a less than significant level.

(3) Air Quality. Mitigation measure 3.3-3/M1 is modified to delete the subsidy of diesel engine replacement in transport trucks. The recommended funding allocation for this measure is modified to be $90,000. Based upon recalculated emissions reductions, engine replacement is not cost-effective, and would exceed $20,000 per ton for all pollutants. Add-on exhaust treatment for cargo trucks is still recommended, but as a demonstration project. Add-on exhaust treatment may reduce engine life, and increase maintenance and fuel costs. Therefore, more information about this type of measure must be gathered before truck owners are likely to agree to such retrofits on a large-scale basis.

Mitigation measure 3.3-3/M2 is modified to show that both engine replacement and add-on exhaust treatment devices are recommended for cargo handling equipment. The recommended funding allocation for this measure is modified to be $5.25 million. Add-on exhaust treatment devices, in addition to new diesel engines, can be installed on cargo-handling devices at a cost of approximately $20,000 per ton of ROG and PM_{10}. While this amount does not meet the cost-effectiveness threshold of $10,000 per ton, it is more cost-effective than many other proposed measures and it has the added benefit of reducing PM_{10} and associated diesel particulates at the Port. Add-on exhaust treatment devices are recommended as a demonstration project because such devices may reduce engine life and increase maintenance and fuel costs; therefore more information about this type of measure must be gathered before cargo equipment owners are likely to agree to such retrofits on a large scale.

Mitigation measure 3.3-3/M4 is modified to state that the recommended funding allocation is $700,000. This change increases the funding for replacement of 27 AC Transit diesel bus engines to subsidize the full cost of engine replacement rather than 75 percent of the cost.

Mitigation measure 3.3-3/M7 is modified to state that the recommended funding allocation is $525,000 in order to allocate funds for emission controls should such controls prove to be cost-effective. If the controls are not cost-effective, these funds would be re-allocated to other air quality mitigation measures.

Resolution No. 97272 approving the Vision 2000 Maritime Development Program included establishment of parking fees at the new marine terminals as a mitigation measure. However, Port tenants have collective bargaining agreements requiring them to provide free parking to certain terminal workers. Therefore this measure is infeasible. All other air quality mitigation measures adopted as part of the approval of the Vision 2000 Maritime Development Program are included in the air quality mitigation program; and be it

4. Findings Regarding Additional Mitigation Measures Proposed in Comments on the Draft EIR.

FURTHER RESOLVED that in the comments on the Draft EIR, a number of measures were suggested by various commenters as proposed additional mitigation measures. With respect to the measures that were proposed in the comments, and not adopted by the Final EIR, the responses to comments in the Final EIR explain why the proposed mitigation measures are not recommended by the Final EIR for adoption. This Board hereby adopts and incorporates by reference the reasons stated in the response to comments contained in the Final EIR as its grounds for rejecting adoption of these proposed mitigation measures as infeasible. Such measures and the reasons for their rejection (the reasons are in italics) include, but are not limited to the following: consider other potential targets for engine re-powering (recommended package already allocates funds to re-power diesel cargo handling equipment and diesel buses); repair/retrofit vehicles owned by the City of Oakland (significant number of City's diesel powered vehicles do not operate in vicinity of Port); reduce operations on "Spare the Air" days (reduced operations are contrary to Project's objectives); provision of electrical connections for truck cabs and refrigeration truck cargo at 24-hour truck parking facilities (trucks with containers needing refrigeration do not use overnight truck parking facilities); prohibit nighttime pile driving activities (other mitigation measures sufficient to reduce potential impact to less than significant level); and consider ballast water treatment pilot project for ballast water (other mitigation measures sufficient to reduce project impacts to a less than significant level); and be it

FURTHER RESOLVED that this Board has been asked to consider increasing its allocation of funds for air quality mitigation. This Board hereby increases the funding allocated to air quality mitigation for the Vision 2000 Maritime Development Program by an additional $1.48 million and adopts the following additional mitigation measure as a condition of Project approval:

Mitigation 3.3-3/M1(A): Emission Reductions from Transport Trucks -- The Port will subsidize retrofit of diesel truck engines with new engines meeting California emission standards for new diesel engines, or add-on exhaust treatment devices, including soot traps and catalytic converters. This subsidy would be prioritized for those pieces of equipment that have the longest remaining period of useful life. The Port will commit approximately $1.48 million for this measure. The Port also will make good faith efforts to increase the $1.48 million funding for local truck engine replacement if any of the measures currently recommended for implementation are shown to be infeasible or less expensive than assumed and the Board instructs Port staff to continue to consult with West Oakland Neighbors to keep them informed of Port progress in implementing the mitigation measures.

Except as described above, this Board hereby rejects allocating additional funds for air quality mitigation measures in addition to those recommended by the Final EIR as infeasible because 1) no additional mitigation measures are cost-effective; and 2) installation of exhaust after treatment devices on transport trucks and cargo handling equipment, which also has been suggested, cannot be implemented on a widespread scale until it has been demonstrated to be cost-effective and acceptable to the equipment owners; and be it

B. Findings Relating to Project Impacts

1. Standard for Findings.

FURTHER RESOLVED that the Board intends that this resolution sets forth the Board's findings that are required under Public Resources Code 21081 for each significant impact identified in the Final EIR before approving the Project. Section 21081 requires that this Board make one or more of three findings:

a) Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

b) Those changes or alterations that are within the responsibility and jurisdiction of another public agency have been, or can and should be, adopted by that other agency.

c) Specific economic, legal, social, technological, or other considerations, make infeasible the mitigation measures or alternatives identified in the environmental impact report; and be it

2. Recommended Impact Findings.

FURTHER RESOLVED as set forth above, that this Board adopts all of the mitigation measures recommended by the Final EIR (except as set forth above), and this Board finds that none of them is infeasible; and be it

FURTHER RESOLVED that this Board's specific findings with respect to mitigation of the potentially significant impacts identified in the Final EIR are those which are set forth in column 3 of Appendix 1 and that Appendix 1 is hereby incorporated in this Board's findings by reference as if set forth in full herein. Where adoption of the proposed mitigation measures will avoid an impact or mitigate it to a less than significant level, the findings in Appendix 1 state that the adverse impact will be less than significant. Where no feasible mitigation measures are available for a significant impact, or the adopted mitigation measures will reduce a significant impact, but not to a less than significant level, Appendix 1 states that the impact will remain significant; and be it

FURTHER RESOLVED that the findings set forth in Appendix 1 do not repeat the full discussions of environmental impacts contained in the Environmental Impact Report. Instead, they provide a brief summary description of the impacts, describe the applicable mitigation measures that are hereby adopted by the Board, and state the recommended findings on the significance of each impact after imposition of the adopted mitigation measures. There are no additional significant impacts remaining after the adoption of the mitigation measures to those already identified in the Vision 2000 EIS/EIR. In summary, they are as follows:

Air Quality.

(1) Long-term regional impacts from emissions of ROG, NO_x, SO_2, and PM_{10} generated by all Project related sources, including marine vessels, tugs, cargo-handling equipment, transport trucks and trains.

(2) Long-term, local impact in the Near-Port area from NO_x, SO_2, and PM_{10} (including diesel particulate) emissions from Project operations.

Traffic.

(1) Traffic generated by the operation of the marine terminals in 2003 and 2010 would add traffic to regional freeways.

Cumulative Impacts.

(1) The Project, in combination with other past, present, and probable future projects, would add traffic to regional freeways in 2003 and 2010.

(2) Operational emissions from the Project, combined with operational emissions from other probable future Port projects and existing sources, would exceed air quality significance thresholds; and be it

FURTHER RESOLVED with respect to the foregoing impacts that will not be mitigated to a less than significant level, the Board hereby finds that all feasible mitigation measures have been adopted and the remaining significant impacts are acceptable

for the reasons set forth in the Statement of Overriding Considerations in Part III below; and be it

3. Recommended Findings Regarding Actions by Other Agencies.

FURTHER RESOLVED that all of the mitigation measures set forth in Appendix 1, and adopted by this Board, are within the authority and control of the Port and their implementation will be monitored by the Port, except that the following mitigation measures are also within the authority and control of other public agencies: Transportation mitigation measures 3.2-1, 3.2-11, and 3.2-14; and cumulative impacts mitigation measures 5.3.2-2 and 5.3.2-5/M1 through M/4.

Intersection Mitigation Measures. Improvements proposed to the 3rd Street/Adeline Street intersection, the Middle Harbor Road/Eldorado Street intersection, the 7th Street/Middle Harbor Road intersection, the Maritime Street/West Grand Avenue intersection, the Maritime Street/Burma Road intersection, the Maritime Street/14th Street intersection and the West Grand Avenue/I-80 Frontage Road intersection are within the jurisdiction of the City of Oakland. Because these are public streets, the Port will need to enter into an agreement with the City of Oakland to implement these mitigation measures; and be it

FURTHER RESOLVED that this Board finds that to the extent implementation of these mitigation measures is within the responsibility and jurisdiction of said agencies, those agencies can and should take action to adopt and implement them; and be it

4. Findings Relating to Additional Impact Analysis.

FURTHER RESOLVED that the following further information is hereby added to the Final EIR to respond to questions regarding potential inconsistency with the Alameda Land Use Policy Plan (ALUP): The ALUP has not been amended to delete the designation of the Naval Air Station Alameda or its associated-height referral area. Accordingly, the Project may be found inconsistent with the current ALUP by the Alameda Land Use Commission. Because the airfield at NAS Alameda is not in use, and the Navy has closed this airfield, the Navy has provided a letter to the Port stating that the installation of cranes at Berths 55-58 will not conflict with any current or foreseeable Navy operational requirements at the former air station. The FAA also has provided a letter stating that the proposed improvements do not constitute a hazard to air navigation. Thus, the Project will not result in any significant impacts with regard to aviation safety; and be it

FURTHER RESOLVED that if at a later date, the former airfield at NAS Alameda is reused, any approval of such reuse will have to take into consideration the proximity of the cranes at Berths 55-58. Because such potential reuse is speculative, any potential incompatibility between the Project and a future airfield at the former NAS Alameda does not constitute a significant environmental impact; and be it

C. **Findings Relating to Alternatives**

FURTHER RESOLVED that the Final EIR evaluates and compares alternatives to the Project. This Board hereby finds that the Final EIR, together with the Vision 2000 EIS/EIR, sets forth a reasonable range of alternatives to the Project sufficient to foster informed public participation and informed decision making and to permit a reasoned choice. This Board hereby finds that the Final EIR adequately discusses and evaluates the comparative merits of the alternatives; and be it

FURTHER RESOLVED that this Board hereby finds that the other Project alternatives set forth in the Final EIR would not allow the full attainment of the objectives of the Project or the benefits of the Project set forth in the Statement of Overriding Considerations, and that their limited environmental advantages in comparison with the Project do not justify their adoption in light of these factors; and be it

FURTHER RESOLVED that in addition to these findings, this Board hereby makes the following specific findings with respect to the alternatives identified and discussed in the Final EIR as separate and independent grounds for adopting the Project rather than the alternatives:

1. One Terminal Alternative.

The One Terminal Alternative, whereby only half of the marine terminal facilities proposed in the Project would be constructed, is infeasible, as that term is defined by CEQA, and this Board hereby rejects this Alternative for the following reasons:

The One Terminal Alternative would only partially meet most Project objectives, and would fail entirely to meet the objective of providing public access. The One Terminal Alternative would reduce the scale of the Project by half, by building only Berths 57 and 58, and one terminal rather than two. This alternative would reduce the cargo throughput of new terminal facilities and would limit the handling capacity of the marine terminals. This alternative could result in increased preference by shippers for other ports with higher capacities. The public access benefits of Middle Harbor Shoreline Park would not be provided because the One Terminal Alternative would not provide sufficient revenue to pay for such a park.

Under the One Terminal Alternative, emissions of air pollutants during construction, which are not a significant impact, would be reduced because of the smaller scale of construction for this Alternative. Air emissions would, however, be increased by the off-haul of about 2.8 million cubic yards of dredged material, which off-haul would not occur under the Project. Emissions of air pollutants during operations would be lower under this Alternative than under the Project, but would not be sufficiently reduced to render air quality impacts less than significant. With regard to other environmental impacts, the One Terminal Alternative would differ little from the Project. Although some of these impacts would be reduced, the

impacts identified as significant for the Project would also be significant for the One Terminal Alternative, and similar mitigation measures would be necessary to reduce the impacts to a less than significant level. It should be noted that if the One Terminal Alternative were constructed, it is reasonable to anticipate that the remaining land at the former FISCO would be developed in some manner, so that impacts from development of that acreage, combined with impacts from the One Terminal Alternative, would likely be equal to or greater than impacts from the Project. In addition, the Middle Harbor Shoreline Park would not be constructed.

This Board hereby finds that the benefits of the Project outweigh the potential moderate reduction in significant impacts that would occur under the One Terminal Alternative.

2. No Middle Harbor Fill Alternative.

The No Middle Harbor Fill Alternative, which would not create 31.6 acres of fastland, is infeasible, as that term is defined by CEQA, and, this Board hereby rejects this Alternative for the following reasons:

First, the No Middle Harbor Fill Alternative would reduce the efficiency of cargo loading and unloading operations for vessels docked at Berth 55 because of the small size and asymmetrical configuration of the container yard that would be necessitated by this Alternative. Because of limitations to container movement around this berth and the smaller-than-optimal size and configuration of the terminal, it is likely that the Port would receive less lease revenue from this Alternative than from the Project, and that less cargo would travel through the Port.

Second, under the No Middle Harbor Fill Alternative, Middle Harbor Shoreline Park would be 5.1 acres smaller than under the Project. This would eliminate the beach and the shoreline promenade from the Middle Harbor Shoreline Park design. The beach was identified by the Community Advisory Committee as one of the crucial elements of shoreline public access. The promenade is necessary to create a fully accessible and viable link, rather than a narrow path, between Point Arnold and the U.P. mole.

The comparison of environmental impacts between the No Middle Harbor Fill Alternative and the Project is similar to the comparison between the One Terminal Alternative and the Project. That is, air emissions during construction would be reduced by the reduced scale of construction, but would be increased again by the off-haul of 3.9 million cubic yards of material. Air emissions during operations would be reduced, but not to a less than significant level. Other operational impacts would be reduced because of the reduced usefulness of Berth 55, but the impacts identified as significant for the Project would also be significant for the No Middle Harbor Fill Alternative, and would require similar mitigation.

This Board hereby finds that the benefits of the Project outweigh the potential reduction in significant impacts that would occur under the No Middle Harbor Fill Alternative.

3. Rock Containment Dike Alternative.

Through design refinements, some aspects of the Rock Containment Dike Alternative have been incorporated into the Project. However, the Rock Containment Dike Alternative, as described in the Final EIR, still differs from the Project. The primary differences are that under the Alternative, the rock containment dike would be unbuttressed, approximately 1.2 million cubic yards of dredged material would be off-hauled, and no beach would be created at Middle Harbor Shoreline Park.

The Rock Containment Dike Alternative is infeasible, as that term is defined by CEQA, and this Board hereby rejects this Alternative for the following reasons:

The Rock Containment Dike Alternative would not fulfill all of the objectives of the Project. It would not create a sand beach near Point Arnold which was identified as a crucial element of Middle Harbor Shoreline Park by the Community Advisory Committee.

The Rock Containment Dike Alternative would result in substantially higher air emissions during construction than would the Project because of the off-haul of approximately 1.2 million cubic yards of dredged material. Other impacts of the Rock Containment Dike Alternative would be similar to the impacts of the Project.

This Board finds that the benefits of the Project outweigh any benefits of the Rock Containment Dike Alternative, which would not reduce any significant impacts compared to the Project.

4. Shallow Shelf Containment Dike Alternative.

The Shallow Shelf Containment Dike Alternative, in which a densified sand dike would be constructed across Middle Harbor instead of mud and sand, is infeasible, as that term is defined by CEQA, and this Board hereby rejects this Alternative for the following reasons:

The impacts of the Shallow Shelf Containment Dike Alternative would be similar to the impacts of the Project, and would provide the added benefit of creating additional shallow water habitat in Middle Harbor, with additional eelgrass restoration potential. The Alternative would, however, require reusing approximately 3.1 million cubic yards of dredged material in Middle Harbor, compared to 2.3 million cubic yards for the Project. The Bay Conservation and Development Commission staff has advised the Port of Oakland staff that the reduced Bay volume that would result from the Shallow Shelf Containment Dike Alternative is inconsistent with their interpretation of the requirements of the McAteer-Petris Act and the San Francisco Bay Plan. Moreover, one of the benefits of the Shallow Shelf

Containment Dike Alternative, the avoidance of the need to off-haul dredged material to Galbraith Golf Course, is now provided by the Project as well.

This Board finds that the benefits of the Project outweigh the reduction in significant impacts that would occur, if any, under the Shallow Shelf Containment Dike Alternative.

5. No Project Alternative.

The No Project Alternative, in which no improvements are constructed, is infeasible, as that term is defined by CEQA, and this Board hereby rejects this Alternative for the following reasons:

The No Project Alternative could not feasibly attain any of the Project objectives. The Project site probably would continue to be used for parking and container storage. The existing terminals to the west end of the Project site would continue in use, but because their storage and cargo-handling capacity is limited by their size and geometry, their operations would continue to be inefficient compared to larger terminals. The Port would continue to lose intermodal cargo market share to other ports, and would likely lose some local cargo business as well. The public access and employment benefits arising from the Project would not occur. The No Project Alternative would fundamentally fail to achieve any of the objectives of the Project.

The No Project Alternative would avoid the environmental impacts that would be caused by the Project, although the possibility that local cargo would be trucked into the Bay Area from other ports could cause air quality impacts in the Los Angeles Basin and the Central Valley.

This Board hereby finds that the benefits of the Project outweigh the reduction in significant impacts that would occur under the No Project Alternative.

6. The On-Dock Rail Alternative

The On-Dock Rail Alternative, in which on-dock rail facilities would be constructed within the proposed marine terminals, is infeasible, as that term is defined by CEQA, and this Board hereby rejects this Alternative for the following reasons:

On-dock intermodal rail facilities are defined as rail facilities which are located within the boundary of a single terminal, and which are operated by that specific terminal operating company. The environmental benefit of on-dock rail is reduced emissions from yard equipment transporting cargo between ships and trains. For on-dock rail facilities to be feasible, three conditions must exist. First, the terminal operator must handle a sufficient percentage of intermodal cargo to justify the capital expense of on-dock rail facilities. Second, the operator must have sufficient land on the terminal to house trains. Third, trackage must be available contiguous to the waterfront.

None of these conditions exists at the Port of Oakland, where only 10 percent of traffic is currently intermodal, and where sufficient land for train storage and operation on-dock does not exist and would not exist absent extensive filling of San Francisco Bay.

This Board hereby finds that the benefits of the Project outweigh the potential reduction in significant impacts that would occur under the On-Dock Rail Alternative.

7. The Fully Electrified Yard Alternative

The Fully Electrified Yard Alternative, under which all yard equipment used to move containers between ships, yards, trucks and trains would be electrified, is infeasible, as that term is defined by CEQA, and this Board hereby rejects this Alternative for the following reasons:

Under the Project, large on-dock gantry cranes purchased, owned and maintained by the Port, which load containers to and from ships, would be electric. The remainder of the yard equipment, which would be owned, operated and maintained by the terminal operator, would, under the Project, likely be diesel-powered. Under the Fully Electrified Yard Alternative, the Port would attempt to electrify this remaining yard equipment. The benefit would be reduced air emissions from yard equipment. This Alternative is infeasible because the Port does not own or control the yard equipment, because operating transtainers on tracks would involved greatly increased capital and operational costs, and would sacrifice flexibility in yard operations, and because satisfactory power cannot be achieved, using existing electrical technology, for top-picks or hostlers moving full containers.

This Board hereby finds that the benefits of the Project outweigh the potential reduction in significant impacts that would occur under the Fully Electrified Yard Alternative.

8. Additional Suggested Alternatives.

In their comments on the DRAFT EIR, a few commenters suggested additional alternatives for evaluation in the EIS/EIR. Such alternatives include, but are not limited to, upland alternatives for the public access portion of the Project and an alternative that would not include any aspect of the proposed -50 Foot Channel Deepening Project. Upland alternatives would not fulfill the goal of creating a fully accessible and viable public access facility. A waterfront location is essential to fulfill this objective. No other available site along the Oakland waterfront provides such an experience, nor can another site meet the needs of the local community for this type of access. With regard to the -50 Foot Channel Deepening Project, the Project has been refined and no longer includes use of dredged material from the -50 Foot Channel Deepening Project. Therefore, an alternative that does not include any aspect of the -50 Foot Channel Deepening Project is unnecessary. This Board hereby finds that none of these suggested alternatives is a feasible alternative to the Project because none will further the primary

objectives of the Project, and are not feasible alternatives to the Project, as is explained in the response to comments contained in the Final EIR. This Board hereby adopts and incorporates by reference the reasons stated in the response to comments contained in Volume 3 of the Final EIR as its grounds for rejecting adoption of these proposed alternatives as infeasible; and be it

III. STATEMENT OF OVERRIDING CONSIDERATIONS

FURTHER RESOLVED that Section 15093 of the State CEQA Guidelines provides that where the decision of a public agency allows the occurrence of significant effects which are identified in the Final EIR, the agency shall state in writing specific reasons to support its action based on the Final EIR and/or other information in the record. This statement is referred to as a "Statement of Overriding Considerations"; and be it

FURTHER RESOLVED that this Board hereby finds and determines that the potentially significant impacts of the Project will be reduced to less than significant levels by the mitigation measures adopted by the Board, except for the remaining significant impacts described above. In light of the overriding considerations set forth below, this Board further finds and determines that the benefits of the Project outweigh these remaining significant, adverse impacts. These considerations warrant approval of the Project notwithstanding such remaining significant impacts. Each of the overriding considerations set forth below constitutes a separate and independent ground for finding that the benefits of the Project outweigh its significant adverse environmental impacts and is an overriding consideration warranting approval:

A. The Project will implement the Vision 2000 Maritime Development Program, thereby responding to continuing trends and requirements in maritime container shipping, by constructing modernized marine terminals.

B. The Project will increase productivity and improve efficiency of Port marine terminals.

C. The Project will generate revenue for Port operations and fund future growth.

D. The Project will provide open space and public access to the Bay.

E. The Project will provide redundancy in the capacity of West Coast gateway intermodal ports in case one or more of those ports were shut down due to an emergency.

F. The Project will keep the Port competitive with other West Coast ports and increase intermodal business.

G. The Project will allow the Port to accommodate the Bay Area region's cargo demand; and be it

IV. APPROVAL OF PROJECT

FURTHER RESOLVED that subject to the foregoing, this Board hereby approves the Project.

At a regular meeting held April 20, 1999

Passed by the following vote:

Ayes: Commissioners Harris, Kiang, Neal, Taylor, Uribe and President Loh - 6

Noes: None

Absent: Commissioner Kramer - 1

22047

CALENDAR PAGE 000092

MINUTE PAGE 006206

Notice of Determination

= 97057

To: Office of Planning and Research 1400 Tenth Street, Room 121 Sacramento, CA 95814 **County Clerk** County of Alameda 1225 Fallon Street, Room 100 Oakland, CA 94612	**From:** Port of Oakland 530 Water Street Oakland, CA 94607 Mr. Joseph K. Wong Director of Engineering (510) 272-1240

Subject: Filing of Notice of Determination in compliance with Section 21108 or 21152 of the Public Resources Code.

Project Title: Port of Oakland Berths 55-58

State Clearinghouse Number: 97102076
(If submitted to Clearinghouse)

Lead Agency: Port of Oakland
Area code/Telephone/Extension: (510) 272-1182
Contact Person: Richard Sinkoff, Environmental Supervisor

Project Location: Inner Harbor and Middle harbor waterfronts, Oakland, Alameda County

Project Description: The project consists of industrial maritime infrastructure and public access uses. It includes development of 250 acres of marine terminals, 6,000 linear feet of container cargo and tugboat wharves and berths, creation of fastland, development of a 30+-acre waterfront public park, and realignment or construction of roadways to serve these facilities. Beneficiaries are those who will be directly or indirectly employed as a result of the project, the City of Oakland and its residents who will receive revenue from the Port based on the project, and community members who utilize the new park facility. Northern California consumers will benefit from expansion of the reliable and low-cost shipping of goods throughout the expanded Port.

This is to advise that the Board of Port Commissioners for the Port of Oakland, acting as Lead Agency under the California Environmental Quality Act (CEQA), approved the above described project on April 20, 1999 and made the following determinations regarding the above described project:

1. The project will have a significant effect on the environment.
2. An Environmental Impact Report was prepared and certified pursuant to the provisions of CEQA.
3. Mitigation measures were made a condition of the approval of the project.
4. A Statement of Overriding Considerations was adopted for this project.
5. Findings were made pursuant to the provisions of Section 15091 of the CEQA Guidelines.

This is to certify that the final EIR with comments and responses and record of project approval is available to the General Public at the following location:
Port of Oakland Environmental Planning Department
530 Water Street, 2nd Floor
Oakland, CA 94607
(510) 272-1174

James McGrath
James McGrath, PORT OF OAKLAND — *Title*: Environmental Manager — *Date*: 4-21-99

ENDORSED
FILED
ALAMEDA COUNTY

APR 21 1999

CALENDAR PAGE 000093
MINUTE PAGE 006207

Date received for filing: _____

PATRICK O'CONNELL, County Clerk
By Ronald Carter

C18
EX

JM

E.12.a

Board of Port Commissioners - PORT OF OAKLAND

Agenda Sheet

SUBJECT:

CERTIFICATION OF THE BERTHS 55-58 PROJECT FINAL EIR, FINDINGS CONCERNING SIGNIFICANT EFFECTS OF THE PROJECT, ADOPTION OF MITIGATION MEASURES FOR THE PROJECT, ADOPTION OF MITIGATION MONITORING AND REPORTING PROGRAM, ADOPTION OF THE AIR QUALITY MITIGATION PROGRAM FOR THE VISION 2000 MARITIME DEVELOPMENT PROGRAM, STATEMENT OF OVERRIDING CONSIDERATIONS FOR THE UNAVOIDABLE ADVERSE IMPACTS AND APPROVAL OF THE BERTHS 55-58 PROJECT

Date: April 20, 1999

Item No.

PROGRAM AREA

- ☐ Airport Operations
- ☐ Commercial Real Estate
- ☒ Maritime Operations
- ☐ Overall Operations

SUBMITTED BY: JOSEPH K. WONG

EXECUTIVE OFFICE RECOMMENDATION:

EXECUTIVE SUMMARY

This Board letter provides the necessary material to certify the Final Environmental Impact Report (EIR) for the Berths 55-58 Project, and to then approve that Project. The Berths 55-58 Project (the Project) consists of four new container berths, associated terminal wharves and container yards, a new access road to the new terminals, and Middle Harbor Shoreline Park.

The EIR for the Project identified a number of significant impacts. Mitigation measures have been identified to avoid or reduce to a less than significant level the significant impacts of the Project regarding noise, hazardous materials, biological resources, and cultural resources. The EIR also recommends mitigation measures for less than significant impacts regarding construction air emissions, hazardous waste, and water quality. We recommend that the Board adopt all of the EIR's recommended mitigation measures for reducing significant and less than significant impacts. Details about those measures are contained in both Appendix 1 to this Agenda Sheet and in the EIR.

After mitigation, two impacts remain significant: freeway traffic and air quality. If the Board is to approve the Project and certify the EIR, it must first adopt all feasible mitigation measures that would reduce those impacts, and then adopt a Statement of Overriding Considerations. The EIR identifies a program of mitigation measures which reduce air quality impacts and explains why the Port cannot feasibly reduce freeway impacts.

In addition to mitigation measures, the Project itself includes elements that would effectively avoid or reduce environmental impacts. These include design features and construction specifications such as using electric-powered dredges to avoid air impacts, using silt curtains during dredging and designing the stormwater system to minimize adverse effects on future sensitive habitat. The Project also includes long-term commitments that would enhance the quality of life for the surrounding community. These long-term commitments include maintenance of the new Middle Harbor Shoreline Park and provision of subsidized independent owner-operator truck parking facilities. In total, as shown on Table 1: Summary of Port Environmental Commitments, the mitigation measures and these Project design features, construction specifications and quality of life measures represent $55,020,000 of the Port's maritime budget. Staff recommends that the Board approve the Project, thereby approving all of these design features, construction specifications and quality of life measures.

CALENDAR PAGE 000094

MINUTE PAGE 006208

21951

Port of Oakland
Vision 2000 Program: Berths 55-58 Project
Table 1: Summary of Port Environmental Commitments

Resource	Type of Commitment	Amount
Air Quality	CEQA Mitigation (e.g., replace yard equipment engines):	$ 7,500,000
	Design features/construction specifications (e.g., electrify dredge equipment):	$ 4,780,000
	Quality of Life Measures (e.g., independent trucker parking):	$ 6,080,000
	Air Quality:	$18,360,000
Biology	CEQA Mitigation (e.g., ballast water regulation):	$ 2,340,000
	Design features/construction specifications (e.g., herring protection measures):	$ 160,000
	Biology:	$ 2,500,000
Water Quality	CEQA Mitigation (e.g., environmental controls for fill):	$ 6,240,000
	Design features/construction specifications (e.g., silt curtains during dredging):	$ 1,810,000
	Water Quality:	$ 8,050,000
Land Use	CEQA Mitigation (e.g., build Middle Harbor Shoreline Park):	$10,000,000
	Quality of Life Measures (e.g., park maintenance):	$10,860,000
	MHSP:	$20,860,000
All Other (Noise, Hazards, Cultural, Traffic)	CEQA Mitigation:	$ 4,840,000
	Agreements (e.g., MOAs):	$ 420,000
	Other:	$ 5,250,000
	Total Port Environmental Commitment:	$55,020,000

Note: Air Quality mitigation is for the entire Vision 2000 Maritime Development Program

The staff recommends that the Board find that the above-referenced $55 million in environmental commitments, with approximately $18 million in air quality and measures, are feasible changes to the Project and constitute all feasible mitigation measures.

The detailed findings that follow identify seven individual bases for finding that the benefits of the Project override the remaining significant impacts. They are: responding to the tenants' and market needs for increased shipping capacity, improved efficiency of Port marine terminals, increased revenue for Port operations and growth, open space and public access to the Bay, increased redundancy in West Coast ports in the event of emergencies, maintaining the Port of Oakland's competitiveness, and allowing the Port to accommodate the region's cargo demand.

FACTUAL BACKGROUND:

On September 2, 1997, the Board of Port Commissioners certified the Final EIS/EIR on the Disposal and Reuse of Fleet and Industrial Supply Center, Oakland (FISCO)/Vision 2000 Maritime Development ***("Vision 2000 EIS/EIR")***. The Vision 2000 EIS/EIR provides a program-level evaluation of the Berths 55-58 Project ***(the "Project")*** as well as other improvements planned under the Vision 2000 Maritime Development Program. The primary purpose of the Vision 2000 EIS/EIR was to evaluate the overall effects of the Port's proposed course of action in developing the FISCO site and adjacent properties. The Vision 2000 EIS/EIR provides an analysis of alternative approaches to Port modernization and expansion, and identifies an environmentally superior alternative. The Berths 55-58 Project Final Environmental Impact Report ***("Berths 55-58 Project EIR" or "Final EIR")*** is tiered from the Vision 2000 EIS/EIR and incorporates by reference the

discussion in the Vision 2000 EIS/EIR, addresses the impacts of Project construction activities and operations pursuant to design refinements developed subsequent to the Vision 2000 EIS/EIR, and provides new information that was not available when the Vision 2000 EIS/EIR was prepared. The Berths 55-58 Project EIR discusses land use, recreation and public access, transportation, air quality, noise, hazardous materials and waste, biological resources, cultural resources, geology, soils and seismicity, water resources, visual resources, and socioeconomics, public services and utilities. In addition to the eight alternatives already studied in the Vision 2000 EIR/EIS, the Berths 55-58 Project EIR evaluates a one terminal alternative, no Middle Harbor fill alternative, rock contaminant dike alternative, shallow shelf containment dike alternative, no project alternative, on-dock rail alternative and fully electrified yard alternative.

Project Description

CEQA requires that an EIR analyze all aspects of a project including its planning, acquisition, development, and operation. Development ("construction") of the Berths 55-58 Project ("the Project") is planned to begin in mid-1999 and is projected to be completed in late 2002. Construction of the project chiefly comprises the following activities: 1) widening of the north bank of the Inner Harbor to create the new berth areas; 2) building a containment dike and filling a portion of the Middle Harbor to create new land for the marine terminals and the promenade/beach section of Middle Harbor Shoreline Park; and 3) construction of the Project's principal components which are four new container berths, associated terminal wharves and container yards, a new access road ("new road") to the terminals, and Middle Harbor Shoreline Park. The Project's operations consist of its operational and maintenance characteristics. Terminal operations are planned to begin in early 2003. The new terminals would be maintained by the Port or its tenants and the new berths would be dredged on a periodic basis. Middle Harbor Shoreline Park is anticipated to open in 2003.

Procedural Background/Public Comment

On October 22, 1997, the Port of Oakland issued a Notice of Preparation (NOP) of an Environmental Impact Report (EIR) for the Project. Subsequent to the issuance of the NOP, the Port held two scoping meetings for federal, state, and local agencies and the general public on November 3, 1997. The purpose of these meetings was to provide an early and open process for determining the scope of issues to be addressed related to the Project. Comments made at these meetings and written comments received by the Port on the NOP are included in Appendices A2 and A3 of the EIR.

On December 11, 1998, the Port issued a Draft EIR. The 50-day public comment period ended on January 29, 1999. Two public hearings occurred on January 20, 1999, at which time written and oral comments were received. A total of 30 entities provided comments on the Draft EIR. The Port prepared written responses to all written and oral comments received, as well as prepared modifications to the Draft EIR, all of which are contained in Volume 3 of the Final EIR. The Port issued a Final EIR for review by interested persons and public agencies on April 8, 1999.

Vision 2000 Air Quality Mitigation Program

At the same time as it considers approval of the Project, the Board also is being asked to approve an air quality mitigation program for the entire Vision 2000 Maritime Development Program. Normally when a lead agency has prepared a Program EIR, such as the Vision 2000 EIS/EIR, the agency need only consider project-specific mitigation measures when it approves a project that is part of the overall program. In this case, however, a citizens group, West Oakland Neighbors, filed suit challenging the Vision 2000 EIS/EIR shortly after it was approved by the Board in September 1997. That suit resulted in a Consent Decree in which the Port agreed to consider mitigation of air quality impacts of the entire Vision 2000 Maritime Development Program when it prepared its EIR studying the environmental impacts of the Berths 55-58 Project.

Staff recommends that the Board allocate $7.5 million to mitigation measures designed to reduce the air quality impacts of the Vision 2000 Maritime Development Program. It should be understood, however, that if the Board funds measures designed to reduce the air quality impacts related to operations at the Port, that commitment will be unique. The Port does not own or operate any of the trains, transport trucks, container yard equipment, or ships that use Port facilities. The Port owns the marine terminals and leases the terminals to shipping companies. These companies operate cargo vessels, which use the Port, and the container yard equipment which load and unload cargo from the cargo vessels and carry cargo to and from the trucks and trains that transport cargo. Because the operational air quality impacts described in the EIR would result from activities by Port tenants and the transport companies with whom they contract, they would typically be characterized under CEQA as "secondary" or "indirect" rather than "direct" impacts of the Project.

CEQA requires public agencies to adopt mitigation measures to reduce or avoid a project's significant impacts on the environment when the agency finds that it is feasible to do so, given relevant economic, legal, environmental, social, technological and other factors. The prevailing view is that the duty to mitigate impacts under CEQA extends to changes that can be made in the project itself to reduce or avoid environmental impacts and does not extend to indirect impacts that will result from activities undertaken by others, even though those activities will be facilitated or enabled by the project. For instance, construction of new streets and highways facilitates and enables motor vehicle traffic to increase. Typically the resulting air quality impacts are viewed as indirect impacts of the project which need not be mitigated by the public agency building the roadway.

This treatment of such impacts reflects not only the distinction between direct impacts and indirect impacts, but also the distinction between mitigation measures that are subject to the jurisdiction of the lead agency and those that are subject to the jurisdiction of other public agencies. Regulation of emissions from trains, trucks, cargo handling equipment and cargo vessels is the subject of jurisdiction and authority of the California Air Resources Board (CARB), and the Federal Environmental Protection Agency (EPA). These agencies are charged with responsibility for adopting and implementing regulatory standards that will reduce emissions by motor vehicles and vessels, including regulating fuels, requiring implementation of emission control technology, and specifying engine performance standards. Some examples of such regulations are the regulations relating to cleaner burning diesel engines in trucks (to go into effect in 2004) and to locomotive engines (to go into effect in 2002). As another example, EPA is participating in international negotiations to create marine diesel emission standards under the International Convention for the Prevention of Pollution from Ships. These standards are expected to apply to engines installed on or after January 1, 2000. EPA is also working on emission standards for diesel engines in the smaller domestic vessels not covered by the International Convention.

The regulatory agencies which have jurisdiction and authority over emissions from mobile sources have responsibility for adoption of regulatory standards that will control emissions from those sources. Adoption and implementation of such standards has led to very significant reductions in the air quality impacts of mobile sources, and as such standards are further developed, further significant reductions can be anticipated over the next decade. For this reason, CEQA allows a lead agency to conclude that another agency can and should adopt the mitigation measures needed to reduce the project's adverse air quality impacts.

Port staff recommends, nevertheless, that the Port not rely solely on the efforts by these regulatory agencies to mitigate pollution impacts, or on voluntary steps by Port tenants to reduce emissions from their operations at the Port. For this reason the Berths 55-58 Project EIR recommends a financial commitment of $7.5 million to bring about substantial reductions in air pollution by funding effective, proven emission reduction programs as well as demonstration projects to promote technological advances in enhancing air quality. A financial commitment of this magnitude for the reduction of indirect air quality impacts is unique. Because the Berths 55-58 Project EIR recommends this groundbreaking step, the proposed air quality mitigation program has received

support from the Bay Area Air Quality Management District in the form of a comment letter on the Berths 55-58 Project EIR.

Recommended Package. The recommended package includes all mitigation measures that can feasibly be implemented at a cost of $10,000 per ton of reduction of at least one pollutant. These measures are:

- 75% subsidy of the cost of replacing diesel engines in all 363 pieces of maritime related cargo equipment
- encouragement of early re-powering of diesel engines on switch engines at the JIT
- a suite of 10 measures to be incorporated into project design and future operations such as cold-ironing for tugs at Berth 59, participating in Spare the Air Days and mass transit subsidies for Port and tenant employees
- study and implementation of emission controls (if cost-effective) at two facilities in West Oakland
- evaluation of an emission testing station for heavy duty diesel trucks

In addition, the package includes several demonstration projects that exceed the cost threshold, but could accelerate more wide-spread use of emission-reducing technologies, which could lead to long-term advances in air quality mitigation for beyond the Port of Oakland. The measures are:

- installation of add-on exhaust treatment devices on 40 local trucks doing business in the near-Port area
- installation of add-on exhaust treatment devices on 50 pieces of cargo handling equipment (in addition to the new engines)
- retrofit of one tug with a low NOx engine and exhaust treatment devices

Finally, the package includes engine replacement in 27 AC Transit buses operating in the Port vicinity. This measure does not meet the threshold of $10,000 per ton for emissions reductions but has the benefit of reducing diesel particulates near residential receptors.

The recommended measures and funding allocations are as follows:

Port of Oakland
Vision 2000 Program
Table 2: Recommended Air Quality Mitigation Package

Measures	Recommended Funding Allocation	
Truck Exhaust	$90,000	12
Cargo Engines	$4,900,000	1
Cargo Exhaust	$345,000	11
Tugs	$500,000	5
Buses	$700,000	7
Trains	$10,000	13
Design/Operations[1]	$390,000	4
Red Star Yeast	$525,000	9
Precision Cast	$30,000	10
CARB Station	$5,000	8
Total:	$7,495,000	

[1]This amount does not include the cost of providing subsidized parking for trucks owned by independent owner-operators. Port staff calculates that providing subsidized truck parking will result in a lost opportunity cost of $490,000 per year. Because truck parking is considered to be more of a good neighbor program than an air quality mitigation measure, staff does not recommend that this cost be included in the $7.5 million budgeted for air quality mitigation but rather should be reflected in the cost of the Port's other environment commitments.

Implementation of this package potentially would result in the following reductions of pollutant emissions:

Port of Oakland
Vision 2000 Program
Table 3: Emissions Reductions

Pollutant	Tons Reduced/Year
NOx	419
PM10	36
ROG[1]	111
Total:	566

[1]Although the total potential reduction in ROG emissions exceeds the Project's contribution of ROG, this impact may not be mitigated to a less than significant level because it is not yet known whether emission controls at Red Star Yeast will be cost-effective. The EIR, and these findings, therefore conservatively conclude that the impact is significant and unavoidable.

The Board has discretion to choose any of the air quality mitigation measures discussed in the Berths 55-58 Project EIR. The Berths 55-58 Project EIR includes detailed information about the potential feasibility and cost-effectiveness of more than 38 air quality mitigation measures.

The air quality mitigation measures are designed to be adopted as a single package with a commitment that the Port will spend $7.5 million to implement the program. The allocation of funds for each individual measure could change as the program is implemented, and new measures could be added to replace measures that prove infeasible or to supplement the program if measures do not cost as much as is currently anticipated. The proposed mitigation monitoring and reporting program provides that implementation of these measures would be reviewed every six months and that allocation of funding would be based upon the overall goal of maximizing the quantity of emissions reduced for the dollars spent, with a preference for reducing diesel particulates and for measures that will reduce local, Near-Port emissions.

Effect Of Increasing Budget Allocation. The recommended mitigation package funds all cost-effective mitigation measures. Nevertheless it would not reduce air quality impacts to a less than significant level in large part because the largest quantity of Port-related emissions is generated by ships, and the Port cannot regulate ship emissions. The analysis in the EIR shows that additional expenditures for mitigation measures would not substantially reduce emissions. For example, additional monies could be spent on add-on exhaust treatment for transport trucks and cargo handling equipment. However, it is unlikely that a large number of truck and cargo equipment owners would be willing to participate in such a program until additional data were collected on engine wear and maintenance and fuel costs. Another measure, replacement of diesel engines in transport trucks, was recommended initially in the Draft EIR. Although not cost effective this measure could reduce particulates. If the Port were to replace 220 diesel engines on local trucks at a 75% subsidy, the cost would be an additional $3 million. However, particulates would be reduced by only 4 tons per year. For this reason, the EIR concludes that such additional mitigation is not cost-effective. Additional reductions might be provided by replacing engines in long haul trucks but at even greater costs so that an additional expenditure of $4 million would result in minimal reductions of particulates. Finally, we remind the Board that fine particulate matter that is contained in diesel exhaust behaves much like a gas. As a result, the ambient air quality in West Oakland is affected by the regional contribution of such gasses. Although the Port is a large local source, it is by no means the only local source. Although there are no accurate estimates of regional emissions from diesel engines, the County-wide emissions of particulate matter give some sense of the magnitude of emissions that may affect ambient air quality in West Oakland. The current emissions of particulate matter within Alameda County are over 35 tons per day. The Port's contribution to that total is very small - less than one ton per day. The additional mitigation measures that might be funded with an additional $7.5 million in funding would, if feasible, reduce particulate matter emissions by less than 0.12 tons per day. Thus, it can be seen that further funding of air quality mitigation is unlikely to materially benefit ambient air quality in West Oakland.

RECOMMENDATION:

The staff recommends that the Board take the actions and make the findings set forth below:

I. RECOMMENDED GENERAL FINDINGS AND OVERVIEW

A. Purpose

It is recommended that the findings and Statement of Overriding Considerations set forth below ***("findings")*** be made and adopted by the Board as its findings under CEQA relating to the Project. The findings will provide the written analysis and conclusions of the Board regarding the environmental impacts of the Project, mitigation measures, alternatives to the Project and the overriding considerations that, in the Board's view, justify approval of the Project despite its environmental impacts.

B. Description of Environmental Impact Report

For purposes of the findings, the Berths 55-58 Project EIR consists of the three-volume Berths 55-58 Project EIR and all appendices and documents incorporated by reference in the Berths 55-58 Project EIR. The volumes are as follows: Volume 1: Main Text, Volume 2: Appendices, Volume 3: Responses to Comments.

C. Record of Proceedings and Custodian of Record

The record upon which the Board's findings and determination will be based includes, but is not limited to, the following:

The Vision 2000 EIS/EIR;
The Berths 55-58 Project EIR;
All documentary and oral evidence submitted to the Port prior to the close of the Port's meeting on the project;
All documents constituting the record pursuant to Public Resources Code section 21167.6; and
All matters of common knowledge to this Board, including, but not limited to, the Port's policies, guidelines and regulations.

The custodian of documents described above constituting the record of proceedings is James McGrath, Manager, Port of Oakland Environmental Planning Department, 530 Water Street, Oakland, CA 94607.

D. Consideration and Certification of the Environmental Impact Report

In adopting its findings, it is recommended that the Board certify that the Berths 55-58 Project EIR was presented to the Board, and that the members of the Board reviewed and considered the information in the Berths 55-58 Project EIR, pursuant to CEQA Guidelines section 15090(a). It is also recommended that the Board certify that the Final EIR has been completed in compliance with the California Environmental Quality Act. It is also recommended that in its findings, the Board ratify, adopt and incorporate the analysis, explanation, findings, responses to comments and conclusions of the Berths 55-58 Project EIR, except where they are specifically modified by the Board's findings. Finally, it is recommended that the Board find that the Berths 55-58 Project EIR represents the independent judgment of the Board.

E. Changes to Environmental Impact Report

Volume 3 of the Berths 55-58 Project EIR contains additions, clarifications, modifications and other changes in response to comments on the Draft EIR and incorporates information obtained by the Port since the Draft EIR was issued. It is recommended that the Board make the following findings: The changes and additional information contained in Volume 3 of the Berths 55-58 Project EIR are not significant new information because they do not indicate that any new significant environmental impacts not already evaluated would result from the Project and they do not reflect any substantial increase in the severity of any environmental impact; no feasible mitigation measures considerably different from those previously analyzed in the Draft EIR have been proposed that would lessen significant environmental impacts of the Project; and no feasible alternatives considerably different from those analyzed in the Draft EIR have been proposed that would lessen significant environmental impacts of the Project.

F. Severability

The staff recommends that the Board include in its resolution the provision that if any term, provision or portion of the Board's findings or the application of the same to a particular situation is held by a court to be invalid, void or unenforceable, the remaining provisions of the findings, or the application of same to other situations, shall continue in full force and effect unless amended or modified by the Board.

II. RECOMMENDED FINDINGS RELATING TO MITIGATION MEASURES, ENVIRONMENTAL IMPACTS AND ALTERNATIVES

A. Findings Relating to Mitigation Measures

The Berths 55-58 Project EIR identifies certain significant environmental impacts that may result from the Project and identifies specific mitigation measures to reduce or avoid significant impacts. The

recommended actions to be taken and findings recommended for adoption regarding mitigation measures are set forth below.

1. Adoption of Mitigation Measures.

It is recommended that the Board adopt and incorporate, as conditions of approval for the Project, the mitigation measures set forth in column 2 of Appendix 1 to this Agenda Sheet as the mitigation measures applicable to the Project. Appendix 1 includes all mitigation measures recommended by the Final EIR. The mitigation measures contained in Appendix 1 are the proposed mitigation measures for the Project upon which it is recommended the Board's findings be based, and which it are the measures that staff recommends that the Board adopt as conditions of approval for the Project. Part A of Appendix 1 identifies mitigation measures for potentially significant impacts. Part B of Appendix 1 identifies mitigation measures for impacts which will be less than significant prior to implementation of the specified mitigation measures.

In adopting these mitigation measures it is recommended that the Board state its intention to adopt each of the mitigation measures recommended in the Final EIR. Accordingly, in the event a mitigation measure recommended in the Final EIR has inadvertently been omitted from Appendix 1 it is recommended that the Board's findings indicate that said mitigation measure is adopted and incorporated in Appendix 1 by reference.

2. Adoption of Mitigation Monitoring and Reporting Program.

It is recommended that the Board adopt the mitigation monitoring and reporting program set forth in columns 4 through 6 of Appendix 1 as the mitigation monitoring and reporting program for the Project.

3. Findings Regarding Modifications to Mitigation Measures Made in the Final EIR.

Since the Draft EIR was published in December 1998, further information pertaining to mitigation of various potential project impacts was incorporated in the Final EIR. As a result of this further analysis in the Final EIR: (a) 4 mitigation measures recommended in the Draft EIR were found by the Final EIR to be unnecessary because of updated information; and (b) 6 mitigation measures identified in the Draft EIR were modified by the Final EIR. The recommended findings regarding the basis for each of these changes are set forth below.

(a) The Draft EIR stated that approximately 500,000 cubic yards of material dredged from the north bank of Inner Harbor for the Project would be reused at the Galbraith Golf Course site. Further design calculations indicated that sufficient volume was available on the Project site to reuse all of this material. Therefore, reuse at the Galbraith Golf Course site is unnecessary and Biological Resources Impact 3.6-8, identified as potentially significant in the Draft EIR, would not occur. Mitigation Measures 3.6-8/M1 through 3.6-/M4 are no longer necessary because former Impact 3.6-8 would not occur.

(b) The following mitigation measures were modified by the Final EIR from those identified in the Draft EIR for the reasons stated below:

(1) Transportation. Mitigation Measure 3.2-4/M is modified to include a construction traffic management plan. The construction traffic management plan would include but would not be limited to the location of staging areas, identification of traffic routes, and identification of construction hours. The traffic management plan would be subject to review and acceptance by the City of Oakland. This measure is included to further ensure that the impact will be mitigated to a less than significant level and to comply with City of Oakland procedures.

(2) Biological Resources. The Draft EIR identified a significant impact, numbered 3.6-12, from the disturbance and possible removal of small amounts of eelgrass. Design refinements occurring after the Draft EIR was released demonstrated that although eelgrass might be disturbed by the removal of a nearby "finger" from the mole, no eelgrass would be removed by Project construction. In addition, several commenters suggested that alternate mitigation measures should be provided in the event that the Middle Harbor Enhancement Area *("MHEA")* could not be constructed and, therefore, would not be available to provide mitigation for any impact on eelgrass. Accordingly, the Final EIR modified Mitigation Measure 3.6-12/M to provide for pre- and post-construction surveys of the existing eelgrass. If the post-construction survey reveals damage to the eelgrass, and if MHEA is not permitted, an alternative mitigation plan would be implemented in consultation with the appropriate resource agencies. A shoal area on the inside of the third finger (toward Middle Harbor) would be created and a sand cap would be placed over the shoal. Eelgrass replacement would then occur at this location and would make use of the second remaining finger as a buffer from currents that would otherwise be too strong for the restored eelgrass bed. Finally, if eelgrass replacement were unsuccessful, a shallow hard bottom substrate would be created in the same area, providing for the establishment of microalgae to supply many of the same habitat values as would be supplied by eelgrass. Any of these mitigation measures would reduce the potential impact to a less-than-significant level.

(3) Air Quality. Mitigation measure 3.3-3/M1 is modified to delete the subsidy of diesel engine replacement in transport trucks. The recommended funding allocation for this measure is modified to be $90,000. Based upon recalculated emissions reductions, engine replacement is not cost-effective, and would exceed $20,000 per ton for all pollutants. Add-on exhaust treatment for cargo trucks is still recommended, but as a demonstration project. Add-on exhaust treatment may reduce engine life, and increase maintenance and fuel costs. Therefore, more information about this type of measure must be gathered before truck owners are likely to agree to such retrofits on a large-scale basis.

Mitigation measure 3.3-3/M2 is modified to show that both engine replacement and add-on exhaust treatment devices are recommended for cargo handling equipment. The recommended funding allocation for this measure is modified to be $5.25 million. Add-on exhaust treatment devices, in addition to new diesel engines, can be installed on cargo-handling devices at a cost of approximately $20,000 per ton of ROG and PM_{10}. While this amount does not meet the cost-effectiveness threshold of $10,000 per ton, it is more cost-effective than many other proposed measures and it has the added benefit of reducing PM_{10} and associated diesel particulates at the Port. Add-on exhaust treatment devices are recommended as a demonstration project because such devices may reduce engine life and increase maintenance and fuel costs; therefore more information about this type of measure must be gathered before cargo equipment owners are likely to agree to such retrofits on a large scale.

Mitigation measure 3.3-3/M4 is modified to state that the recommended funding allocation is $700,000. This change increases the funding for replacement of 27 AC Transit diesel bus engines to subsidize the full cost of engine replacement rather than 75 percent of the cost.

Mitigation measure 3.3-3/M7 is modified to state that the recommended funding allocation is $525,000 in order to allocate funds for emission controls should such controls prove to be cost-effective. If the controls are not cost-effective, these funds would be re-allocated to other air quality mitigation measures.

Resolution No. 97272 approving the Vision 2000 Maritime Development Program included establishment of parking fees at the new marine terminals as a mitigation measure. However, Port tenants have collective bargaining agreements requiring them to provide free parking to certain terminal workers. Therefore this measure is infeasible. All other air quality mitigation measures adopted as part of the approval of the Vision 2000 Maritime Development Program are included in the air quality mitigation program.

4. Findings Regarding Additional Mitigation Measures Proposed in Comments on the Draft EIR.

In the comments on the Draft EIR, a number of measures were suggested by various commenters as proposed additional mitigation measures. With respect to the measures that were proposed in the comments, and not adopted by the Final EIR, the responses to comments in the Final EIR explain why the proposed mitigation measures are not recommended by the Final EIR for adoption. It is recommended that the Board adopt and incorporate by reference the reasons stated in the response to comments contained in the Final EIR as its grounds for rejecting adoption of these proposed mitigation measures as infeasible. The reasons are given in italics. Such measures and the reasons for their rejection include, but are not limited to the following: consider other potential targets for engine re-powering *(recommended package already allocates funds to re-power diesel cargo handling equipment and diesel buses)*; repair/retrofit vehicles owned by the City of Oakland *(significant number of City's diesel powered vehicles do not operate in vicinity of Port)*; reduce operations on "Spare the Air" days *(reduced operations are contrary to Project's objectives)*; provision of electrical connections for truck cabs and refrigeration truck cargo at 24-hour truck parking facilities *(trucks with containers needing refrigeration do not use overnight truck parking facilities)*; prohibit nighttime pile driving activities (*other mitigation measures sufficient to reduce potential impact to less than significant level)*; and consider ballast water treatment pilot project for ballast water *(other mitigation measures sufficient to reduce project impacts to a less than significant level)*.

In addition, the Board has been asked to consider increasing its allocation of funds for air quality mitigation. Staff recommends that the Board reject this measure as infeasible because 1) no additional mitigation measures are cost-effective; 2) replacement of diesel engines on transport trucks, which is not included in the recommended package but has been suggested, would exceed $20,000 per ton for reduction of all pollutants; and 3) installation of exhaust after treatment devices on transport trucks and cargo handling equipment, which also has been suggested, cannot be implemented on a widespread scale until it has been demonstrated to be cost-effective and acceptable to the equipment owners.

B. Findings Relating to Project Impacts

1. Standard for Findings.

CEQA requires under Public Resources Code 21081 that the Board make certain findings for each significant impact identified in the Final EIR before approving the Berths Project. The Board must make one or more of three findings:

a) Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

b) Those changes or alterations that are within the responsibility and jurisdiction of another public agency have been, or can and should be, adopted by that other agency.

c) Specific economic, legal, social, technological, or other considerations, make infeasible the mitigation measures or alternatives identified in the environmental impact report.

2. Recommended Impact Findings.

As set forth above, it is recommended that the Board adopt all of the mitigation measures recommended by the Final EIR, and that none of them be found infeasible.

It is also recommended that the Board's specific findings with respect to mitigating the potentially significant impacts identified in the Final EIR be those which are set forth in column 3 of Appendix 1

and that Appendix 1 be incorporated in the Board's findings by reference as if set forth in full therein. Where adoption of the proposed mitigation measures will avoid an impact or mitigate it to a less than significant level, the findings in Appendix 1 state that the adverse impact will be less than significant. Where no feasible mitigation measures are available for a significant impact, or the adopted mitigation measures will reduce a significant impact, but not to a less than significant level, Appendix 1 states that the impact will remain significant.

The recommended findings set forth in Appendix 1 do not repeat the full discussions of environmental impacts contained in the Environmental Impact Report. Instead, they provide a brief summary description of the impacts, describe the applicable mitigation measures that are recommended for adoption by the Board, and state the recommended findings on the significance of each impact after imposition of the adopted mitigation measures. There are no additional significant impacts remaining after the adoption of the mitigation measures to those already identified in the Vision 2000 EIR. In summary, they are as follows:

Air Quality.

(1) Long-term regional impacts from emissions of ROG, NO_x, SO_2, and PM_{10} generated by all project related sources, including marine vessels, tugs, cargo-handling equipment, transport trucks and trains.

(2) Long-term, local impact in the Near-Port area from NO_x, SO_2, and PM_{10} (including diesel particulate) emissions from project operations.

Traffic.

(1) Traffic generated by the operation of the marine terminals in 2003 and 2010 would add traffic to regional freeways.

Cumulative Impacts.

(1) The Project, in combination with other past, present, and probable future projects, would add traffic to regional freeways in 2003 and 2010.

(2) Operational emissions from the Project, combined with operational emissions from other probable future Port projects and existing sources, would exceed air quality significance thresholds.

With respect to the foregoing impacts that will not be mitigated to a less than significant level, it is recommended that the Board find that all feasible mitigation measures have been adopted and the remaining significant impacts are acceptable for the reasons set forth in the Statement of Overriding Considerations in part III below.

3. Recommended Findings Regarding Actions by Other Agencies.

All of the mitigation measures set forth in Appendix 1, and recommended for adoption by the Board, are within the authority and control of the Port and their implementation will be monitored by the Port, except that the following mitigation measures are also within the authority and control of other public agencies: Transportation mitigation measures 3.2-1, 3.2-11, and 3.2-14; and cumulative impacts mitigation measures 5.3.2-2 and 5.3.2-5/M1 through M/4.

Intersection Mitigation Measures.

Improvements proposed to the 3rd Street/Adeline Street intersection, the Middle Harbor Road/Eldorado Street intersection, the 7th Street/Middle Harbor Road intersection, the Maritime Street/West Grand Avenue intersection, the Maritime Street/Burma Road intersection, the Maritime

Street/14th Street intersection and the West Grand Avenue/I-80 Frontage Road intersection are within the jurisdiction of the City of Oakland. Because these are public streets, the Port will need to enter into an agreement with the City of Oakland to implement these mitigation measures.

It is recommended that the Board find that to the extent implementation of these mitigation measures is within the responsibility and jurisdiction of said agencies, those agencies can and should take action to adopt and implement them.

4. Findings Relating to Additional Impact Analysis.

It is recommended that the following further information be added to the Final EIR to respond to questions regarding potential inconsistency with the Alameda Land Use Policy Plan (ALUP): The ALUP has not been amended to delete the designation of the Naval Air Station Alameda or its associated height referral area. Accordingly, the Project may be found inconsistent with the current ALUP by the Alameda Land Use Commission. Because the airfield at NAS Alameda is not in use, and the Navy has closed this airfield, the Navy has provided a letter to the Port stating that the installation of cranes at Berths 55-58 will not conflict with any current or foreseeable Navy operational requirements at the former air station. The FAA also has provided a letter stating that the proposed improvements do not constitute a hazard to air navigation. Thus, the Project will not result in any significant impacts with regard to aviation safety.

If at a later date, the former airfield at NAS Alameda is reused, any approval of such reuse will have to take into consideration the proximity of the cranes at Berths 55-58. Because such potential reuse is speculative, any potential incompatibility between the Project and a future airfield at the former NAS Alameda does not constitute a significant environmental impact.

C. **Findings Relating to Alternatives**

The Final EIR evaluates and compares alternatives to the Project. It is recommended that the Board find that the Final EIR, together with the Vision 2000 EIS/EIR, sets forth a reasonable range of alternatives to the Project sufficient to foster informed public participation and informed decision making and to permit a reasoned choice. It is further recommended that the Board find that the Final EIR adequately discusses and evaluates the comparative merits of the alternatives.

It is further recommended that the Board find that the other Project alternatives set forth in the Final EIR would not allow the full attainment of the objectives of the Project or the benefits of the Project set forth in the Statement of Overriding Considerations, and that their limited environmental advantages in comparison with the Project do not justify their adoption in light of these factors.

In addition to these findings, it is recommended that the Board make the following specific findings with respect to the alternatives identified and discussed in the Final EIR as separate and independent grounds for adopting the Project rather than the alternatives.

1. One Terminal Alternative.

It is recommended that the Board find that the One Terminal Alternative, whereby only half of the marine terminal facilities proposed in the Project would be constructed, is infeasible, as that term is defined by CEQA, and reject this Alternative for the following reasons:

The One Terminal Alternative would only partially meet most Project objectives, and would fail entirely to meet the objective of providing public access. The One Terminal Alternative would reduce the scale of the Project by half, by building only Berths 57 and 58, and one terminal rather than two. This alternative would reduce the cargo throughput of new terminal facilities and would limit the handling capacity of the marine terminals. This alternative could result in [illegible] preference by shippers for other ports with higher capacities. The public access benefits of Middle Harbor

Shoreline Park would not be provided because the One Terminal Alternative would not provide sufficient revenue to pay for such a park.

Under the One Terminal Alternative, emissions of air pollutants during construction, which are not a significant impact, would be reduced because of the smaller scale of construction for this Alternative. Air emissions would, however, be increased by the off-haul of about 2.8 million cubic yards of dredged material, which off-haul would not occur under the Project. Emissions of air pollutants during operations would be lower under this Alternative than under the Project, but would not be sufficiently reduced to render air quality impacts less than significant. With regard to other environmental impacts, the One Terminal Alternative would differ little from the Project. Although some of these impacts would be reduced, the impacts identified as significant for the Project would also be significant for the One Terminal Alternative, and similar mitigation measures would be necessary to reduce the impacts to a less-than-significant level. It should be noted that if the One Terminal Alternative were constructed, it is reasonable to anticipate that the remaining land at the former FISCO would be developed in some manner, so that impacts from development of that acreage, combined with impacts from the One Terminal Alternative, would likely be equal to or greater than impacts from the Project. In addition, the Middle Harbor Shoreline Park would not be constructed.

The staff recommends that the Board find that the benefits of the Project outweigh the potential moderate reduction in significant impacts that would occur under the One Terminal Alternative.

2. No Middle Harbor Fill Alternative.

It is recommended that the Board find that the No Middle Harbor Fill Alternative, which would not create 31.6 acres of fastland, is infeasible, as that term is defined by CEQA, and reject this Alternative for the following reasons:

First, the No Middle Harbor Fill Alternative would reduce the efficiency of cargo loading and unloading operations for vessels docked at Berth 55 because of the small size and asymmetrical configuration of the container yard that would be necessitated by this Alternative. Because of limitations to container movement around this berth and the smaller-than-optimal size and configuration of the terminal, it is likely that the Port would receive less lease revenue from this Alternative than from the Project, and that less cargo would travel through the Port.

Second, under the No Middle Harbor Fill Alternative, Middle Harbor Shoreline Park would be 5.1 acres smaller than under the Project. This would eliminate the beach and the shoreline promenade from the Middle Harbor Shoreline Park design. The beach was identified by the Community Advisory Committee as one of the crucial elements of shoreline public access. The promenade is necessary to create a fully accessible and viable link, rather than a narrow path, between Point Arnold and the U.P. mole.

The comparison of environmental impacts between the No Middle Harbor Fill Alternative and the Project is similar to the comparison between the One Terminal Alternative and the Project. That is, air emissions during construction would be reduced by the reduced scale of construction, but would be increased again by the off-haul of 3.9 million cubic yards of material. Air emissions during operations would be reduced, but not to a less than significant level. Other operational impacts would be reduced because of the reduced usefulness of Berth 55, but the impacts identified as significant for the Project would also be significant for the No Middle Harbor Fill Alternative, and would require similar mitigation.

Staff recommends that the Board find that the benefits of the Project outweigh the potential reduction in significant impacts that would occur under the No Middle Harbor Fill Alternative.

3. Rock Containment Dike Alternative.

Through design refinements, some aspects of the Rock Containment Dike Alternative have been incorporated into the Project. However, the Rock Containment Dike Alternative, as described in the Final EIR, still differs from the Project. The primary differences are that under the Alternative, the rock containment dike would be unbuttressed, approximately 1.2 million cubic yards of dredged material would be off-hauled, and no beach would be created at Middle Harbor Shoreline Park.

It is recommended that the Board find that the Rock Containment Dike Alternative is infeasible, as that term is defined by CEQA, and reject this Alternative for the following reasons.

The Rock Containment Dike Alternative would not fulfill all of the objectives of the Project. It would not create a sand beach near Point Arnold which was identified as a crucial element of Middle Harbor Shoreline Park by the Community Advisory Committee.

The Rock Containment Dike Alternative would result in substantially higher air emissions during construction than would the Project because of the off-haul of approximately 1.2 million cubic yards of dredged material. Other impacts of the Rock Containment Dike Alternative would be similar to the impacts of the Project.

Staff recommends that the Board find that the benefits of the Project outweigh any benefits of the Rock Containment Dike Alternative, which would not reduce any significant impacts compared to the Project.

4. Shallow Shelf Containment Dike Alternative.

It is recommended that the Board find that the Shallow Shelf Containment Dike Alternative, in which a densified sand dike would be constructed across Middle Harbor instead of mud and sand, is infeasible, as that term is defined by CEQA, and reject this Alternative for the following reasons.

The impacts of the Shallow Shelf Containment Dike Alternative would be similar to the impacts of the Project, and would provide the added benefit of creating additional shallow water habitat in Middle Harbor, with additional eelgrass restoration potential. The Alternative would, however, require reusing approximately 3.1 million cubic yards of dredged material in Middle Harbor, compared to 2.3 million cubic yards for the Project. The Bay Conservation and Development Commission staff has advised the Port of Oakland staff that the reduced Bay volume that result from the Shallow Shelf Containment Dike Alternative is inconsistent with their interpretation of the requirements of the McAteer-Petris Act and the San Francisco Bay Plan. Moreover, one of the benefits of the Shallow Shelf Containment Dike Alternative, the avoidance of the need to off-haul dredged material to Galbraith Golf Course, is now provided by the Project as well.

Staff recommends that the Board find that the benefits of the Project outweigh the reduction in significant impacts that would occur, if any, under the Shallow Shelf Containment Dike Alternative.

5. No Project Alternative.

It is recommended that the Board find that the No Project Alternative, in which no improvements are constructed, is infeasible, as that term is defined by CEQA, and reject this Alternative for the following reasons.

The No Project Alternative could not feasibly attain any of the Project objectives. The Project site probably would continue to be used for parking and container storage. The existing terminals to the west end of the Project site would continue in use, but because their storage and cargo-handling capacity is limited by their size and geometry, their operations would continue to be inefficient compared to larger terminals. The Port would continue to lose intermodal cargo market share to other

ports, and would likely lose some local cargo business as well. The public access and employment benefits arising from the Project would not occur. The No Project Alternative would fundamentally fail to achieve any of the objectives of the Project.

The No Project Alternative would avoid the environmental impacts that would be caused by the Project, although the possibility that local cargo would be trucked into the Bay Area from other ports could cause air quality impacts in the Los Angeles Basin and the Central Valley.

Staff recommends that the Board find that the benefits of the Project outweigh the reduction in significant impacts that would occur under the No Project Alternative.

6. The On-Dock Rail Alternative

It is recommended that the Board find that the On-Dock Rail Alternative, in which on-dock rail facilities would be constructed within the proposed marine terminals, is infeasible, as that term is defined by CEQA, and reject this Alternative for the following reasons.

On-dock intermodal rail facilities are defined as rail facilities which are located within the boundary of a single terminal, and which are operated by that specific terminal operating company. The environmental benefit of on-dock rail is reduced emissions from yard equipment transporting cargo between ships and trains. For on-dock rail facilities to be feasible, three conditions must exist. First, the terminal operator must handle a sufficient percentage of intermodal cargo to justify the capital expense of on-dock rail facilities. Second, the operator must have sufficient land on the terminal to house trains. Third, trackage must be available contiguous to the waterfront. None of these conditions exists at the Port of Oakland, where only 10 percent of traffic is currently intermodal, and where sufficient land for train storage and operation on-dock does not exist and would not exist absent extensive filling of San Francisco Bay.

Staff recommends that the Board find that the benefits of the Project outweigh the potential reduction in significant impacts that would occur under the On-Dock Rail Alternative.

7. The Fully Electrified Yard Alternative

It is recommended that the Board find that the Fully Electrified Yard Alternative, under which all yard equipment used to move containers between ships, yards, trucks and trains would be electrified, is infeasible, as that term is defined by CEQA, and reject this Alternative for the following reasons.

Under the Project, large on-dock gantry cranes purchased, owned and maintained by the Port, which load containers to and from ships, would be electric. The remainder of the yard equipment, which would be owned, operated and maintained by the terminal operator, would, under the Project, likely be diesel-powered. Under the Fully Electrified Yard Alternative, the Port would attempt to electrify this remaining yard equipment. The benefit would be reduced air emissions from yard equipment. This Alternative is infeasible because the Port does not own or control the yard equipment, because operating transtainers on tracks would involved greatly increased capital and operational costs, and would sacrifice flexibility in yard operations, and because satisfactory power cannot be achieved, using existing electrical technology, for top-picks or hostlers moving full containers.

Staff recommends that the Board find that the benefits of the Project outweigh the potential reduction in significant impacts that would occur under the Fully Electrified Yard Alternative.

8. Additional Suggested Alternatives.

In their comments on the DRAFT EIR, a few commenters suggested additional alternatives for evaluation in the EIS/EIR. Such alternatives include, but are not limited to, upland alternatives for the public access portion of the Project and an alternative that would not include any aspect of the

proposed -50 Foot Channel Deepening Project. Upland alternatives would not fulfill the goal of creating a fully accessible and viable public access facility. A waterfront location is essential to fulfill this objective. No other available site along the Oakland waterfront provides such an experience, nor can another site meet the needs of the local community for this type of access. With regard to the -50 Foot Channel Deepening Project, the Project has been refined and no longer includes use of dredged material from the -50 Foot Channel Deepening Project. Therefore, an alternative that does not include any aspect of the -50 Foot Channel Deepening Project is unnecessary. It is recommended that the Board find that none of these suggested alternatives is a feasible alternative to the Project because none will further the primary objectives of the Project, and are not feasible alternatives to the Project, as is explained in the response to comments contained in the Final EIR. It is recommended that the Board adopt and incorporate by reference the reasons stated in the response to comments contained in Volume 3 of the Final EIR as its grounds for rejecting adoption of these proposed alternatives as infeasible.

III. STATEMENT OF OVERRIDING CONSIDERATIONS

Section 15093 of the State CEQA Guidelines provides that where the decision of a public agency allows the occurrence of significant effects which are identified in the Final EIR, the agency shall state in writing specific reasons to support its action based on the Final EIR and/or other information in the record. This statement is referred to as a "Statement of Overriding Considerations".

It is recommended that the Board find and determine that the potentially significant impacts of the Project will be reduced to less than significant levels by the mitigation measures adopted by the Board, except for the remaining significant impacts described above. It is further recommended that in light of the overriding considerations set forth below, that the Board further find and determine that the benefits of the Project outweigh these remaining significant, adverse impacts. These considerations warrant approval of the Project notwithstanding such remaining significant impacts. Each of the overriding considerations set forth below constitutes a separate and independent ground for finding that the benefits of the Project outweigh its significant adverse environmental impacts and is an overriding consideration warranting approval.

A. The Project will implement the Vision 2000 Maritime Development Program, thereby responding to continuing trends and requirements in maritime container shipping, by constructing modernized marine terminals.

B. The Project will increase productivity and improve efficiency of Port marine terminals.

C. The Project will generate revenue for Port operations and fund future growth.

D. The Project will provide open space and public access to the Bay.

E. The Project will provide redundancy in the capacity of West Coast gateway intermodal ports in case one or more of those ports were shut down due to an emergency.

F. The Project will keep the Port competitive with other West Coast ports and increase intermodal business.

G. The Project will allow the Port to accommodate the Bay Area region's cargo demand.

IV. APPROVAL OF PROGRAM

Subject to the foregoing, it is recommended that the Board approve the Proje

RECOMMENDATIONS:

It is recommended that the Board adopt a resolution:

(a) Certifying that it has reviewed and considered the information contained in the Final EIR for the Project; and that the Final EIR has been prepared in compliance with CEQA, the State CEQA Guidelines and the Port CEQA Guidelines; and finding that the Final EIR reflects the independent judgment of the Board, as set forth in section I, above;

(b) Adopting the mitigation measures set forth in Appendix 1 as conditions of approval of the Project, including the air quality mitigation program for the Vision 2000 Maritime Development Program;

(c) Adopting the Mitigation Monitoring and Reporting Program set forth in Appendix 1;

(d) Adopting the CEQA findings regarding mitigation measures, project impacts, and alternatives contained in sections I and II above;

(e) Adopting the Statement of Overriding Considerations finding that the benefits of the proposed Project outweigh the Project's significant adverse environmental impacts contained in section III above.

BOARD ACTION REQUIRED:

- ☐ **MOTION**
- ☒ **RESOLUTION**
- ☐ **ORDINANCE**
- ☐ **INFORMATION ONLY**

BOARD ACTION TAKEN **DATE**

SECRETARY OF THE BOARD

CALENDAR PAGE 000111

MINUTE PAGE 006225

Appendix 1

BERTHS 55-58 PROJECT
MITIGATION MONITORING AND REPORTING PROGRAM

PART A: SIGNIFICANT IMPACTS

Significant Impact	Mitigation Measure	Significance after Mitigation	Implementation Procedure	Monitoring Responsibility	Timing
TRANSPORTATION					
3.2-1: Project construction traffic would reduce 3rd Street/Adeline Street intersection from LOS C to LOS E during a.m. peak hour and from LOS D to LOS F during the p.m. peak hours.	3.2-1/M: The Port of Oakland will fund its pro-rata fair share of the following improvements at the 3rd Street/Adeline Street intersection: Convert the eastbound and westbound combination through/left-turn lanes to exclusive left-turn lanes and change the split signal phasing to permitted left-turn phasing for the 3rd Street approaches. Change the Adeline Street northbound and southbound approaches from split signal phasing to permitted left-turn phasing after 2003.	Less than significant.	a) Assessment of costs for fair share contribution toward funding. b) Port would enter into an agreement with City of Oakland which has jurisdiction over improvements to City of Oakland intersections. c) Acquisition of additional rights-of-way (if necessary). d) Construction plans and specifications.	a-d) Port of Oakland in coordination with the City of Oakland.	a-d) Before Project construction commences.
3.2-4: Project construction could impede pedestrian and bicycle access to the waterfront from the street.	3.2-4/M: Construction contractors to maintain access (including signing of detours, if necessary) for pedestrians and bicyclists along 7th Street during construction of the new road and the 7th Street realignment. Implement construction traffic management plan.	Less than significant.	a) Prepare and implement a construction traffic management plan. b) Monitor contractor compliance.	a) Contractor. b) Port of Oakland and City of Oakland.	a) Plan review by City prior to project construction. b) During construction of the new road and the 7th St. realignment

Significant Impact	Mitigation Measure	Significance after Mitigation	Implementation Procedure	Monitoring Responsibility	Timing
3.2-10: Traffic generated by operation of the new terminals in 2003 and 2010 would reduce Berths 57-58 access road/new road intersection to LOS E/F.	3.2-10/M: The Port will install a traffic signal at the Berths 57-58 access road/new road intersection.	Less than significant.	a) Develop plans and specifications.	a) Port.	a) When warranted.
3.2-11: If UP locates its railyard gate to the Middle Harbor Road/Eldorado Street intersection, traffic generated by operation of the new marine terminals in 2003 and 2010 would reduce the Middle Harbor Road/Eldorado Street (UP West Oakland Railyard) intersection to LOS E/F.	3.2-11/M: If UP locates its railyard gate to the Middle Harbor Road/Eldorado Street intersection, the Port of Oakland will fund its pro-rata fair share of the following improvements at that intersection: Provide one left-turn lane, one combination left-through lane, and one right-turn lane for the southbound approach to Middle Harbor Road from the railyard. Provide overlapped signal phasing to allow the southbound right-turn movement from the railyard to occur at the same time as the eastbound left-turn movement from Middle Harbor Road.	Less than significant.	a) Assessment of costs for fair share contribution toward funding. b) Port would enter into an agreement with City of Oakland which has jurisdiction over improvements to City of Oakland intersections. c) Acquisition of additional rights-of-way (if necessary). d) Construction plans and specifications.	a-d) Port of Oakland in coordination with the City of Oakland.	a-d) After relocation of UP railyard gate.
3.2-13: Traffic generated by the operation of the marine terminals in 2003 and 2010 would add traffic to regional freeways.	3.2-13/M: The Port of Oakland will continue to participate actively in the corridor/area-wide transportation planning process and participate in programs that would fund planned traffic operations system implementation strategies.	Significant.	a) Commit staff, funding, and other resources in support of transportation planning process and traffic operations system implementation strategies.	a) Port of Oakland.	a) Ongoing during project operation and construction (as needed).

Significant Impact	Mitigation Measure	Significance after Mitigation	Implementation Procedure	Monitoring Responsibility	Timing
3.2-14: If UP locates its railyard gate 600 feet south of 7th Street on Middle Harbor Road, traffic generated by operation of the new marine terminals in 2010 would reduce the 7th Street/Middle Harbor Road intersection to LOS E/F.	3.2-14/M: If UP locates its railyard gate 600 feet south of 7th Street on Middle Harbor Road, the Port of Oakland will fund its pro-rata fair share for the following improvements: Install a second southbound left-turn lane and a northbound right-turn lane at the 7th Street/Middle Harbor Road intersection. Provide overlap signal phasing to allow the northbound right turn to proceed concurrently with the westbound left-turn movement.	Less than significant.	a) Assessment of costs for fair share contribution toward funding. b) Port would enter into an agreement with City of Oakland which has jurisdiction over improvements to City of Oakland intersections. c) Acquisition of additional rights-of-way (if necessary). d) Construction plans and specifications.	a-d) Port of Oakland in coordination with the City of Oakland.	a-d) After relocation of UP railyard gate.
AIR QUALITY					
3.3-3: Long-term regional impacts from emissions of ROG, NO_x, SO_2, and PM_{10} generated by all project-related sources, including marine vessels, tugs, cargo-handling equipment, transport trucks and trains.	Commit to spend $7.5 million on Vision 2000 air quality mitigation program. Funding may be re-allocated among mitigation measures and new measures added based upon the overall goal of maximizing the quantity of emissions reduced for the dollars spent, with a preference for reducing diesel particulates and for measures that will reduce local, Near-Port emissions. The following measures comprise the mitigation program:	Significant.	Report every six months on mitigation program.	Port of Oakland	Ongoing during project operation

Significant Impact	Mitigation Measure	Significance after Mitigation	Implementation Procedure	Monitoring Responsibility	Timing
	3.3-3/M1: Subsidize add-on exhaust treatment for transport trucks.		a) Report every six months on mitigation program, including number of truck retrofits, and amount spent. b) Prepare a study of engine wear, fuel costs and maintenance costs associated with retrofit project.	a-b) Port of Oakland.	a) Ongoing during project operation until mitigation budget is spent. b) After sufficient data have been collected to show whether add-on treatment increases maintenance and fuel costs and decreases engine life.
	3.3-3/M2: Subsidize cargo-handling equipment engine replacements and/or add-on exhaust treatment.		a) Report every six months mitigation program, including number of cargo equipment retrofits, and amount spent. b) Prepare a study of engine wear, fuel costs and maintenance costs associated with retrofit project.	a-b) Port of Oakland.	a) Ongoing during project operation until mitigation budget is spent. b) After sufficient data have been collected to show whether add-on treatment increases maintenance and fuel costs and decreases engine life.
	3.3-3/M3: Subsidize tugboat engine retrofit as demonstration project.		a) Report every six months on mitigation program, including amount spent on tugboat subsidy. b) Document results of demonstration project.	a-b) Port of Oakland.	a) Ongoing during project operation until mitigation budget is spent. b) After sufficient data have been collected to show results of demonstration project.
	3.3-3/M4: Subsidize retrofit of AC transit buses.		Report every six months on mitigation program, including amount spent on subsidy and number of buses retrofitted.	Port of Oakland.	Ongoing during project operation until mitigation budget is spent.

Significant Impact	Mitigation Measure	Significance after Mitigation	Implementation Procedure	Monitoring Responsibility	Timing
	3.3-3/M5: Request switch engine operators at the JIT to use engines that meet new federal emission regulations.		Report every six months on mitigation program, including amount spent on measure and number of engines meeting new standards.	Port of Oakland.	Ongoing during project operation until mitigation budget is spent.
	3.3-3/M6: Design features and operational measures to reduce emissions: Provisions for cold-ironing tugboats while berthed Port-subsidized 24-hour truck parking Configure parking to minimize traffic Synchronize traffic signals Participate in "Spare the Air Days" Provide mass transit subsidies to maritime employees Establish an employee cashout policy at the marine terminals Restrict the supply of parking for tenant vehicles Regular engine maintenance of Port and tenant vehicles Develop and implement a truck driver training program.		Report every six months on mitigation program, including amount spent and number of participants in operational measures, as well as implementation of design features in project construction.	Port of Oakland.	Ongoing during project construction and operation until mitigation budget is spent.

Significant Impact	Mitigation Measure	Significance after Mitigation	Implementation Procedure	Monitoring Responsibility	Timing
	3.3-3/M7: Engineering study of reducing ROG emissions at Red Star Yeast.		a) Prepare cost-effectiveness study. b) Install control measures if cost-effective. c) Report every six months on mitigation program, including amount spent and nature of control measures.	a-c) Port of Oakland.	a) Within nine months of Project approval. b) Before opening of new terminals. c) Ongoing during project operation until mitigation budget is spent.
	3.3-3/M8: Engineering study and control of ROG emissions at Precision Cast Products.		a) Prepare cost-effectiveness study. b) Install control measures if cost-effective. c) Report every six months on mitigation program, including amount spent and nature of control measures.	a-c) Port of Oakland.	a) Within nine months of Project approval. b) Before opening of new terminals. c) Ongoing during project operation until mitigation budget is spent.
	3.3-3/M9: Investigate feasibility of California Air Resources Board (CARB) heavy-duty truck inspection station near the Port.		a) Contact CARB to conduct investigation. b) Prepare necessary studies. c) Report every six months on mitigation program, including amount spent on evaluation and status of studies.	a-b) Port of Oakland and CARB. c) Port of Oakland.	a) Within nine months of Project approval. b) As requested by CARB. c) Ongoing during project operation until mitigation budget is spent.

Significant Impact	Mitigation Measure	Significance after Mitigation	Implementation Procedure	Monitoring Responsibility	Timing
3.3-4 Long-term, local impact in the Near-Port area from NO_x, SO_2 and PM_{10} (including diesel particulate) emissions from project operations.	Implement Mitigations 3.3-3/M1-M9, described above.	Significant.			
NOISE					
3.4-1: Noise increases could occur during construction at and near the Project site.	3.4-1/M1: If pile driving occurs during the night (10 p.m. to 7 a.m.), implement noise controls, which may include engine and pneumatic exhaust controls on pile drivers, use of sonic or vibratory pile drivers, and acoustical enclosures.	Less than significant.	a) Require in construction specifications. b) Monitor contractor compliance with specifications.	a-b) Port of Oakland.	a)Before Project construction commences. b) During pile driving.
	3.4-1/M2: Incorporate other noise control measures into contract specifications, including maintenance of mufflers; locating vehicle staging areas away from dwellings; minimizing off-site sound from any public address systems; and provision of personal protective equipment for hearing protection to Project construction workers.		a) Require in construction specifications. b) Monitor contractor compliance with specifications.	a-b) Port of Oakland.	a) Before Project construction commences. b) During Project construction.

Significant Impact	Mitigation Measure	Significance after Mitigation	Implementation Procedure	Monitoring Responsibility	Timing
4. HAZARDOUS MATERIALS AND WASTE					
3.5-3: Residual contamination in soils and groundwater of the FISCO property could expose construction/utility workers to increased cancer risk or a non-cancer health effect.	3.5-3/M: Avoid extensive soil excavation or trenching in the IR 02 area to the extent practical; implement a Health and Safety Plan if excavation is necessary.	Less than significant.	a) Develop Project plans and document efforts to avoid excavation and trenching at IR 02. b) Require inclusion of a Health and Safety Plan in construction specifications. c) Monitor contractor compliance.	a-c) Port of Oakland.	a,b) Before Project construction commences. c) During Project construction.
5. BIOLOGICAL RESOURCES					
3.6-10: Lighting required at the new marine terminals for night activities might affect the California least tern colony at former NAS Alameda or other special status species.	3.6-10/M1 Lights will be directed downward; stadium style lighting will not be used.	Less than significant.	Include in Project plans and specifications.	Port of Oakland.	Before Project construction commences.
	3.6-10/M2: High-pressure sodium lights will be used instead of mercury vapor.		Include in Project plans and specifications.	Port of Oakland.	Before Project construction commences.
	3.6-10/M3: Lights required at wharf edge will be reduced to the extent allowed by safety.		a) Develop model operating procedures for tenants. b) Monitor tenant compliance.	a-b) Port of Oakland.	a) Before start of new terminal operation. b) During Project operation

Significant Impact	Mitigation Measure	Significance after Mitigation	Implementation Procedure	Monitoring Responsibility	Timing
	3.6-10/M4: Lights will be turned off when cranes are not in use or during maintenance to the extent allowed by safety.		a) Develop model operating procedures for tenants. b) Monitor tenant compliance.	a-b) Port of Oakland.	a) Before start of new terminal operation. b) During Project operation.
	3.6-10/M-5: Turn off the first row of terminal lighting when lights are not necessary.		a) Develop model operating procedures for tenants. b) Monitor tenant compliance.	a-b) Port of Oakland.	a) Before start of new terminal operation. b) During Project operation.
3.6-11: Addition of cranes along Inner Harbor would provide suitable perches for predatory birds such as peregrine falcons.	3.6-11/M: Inspect each Port crane for avian predator nest use.	Less than significant.	a) Develop monitoring procedures. b) Conduct inspections. c) Maintain records of all inspections.	a-b) Port of Oakland /resource agency. c) Port of Oakland.	a) Before start of new terminal operation. b,c) During Project operation.
3.6-12: Change in water currents near the mole with the north bank cut could affect the eelgrass bed.	3.6-12/M: Conduct pre- and post construction survey of eelgrass. If impacted, provide eelgrass replacement and shallow flats in MHEA or at an alternate site near the mole. If eelgrass replacement is unsuccessful, provide shallow hard bottom substrate for establishment of microalgae.	Less than significant.	a) Conduct surveys. b) If necessary, develop plans and specifications for eelgrass replacement. c) Monitor implementation. d) Maintain record of monitoring.	a,b) Port of Oakland. c) Resource agency. d) Port of Oakland /resource agency.	a) Before commencement of Project construction in the area of eelgrass, and 2 years after construction is complete b) Initiate implementation of plan within 6 months of determination of impact, if needed. c,d) Every 6 months for 2 years

Significant Impact	Mitigation Measure	Significance after Mitigation	Implementation Procedure	Monitoring Responsibility	Timing
3.6-13: Potential increase in invasive species entering San Francisco Bay.	3.6-13/M1: Implement a regulation requiring ballast water exchange at sea by vessels calling at Port facilities.	Less than significant.	a) Adopt the regulations. b) Implement an education /outreach program for vessel operations. c) Maintain records of vessels' compliance.	a-b) Port of Oakland. c) Port of Oakland.	a-b) Prior to opening of new terminals. c) Ongoing during Project operation.
	3.6-13/M2: Support MARPOL guidelines.		a) Make available staff, or other resources. b) Maintain record of participation.	a-b) Port of Oakland.	a-b) As needed.
	3.6-13/M3: Support national ballast water regulations.		a) Make available staff, or other resources. b) Maintain record of participation.	a-b) Port of Oakland.	a-b) As needed.
	3.6-13/M4: Support Sea Grant.		a) Continue support for program. b) Maintain record of participation.	a-b) Port of Oakland.	a-b) Ongoing.
	3.6-13/M5: Support on-shore treatment task force.		a) Make available staff, or other resources. b) Maintain record of participation.	a-b) Port of Oakland.	a-b) As needed.

Significant Impact	Mitigation Measure	Significance after Mitigation	Implementation Procedure	Monitoring Responsibility	Timing
CULTURAL RESOURCES					
3.7-2: The north training wall would be removed by construction of Berths 55-58 and associated wharves.	3.7-2/M: Implement a cultural resource treatment plan to document the north training wall and salvage a portion of the wall for interpretive purposes.	Less than significant.	a) Document the north training wall to the standards of the Historical American Engineering Record (HAER). Ensure that documentation is accepted by the National Park Service.	a-d) Port of Oakland.	a) Before demolition of north training wall.
			b) Relocate, reconstruct and preserve a section of the north training wall (no less than 50 yards in length) along the shoreline of the public access area.		b) During construction of Middle Harbor Shoreline Park.
			c) Submit an application to State Historical Resources Commission to designate the historic property a State Point of Historic Interest.		c) During construction of Middle Harbor Shoreline Park.
			d) Catalog existing collection of images and text. Establish an archive.		d) Before demolition of north training wall.
			e) Augment existing program of tours associated with historic property.		e) Before demolition of north training wall.

Significant Impact	Mitigation Measure	Significance after Mitigation	Implementation Procedure	Monitoring Responsibility	Timing
			f) Develop educational program on the reconstruction of the north training wall, its historical significance, and dry stone masonry. g) Submit a report to MOA signatories, indicating the status of compliance with a-f.		f) During construction of relocated wall. g) Within two years of execution of MOA.
CUMULATIVE IMPACTS					
5.3.2-2: The Project, in combination with other past, present, and probable future projects, would add traffic to the 7th Street/Middle Harbor Road intersection, which would operate at LOS F in 2003 and 2010 without the Project.	5.3.2-2/M: The Port will fund its pro-rata fair share of an additional lane for northbound right-turn movements, an additional lane for westbound left-turn movements, and an additional lane for westbound right-turn movements. Implement Mitigation 3.2-14/M, described above.	Less than significant.	a) Assessment of costs for fair share contribution toward funding. b) Port would enter into an agreement with City of Oakland which has jurisdiction over improvements to City of Oakland intersections. c) Acquisition of additional rights-of-way (if necessary). d) Construction plans and specifications.	a-d) Port of Oakland in coordination with the City of Oakland.	a-d) Before opening of new terminals

Significant Impact	Mitigation Measure	Significance after Mitigation	Implementation Procedure	Monitoring Responsibility	Timing
5.3.2-3: The Project, in combination with the other past, present, and probable future projects, would reduce the LOS at the Middle Harbor Road/JIT intersection to LOS F in 2003 and 2010.	5.3.2-3/M: The Port will install a traffic signal at the Middle Harbor Road/JIT intersection during construction of the JIT gate to improve traffic operations to LOS B.	Less than significant.	a) Develop plans and specifications.	a) Port of Oakland.	a) When warranted.
5.3.2-4: The Project, in combination with other past, present, and probable future projects, would reduce the LOS at the Middle Harbor Road/Eldorado Street intersection to LOS E in 2010.	Implement Mitigation 3.2-11/M, described above	Less than significant.			
5.3.2-5: The Project, in combination with other past, present, and probable future projects, would add to the congestion at additional intersections that are projected to operate below LOS D in 2010 without the Project.	5.3.2-5/M1: The Port will fund its pro-rata fair share for intersection modifications at Maritime Street/West Grand Avenue.	Less than significant.	a) Assessment of costs for fair share contribution toward funding. b) Port would enter into an agreement with City of Oakland which has jurisdiction over improvements to City of Oakland intersections (if mutual concurrence on mitigation is reached). c) Acquisition of additional rights-of-way (if necessary). d) Construction plans and specifications.	a-d) Port of Oakland in coordination with the City of Oakland.	a-d) When the City of Oakland determines the intersection operates below LOS D.

Significant Impact	Mitigation Measure	Significance after Mitigation	Implementation Procedure	Monitoring Responsibility	Timing
	5.3.2-5/M2: The Port will fund its pro-rata fair share for intersection modifications at Maritime Street/Burma Road.		a) Assessment of costs for fair share contribution toward funding. b) Port would enter into an agreement with City of Oakland which has jurisdiction over improvements to City of Oakland intersections (if mutual concurrence on mitigation is reached). c) Acquisition of additional rights-of-way (if necessary). d) Construction plans and specifications.	a-d) Port of Oakland in coordination with the City of Oakland.	a-d) When the City of Oakland determines the intersection operates below LOS D.
	5.3.2-5/M3: The Port will fund its pro-rata fair share for intersection modifications at Maritime Street/14th Street.		a) Assessment of costs for fair share contribution toward funding. b) Port would enter into an agreement with City of Oakland which has jurisdiction over improvements to City of Oakland intersections (if mutual concurrence on mitigation is reached). c) Acquisition of additional rights-of-way (if necessary). d) Construction plans and specifications.	a-d) Port of Oakland in coordination with the City of Oakland.	a-d) When the City of Oakland determines the intersection operates below LOS D.

Significant Impact	Mitigation Measure	Significance after Mitigation	Implementation Procedure	Monitoring Responsibility	Timing
	5.3.2-5/M4: The Port will fund its pro-rata fair share for intersection modifications at West Grand Avenue/I-80 Frontage Road.		a) Assessment of costs for fair share contribution toward funding. b) Port would enter into an agreement with City of Oakland which has jurisdiction over improvements to City of Oakland intersections (if mutual concurrence on mitigation is reached). c) Acquisition of additional rights-of-way (if necessary). d) Construction plans and specifications.	a-d) Port of Oakland in coordination with the City of Oakland.	a-d) When the City of Oakland determines the intersection operates below LOS D.
5.3.2-6: The Project, in combination with other past, present, and probable future projects, would add traffic to regional freeways in 2003 and 2010.	Implement Mitigation 3.2-13/M, described above.	Significant.			
5.3.3-1: Operational emissions from the Project, combined with operational emissions from other probable future Port projects and existing sources, would exceed air quality significance thresholds.	Implement Mitigations 3.3-3/M1-M9, described above.	Significant.			

Significant Impact	Mitigation Measure	Significance after Mitigation	Implementation Procedure	Monitoring Responsibility	Timing
5.3.4-1: Construction of the Project, in combination with existing and other probable future Port projects, would result in temporary increases in noise.	5.3.4-1/M: If the on-base enlisted bachelors' housing at former NAS Alameda is occupied for residential use, schedule and site dredging activities to avoid contributing to nighttime noise levels exceeding 47 dBA (Leq). Implement Mitigations 3.4-1/M1-M2, described above.	Less than significant.	a) Require in construction specifications. b) Monitor contractor for compliance.	a-b) Port of Oakland.	a) Before Project construction commences. b) During project construction.

Part B: Less Than Significant Impacts

Less Than Significant Impact	Mitigation Measure	Significance after Mitigation	Implementation Procedure	Monitoring Responsibility	Timing
		ADDITIONAL MITIGATION MEASURES			
3.3-1: Short-term, local impact from fugitive dust, and short-term local and regional impacts from exhaust emissions during Project construction.	3.3-1/M1: Implement construction-related equipment engine emissions controls, including equipment tune-up, use of California low-sulfur, low-aromatic diesel fuel in equipment that is not required under state law to use low-sulfur diesel	Less than significant.	a) Require in construction specifications. b) Monitor contractor for compliance.	a-b) Port of Oakland.	a) Before Project construction commences. b) During Project construction.
	3.3-1/M2: Encourage construction workers to carpool, especially on "Spare the Air" days.		a) Include in construction contract. b) Monitor contractor efforts.	a-b) Port of Oakland.	a) Before Project construction commences b) During Project construction

Less Than Significant Impact	Mitigation Measure	Significance after Mitigation	Implementation Procedure	Monitoring Responsibility	Timing
3.5-4: Excavation of miscellaneous fill along the north bank of Inner Harbor and its use to complete the grades of the west container yards could expose construction workers to increased cancer risk or non-cancer health effect.	3.5-4/M: Project specifications to require preparation and implementation of Health and Safety Plans, Soil Management Plans, and Debris Containment Plans.	Less than significant.	a) Require in construction specifications. b) Monitor contractor for compliance.	a-b) Port of Oakland.	a) During Project design and preparation of specifications. b) During Project construction.
3.9-4: Pollutants in runoff discharged to adjacent waters might increase as a result of the use of the area for marine terminal operations.	3.9-4/M: Port will require tenants to provide covered vehicle maintenance facilities large enough to accommodate the largest vehicles at each marine terminal.	Less than significant.	a) Include requirement in Model SWPPP. b) Monitor tenant compliance.	a-b) Port of Oakland.	a-b) Ongoing during Project operation.