

AGENDA DESCRIPTION:

Consideration and possible action to review the current status of Border Issues

RECOMMENDED COUNCIL ACTION:

- (1) Receive and file the second biannual report on the status of Border Issues for 2019.

FISCAL IMPACT: None

Amount Budgeted:	N/A
Additional Appropriation:	N/A
Account Number(s):	N/A

ORIGINATED BY: Megan Barnes, Senior Administrative Analyst *MB*
REVIEWED BY: Ara Mhrianian, AICP, Interim City Manager *A*
APPROVED BY: Same as above

ATTACHED SUPPORTING DOCUMENTS:

- A. Cal Water handout showing traffic control on Crenshaw Boulevard (page A-1)
- B. August 19, 2019 comment letter on the DEIR for the Butcher Solana project (B-1)
- C. November 4, 2019 RFP for the proposed commercial outlease of DFSP (page C-1)
- D. August 20, 2019 staff report regarding liquid bulk storage tanks (page D-1)
- E. August 20, 2019 letter regarding liquid bulk storage tanks (page E-1)
- F. August 22, 2019 correspondence from Janet Gunter (F-1)
- G. September 3, 2019 correspondence from Ron Conrow, Rancho LPG Holdings and attachments (F-1)
- H. August 31, 2019 Los Angeles Times article on the Wilmington Blind-Thrust fault (H-1)

EXECUTIVE SUMMARY:

This biannual report includes:

- An update on the Cal Water pipeline project in Rolling Hills Estates, the unincorporated Westfield community and Rancho Palos Verdes
- An update on the proposed 248-unit Butcher Solana apartment project at Hawthorne Boulevard and Via Valmonte in Torrance
- An update on the proposed leasing of the Defense Fuel Support Point San Pedro for commercial fueling operations
- An update on issues and events related to the Rancho LPG butane storage facility in San Pedro

BACKGROUND AND DISCUSSION:

This is the second biannual report to the City Council on various “Border Issues” potentially affecting residents of Rancho Palos Verdes for 2019. The full current status report is available on the City’s website at:

<http://www.rpvca.gov/781/Border-Issues-Status-Report>

Please note that, with the approval of changes to City Council Policy No. 34, the next Border Issues Status Report is expected to appear on a City Council agenda in June 2020.

Current Border Issues

Palos Verdes Peninsula Water Reliability Project, Rolling Hills Estates/Los Angeles County/Rancho Palos Verdes

In late June 2019, Cal Water began a major segment of the Palos Verdes Peninsula Water Reliability Project, installing pipeline along Crenshaw Boulevard. Construction began at Crest Road in Rancho Palos Verdes, moving north down Crenshaw Boulevard toward the pump station site near Silver Spur Road. The work included partial lane closures, sending all north and southbound traffic over the median to one side of Crenshaw Boulevard during work hours, with one lane open in each direction.

In October, Cal Water announced it made a change to its project team and would re-evaluate the sequence of construction to ensure timely completion.

Drivers began experiencing significant traffic delays when roadwork reached the intersection of Crenshaw Boulevard and Indian Peak Road in mid-November. Traffic control personnel were stationed in intersections impacted by the work to facilitate traffic movement. Additionally, the City adjusted the timing of signal lights at the intersections of Hawthorne Boulevard and Indian Peak Road as well as Hawthorne Boulevard and Highridge Road to optimize traffic flow. The City of Rolling Hills Estates informed Staff it

would make necessary adjustments to the traffic signal light at Hawthorne Boulevard and Silver Spur Road.

In late November, Cal Water announced a new construction sequence for the remainder of work on Crenshaw Boulevard, with two phases of 24/7 traffic control:

Phase 1

- Boundaries: Indian Peak Road to south of Chadwick Lane
- Traffic control: Single lane of northbound and southbound traffic. Traffic control in place at all times. Permanent (glued down) construction delineators and dual yellow striping will be on the northbound lanes of Crenshaw Boulevard to indicate the new flow of traffic
- Work hours: Monday to Friday, from 7 a.m. to 7 p.m. with intermittent Saturday work
- Completion: Approximately the end of December 2019

After Phase 1 is completed, traffic control between Indian Peak and Silver Spur roads will be taken down and all lanes of traffic will re-open.

Phase 2

- Boundaries: Silver Spur Road to south of Chadwick Lane
- Traffic control: Single lane of northbound and southbound traffic. Traffic control in place at all times. Permanent (glued down) construction delineators and dual yellow striping will be on the southbound lanes of Crenshaw Boulevard to indicate the new flow of traffic
- Work hours: Monday to Friday, from 7 a.m. to 7 p.m. with intermittent Saturday work
- Completion: Early 2020

Drivers are advised to expect traffic delays, drive slowly and with caution, and to take alternate routes, such as Hawthorne Boulevard, when possible.

These changes are expected to result in significant time savings for the remainder of work on Crenshaw Boulevard. Cal Water has produced a handout showing traffic control for each of these phases (Attachment A). The pump station is expected to be completed by the end of 2019.

Cal Water now expects all work for the Palos Verdes Peninsula Water Reliability Project to be completed by mid-2020. In total, seven miles of new drinking water pipeline will be installed to serve residents of the Peninsula.

Staff will continue to monitor this issue in future Border Issues Status Reports. For additional information about the Palos Verdes Peninsula Water Reliability Project, visit <http://www.pvpwaterproject.com> or call 310-257-1400 (mention the PVP Water Reliability Project).

Butcher Solana Residential Development Project (Torrance)

On June 19, 2019, the City of Torrance released a draft environmental impact report (DEIR) for the proposed Butcher Solana apartment project at the southwest corner of Hawthorne Boulevard and Via Valmonte. The project would consist of 248 one- and two-bedroom apartments in three five-story buildings with 484 parking spaces in a six-story structure. The public comment period for the DEIR was extended from 45 to 60 days.

In early August, Staff attended a meeting with staff from the cities of Palos Verdes Estates and Rolling Hills Estates to discuss the project and how each city intended to comment. Several concerns were raised, including inconsistencies throughout the document, purportedly outdated information, and erroneous analyses. Staff also attended a community meeting about the project at the Red Onion restaurant in Rolling Hills Estates.

According to planning staff at the City of Torrance, because the project falls in that city's Hillside Overlay Area, the applicant was required to construct silhouettes showing the structures' visual impacts. Due to heightened interest, Torrance planning staff required the silhouettes go up for a longer-than-usual period of at least 60 days before the development's first hearing at the Planning Commission.

Silhouettes were constructed in late July, but Torrance planning staff was unable to certify them because they were damaged. The project application is therefore considered incomplete.

On August 19, 2019, the City submitted its comments on the DEIR (Attachment B), noting that although several issues the City previously raised were addressed in the analysis, numerous other concerns were not, as well as inaccuracies that the City identified.

According to the City of Torrance, more than 690 comment letters came in, and in mid-September, the project developer notified planning staff it was putting the project on hold while it reviewed them.

The project is not withdrawn and the developer is expected to touch base with the City of Torrance about its next steps in the new year, according to city staff.

Staff will continue to monitor this issue in future Border Issues Status Reports. Additional information about the project is available on the City of Torrance's website at <https://www.torranceca.gov/our-city/community-development/planning/butcher-solana>.

Current Border Issues

Defense Fuel Support Point San Pedro (Los Angeles (San Pedro))

On November 4, 2019, the U.S. Navy released a request for proposals (RFP) for a proposed outlease of Defense Fuel Support Point San Pedro (DFSP), the sprawling, inactive Navy fuel tank farm on North Gaffey Street (which borders the City on a stretch of Western Avenue), and an 8-acre marine terminal about five miles southeast in the Port of Long Beach.

The potential outlease of DFSP was studied in a draft environmental assessment (EA) that was released in April 2019. According to the Navy, the lessee would not pay rent for shared use of DFSP, but would provide in-kind services (improvements and maintenance). This arrangement would enable the Navy to use the site for fueling operations for its growing Pacific Fleet without having to cover the costs of rehabilitation and maintenance.

The draft EA studied two alternatives: Alternative 1 proposed renewing fueling operations for a mix of commercial and Navy use on 311 acres at the San Pedro site, the marine terminal and about 14 miles of underground pipelines; and Alternative 2 proposed renewing operations at the marine terminal and pipelines only. A No Action Alternative was also studied, but the Navy determined this would not meet its needs.

The analysis assumed a maximum of 30 million barrels of fuel a year being transported for commercial and Navy use, noting the historical use by the Navy of 4 million to 12 million barrels per year. The assessment found that, with mitigation, there would be no significant impacts across 13 resource areas. Development would be limited to previously disturbed areas and biological resources that support sensitive species, including the Palos Verdes blue butterfly population, would not be disturbed.

On May 16, 2019, Staff submitted comments on the draft EA to the Navy raising serious concerns with the proposal, including the unknowns of potential commercial uses and the construction of new facilities at the San Pedro site, public safety hazards, increased traffic, and biological and visual impacts.

A copy of the RFP is attached to this report (Attachment C) and can be viewed online at https://beta.sam.gov/opp/5154a49bfb9b09f33f91a9eb276e3a03/view?index=opp&page=1&sort=-relevance&keywords=defense%20fuel%20support&date_filter_index=0&inactive_filter_values=false

Proposals are due January 17, 2020. Prior to the release of the RFP, the Navy indicated it had been approached by several local oil industries that expressed interest in the potential outlease.

The RFP states that the Navy's target lease execution date is August 31, 2020. All federal, state and local permits and licenses required to meet the Navy's fueling requirement would need to be obtained by the end of August 2022, and the operator would need to be capable of delivering fuel to the Navy via pipeline at the fuel pier by the end of August 2023.

According to the Navy, the final EA is in a holding pattern as officials consider releasing the document after proposals come in so it can fully analyze the most likely scenarios for future use of the site. If the EA is released after responses to the RFP come in, the Navy has indicated to Staff that this would likely not occur until March 2020. In any event, the EA would be completed before any decision on outleasing is made.

Staff will continue to monitor this issue in future Border Issues Status Reports.

Rancho LPG Butane Storage Facility, Los Angeles (San Pedro)

The Navy's release of the draft EA of the proposed outlease of DFSP renewed community discussion about longstanding concerns with the nearby Rancho LPG facility on North Gaffey Street in San Pedro, where 25 million gallons of butane are stored in two aboveground tanks, and another five horizontal storage tanks each hold 60,000 gallons of propane.

During a discussion of the Border Issues Status Report on June 18, 2019, the City Council considered supporting H.R. 6489, a bill introduced in Congress in July 2018 by U.S. Rep. Nanette Barragán (D-San Pedro), which would have authorized the use of up to \$500 million in federal grant funding to cover half the cost of relocating LPG storage facilities that are within five miles of populated areas, homes or schools. The bill did not advance in Congress.

After some discussion, the council decided instead to direct Staff to prepare a letter more broadly supporting the relocation of Rancho LPG and other liquid bulk storage tanks that are close to the public, without taking a stance on proposed funding. The council also restated its concerns with the Navy's proposal to resume storing millions of barrels of combustible jet fuel in aboveground tanks at nearby DFSP.

The letter was approved at the August 20, 2019 City Council meeting and was sent the following day to Rep. Barragán, Rep. Ted Lieu, Senator Dianne Feinstein, Senator Kamala Harris, Senator Steven Bradford, Senator Ben Allen, Assemblymember Patrick O'Donnell, Assemblymember Al Muratsuchi, L.A. County Supervisor Janice Hahn, L.A. City Councilmember Joe Buscaino and San Pedro Peninsula Homeowners United.

Staff continues to reach out to Rep. Barragán's office about efforts to relocate the tanks or reintroduce the bill in the 116th Congress.

On August 22, 2019, Janet Gunter of San Pedro Peninsula Homeowners United distributed a news release about a new study by researchers from Harvard University, the University of Southern California and the U.S. Geological Survey on the Wilmington Blind-Thrust fault (Attachment G). The research found that the 12.5-mile long fault is not dormant as previously believed and has the potential to cause a 6.4 magnitude earthquake (see Los Angeles Times article on the study, Attachment H). The fault

stretches from Huntington Beach and runs beneath the ports of Los Angeles and Long Beach, and the Palos Verdes Peninsula.

On September 3, 2019, the City received an email from Ron Conrow of Rancho LPG Holdings (Attachment E) expressing disappointment in the City's letter, stating that funding in Rep. Barragán's bill would be insufficient to relocate the facility and casting doubt on the bill's likelihood to be signed into law if it were re-introduced. Mr. Conrow disputed various concerns raised by members of San Pedro Peninsula Homeowners United, including concerns about the new findings about the Wilmington Blind-Thrust fault. Mr. Conrow included letters and reports from regulators and government agencies over the years concerning the facility's safety record and determinations of jurisdictional authority.

Staff will continue to monitor this issue in future Border Issues Status Reports.

New Border Issues

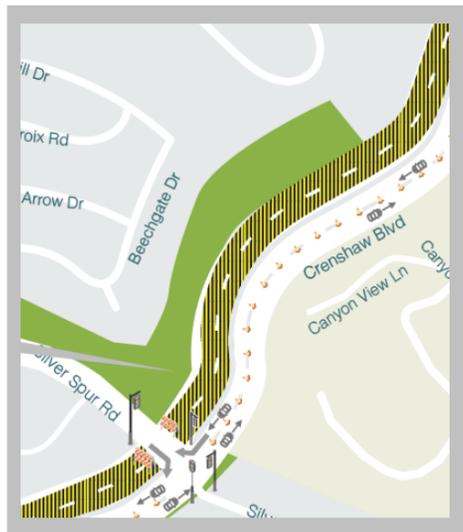
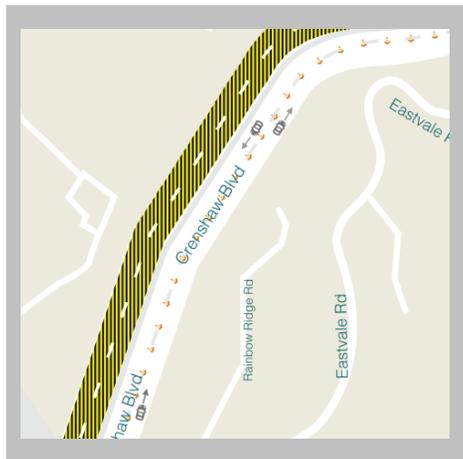
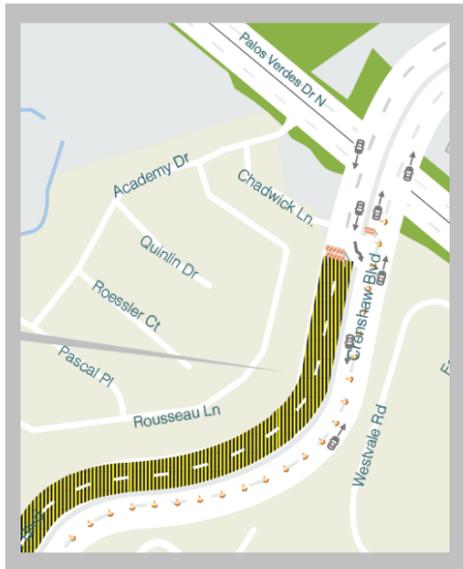
There are no new Border Issues on which to report at this time.



Phase 1

Work Hours: Monday to Friday, 7 a.m. - 7 p.m. (Traffic control in place 24/7)

After Phase 1 is completed, traffic control between Indian Peak and Silver Spur roads will be taken down and all lanes of traffic will re-open





Phase 2

Work Hours: Monday to Friday, 7 a.m. - 7 p.m. (Traffic control in place 24/7)



August 19, 2019

VIA ELECTRONIC AND U.S. MAIL
Email: DSantana@TorranceCA.gov
OMartinez@TorranceCA.gov

City of Torrance
Community Development Department
Attn: Oscar Martinez, Interim Planning Manager
3031 Torrance Blvd.
Torrance, CA 90503

SUBJECT: Comments in Response to the Draft Environmental Impact Report for the Proposed Solana Residential Development Project (Also known as the Butcher-Solana Residential Development Project)

Dear Mr. Martinez:

The City of Rancho Palos Verdes appreciates the opportunity to comment upon the scope of the proposed Environmental Impact Report (EIR) for the above-mentioned project which consists of 248 one- and two-bedroom apartments in three five-story buildings with 484 parking spaces. We have reviewed the Draft Environmental Impact Report (DEIR), and offer the following comments:

1. The City has reason to believe that based on information it received (see attached letter dated August 1, 2019) this site, formerly used as a quarry, may have been used by the Montrose Chemical Corporation for the disposal of toxic chemicals (DDT and PCBs), and the City demands additional analysis and soil testing be conducted to determine if this is the case. Moreover, adequate mitigation measures must be provided in this regard. Even without the Solana Residential Development project, the City of Torrance Staff should take action to determine whether or not this site was the location of the chemical disposal. Additional research should be completed and the DEIR is an opportunity to do the necessary analysis and provide the public and the City's decision makers accurate and up-to-date information.
2. In addition to Comment No. 1 above, the City is concerned of the re-use of collapsible soils when the site is known to have contaminated soils that will be left onsite. According to Chapter 5.7, Hazards, of the DEIR, there are three layers ("zones") of fill material that has been backfilled since the 1960's with imported material from other construction site in the Palos Verdes area including the Sunrise Senior Living site and the former Shell gasoline station. The DEIR does not provide adequate discussion on how the contaminates will be mitigated especially with the re-use of collapsible soils and how this impacts drainage and groundwater.
3. The discussion of Transportation/Traffic impacts in the Initial Study (pp. 77-79) identified potentially significant environmental impacts related to this project,

particularly with respect to deteriorated level-of-service standards at certain nearby intersections and inadequate emergency access. The revised traffic impact study that was prepared for this project in April 2017 was also reviewed at that time. Hawthorne Boulevard is one of the few major north-south roadways providing access to and from the Palos Verdes Peninsula. As expressed in the City's comment letter on the Notice of Preparation in 2017(see attachment), the City of Rancho Palos Verdes remains concerned about the potential construction and operational traffic impacts that this project may have upon Peninsula residents. To that end, we respectfully offer the following suggestions regarding the analysis of transportation/traffic impacts in the EIR:

- Please explain more fully the basis for the assumption that 80% of trips to/from the site will be to the north along Hawthorne Boulevard. It has been our experience that Palos Verdes Drive North is a common alternate commuter route to/from the Harbor (1-110) Freeway for Peninsula residents, and we anticipate that the same will be true of the future residents of the project.
4. Numerous additional issues have been identified with the Transportation Section of the DEIR. The following is a summary of these issues that the City seeks additional information and/or analysis:
- The DEIR assumed a 2019 opening, when in reality the project would likely not start construction until 2021 resulting in inaccurate projections;
 - The traffic analysis did not follow significant impact criteria and did not do a cumulative impact analysis;
 - The analysis assumed pending road improvements that have not been built yet and have been put on hold by the City of Torrance;
 - Faulty queuing analysis was used;
 - A micro sim analysis should be conducted;
 - Incorrect lane configurations were used;
 - The Sight Distance Analysis is incorrect;
 - The Transportation Section uses outdated baseline traffic counts from 2016 and 2017, resulting in inaccurate projections.
 - Undercounted construction haul trips, resulting in an inadequate analysis of short-term construction impacts which directly impacts the Noise and Air Quality sections of the DEIR; and,
 - Undercounted operational vehicle trips.
5. The City believes that the inadequate transportation analysis directly impacts the air quality analysis, greenhouse gas analysis, and noise analysis sections of the DEIR. The City requests that these sections be corrected after the transportation section is updated and the information recirculated for further public review.
6. The City believes that the biological analysis is inadequate, as the biological assessments/studies were conducted over two years ago. Also, it is possible that the site contains the host plants for the PV Blue Butterfly, which are the locoweed (*Astragalus trichopodus* var. *lonchus*), also known as Santa Barbara milkvetch, and common deerweed (*Lotus scoparius*), which has not been discussed in the Biological Section of the DEIR. There should be a more detailed vegetation survey to determine if these types of host plants exist on the site, because there would be an opportunity for

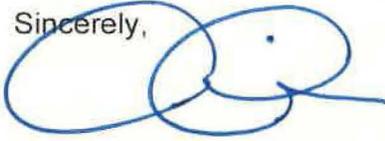
the reintroduction of the PV Blue Butterfly, which is listed as an endangered species with the U.S. Fish and Wildlife Service. Moreover, adequate mitigation should be provided along with consultation with the U.S. Fish and Wildlife Service.

7. The 2018 RPV General Plan Circulation Element states that one of the Goals is to provide and maintain a safe, efficient, and comprehensive system of roads and trails, and coordinate them with other jurisdictions and agencies. For this reason, the trails and vista point at the top of Butcher Hill should be preserved and enhanced. A proposed trail system should be incorporated into the project not only to link to neighboring cities, but to provide project residents with an alternative mode of transportation.
8. The project DEIR does not discuss whether any of the units will be available to very low or low income occupants as a means of affordable housing.
9. With respect to the consideration of project alternatives in the DEIR, we suggest the inclusion of the following reduced-density alternatives:
 - An alternative that is consistent with the current land use and zoning for the site.
 - An alternative that reduces the number of dwelling units sufficient to eliminate any significant adverse project impacts.
10. Our neighboring cities on the Palos Verdes Peninsula, Palos Verdes Estates and Rolling Hills Estates, directly abut the project site. As such, their residents are likely to experience more direct effects of the proposed project. We suggest that the following potential impacts to nearby neighbors be adequately addressed in the DEIR:
 - Operational noise, particularly related to residents' vehicles and the use of outdoor recreational facilities;
 - Adequacy of proposed resident and guest parking so as to avoid spillover parking impacts in surrounding neighborhoods; and,
 - Short-and long-term effects of proposed open space area, including provisions for fire safety, maintenance and public access.
11. The City of Rancho Palos Verdes believes that a full project silhouette is essential to assess a project's true aesthetic impact as it relates to mass and bulk, height, and scale. Attached is the City's Non-Single Family Residential Silhouette Criteria handout for an example of suitable silhouette construction. To that end, we believe that the silhouette that has been constructed is insufficient to allow for a true analysis of the bulk and mass of the proposed project. Although not required by CEQA, in order to properly assess the mass and scale of the proposed buildings, full silhouettes should be installed. A proper silhouette will be helpful for the decision makers, City of Torrance Staff, and the public, to fully understand the scope of the project's aesthetic impacts.
12. In accordance to AB 52, Tribal Cultural Resources, as part of the preparation of an environmental document, the Lead Agency is required to consult with listed tribes. Based on the DEIR and the City's experience with AB 52, it is not clear that the Kizh Tribe of the Tongva nation was contacted. The City of Torrance must follow up with the Native American Heritage Commission to ensure that their contact list is up to date, as the original letters were sent out in 2017. It is also recommended that the site be re-surveyed by a qualified and experienced archaeologist at a maximum of a 5-meter

interval.

Again, thank you for the opportunity to comment upon this important project that has the potential to adversely impact the residents of the Palos Verdes Peninsula including Rancho Palos Verdes. If you have any questions or need additional information, please feel free to contact Senior Planner Amy Seeraty at (310) 544-5231 or via e-mail at amys@rpvca.gov.

Sincerely,



Ara Mihranian

Community Development Director

Attachments:

- August 1, 2019 letter from Stone Lions Environmental Corporation
- August 28, 2017 Notice of Preparation Comment Letter
- City of Rancho Palos Verdes Non-Single Family Residential Silhouette Criteria

c: Mayor Duhovic and the Rancho Palos Verdes City Council
Doug Willmore, City Manager
Gabriella Yap, Deputy City Manager
Amy Seeraty, Senior Planner

August 1, 2019

Mr. Oscar Martinez
Interim Planning Manager
Community Development Department
City of Torrance
3031 Torrance Boulevard,
Torrance, CA 90503

Re: Solana Residential Development Project

Mr. Martinez:

The purpose of this communication is to request that the 45-day review public review period for the Solana Development Project Draft Environmental Impact Report (DEIR) be extended for at least an additional ninety days. Please note the following:

1. On or about May 18, 1998, the USEPA office in San Francisco issued a report entitled "Final Remedial Investigation Report for the Montrose Superfund Site, Los Angeles, California." On page 1-26 of Volume I of II of that report is a very interesting statement: "According to a Stauffer Chemical Company appropriation request dated April 14, 1970, Montrose undertook a project in 1970 attempting to eliminate the discharge of caustic and tar pot liquors into the county sewer.....in this project the caustic and tar pot liquors will be transported from the plant and dumped. At the present time there are three places available for disposal. One is a permitted area in the ocean which is approximately 60 miles from shore, one is a class (sic) I landfill that permits a certain amount of liquid dumping, and one is an abandoned quarry."

There is a substantial probability that the "abandoned quarry" mentioned above is in fact the quarry at Butcher Hill. If that is the case, then the site at which the subject project may be built is likely contaminated with some of the most toxic chemicals known; please see below.

2. The primary purpose of the Montrose Chemical facility was to produce a pesticide known as DDT (dichloro-diphenyl-trichloroethane). DDT was a major constituent of the caustic and tar pot liquors disposed of by Montrose as explained in paragraph 1. above.

Due to toxicity and persistence problems with DDT, effective on December 31, 1972 the pesticide was banned by the USEPA for use on all crops in the United States. For more DDT related information, see "DDT Regulatory History: A Brief Survey (to 1975)," USEPA, July 1975. For toxicity information related to DDT, see "Dichlorodiphenyltrichloroethane (DDT) Factsheet," Centers for Disease Control and Prevention, April 7, 2017.

3. Polychlorinated biphenyls (PCBs) were also contained in the caustic and tar pot liquors disposed of by Montrose as explained in paragraph 1. above. PCBs are a possible cause of birth defects. PCBs are also a suspected cause of cancer and adverse skin and liver effects in humans. In 1979, the USEPA banned the manufacture of PCBs in the United States, and began a phase out of most uses of PCBs anywhere in the country. For more related information, see "EPA Bans PCB Manufacture; Phases Out Uses," EPA press release, April 19, 1979. For toxicity related information see "ToxFacs for Polychlorinated Biphenyls (PCBs)," Agency for Toxic Substances & Disease Registry, July 2014.
4. The manufacture of chlorinated hydrocarbon compounds (like DDT) often creates a family of chemicals known as dioxins and furans as impurities and/or waste products. One particular dioxin, i.e., 2,3,7,8-tetrachloro-dibenzo-para dioxin (TCDD), has been described as the most toxic chemical known. TCDD is very similar to DDT in terms of chemical structure. Therefore, it is reasonable to assume that dioxins and furans, including TCDD, were impurities created during the manufacture of DDT, and that dioxins and furans were contained in the caustic and tar pot liquors disposed of by Montrose as explained in paragraph 1. above.

For more information about the toxicity of dioxins, see "Dioxins and Their Effects on Human Health", World Health Organization, October 4, 2016. Note especially the possibility of reproductive and developmental problems, damage to the immune system, and cancer associated with dioxin exposure.

As explained in paragraphs 1. thru 4. above, if Montrose did in fact dump caustic and tar pot liquors in the quarry at Butcher Hill, then that quarry contains a group of toxic chemicals with the potential to create a wide variety of extremely serious human health impacts. It follows that a thorough investigation needs to be conducted to determine if in fact that problem exists at the Butcher Hill quarry. At a minimum, that investigation should include a thorough review of Montrose related records at the offices of the Sanitation Districts of Los Angeles County, the office of the Department of Toxic Substances Control, and the USEPA office in San Francisco. It is estimated that those three record reviews will take a minimum of ninety days, given the massive number of records likely contained in the files of interest, and the logistics involved in obtaining access to those records.

Mr. Oscar Martinez

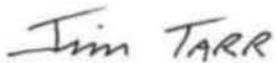
Page 3

August 1, 2019

If the quarry disposal of caustic and tar pot liquors problem is not resolved, and if that disposal did occur at Butcher Hill, then proceeding with the Solano Residential Development Project will likely generate a toxic chemical exposure problem capable of ruining the health and wellbeing of hundreds of families who might choose to live in the proposed facility as well as those who reside in the nearby neighborhoods.

The truth of the matter needs to be thoroughly and completely documented for the good of our community.

Regards,



Jim Tarr

President

(310) 377-6677

jtarr@stonelions.com

cc: Danny Santana, Director of Planning
Patrick Furey, Mayor of Torrance
Tim Goodrich, Council Member
Geoff Rizzo, Council Member
Mike Griffiths, Council Member
George Chen, Council Member
Milton Herring, Council Member
Aurelio Mattucci, Council Member
Josey Vanderpas, Save Our Neighborhood Torrance
Joan Davidson, Sierra Club
Nick Green, Daily Breeze

28 August 2017

VIA ELECTRONIC AND U.S. MAIL
Email: DSantana@TorranceCA.gov

Danny Santana, Planning & Environmental Manager
City of Torrance, Planning Division
3031 Torrance Blvd.
Torrance, CA 90503

SUBJECT: Comments in Response to the Notice of Preparation of an Environmental Impact Report for the Proposed Butcher-Solana Residential Development Project

Dear Mr. Santana:

The City of Rancho Palos Verdes appreciates the opportunity to comment upon the scope of the proposed Environmental Impact Report (EIR) for the above-mentioned project. We have reviewed the Notice of Preparation and Initial Study (NOP/IS), and offer the following comments:

1. The discussion of Cultural Resources impacts in the Initial Study (pp. 56-58) does not acknowledge the existence of the Mirlo Gate Lodge, which is located at 4420 Via Valmonte in the City of Palos Verdes Estates and within the public notification radius for this project. The Mirlo Gate Lodge was designated as a local historical landmark by the Rancho de Los Palos Verdes Historical Society in 1988. As such, the analysis of impacts to cultural resources in the EIR should include potential effects upon the Mirlo Gate Lodge.
2. The discussion of Transportation/Traffic impacts in the Initial Study (pp. 77-79) identifies potentially significant environmental impacts related to this project, particularly with respect to deteriorated level-of-service standards at certain nearby intersections and inadequate emergency access. We have also reviewed the revised traffic impact study that was prepared for this project in April 2017. Hawthorne Boulevard is one of the few major north-south roadways providing access to and from the Palos Verdes Peninsula. The City of Rancho Palos Verdes is concerned about the potential construction and operational traffic impacts that this project may have upon Peninsula residents. To that end, we respectfully offer the following suggestions regarding the analysis of transportation/traffic impacts in the EIR:
 - Please explain more fully the basis for the assumption that 80% of trips to/from the site will be to the north along Hawthorne Boulevard. It has been our

experience that Palos Verdes Drive North is a common alternate commuter route to/from the Harbor (I-110) Freeway for Peninsula residents, and we suspect that the same will be true of the future residents of the project.

- Related to the point raised above, we recommend adding the following study intersections to the analysis in the EIR: Hawthorne Blvd./Palos Verdes Dr. N., Crenshaw Blvd./Palos Verdes Dr. N. and Rolling Hills Rd./Palos Verdes Dr. N.
3. With respect to the consideration of project alternatives in the EIR, we suggest the inclusion of the following reduced-density alternatives:
- An alternative that is consistent with the current land use and zoning for the site.
 - An alternative that reduces the number of dwelling units sufficient to eliminate any significant adverse project impacts.
4. Our neighboring cities on the Palos Verdes Peninsula—Palos Verdes Estates and Rolling Hills Estates—directly abut the project site. As such, their residents are likely to experience more direct effects of the proposed project. We suggest that the following potential impacts to nearby neighbors should be addressed in the EIR:
- Operational noise, particularly related to residents' vehicles and the use of outdoor recreational facilities;
 - Adequacy of proposed resident and guest parking so as to avoid spillover parking impacts in surrounding neighborhoods; and,
 - Short- and long-term effects of proposed open space area, including provisions for fire safety, maintenance and public access.

Again, thank you for the opportunity to comment upon this important project. If you have any questions or need additional information, please feel free to contact Senior Administrative Analyst Kit Fox at (310) 544-5228 or via e-mail at kitf@rpvca.gov.

Sincerely,



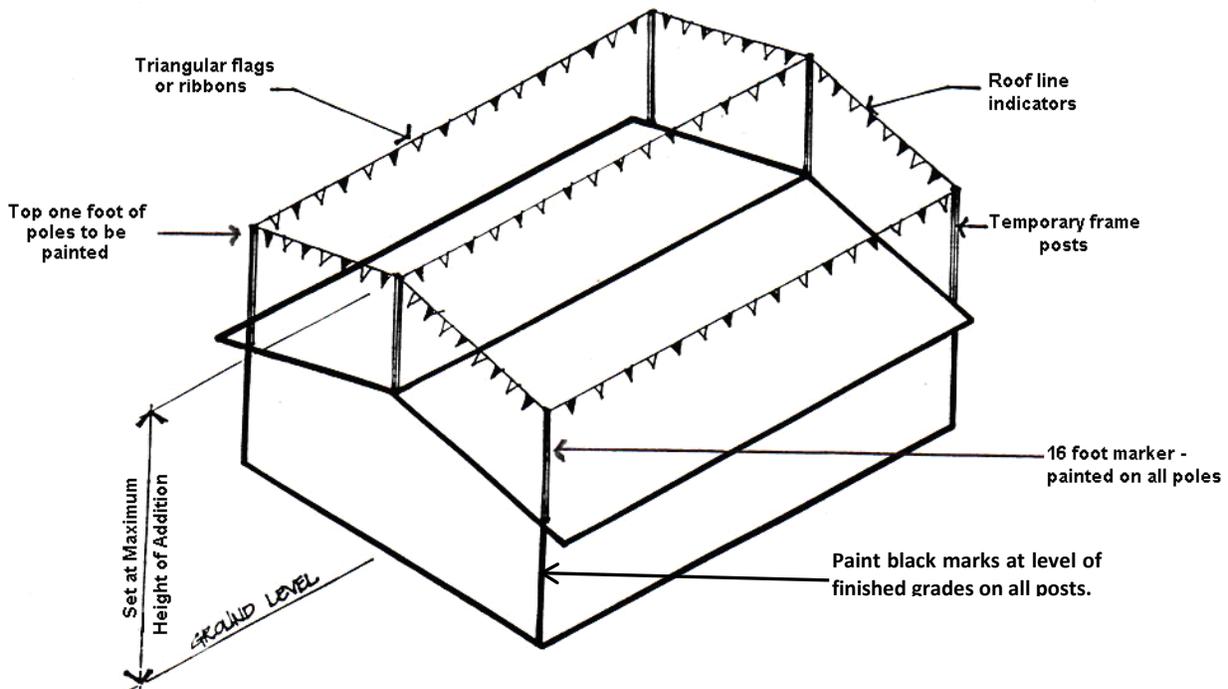
Doug Willmore
City Manager

cc: Mayor Campbell and Rancho Palos Verdes City Council
Gabriella Yap, Deputy City Manager
Ara Mihranian, Director of Community Development
Kit Fox, Senior Administrative Analyst

NON-SINGLE-FAMILY RESIDENTIAL SILHOUETTE CONSTRUCTION CRITERIA

If a non-single-family-residential development project requires a Conditional Use Permit application, the property owner/applicant will be required to construct a certified silhouette that depicts the proposed project some time prior to the public hearing on the application. **In order to minimize costs involved in constructing a silhouette, please do not construct the silhouette until directed to do so by the case planner.** It is important to note that a non-single-family-residential development project that requires a silhouette will not be deemed “complete” for processing without the submittal of a signed statement by the property owner that they agree to construct the required silhouette, provide a silhouette plan, and obtain certification of the silhouette by a licensed land surveyor or a licensed engineer.

The silhouette shall be constructed exactly as these guidelines describe unless the applicant can demonstrate to the Director that strict adherence to these guidelines will adversely impact the operation of the existing non-residential use and/or public safety. The Director has the authority to allow deviations from these criteria, so long as the intent of providing the silhouette to assist, Staff, the general public and decision makers is reasonably satisfied.



1. The temporary silhouette shall, at a minimum, consist of wood posts (or other sturdy and rigid material - 2" x 4"s are typical) at all corners of the structure(s) and/or main building masses and at either end of all proposed ridgelines, with a taut rope (of ½" diameter), marked by **triangular flagging or ribbons** connecting the posts (see above diagram). If ribbons are used, the ribbons should be bright colored at a minimum width of 3-inches and should be affixed to string at 12-inch increments.

2. The top one foot of the posts shall be **painted red or orange** to better demarcate the height of the proposed structure in photo analyses.
3. If the project proposes to exceed the “by-right” height limit of the underlying zoning designation for the property, a **similar mark shall be painted a yellow color on the posts at the “by-right” height limit**, as measured pursuant to the City’s code. Please consult with your case planner regarding the applicable method for determining the “by-right” height limit for your project.
4. If any grading is proposed such that the finished grade adjacent to the structure is **higher** than the existing (preconstruction grade), the applicant shall **paint a black mark** on all posts at the elevation(s) of the proposed grade(s).
5. The applicant shall, at the time of submittal of an application to the City, sign a waiver (see project application) which absolves the City of any liability associated with construction of, or damage by, the temporary silhouette. **The applicant shall not construct the temporary silhouette until instructed to do so by the case planner and the waiver form is submitted to the City.** The applicant shall notify the case planner when the silhouette is in place.
6. Once the project silhouette is constructed, a licensed engineer or surveyor shall certify that the silhouette accurately depicts the location and height (including the color demarcation on the silhouette posts) of the proposed development. (See attached certification form.)
7. The Silhouette Certification Form **shall be accompanied by a silhouette plan** that identifies the location of the silhouette posts, the existing grade elevation call-outs for the base of the posts (if posts touch existing grade), and the elevation call-outs for the top of the posts. If the silhouette is constructed entirely above an existing structure so that the posts supporting the silhouette do not touch existing grade, then the silhouette plan must include the existing grade elevation closest to the existing structure and the supporting silhouette posts. **A project will not be deemed “complete” for processing without the required silhouette plan.**
8. City Staff will conduct a site inspection to review the adequacy of the silhouette’s depiction of the proposed project. Adequacy will be based on an accurate depiction of the proposed project’s envelope, accurate delineation of ridgelines, and the proper flagging.

The silhouette must remain in place and be maintained in good condition throughout the required 15-day public notice period for the Conditional Use Permit, the decision process and, if necessary, any appeal periods. The frame may not be removed until the City’s appeal process has been exhausted and a final decision has been rendered. **The applicant must remove the frame within seven (7) days after a final decision has been rendered and the City’s appeal process has been exhausted.**

SEE NEXT PAGE FOR SILHOUETTE CERTIFICATION FORM



SILHOUETTE CERTIFICATION FORM

THIS CERTIFICATION FORM MUST BE COMPLETED BY A LICENSED LAND SURVEYOR OR A LICENSED ENGINEER. THIS FORM MUST BEAR AN ORIGINAL WET STAMP AND SIGNATURE IN ORDER TO BE VALID. THIS FORM MUST ALSO BE ACCOMPANIED BY A SILHOUETTE PLAN THAT IDENTIFIES THE LOCATION OF THE SILHOUETTE POSTS, THE EXISTING GRADE OR SUPPORTING STRUCTURE ELEVATION CALL-OUTS AT THE BASE OF THE POSTS, AND THE ELEVATION CALL-OUTS FOR THE TOP OF THE POSTS. ANY MISSING INFORMATION WILL RENDER THE SUBJECT APPLICATION "INCOMPLETE" FOR PROCESSING.

I have measured the location and height (including the color demarcation) of the silhouette posts located at the project site (address) _____
_____ on (date) _____ and I have found that
the project silhouette accurately depicts the location and height (including the color demarcation) of the proposed structure presented on the architectural plans prepared by
(name of architectural firm) _____ on
(date) _____ for the proposed project currently being considered by
the City of Rancho Palos Verdes (Planning Case No. _____).

Signature _____

LS/RCE _____

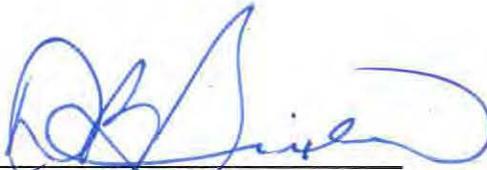
Date _____

DEPARTMENT OF THE NAVY

**REQUEST FOR PROPOSALS (RFP)
NO. N6247320RP001**

**LEASE
OF
DEFENSE FUEL SUPPORT POINT (DFSP) SAN PEDRO,
NAVAL WEAPONS STATION SEAL BEACH,
CALIFORNIA**

November 4, 2019



D. B. BIXLER
Real Estate Contracting Officer

**U.S. DEPARTMENT OF THE NAVY
Naval Facilities Engineering Command
Southwest Division
San Diego, CA**

When referring to this Solicitation, please note that it is Request for Proposals No. N6247320RP001

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APPENDICES

- A. Map of Proposed Leased and Assigned Premises
- B. Sample Department of the Navy Lease
- C. Sample Assignment of Permit No. 513
- D. Sample Assignment of Rights Appurtenant to the San Pedro Fuel Depot and Long Beach Fuel Complex
- E-1. List of DFSP San Pedro Facilities, Buildings, and Structures Proposed for Lease
- E-2. Facility Condition Assessment, Oct 2019
- F. Draft Environmental Condition of Property Report, Oct 2019
- G. Impact Avoidance and Minimization Measures, Oct 2019
- H. Main Terminal Record of Survey Showing Exception Areas 1-3, Dec 2018
- I. Main Terminal Real Estate Summary Map/Existing Encumbrances Map, Jun 2014
- J. Marine Terminal Future Encumbrances Map, Apr 2019
- K. Offeror's Cover Page
- L. Past Performance Questionnaire

1 EXECUTIVE SUMMARY

1.1 AUTHORITY AND BACKGROUND

1.1.1 AUTHORITY

The Department of the Navy (“**Navy**”) proposes to lease non-excess real property under the authority of Title 10 United States Code (U.S.C.) § 2667 and assign its rights in offsite real property related to Navy-owned fuel pipelines, for commercial and military fueling operations purposes at Defense Fuel Support Point San Pedro, California (the “**Installation**”).

1.1.2 BACKGROUND

DFSP San Pedro is comprised of two Special Areas, the San Pedro Fuel Depot (“**Main Terminal**”) and Long Beach Fuel Complex, including Pier 12 (“**Marine Terminal**”), and onsite and offsite associated pipelines, assigned to Naval Weapons Station (“**NWS**”) Seal Beach. The areas at DFSP San Pedro proposed for lease and assignment consist of the approximately 311 acres of the Main Terminal and onsite pipelines, the approximately 11-acre Marine Terminal and onsite pipelines, and the off-site network of pipelines totaling approximately 14 miles, and respective rights of way. Operation of the DFSP San Pedro is currently the responsibility of the Defense Logistics Agency (“**DLA**”), as DLA has been operating DFSP San Pedro since 1980.

As of May 2014, DLA placed DFSP San Pedro in a temporary closure status, which placed existing fuel tanks in a non-active status (as permitted by the Certified Unified Program Agency), wherein they could be re-opened or permanently closed depending on future mission requirements.

In February 2016, the Navy moved forward with the partial closure of DFSP San Pedro, and DLA began the process of permanently closing all underground storage tanks (“**USTs**”) at the Main Terminal. At the same time, the Navy began the process of planning for the long-term utilization of the site and is currently pursuing a lease to a non-federal entity for commercial fueling purposes, while establishing a separate fuel purchase agreement for the Navy’s operational fueling requirements at the site. The Navy’s operational fueling requirements are described in Section 2.

1.2 PROPERTY PROPOSED FOR LEASE AND ASSIGNMENT

The Navy’s fee-owned property proposed for lease consists of the 311-acre Main Terminal in San Pedro, California and the 11-acre Main Terminal, including Pier 12 fuel pier in Long Beach, CA, both with associated fueling infrastructure and onsite pipelines. The rights of way the Navy holds for its approximately 14 miles of Navy-owned offsite pipelines, are proposed for assignment to the Selected Offeror. Section 2 of this Request for Proposals (“**RFP**”) provides additional detail on the Leased and Assigned Premises (as defined below), and **Appendix “A,”** “Map of Proposed Leased and Assigned Premises,” shows approximate location.

1.3 VISION AND BUSINESS OPPORTUNITY

The Navy proposes to enter into a 25-year lease of its fee-owned real property and assign its interests to its Navy-owned offsite fuel pipelines (for the same duration of 25 years), to allow for renewed fueling operations for commercial and military purposes at DFSP San Pedro, California. The vision of this opportunity is the reactivation and sustainment of the DFSP San Pedro facility to the maximum extent practicable for commercial fueling use, with allowance for periodic and

contingency¹ fueling of Navy ships. The goal is to ensure the fullest possible use and maintenance of the Navy's assets through the commercial use of facilities and infrastructure while maintaining capability to meet periodic and contingency Navy fueling needs via a separate fuel purchase agreement. Navy fuel purchase is not a part of the lease or assignments.

Appropriate development of the leased and assigned premises (separately "**Leased Premises**" and "**Assigned Premises,**" respectively, together, the "**Leased and Assigned Premises**") is discussed in Section 2 of this RFP. At all times, use of the Leased and Assigned Premises must be fully compatible with the Navy's operational and security requirements.

The offeror selected for implementation of this solicitation ("**Selected Offeror**") will use, operate, improve, develop, and maintain the Leased and Assigned Premises for the term of the lease and assignments in accordance with the sample lease presented in **Appendix "B"** to the RFP ("**Sample Lease**") and the Sample Assignments presented in **Appendix "C"** and **Appendix "D"** to the RFP ("**Sample Assignments**"). The Selected Offeror will provide in-kind consideration ("**IKC**") (or cash in lieu of IKC, at the discretion of the Navy) to the Navy in an amount not less than the combined fair market value of the Selected Offeror's leasehold interest in the Leased Premises and the fair market value of the interests in the Assigned Premises.

Ownership of the Leased Premises shall remain with the Navy for the duration of the lease term. Ownership of any improvements constructed or installed on the Leased Premises and Assigned Premises by the Selected Offeror shall remain with the Selected Offeror for the duration of the lease term.

The facilities to be developed on the Leased and Assigned Premises, if any, may be provided directly by the Selected Offeror or through a third-party under a sublease or concession arrangement that has been reviewed and accepted in advance by the Navy. The experience, past performance, and financial capability of an anticipated sub-lessee, and the guarantees offered by the Selected Offeror regarding the sub-lessee's performance, are some of the factors the Navy shall consider in determining its consent, or non-consent, to a sublet of all or portions of the Leased and Assigned Premises to a third-party.

1.4. PROJECT OBJECTIVES

The following objectives have been set:

- Entering into a long-term lease and pipeline assignment agreements with a responsible party to provide maintenance responsibility and stewardship over the property and improvements;
- Allowing for renewed fueling operations for commercial purposes;

¹ An event, series of events, or line of effort that adversely impacts strategic sourcing of fuel for the U.S. Navy in the Pacific region.

- Providing capability for regular fuel servicing of military ships during normal operations and occasional surge capabilities during contingency operations, via separate purchase agreement;
- Ensuring ongoing maintenance of existing Navy infrastructure;
- Disturbing only those areas historically used for operations and avoiding known natural resources;
- Allowing for the enhancement of habitat for Palos Verdes blue butterfly (“PVB”) and coastal California gnatcatcher (“CGN”) by the Navy;
- Accommodating the ongoing site cleanup pursuant to both the Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA”) and Clean Water Act (“CWA”);
- Complying with all National Environmental Policy Act (“NEPA”) and Environmental Condition of Property Report and Checklist (“ECP”) requirements;
- Maintaining the safety and security of the Leased and Assigned Premises;
- Maintaining positive relations with the communities surrounding the property; and
- Employing the best commercial practices to the benefit of both the Navy and the Selected Offeror.

2 EXISTING CONDITIONS AND DEVELOPMENT CONSIDERATIONS

This Section describes existing conditions and development considerations associated with the Leased and Assigned Premises. Information and/or documents pertaining to the property and provided to prospective offerors are believed to be correct; however, the Navy does not warrant this information. The Leased and Assigned Premises, detailed below, will be offered “as is, where is” and the Navy does not warrant the condition of any of the land, structures, equipment, etc. offered for lease or assignment. *Proposals not including the entirety of the Leased and Assigned Premises will be disqualified.*

2.1 THE LEASED PREMISES AND ASSIGNED PREMISES

The Leased Premises consist of the approximately 311-acre Main Terminal, with onsite pipelines and improvements, and the approximately 11-acre Marine Terminal, with onsite pipelines and improvements. The Assigned Premises consists of a network of approximately 14 miles of offsite pipeline and associated rights of way corridors.

2.1.1 THE LEASED PREMISES

For additional information, refer to **Appendix “A,”** to this RFP, “Map of Proposed Leased and Assigned Premises”.

2.1.1.1 THE MAIN TERMINAL

An approximately 311-acre fuel depot located in San Pedro, California.

- Located at 3171 North Gaffey Street on the eastern slope of Palos Verdes Hills, between Gaffey Street and Western Avenue, in the City of San Pedro.

- Primarily located in the City of San Pedro, California, County of Los Angeles, while a small portion is located in the City of Lomita. It is surrounded by the cities of Carson and Torrance to the north, City of Long Beach to the east, the community of San Pedro to the south, and the cities of Rancho Palos Verdes and Palos Verdes Estates to the west. The Main Terminal is located approximately 20 miles southwest of the City of Los Angeles urban center.
- Land uses around the Main Terminal primarily include residential properties to the north, south, and west. A cemetery borders the Main Terminal on its western boundary, and a high school borders the facility to the south. A local community college and commercial fueling operations border the Main Terminal to the east.
- Primary improvements include administrative facilities, storage facilities, guardhouse and main gate, magazines, and extensive fueling infrastructure including aboveground fuel storage tanks, truck rack, pump house, pipelines, and closed underground fuel storage tanks.
- The adjacent ball fields and firing range are NOT included within the proposed Leased Premises boundary.

2.1.1.2 THE MARINE TERMINAL

An approximately 11-acre fuel terminal and fuel pier (Pier 12) located in Long Beach, California.

- The Marine Terminal is located within the Port of Long Beach and adjacent to the Port of Los Angeles. The Marine Terminal is located on Nimitz Road on the former Long Beach Naval Station Mole Pier on Terminal Island in Long Beach, California.
- Primary improvements include an office and lab controls building, a multipurpose building that includes locker rooms, electrical distribution equipment, and a fire pump control room, and extensive fueling infrastructure including a fuel pier, aboveground fuel storage tanks, pump house, fire water tank, substation, and pipelines.

2.1.2 THE ASSIGNED PREMISES

Approximately 14 miles of Navy-owned offsite fuel pipelines serve the Leased Premises. The Navy holds a series of permits, easements, and other rights of way from the property owners for the installation, operation, repair, and maintenance of the Navy-owned pipelines. The Navy's interests in the pipelines are proposed to be assigned to the Selected Offeror under two assignment agreements, attached to this RFP as **Appendix "C"** and **Appendix "D"** and are to be executed simultaneously with the lease. The term of the pipeline assignments will be coterminous with the term of the lease. Please refer to **Appendix "C"** and **Appendix "D"** for additional information, including specific terms and conditions as well as Land Use Controls ("LUCs"). Please note the Navy had a survey performed in 2018, identifying the Navy's property interests for its fuel pipelines, and identifying gaps in property interest. The Navy is working to secure the proper real property interest for its pipelines in several areas, and the actions are planned to be completed prior to lease award and assignment execution. The fuel pipelines proposed for assignment consist of the following:

2.1.2.1 LONG BEACH PIPELINES

- Two 14- to 18-inch fuel pipelines commonly referred to as the “Long Beach” pipelines or the “JP-5” and “JP-8” pipelines.
- The Long Beach pipelines connect the Main Terminal to the Marine Terminal.

2.1.2.2 G-LINE

An 8-inch fuel pipeline commonly referred to as the “G” pipeline, running offsite from the Main Terminal to the east.

2.1.2.3 R-LINE

A 12-inch fuel pipeline commonly referred to as the “R” pipeline, running offsite from the Main Terminal to the east.

2.1.2.4 NOTE

The G, R, and Long Beach pipelines are the pipelines proposed for assignment to the Selected Offeror. If the Navy acquires interest in additional pipelines in the future, such as a fuel pipeline running north, from DFSP San Pedro toward Norwalk, California, the Selected Offeror may be offered assignment of the Navy’s interest.

A list of the facilities available for lease, is in **Appendix “E-1”** of this RFP. **Appendix “E-2”** of this RFP is an excerpt from a 2019 Facility Condition Assessment (“**FCA**”) and provides further detail on the primary improvements on the Leased and Assigned Premises.

2.2 HISTORICAL, CULTURAL AND ARCHAEOLOGICAL

Based on the results of studies conducted at DFSP San Pedro as part of the 2016 partial closure action, the Navy found that there were no archaeological sites at DFSP San Pedro eligible for the National Register of Historic Places (“**NRHP**”). The Navy also initiated Section 106 consultation for the partial closure with the California State Historic Preservation Officer (“**SHPO**”) who concurred that the 65 buildings and structures comprising DFSP San Pedro (Main Terminal and Marine Terminal) are ineligible for listing on the NRHP. Thus, no further action is required under the National Historic Preservation Act.

2.3 ENVIRONMENTAL DOCUMENTATION

An ECP Report and Environmental Assessment (“**EA**”) are underway and will be completed by the Navy prior to lease execution. The Draft ECP is attached as **Appendix “F”** to this RFP, and the Draft EA is publicly posted online at www.cnmc.navy.mil/SanPedroEA. The Selected Offeror will be responsible for compliance with the necessary environmental mitigation measures and LUCs after lease execution. The environmental mitigation measures and LUCs are scheduled to be finalized prior to lease execution, upon completion of the ECP Report and EA.

Please refer to **Appendix “F”** of this RFP, for a full description and discussion of the draft, anticipated environmental conditions and LUCs on the property. Several LUCs are summarized below:

- There are several ongoing environmental investigation sites on the Main Terminal, approximated on **Appendix “A”** of this RFP, “Map of Proposed Leased and Assigned Premises”, requiring access to the property by Navy, DLA, and federal, state, and local regulatory agencies. The Selected Offeror will be prohibited from using the areas until cleanup is complete and a bilateral modification to the lease is completed to allow for use of the areas, and will also be responsible for complying with any LUCs established.
- Groundwater monitoring wells remain on the Main Terminal. The Navy and DLA require retained, unfettered access to the wells through approximately 2024, prohibiting development, or otherwise impeded access, by the Selected Offeror on these areas. Approximate locations are shown on **Appendix “A,”** Map of Leased and Assigned Premises.
- Buildings 107 and 108 on the Main Terminal are cordoned off and access is prohibited due to the environmental concerns of lead-based paint, asbestos, and other safety issues. The Navy and DLA are currently working on a demolition contract. If available, the date of project completion will be provided to the Selected Offeror prior to lease execution.
- Approximately 104 acres of Palos Verdes Blue Butterfly (“**PVB**”) and California Coastal Gnatcatcher (“**CGN**”) habitat, a native plant nursery, and habitat opportunity areas, are present on the Main Terminal and will be permanently unavailable for disturbance or use by the Selected Offeror throughout the term of the lease. LUCs are in place for the minimization and offset of potential impacts to the PVB and CGN. LUCs and mitigation measure responsibilities are to be divided between Selected Offeror and the Navy prior to lease execution. The table of “Impact Avoidance and Mitigation Measures” from the EA is included as **Appendix “G”** to this RFP, with draft division of responsibility between Navy and Selected Offeror. The mitigation measures are sourced from the NWS Seal Beach Integrated Natural Resource Management Plan (“**INRMP**”) and Biological Opinions, available publicly for reference at the following website:
https://www.cnmc.navy.mil/regions/cnrsw/om/environmental_support/environmental_core_support.html
- Sediments below and adjacent to Pier 12 at the Marine Terminal are part of a Navy remediation site and are prohibited from being disturbed or exposed (i.e. dredging is not permitted) throughout the term of the lease. Refer to **Appendix “F”** for additional detail.
- With regard to the Assigned Premises, property adjacent to the Long Beach pipelines has been investigated for potential munitions and explosives of concern (“**MEC**”) use and storage. Please refer to Appendix “F,” the Draft ECP, for more information and a map showing the exact location along the Long Beach pipelines. In this location on the

Assigned Premises, due to the MEC investigation on the adjacent property, there is a LUC in place requiring the Selected Offeror to have an unexploded ordnance (“UXO”) technician (or equivalent) present during any/all intrusive activities conducted.

2.4 USE OF THE LEASED AND ASSIGNED PREMISES

The following stipulations for use of the Leased and Assigned Premises apply:

The Navy is seeking a lessee to operate, maintain, develop, and otherwise use the Leased Premises for commercial fueling purposes on previously disturbed property (i.e. habitat areas are prohibited from use by the lessee) and for ancillary purposes, including, but not limited to administrative, warehouse, and parking.

2.4.1. FUELING REQUIREMENTS AND SPECIFICATIONS

The Navy retains the ability to fuel military ships at the fuel pier on the Marine Terminal, via a separate fuel purchase agreement which will be separately competed. As procurement of fuel for the Navy at the Marine Terminal is external to the proposed lease, offerors are not to rely on fuel delivery to the Navy as a source of revenue in the business model proposed, in response to this RFP. Military ships require fueling on a periodic basis to maintain proficiency, thereby ensuring fuel supply during times of contingency.

The Navy’s fueling requirements are as stated below:

- During normal operations, periodic fueling at the fuel pier includes a maximum of six (6) ships per quarter and requires a combination of dual product (F-76 diesel fuel and JP-5 fuel jet fuel types) in the amount of 14,500,000 gallons per quarter, or, approximately 1,380,952.38 barrels (bbls) per year. The Selected Offeror will be required to maintain the capability of the Navy’s ability to receive these fuel types and quantities via pipeline during normal operations. The Navy will follow the Selected Offeror’s scheduling procedures, will fuel during the Selected Offeror’s normal operating hours, and will coordinate in advance with the Selected Offeror with a minimum of 30 days notice as available. The delta between commercial product and military product moving through the pipelines (flushing the line, fuel barges to receive the flushed commercial product,) will need to be factored into the Selected Offeror’s operations and timeline of events, to be completed by the Selected Offeror prior to the Navy’s fueling evolution. During normal operations, the Navy may choose to fuel at the pier via Government-contracted barge instead of via pipeline.
- During contingency operations, Navy customer ships will require dual product (F-76 diesel fuel and JP-5 fuel jet fuel types) and priority scheduling, with a temporary potential surge of up to five (5) ships per week. The Navy will provide the maximum advance notice to the Selected Offeror possible, targeting 3-7 days notice or more. During contingency fueling events, the Navy requires priority over Selected Offeror operations to ensure certainty and primacy in fueling when needed. Upon conclusion of the contingency, operations will return to the normal operations construct. The approximate fuel quantity required will vary depending

on the frequency of use and could range from 14,500,000 gallons to 162,000,000 gallons a quarter, or, approximately 1,380,952 bbls to 15,428,571 bbls annually. The Selected Offeror will be required to maintain the capability of the Navy's ability to receive these fuel types and quantities via pipeline during contingency operations.

- Operations on the Leased and Assigned Premises will involve fuels required for military use (i.e. F-76 and JP-5 jet fuels). The Navy may potentially approve the use of other products at the site; however, if a potential lessee proposes an activity or use that would involve anticipated environmental impacts beyond those already analyzed by the Draft EA, and if the Navy chooses to consider allowing any such activity or use beyond the analysis of the EA, additional environmental analysis would be required before any decision could be made regarding award of a lease incorporating that activity or use.

The Navy's specifications for fuel receipt are as stated below:

- The Selected Offeror shall provide for the fueling system to have precise control of the flow rate, as Navy ships with water-compensated fueling systems may have flow rates less than or equal to 550 gallons per minute, and flow rates exceeding 550 gallons per minute increase the risk of a fuel spill.
- The Selected Offeror must provide for the fueling system to have the capability for Navy ships with non-water-compensated fueling systems to receive F-76 at the rate of 3,000 gallons per minute and JP-5 at 10%-100% of that rate, depending on the type of ship and fittings installed.
- The Selected Offeror must provide the ability for Navy tankers and oilers to accept both fuel types at a rate of 4,300 barrels per hours, or, 3,010 gallons per minute, per hose.
- The Selected Offeror will be required to provide the capability for a range of fittings to be accommodated, as some Navy ships may have non-North Atlantic Treaty Organization ("NATO") fittings. The fittings may be in the range of 3-inches to 8-inches in diameter, requiring the system to be capable of having the corresponding connections available prior to the planned fueling evolution.

The Selected Offeror will be responsible for establishing the capability for fuel delivery via pipeline to the fuel pier at the Marine Terminal on the Leased and Assigned Premises, for fulfillment of the Navy's mission fueling requirement bulleted above in this Section. The Selected Offeror will be required to obtain all federal, state, and local permits and licenses required for the Navy's fueling requirement to be met, within two (2) years from the commencement date of the lease, and must have established the capability for Navy fueling via pipeline within three (3) years from lease commencement date. Fuel purchase is not a part of the lease consideration. The Navy will purchase fuel under a contract to be separately competed using established Department of Defense fuel procurement procedures.

The Selected Offeror will be required to extend to the Navy its standard husbanding support services that are provided to commercial fueling customers. The Navy may also provide additional, specialized husbanding support services to Navy vessels and ships as needed, via a separate contract.

2.4.2 OPERATIONAL LIMITS

As discussed in Section 2.3, “Environmental Documentation,” above, a draft EA has been completed, and, accordingly, maximum allowable operational limits for the purpose of the environmental analysis have been established. The Navy retains the right to approve all plans for improvements and operations on the premises, including the plans for improvements and operations proposed in response to this RFP. The Selected Offeror operations are prohibited from exceeding the below-defined limits without Navy approval and completion of any additional environmental impact analysis that may be required with respect to operations that may be proposed that exceed the limits set forth below. The Navy will evaluate operations proposed to determine whether the environmental impacts are fully encompassed by the EA’s analysis. If operations are proposed that would involve anticipated environmental impacts beyond those analyzed by the EA, and if the Navy wishes to consider allowing any such activity or use beyond what has been analyzed by the EA, additional environmental analysis would be required before any decision could be made to award a lease that would allow the operations proposed. The following summarizes the maximum operations environmentally studied:

- Annual fuel throughput on the Leased Premises and Assigned Premises may not exceed 30 million barrels (combined Selected Offeror and Navy throughput.) During contingency operations, the Navy’s fueling requirement will supersede that of the Selected Offeror and the volume of fuel throughput available for commercial customers would be limited during the duration of the contingency. Selected Offeror will be required to submit monthly fueling activity reports, due by the 1st of every month, to NWS Seal Beach on a per fueling activity basis, documenting fueling activity including but not limited to fueling receipts, transfers, types, and quantities of fuel.
- A maximum of 12,291,100 barrels of fuel is permitted to be stored on the Leased Premises, 13,722,000 square feet of administrative and/or warehousing space permitted on the Leased Premises, and 1,653,102 square yards of parking areas on the Leased Premises. A maximum floor to area ratio of 1.5 to 1 is permitted.
- A maximum of 24 aboveground storage tanks (ASTs), up to 280 feet in diameter and up to 50 feet tall may be constructed on the Main Terminal, and on the Marine Terminal, a total of 4 ASTs, up to 180 feet in diameter and up to 45 feet tall may be constructed.
- No changes to pier structure or appurtenances, to facilitate commercial vessels, are permitted at Pier 12 at the Marine Terminal without approval by the Navy subsequent to and dependent upon any separate environmental impact analysis that may be required to be performed by Selected Offeror.

- A maximum of 375 annual vessel calls (Navy and Selected Offeror vessel calls combined, comprised of tankers, barges, and combatant or non-combatant ships) are permitted. This could include, for example, up to an estimated 350 ships (with a capacity of 149,000 barrels or less), 70 mid-size vessels (with a capacity between 150,000 and 177,000 barrels), and 10 fuel barges with a capacity of 300,000 barrels visiting Pier 12 throughout the year to transfer fuel. Navy ships would also visit Pier 12 at the Marine Terminal in order to receive fuel as part of normal and contingency operations. As described above, the Navy will have no more than six (6) ships per quarter at the fuel pier during normal operations and will have the potential for up to five (5) ships per week at the fuel pier during contingency operations.
- A maximum of 40 fuel trucks per day at the Main Terminal, and 20 per day at the Marine Terminal.
- Selected Offeror will be strictly prohibited from conducting ground-disturbing activities including but not limited to ground-disturbance in connection with inspection, repair, replacement, rehabilitation, reconstruction, or maintenance of the Assigned Premises (pipelines), without approval by the Navy subsequent to and dependent upon any required additional environmental impact analysis as determined by the Navy, to be performed by Selected Offeror.

2.4.3 ACREAGE AVAILABLE FOR USE

Approximately 43.1 acres of the 311 acres of the Main Terminal are immediately available for use by the Selected Offeror, with a total of 163.9 additional acres becoming available in subsequent fiscal years², as Navy and other government agency remediation on the property completes. All property is subject to current and future LUCs. In total, 207 acres of previously disturbed property are anticipated to be available for use by the Selected Offeror when remediation efforts are complete in approximately 2024. This timeline is subject to fluctuation dependent upon timeline of the remediation actions. 104 acres will remain permanently unavailable for disturbance or use throughout the term of the lease, as they include PVB and CGN “Listed Species Management Areas”, the native plant nursery, and “Habitat Opportunity Areas” shown on **Appendix “A”** of this RFP, “Map of Proposed Leased and Assigned Premises.”

2.4.4 ONGOING GOVERNMENT REPAIR AND REMEDIATION

Navy and DLA repair, demolition, and cleanup actions will continue on the Leased and Assigned Premises throughout and after lease execution. **Appendix “E-1”** notes the facilities planned for Government repair or demolition, and **Appendix “E-2”** provides detail on the nature of the Government repair and demolition effort. The FCA in **Appendix “E-2”** will be updated as repair and demolition efforts progress, and finalized prior to lease award. The Navy, DLA, and their respective contractors, subcontractors, agents, and officers will require access to the Leased and Assigned Premises during and after lease award, for the completion of these projects.

² A fiscal year runs from October 1 to September 30 of the following year

Access for the repair and demolition work is anticipated to be required through approximately November 2021, and access for environmental cleanup activities is anticipated to be required through 2024. These approximations are subject to change and subject to update as the efforts progress. The Government's repair and demolition contract is anticipated to be awarded by May 2020. As available, the Navy will provide scopes of work, priority of projects, and period of performance for each project, to the Selected Offeror, for work schedule coordination and deconfliction. The Selected Offeror's inspection, testing, repair, improvement, or other work on the Leased and Assigned Premises must not interfere with the Navy's repair and demolition work. The Selected Offeror will be required to work with the Navy to confirm Selected Offeror's ability to inspect, test, repair, improve, or otherwise work on the Leased Premises when in proximity of a repair or demolition site.

The Main Terminal and Marine Terminal will not be fully operational for fueling upon lease execution nor upon completion of the Navy and DLA repair and demolition work. Additional inspections, repairs, and cleaning will be required by the Selected Offeror to bring the fuel facilities to operational status in compliance with governing regulations and industry standards. The FCA in **Appendix "E-2"** includes information on recommended repairs.

The nature of the further repairs may include but are not limited to: repairing or replacing external floating roof seals and drainage piping; repairing or replacing safety equipment (e.g. eyewash stations); pipeline and piping valve replacements; pipeline and piping repairs; pump and valve instrumentation replacement; fuel tank floor, shell, and roof repairs; and various repairs for non-fuel system structures, such as generator replacement, lighting improvement, and wall/roof repairs.

The nature of further inspections and cleaning required for integrity management and deficiency resolution may include but are not limited to: hydrostatic pipeline testing; leak/pressure testing of the underground piping segments; pneumatic pipeline testing; American Petroleum Institute ("**API**") Standard 570 inspection of all Class 1 piping (marine pier piping); in-line inspection of the cross-town pipelines (smart pigging); diving inspection of the underwater pipeline; cathodic protection analysis of the underground piping; and flushing and cleaning pipelines.

2.4.5 PERMITTING AT SOLE COST AND EXPENSE OF THE SELECTED OFFEROR.

Aboveground Storage Tanks ("**ASTs**") and pipelines on the Leased Premises are currently classified as "out of service" and may require inspection, testing, and repair to bring back into service, at Selected Offeror's sole cost and expense, subject to all federal, state, and local permitting and/or licensing requirements. As detailed in the FCA, **Appendix "E-1" and Appendix "E-2"** of this RFP, the Government plans to conduct API Standard 653 inspections on Tanks 2001, 2002 and 2003 on the Marine Terminal (also called Facilities 838, 836, and 837, respectively) and will provide the results to the Selected Offeror, as available. On the Main Terminal, the Government plans to make wastewater recovery,

containment, electrical, and other repairs to Tanks 48, 49, and 50 (common name and inventory names are the same.)

2.4.6. USE RESTRICTED BY ENCUMBRANCES

As discussed in Section 2.6 below, “Easements and Encumbrances,” known third-party current and future real estate encumbrances exist at the Leased Premises. The Selected Offeror will be prohibited from planning and constructing improvements that will disturb reasonable rights of use of or access to the property encumbered.

2.4.7. LEASE PAYMENT PROVISIONS

A specific price/consideration proposal shall be submitted. Consideration proposed to the Navy will be evaluated against the Fair Market Value rental range determined by an Appraisal completed in 2019 for the sole use of the Navy, not available to offerors, that includes a) a leasehold interest in the Leased Premises b) the easement, permit, and right of way interest in the Assigned Premises, and c) use of the Navy-owned pipelines, facilities, and appurtenances on the Leased and Assigned Premises. The Navy requires IKC in the form of Long-Term Maintenance projects at Navy installations that may include, but are not limited to, NWS Seal Beach, pursuant to those allowed for the Navy to accept per 10 U.S.C § 2667, and will determine the specific long term maintenance projects to be delivered. However, at the discretion of the Navy, the Selected Offeror may be required to pay rent in cash on a quarterly basis in advance.

As a part of the IKC and in accordance with **Appendix “C,”** “Sample Assignment of Permit No. 513”, Selected Offeror is responsible for payment of the annual permitting fee for the fuel pipeline right-of-way described therein.

As additional consideration, the Selected Offeror will be responsible for paying to the Navy a one-time payment in the amount of Forty Thousand and No/100 Dollars (\$40,000.00) for administrative expenses. Per Title 10 U.S.C. 2695, the Navy is entitled to reimbursement of funds from non-federal entities to cover administrative expenses related to real estate transactions.

As part of the consideration for the lease, the Selected Offeror shall obtain legal descriptions and surveys for “Exception Area 1,” “Exception Area 2,” and “Exception Area 3,” shown on **Appendix “H”** of this RFP, no later than nine (9) months after the date of lease execution, at its sole cost and expense.

Consideration for the fuel pipeline rights of way assigned to the Selected Offeror in **Appendix “D,”** “Assignment of Rights Appurtenant to the San Pedro Fuel Depot and Long Beach Fuel Complex” of this RFP, as well as for use of the Navy-owned fuel pipelines and appurtenances located within such rights of way, is also to be included in the total consideration owed the Navy under the lease.

2.4.8. PROHIBITED USES

The following uses and activities are prohibited on the Leased and Assigned Premises due to security and operational incompatibility:

- Any use or activity that adversely affects the health, safety, welfare, morale, security, or discipline of the Armed Forces (Air Force, Army, Coast Guard, Marine Corps, and Navy).
- Any use or activity that adversely affects the health, safety, welfare, morale or security of residents and businesses adjacent to the Leased and Assigned Premises;
- Structures, activities, and operations that adversely affect installation security and/or force protection.
- Any hazardous uses or activities involving the storage, treatment, transportation, disposal or manufacture of hazardous materials, hazardous substances or hazardous wastes, other than for commercial fueling purposes specifically authorized under the lease.
- Residential uses.
- Illegal Activities.
- Any use or activity that is incompatible with environmental, operational or land use constraints.

2.5 UTILITIES AND SUPPORT SERVICES

The Leased Premises are served by local utility service providers, not the Navy. The Selected Offeror will be responsible for coordination and funding of all utilities and support services needed for the operation and management of the Leased Premises and Assigned Premises. The Selected Offeror will be responsible for procuring first responder (police, fire protection) services to the Leased and Assigned Premises from the appropriate local providers.

2.6 EASEMENTS AND ENCUMBRANCES

Known third-party current and future real estate encumbrances or constraints existing at the Leased Premises are provided in **Appendix “I”** and **Appendix “J”** of this RFP. The Selected Offeror will be responsible for determining and coordinating its use with all third party holders of easements and encumbrances encumbering the Leased Premises.

If improvements to the property are proposed by the Selected Offeror, the Navy may require the Selected Offeror to provide a Title Report or conduct review of and update **Appendix “I”** and **Appendix “J”** at the Navy’s discretion and at the Selected Offeror’s sole cost and expense.

2.7 MCKINNEY-VENTO HOMELESS ASSISTANCE ACT

In accordance with Title V of the McKinney-Vento Homeless Assistance Act, a Federal Register screening notice regarding the Leased Premises has been completed by the Navy wherein the property was found unsuitable for use in programs to assist the homeless.

2.8 DAVIS-BACON ACT

Davis-Bacon wage requirements apply to elements of projects constructed on behalf of the Navy. Davis Bacon wage requirements may apply to specific IKC projects constructed for the Navy's sole benefit.

2.9 BUILDING CODES AND OTHER REQUIREMENTS

Construction on the Leased and Assigned Premises shall comply with all local, city and county building codes and all applicable governmental laws, codes, rules and regulations. Construction on the Leased and Assigned Premises shall also comply with the appropriate National Fire Protection Association (“**NFPA**”) Standards, National Electrical Code (“**NEC**”), and National Electric Safety Code (“**NESC**”), then in effect for the type(s) of occupancy proposed, or such other more stringent fire protection, electrical and other life safety codes, if any, then in effect and adopted by the city and county. All uses and development shall be in accordance with applicable federal, state, and local laws rules, regulations, and ordinances, including building codes, as they may be amended from time to time. Development and construction may be subject to Department of Defense and/or Navy Anti-Terrorism and Force Protection requirements, including but not limited to the following: Unified Facilities Criteria (“**UFC**”) 4-010-01 “DoD Minimum Antiterrorism Standards for Buildings;” UFC 4-020-01 “Security Engineering Facilities Planning Manual;” UFC 4-021-02 “Electronic Security Systems;” and UFC 4-025-01 “Security Engineering.”

At the Navy's discretion, construction and/or improvements to the Leased and Assigned Premises may be required to adhere to NWS Seal Beach construction requirements as well as the UFC, particularly for facilities handling fuel required to meet military specification or having the potential to handle military fuel. In addition, improvements are prohibited in habitat areas, remediation sites, atop monitoring wells, and across the surface of active faults, locations for which are approximated on **Appendix “A”**, “DFSP San Pedro Main Terminal and Marine Terminal Map,” of this RFP. Selected Offeror's plans for improvements to the property must be submitted to the Navy for review and consent, must include certification of compliance with federal, state, and local laws, regulations, and building codes associated with construction near fault lines, and must include comprehensive engineering studies identifying the location and characteristics of active faults and liquefaction zones.

2.10 LEGISLATIVE JURISDICTION AND REGULATORY

The current legislative jurisdiction of the Main Terminal of the Leased Premises is partial and proprietary. The Main Terminal is located within the city limits of Los Angeles and Lomita. The current legislative jurisdiction of the Marine Terminal is concurrent. It is located within the city limits of Long Beach. Construction permits will be issued/controlled by the local regulatory agencies having jurisdiction.

2.11 PROPERTY MAINTENANCE/MANAGEMENT

The Selected Offeror will have responsibility for all property maintenance and management of items on the Leased Premises and Assigned Premises for the term of the lease, and for compliance with all applicable laws, regulations, codes, standards, and criteria.

2.12 TAXES

The Selected Offeror shall be independently responsible for any and all taxes, assessments, or payments in lieu of taxes that may be levied against its interest, activities, or operations on the Leased Premises and Assigned Premises.

2.13 INSURANCE

The Selected Offeror shall ensure appropriate insurance will be in place for the term of the lease and assignments. The Navy shall be named as additional insured, and property insurance coverage against loss or damage shall be in an amount not less than One Hundred Percent (100%) of the full replacement cost of the buildings, building improvements, improvements to the land, fixtures, and personal property on the proposed Leased Premises. The cost of such coverage will be included in the financial plan and pro forma section of the offeror's proposal.

2.14 FINANCIAL PROVISIONS

The Navy will require that all financing be in place on or before the date of lease and assignment execution. The Selected Offeror shall not cross collateralize and/or cross default the lease, or the assets or revenues from any improvements. Moreover, Selected Offeror will be prohibited from assigning, pledging, hypothecating or otherwise transferring its interest in the net cash flows or ownership of any improvements, in part, or in entirety, without prior written approval of the Navy. Prior to the commencement of any phase of construction, the Selected Offeror shall deliver to the Navy performance bonds in an amount, and subject to, conditions deemed acceptable to the Navy.

2.15 RESTORATION REQUIREMENT

Except as otherwise stated, upon expiration or earlier termination of the lease and assignments, the Navy has the option to cause title to all improvements to be vested in the United States, or to require the Selected Offeror to remove the improvements and restore the Leased and Assigned Premises to the condition that existed when the term began, or to a condition that is acceptable to the Navy.

3 PROPOSAL SUBMISSION

3.1 PROVISIONS

Offerors are required to comply with the following instructions while developing a proposal. Where instructions conflict, and no order of precedence is specified, the most stringent requirement applies. A reference to, or direction to comply with, a particular Section shall include, as appropriate, all subsections thereunder. Oral explanations or instructions will not be binding.

Additional provisions the offeror should note include:

- The information provided by the offeror may be used by the Navy to conduct a comprehensive background and credit check.
- The offeror may joint venture with another party. A joint venture shall meet the following requirements:
 - All proposals submitted by joint ventures must include an original of the executed joint venture agreement.

- Members of the joint venture must sign the lease.
- The Concourse Group, LLC (“TCG”) is serving as an advisor to the Navy on this project (and has recused itself from the competition). Each offeror must certify they are not using nor have they used TCG, or any of its subcontractors or affiliates, to assist in the preparation of any proposal related to this project. A “no-conflict-of-interest” certification to be executed by the offeror and returned with its proposal is included as part of the offeror’s cover page in **Appendix “K.”**

3.2 AMENDMENTS TO THE RFP

This RFP may be amended by a formal amendment document, letter, or electronic message. If this RFP is amended, then all terms and conditions, which are not modified, remain unchanged. Offerors shall acknowledge receipt of any amendments to the RFP by the date and time specified in the amendments(s). Acknowledgement shall be made by signing and returning each amendment, or sending a letter or electronic acknowledgement.

3.3 QUESTIONS

At the discretion of the Navy, clarifying questions may be asked via email, regarding specifics within offeror’s proposal. Clarifying questions may be asked of any or all offerors. Offerors are required to submit written submissions in response to clarifying questions, limited to material requested in the clarifying questions.

3.4 ORAL PRESENTATIONS

Oral discussions with all offerors who submit proposals are not anticipated. At the Navy’s option, however, offerors may be required to present their proposals orally to a Navy evaluation team in the event that the Navy decides to include all or several offerors in a competitive range for subsequent discussions.

3.5 PROPOSAL CONTENTS AND FACTORS

Offerors shall provide the information listed in this section as part of the proposal, and format the proposal in accordance with the requirements in this section. Proposals should be concise, provide only relevant material, and contain all information that the offeror deems is needed by the Navy to make its selection. This section lists the minimum compliance with Navy’s goals and must be submitted in order for proposals to be considered complete. It is the desire of Navy that offerors attempt to exceed these minimum requirements where possible. Proposals will be evaluated based on five factors, A through E:

FACTOR A: Capabilities and Qualifications

SUBFACTOR A1: Offeror Overview and Organization

Demonstrate the ability to undertake the proposed terms and conditions of the Sample Lease and Assignments, and establish a business structure that functions effectively over the term of the lease and assignments.

- Offeror shall provide a narrative detailing its ability to lease, operate, maintain, develop, and manage the Leased and Assigned Premises.

- Offeror shall describe its history and corporate organizational structure, including legal form of ownership and management. If the offeror is submitting as a joint venture, or is teaming or subcontracting with other business organizations, a narrative shall be provided of the extent to which the team has worked together in the past, along with the relevant teaming/joint venture agreement(s).
- Offeror shall provide documentation evidencing its legality, authority, ownership, control, and management.
- Offeror shall explain its ability to assemble a qualified, experienced team with the experience and workload capacity necessary to manage all the disciplines required to develop and manage the proposed Leased and Assigned Premises. Offeror shall detail the corporate structure of its team.
- Offeror shall identify the key personnel and legal counsel designated and authorized to represent the offeror in all negotiations with Navy, and throughout the negotiations, transaction execution, and financial closing process.

SUBFACTOR A2: Financial Qualifications

Demonstrate financial strength, and provide evidence that your company possesses the financial capability and capacity to carry out the terms and conditions of the Sample Lease and Assignments.

- Offeror shall indicate which entity/entities are responsible for financial performance and the extent to which corporate or other such guarantees of performance will be provided to the Navy by each.
- Offeror shall provide evidence of sufficient funds or financing (e.g. letter of commitment) to support the lease and assignments and any planned improvements.
- If improvements are proposed for the Leased Premises, as applicable, the Offeror shall describe its approach to Payment and Performance (P&P) bonds, provide evidence of P&P bonding capacity, and show how the bond amount(s) are derived.
- Offeror shall provide financial statements complete with notes and accompanied by an auditor's assertion of accuracy or reviewed by Certified Public Accountant for the most recent two (2) complete calendar years, 2017 and 2018, and other documentation, for the offeror and any equity contributors or other team member organizations or entities that will be financially accountable for performance, in order to demonstrate the offeror's financial strength.
- If any submitted information notes any litigation, disputes, claims, UCC filings or similar circumstances, offeror shall describe the current status and background of each matter in full detail and its potential impact on the offeror's ability to fulfill the terms and conditions required by the Sample Lease and Sample Assignments.

FACTOR B: Relevant Experience and Past Performance

Demonstrate the qualifications, experience and past performance of your company or team with respect to the development, operations, management, and maintenance of fueling-related projects and properties of a similar nature, scope and scale to those proposed in this RFP. Of particular importance will be experience and past performance with commercial fueling assets in the local area.

- Offeror shall provide a narrative of at least two (2) but no more than five (5) most recent and relevant examples of operations, improvements, and projects completed or in progress by the offeror that are similar to the Sample Lease and Sample Assignments. The submittal shall provide details explaining financing; design; construction; management; and operation, and specifically state how the offeror accomplished them directly or if they were accomplished by another party, list the name of said other party, and the extent of the other party's involvement. The submittal shall also include information describing cost, schedule, and performance.
- For each of the projects submitted pursuant to the above subparagraph, offeror shall provide a completed Past Performance Questionnaire in the form provided in **Appendix "L."**
- Discuss offeror's experience in development and operations similar to the Sample Lease and Sample Assignments, including in the vicinity of DFSP San Pedro or similar complex urban environments.
- Describe offeror's experience managing community relations and interacting with the applicable local and state government officials (i.e., zoning, environmental, Certified Unified Program Agencies, local community, etc.)

FACTOR C: Operational Concept

SUBFACTOR C1: Market Analysis and Feasibility

Offeror shall demonstrate viability, reasonable commercial market (non-Navy) demand, and a market feasibility analysis for the proposed operations on the Leased and Assigned Premises, while meeting the Navy fueling requirements detailed in Section 2.4.1 of the RFP, "Fueling Requirements." The submitted narrative shall include at least the following:

- Substantive data and facts, which demonstrate the current and anticipated market demand for the proposed operations and/or any planned improvements;
- Facts and data describing the current market availability of commercial activities/services that will compete with the market demand for the proposed operations and/or any planned improvements;
- Facts and data detailing projected target market consumption/use that would result from the proposed operations and/or any planned improvements;
- A narrative detailing the marketing strategy for the proposed operations and/or any planned improvements.

SUBFACTOR C2: Development, Construction and Operations

Demonstrate that the proposed operations and any construction activities are consistent with and responsive to the Navy vision, project objectives, and requirements of the RFP.

Offeror shall submit a narrative describing the proposed concept for the Leased and Assigned Premises including a plan for development, construction, operation, management, and maintenance of the Leased and Assigned Premises. This narrative shall demonstrate compliance with the vision in Section 1.3, the project objectives in Section 1.4 and the existing conditions and development considerations outlined in Section 2 of this RFP. The narrative shall also include the following:

- Description of how the proposed approach and how Navy’s vision and project objectives will be achieved during the term of the Sample Lease and Sample Assignments.
- Description of the proposed development, size, type, performance or capacity, site considerations, engineering and construction work to be performed;
- Description of the anticipated leases, easements, agreements, permits, etc., needed to develop and operate the proposed development;
- A development and construction (including any phases if applicable) plan and milestone schedule;
- A conceptual site plan depicting, identifying, and describing all proposed improvements, including but not limited to proposed facilities, fences, infrastructure, areas of ingress/egress, and stormwater management areas;
- Philosophy and specific approach to managing community relations and interacting with applicable local and state government officials (i.e., zoning, environmental, CUPA, local community, etc.) for the operation and maintenance of the Leased and Assigned Premises and any planned improvements.
- A conceptual environmental management plan and understanding of existing land use controls and DLA and Navy access requirements;
- An understanding of existing natural resource-related requirements, as described in **Appendix “G”**;
- Plan to operate, manage, and maintain the Leased and Assigned Premises for the duration of the lease and assignments, including capital repair and replacement, grounds maintenance, and other considerations necessary to ensure proper stewardship of the assets.
- Description of the quality control processes and corporate systems employed to maintain quality control of the design, permitting, financing, construction and operation of any planned improvements;
- Description of operational and property improvement impact(s), if any, on surrounding communities, local government, and governmental authorities;
- Proposed emergency services plan; and

- Property security and access management plan.

SUBFACTOR C3: Navy Fueling Requirement and Specifications

Offeror shall submit a narrative demonstrating how it proposes to accommodate and meet the Navy's fueling requirements.

The narrative shall include the following:

- Specific description of the work to be provided to accommodate the fueling of Navy vessels, and associated cost estimates. As available, offeror shall provide no less than a "Class 4" parametric cost estimate, with the desired objective being a "Class 3" parametric cost estimate. Parametric cost estimating is defined in Unified Facilities Criteria 3-740-05 paragraph 2-4. Specific guidelines for "Class 4" estimates are described in the Association for the Advancement of Cost Engineering Standard 56R-08, Cost Estimate Classification System – Building and General Construction.
- Specific description of how the Navy's fueling requirement in Section 2.4.1 of the RFP would be accommodated. Include a description of costs, if any, passed through or otherwise assessed to Navy or its fuel provider(s) if the Navy's separately competed fuel contract is awarded to an entity other than the Selected Offeror;
- A description of the extent to which the proposed fueling activities relate to the maximum allowable operational limits established for the purpose of the EA as described in Section 2.4.2 of the RFP and, if applicable, the extent of any additional environmental analysis the offeror believes would be required to accommodate the proposed concept.

FACTOR D: Financial Plan and Pro Forma

Demonstrate that the proposed operations on the Leased and Assigned Premises are financially viable and provide consideration to the Navy that appears realistic.

Offeror shall provide a narrative describing relevant assumptions necessary to understand the funding and construction planned for the Leased and Assigned Premises. Offeror shall also provide a pro forma illustrating the economic viability of the plans for the Leased and Assigned Premises, described in the narrative which details all cash inflows and outflows, to include consideration to Navy, for the entire proposed lease term. The pro forma shall be in a Microsoft Excel file format with intact formulae so that cell references and calculations can be verified, and contain the following elements:

- Assumptions (i.e., schedule, square footage, rental rates, interest rates, internal rate of return, discount rates, weighted average cost of capital, cost of insurance, etc.)
- Development and Construction Budget including all expected hard and soft development and construction costs.
- Operational Sources and Uses Statement that reflects all expected transaction costs and the sources to fund these costs.

- Annual Cash Flow Statement that reflects line item revenues and expenses on an annual basis for each year of the lease presented in offeror’s proposed order of payment priority.
- Consideration – a statement that illustrates the dollar amount of consideration paid to Navy in each year of the lease and calculates the net present value of the proposed consideration to the Navy over the lease term.

FACTOR E: Lease Schedule and Execution

SUBFACTOR E1: Lease Schedule

The proposal must reasonably demonstrate an understanding of the milestones required to achieve lease execution on or before the Navy’s target lease execution date of August 31, 2020. It must also reasonably demonstrate an understanding of the milestones required to sustain the proposed operations, including obtaining all federal, state, and local permits and licenses required to meet the Navy’s fueling requirement within 2 years of lease execution (approx. August 31, 2022), and the capability for the delivery of fuel to the Navy via pipeline at the fuel pier within 3 years of lease execution (approx. August 31, 2023), as described above in this RFP.

Offeror shall describe the approach, activities, and agreements necessary to interact with the Navy and other stakeholders to achieve the above target milestones. Offeror shall provide a corresponding schedule with critical path milestones. Information shall include, but not be limited to the following:

- Agreements anticipated to be necessary for lease execution (such as negotiation of transaction documents, permitting, financing, lease closing, construction and operation, etc.);
- Permits and approvals anticipated to be necessary for the development, construction, and operation of the Leased and Assigned Premises (including development of a transportation management plan for commercial truck operations, emergency access/contingency plan, pipeline integrity management plan, etc.); and
- Financing, off-take, throughput, fueling, or other such agreements anticipated to be necessary for the development, construction, and operation of the Leased and Assigned Premises including any planned improvements.
- Offeror point of contact for all lease negotiation matters.

SUBFACTOR E2: Lease Signature

Offeror will confirm ability to sign the Sample Lease attached in **Appendix “B,”** and, if unable to sign as-is, will provide a redline copy of the Sample Lease explaining its inability to sign, including calling out the specific provisions with which it has issues. Inability to sign the Sample Lease will not necessarily remove an offeror from consideration; however, such inability will be considered in the Risk Assessment (See Section 4.3).

FACTOR F: Consideration to Navy

A specific price/consideration proposal shall be submitted. Consideration proposed to the Navy will be evaluated against the Fair Market Value rental range determined by an Appraisal completed in 2019 for the sole use of the Navy, not available to offerors, that includes

a) a leasehold interest in the Leased Premises b) the easement, permit, and right of way interest in the Assigned Premises, and c) use of the Navy-owned pipelines, facilities, and appurtenances on the Leased and Assigned Premises.

The consideration will be paid in the form of IKC.

3.6 PROPOSAL FORMAT

The offeror’s proposal shall consist of the five (5) sections indicated below provided behind a separate tab or divider page. Within each section, factors and subfactors should be clearly labeled. All sections of the offeror’s submittal shall be provided in a ten (10) font size or greater.

Section	Description of Section
A	Capabilities and Qualifications
B	Relevant Project Experience and Past Performance
C	Operational Concept
D	Financial Plan and Pro Forma
E	Lease Execution and Schedule
F	Consideration to Navy

<u>NOTE:</u> All sections of the proposal should be submitted on the same disk/CD ROM.
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3.7 PROPRIETARY INFORMATION:

The offeror shall mark all information that is proprietary and not releasable to the public as proprietary.

3.8 OFFEROR’S COVER PAGE:

The offeror’s proposal must include a completed Cover Page which shall consist of a completed and signed copy of Appendix “K” to this RFP.

3.9 SUBMISSION OF PROPOSALS:

Proposals are due at 1:00 PM Pacific Daylight Time on the date and at the address specified below. The words “**REQUEST FOR PROPOSALS No. N6247320RP001**” must appear clearly and legibly on the proposal package. In addition, the sealed package should be labeled with the offeror’s name, address, contact person, and time specified for the receipt.

Proposals must be received No Later Than:

Time: 1:00 p.m. (Pacific Time)

Date: January 17, 2020

Ten (10) copies and one signed original of the Proposal, plus one CD copy, shall be submitted in sealed packages addressed to:

If submitted via U.S. Mail:

Department of the Navy
Attn: Kimberly Spencer, Real Estate B127
1220 Pacific Highway
San Diego, CA 92132-6186

If submitted via a Parcel Delivery Service:

Attn: Kimberly Spencer, Real Estate B127
Department of the Navy
Naval Facilities Engineering Command, Southwest
1220 Pacific Highway
San Diego, CA 92132-6186

Electronic or facsimile offers or modifications will not be considered. **Any submission received after the time and date specified above will be rejected and returned to the sender unopened.**

All inquiries concerning any part of this RFP shall be made to Kimberly Spencer at kimberly.spencer@navy.mil.

NOTE: Inquiries and Requests for Information (RFI) shall be submitted in writing no later than fourteen (14) business days prior to bid due date.

4 EVALUATION OF PROPOSALS

4.1 SOURCE SELECTION

It is the intent of the Navy that after a thorough review and evaluation of all responsive proposals received, a single offeror will be selected for negotiation of the lease and assignments, and ultimate award. The Selected Offeror for the period of negotiations will be that offeror whose proposal provides the best overall value to the Navy and is determined to be most advantageous to the Navy; provided, however, that the Navy may at its option, and without any liability, choose to reject any and all proposals without justification.

4.2 EVALUATION PROCESS

A Navy evaluation team comprised of civilian employees of the Navy and uniformed military personnel will evaluate each proposal. The team will determine the overall value of the proposal to the Navy, based on the factors set forth in Section 3.5, "Proposal Contents and Factors" and Section 4.3 below, "Proposal Risk Assessments." Proposals will be evaluated on their own merit, independently and objectively. Factors A through F are approximately equal in importance. The degree of importance of consideration (Factor F) offered to the Navy could become greater depending upon the equality of the proposals for other factors and subfactors evaluated. In order to ensure fair and reasonable consideration, the offeror's proposed consideration will be compared to the Fair Market Value rental range determined in the Appraisal of the leasehold interest and

assignments, completed in 2019. The Appraisal is for the sole use of the Navy and is not available to offerors. Award will be made to the responsible offeror whose offer conforms to the solicitation and represents the best value to the Navy, consideration and non-consideration factors and subfactors considered.

4.3 PROPOSAL RISK ASSESSMENTS

The Navy will evaluate risk by assessing the likelihood that the offeror will be able to satisfy the requirements of this RFP and be able to carry out the development, maintenance, operations and other plans as proposed. A proposal will be considered to be low risk if there appears to be little likelihood that the offeror will be unable to satisfy the requirements of this RFP or carry out its proposal. Conversely, a proposal will be considered to be high risk if there appears to be a substantial likelihood that the offeror will be unable to satisfy the requirements of this RFP or carry out its proposal.

4.4 NEGOTIATIONS PERIOD

During the negotiations period, the Selected Offeror shall: (i) work towards finalization of required project and environmental documentation; (ii) pursue any required approvals and permits; (iii) develop necessary design plans and working drawings; (iv) reach an agreement with Navy officials regarding all aspects of the proposed development, maintenance, and operations for the Leased and Assigned Premises.

Negotiations of the Sample Lease may result in terms and conditions that differ from the terms and conditions originally submitted by the offeror. This does not mean that a new offer has been submitted as the basic framework of the original offer shall remain the same.

The Navy requires the Selected Offeror to provide adequate and appropriate personnel resources, including supporting firms and organizations, during the negotiations period in order to efficiently and expeditiously carry out the negotiations and related document preparation and development. The decision to implement and execute the lease will be made solely by the Navy at its discretion. In the event the Navy and the Selected Offeror cannot agree on implementing the lease or other required documents, or if the lease is not accepted by Navy Headquarters, the Navy, at its sole option, may terminate negotiations with the Selected Offeror and direct the Selected Offeror to cease all work on the project.

If the Selected Offeror's participation in this leasing opportunity is terminated, the Navy shall not be responsible for the payment of any fees or have any liability, financial or otherwise, to the Selected Offeror. Additionally, the Navy shall have the right, at no cost to itself, to make full use of the work products and to proceed to negotiate and work with a replacement offeror.

4.5 LEGAL DOCUMENTATION

To operate on or perform improvements on the Leased and Assigned Premises, certain legal agreements and transaction documents will be necessary or required. The Selected Offeror shall prepare and provide all agreements, documents and information requested by the Navy that are reasonably necessary or otherwise required.

5 SPECIAL CONDITIONS AND LIMITATIONS

5.1 NO OBLIGATION

While the Navy intends to enter into a lease and assignments with an offeror selected through the process set forth in this RFP, the Navy is under no obligation to do so. The Navy reserves the right to cancel this RFP at any time, or to reject any and all submissions prepared in response to this RFP.

5.2 HOLD HARMLESS

By participating in the RFP process, offerors agree to hold the United States of America, its officers, employees, and advisors harmless from all claims, liabilities, and costs related to all aspects of this RFP. Under no circumstances shall the United States of America be liable for any “bid and proposal” costs, real estate brokerage commissions, finder’s fees, or other forms of compensation related in any way to activities undertaken by any person as a result of the submission of the RFP proposal.

5.3 WAIVER

The Navy reserves the right to waive informalities and minor irregularities in offers received if it is determined that it is in its best interest to do so.

5.4 RIGHTS RESERVED

The Navy reserves any and all rights in connection with this RFP, including, but not limited to, the right to hold negotiations with a Selected Offeror which may result in terms and conditions that differ from those specified in this RFP and/or from terms and conditions originally proposed by the offeror. Furthermore, the Navy reserves the right to terminate negotiations with the Selected Offeror, and initiate negotiations with another suitable offeror if the Navy, at its sole discretion, determines that the Navy will be unable to successfully conclude negotiations with the Selected Offeror. The decision to execute a lease will be made by the Navy at its discretion. In no event will the Navy be responsible for the payment of any fees or have any liability to any offeror for fees or expenses incurred in connection with submitting a proposal in response to this RFP or during negotiations.

5.5 NAVY-FURNISHED INFORMATION

The Navy does not warrant the accuracy of any site-related information provided. Site-related information furnished by the Navy and/or its representatives in support of this RFP shall be considered as informational only. Such information may include historical utilities usage quantities, locations and capacities of existing utility systems, technical reports and studies, building conditions reports, or other technical information intended to support the offerors’ development applications. Offerors are expected to verify all site-related information provided by the Navy to avoid unforeseen costs.

5.6 DISPUTES

All disputes arising under or related to this RFP, which are not disposed of by agreement, shall be resolved and decided by the Navy pursuant to the Contract Disputes Act of 1978, as amended, (41 U.S.C. § 601-613). The Navy shall mail or otherwise furnish a written copy of the decision to the offeror.

5.7 ACQUISITION REQUIREMENTS

This acquisition is not governed by the Federal Acquisition Regulation (“FAR”).

5.8 PROTECTION AFFORDED TO PROPRIETARY OR CONFIDENTIAL INFORMATION

Information contained in materials submitted to this RFP may be afforded protection from public disclosure if the offeror identifies the same as “proprietary” or “confidential” with supporting justification, and requests such protection at the time of submission. Each page that is considered proprietary or confidential must be clearly marked as such.

6 POINT OF CONTACT FOR INFORMATION AND CLARIFICATIONS

All questions, clarifications and general information requests shall be submitted in writing to:

Office	Name	Address	E-mail
Naval Facilities Engineering Command, Southwest	Ms. Kimberly Spencer Senior Real Estate Specialist	1220 Pacific Highway San Diego, CA 92132-6186	Kimberly.spencer@navy.mil
Naval Facilities Engineering Command, Southwest	Mr. Jeff Burke Senior Facilities Planner	1220 Pacific Highway San Diego, CA 92132-6186	Jeffrey.s.burke@navy.mil

AGENDA DESCRIPTION:

Consideration and possible action to send a letter to U.S. Rep. Nanette Barragán and other South Bay and Harbor Area elected officials supporting the relocation of liquid bulk storage tanks near the public

RECOMMENDED COUNCIL ACTION:

Authorize the Mayor to sign a letter to Rep. Barragán and other South Bay and Harbor Area elected officials supporting the relocation of liquid bulk storage tanks near the public

FISCAL IMPACT: None

Amount Budgeted:	N/A
Additional Appropriation:	N/A
Account Number(s):	N/A

ORIGINATED BY: Megan Barnes, Senior Administrative Analyst *MB*
REVIEWED BY: Gabriella Yap, Deputy City Manager *gy*
APPROVED BY: Doug Willmore, City Manager *W*

ATTACHED SUPPORTING DOCUMENTS:

- A. June 18, 2019 Border Issues staff report (page A-1)
 - B. Draft letter in support of relocating liquid bulk storage tanks (page B-1)
-

BACKGROUND AND DISCUSSION:

Over the years, residents of San Pedro and Rancho Palos Verdes have raised longstanding concerns to the City Council about the potential for a catastrophic explosion at the Rancho LPG facility on North Gaffey Street, which is less than a mile from the City's Eastview neighborhood. The complex in San Pedro consists of two, 12.5-million-gallon refrigerated tanks containing butane, as well as five smaller, horizontal storage tanks that each hold 60,000 gallons of propane. Plains All American Pipeline LLC, the facility's parent company, has defended its safety record and procedures.

At various times, the City has taken action in response to these concerns, sending letters in 2011 and 2013 to local, state and federal lawmakers calling for safety compliance reviews, more accessible public information, and raising questions about

jurisdictional authority and the facility's insurance coverage. These inquiries are detailed in the June 2019 Border Issues Status Report (Attachment A).

During a discussion of the report on June 18, the City Council considered supporting H.R. 6489, a bill introduced in Congress in July 2018 by U.S. Rep. Nanette Barragán (D-San Pedro), which would authorize the use of up to \$500 million in federal grant funding to cover half the cost of relocating LPG storage facilities that are within five miles of populated areas, homes or schools.

After some discussion, the council decided instead to direct Staff to prepare a letter more broadly supporting the relocation of Rancho LPG and other liquid bulk storage tanks that are close to residents, without taking a stance on proposed funding. The council also restated its opposition to a proposal from the Navy to resume storing millions of barrels of combustible jet fuel in aboveground tanks at the nearby Defense Fuel Support Point depot.

Staff has prepared a draft letter (Attachment B) and has reached out to Rep. Barragán's office about whether the legislation will be re-introduced in the 116th Congress. Rep. Barragan's office indicated staff is working on the effort, but has not said whether the bill will be re-introduced.

Staff recommends that the council consider sending the letter as drafted or with revisions.

ALTERNATIVES:

In addition to the Staff recommendation, the following alternative action is available for the City Council's consideration:

1. Do not authorize the Mayor to sign the letter in support of relocating liquid bulk storage tanks that are near the public
2. Take other action as deemed appropriate by the City Council



JERRY V. DUHOVIC, MAYOR

JOHN CRUIKSHANK, MAYOR PRO TEM

ERIC ALEGRIA, COUNCILMAN
SUSAN BROOKS, COUNCILWOMAN
KEN DYDA, COUNCILMAN

August 20, 2019

Via Email

The Honorable Nanette Barragán
1030 Longworth House Office Building
Washington, DC 20515

SUBJECT: Support for Relocating Liquid Bulk Storage Tanks near the Public

Dear Rep. Barragán:

The City of Rancho Palos Verdes supports efforts to relocate liquid bulk storage tanks near homes and populated areas in the Harbor Area, including the Rancho LPG facility, which stores 25 million gallons of butane less than a mile from the City's Eastview neighborhood.

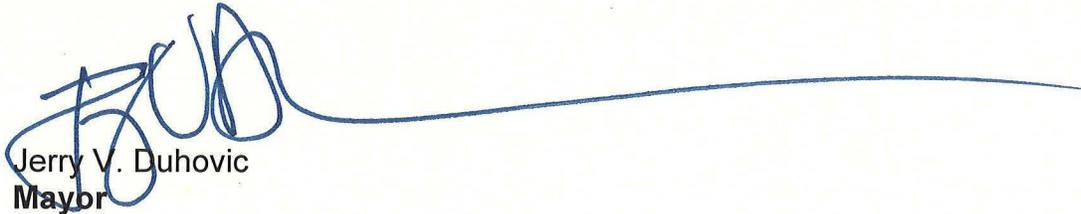
Our City's concerns with the potential hazards that come with storing high volumes of combustible fuels near the public and a fault zone are well-documented, and they were only strengthened by the recent magnitude 7.1 and 6.4 earthquakes in Ridgecrest that rattled the Southland.

In addition to longstanding concerns with Rancho LPG, we are troubled by the Navy's proposal to reactivate and significantly increase fueling operations at the nearby Defense Fuel Support Point San Pedro.

It is clear that these types of facilities do not belong so close to communities, and that local residents are subjected to significant exposure to potential hazards due to their concentration in the Harbor Area.

We also recognize the challenges posed by jurisdictional limits in addressing these concerns. That is why our City applauds your efforts to make relocation possible, and it is our hope that this strategy gains momentum for the benefit of all our communities.

Sincerely,

A handwritten signature in blue ink, consisting of stylized initials 'JD' followed by a long horizontal line that tapers to the right.

Jerry V. Duhovic
Mayor

cc: Ted Lieu, U.S. Representative, 33rd Congressional District
Dianne Feinstein, U.S. Senator, California
Kamala Harris, U.S. Senator, California
Steven Bradford, Senator, 35th State Senate District
Ben Allen, Senator, 26th State Senate District
Patrick O'Donnell, Assembly Member, 70th Assembly District
Al Muratsuchi, Assembly Member, 66th Assembly District
Janice Hahn, L.A. County Supervisor, 4th District
Joe Buscaino, L.A. City Councilmember, 15th District
Rancho Palos Verdes City Council
Doug Willmore, City Manager
Gabriella Yap, Deputy City Manager
San Pedro Peninsula Homeowners United

Megan Barnes

From: Janet Gunter <arriane5@aol.com>
Sent: Thursday, August 22, 2019 10:38 PM
To: news@cbs2.com; news@socalnews.com; news@fox11.com; news-tips@nytimes.com; kcbstvnews@cbs.com; news@citynews.ca; newstips@kpcc.org; ktla@ktla.com; ronkil@aol.com; adrienne.alpert@abc.com; robert.kovacik@nbcuni.com; toni.guinyard@nbcuni.com; mgk@cbsnews.com; jonathan.mahler@nytimes.com; emily.alpert@latimes.com; rong-gong.lin@latimes.com; dlittlejohn@scng.com; paul_h_rosenberg@hotmail.com
Cc: det310@juno.com; caneyarnold@gmail.com; gwendolynhenry@hotmail.com; hvybags@cox.net; caneyarnold@gmail.com; connie@rutter.us; burling102@aol.com; pmwarren@cox.net; havenick@cox.net; igornla@cox.net; noelweiss@ca.rr.com; jnm4ej@yahoo.com; MrEnvirlaw@sbcglobal.net; amartinez@earthjustice.org; sallyhayati@gmail.com; councilmanrcf@gmail.com; sunkistpete@yahoo.com; james@randomlengthsnews.com; owsqueen@yahoo.com; Megan Barnes; forfuturefukushima@gmail.com; jody.james@sbcglobal.net; Francisco.Carrillo@mail.house.gov; joey.apodaca@mail.house.gov; jsw.spiritcruises@sbcglobal.net; evelazquez@bos.lacounty.gov
Subject: MEDIA RELEASE: DISCLOSURE OF CONCEALED & POTENTIALLY DEVASTATING WILMINGTON FAULT
Attachments: Wilmington Blind-Thrust Fault - Southern California Earthquake Center - Presentation - July 27, 2018 Earthquake Fault Under Port (1).pdf

MEDIA RELEASE

AUG. 22, 2019

CALIFORNIA STATE LANDS COMMISSION MEETING

FRIDAY, AUG. 23, 2019

1 PM – Sheraton Gateway Los Angeles Hotel, 6101 W. Century Blvd. Los Angeles, 90045

ATTENTION!

***The Wilmington Blind-Thrust Fault: An active, concealed earthquake source beneath Los Angeles, CA.!!**

In the aftermath of the Ridgecrest earthquake, representatives for the Los Angeles Harbor communities had planned yet another appearance before the State Lands Commission tomorrow pleading their intervention with the Port of Los Angeles over the chronic disregard of potential disaster stemming from an antiquated 46 yr. old 25 million gallon highly explosive liquefied petroleum gas storage facility located on the precipice of the port and the literal doorsteps of homes, schools, children's ball fields, shopping centers and busy traffic corridors. However, discovery...just today of a "non-disclosed seismic report" has radically amplified their concerns

The attached report states:

"The Wilmington blind thrust fault may represent one of the largest deterministic seismic hazards in the United States, in that it extends for more than 30 km along strike beneath the densely populated Los Angeles metropolitan area and the Ports of Los Angeles and Long Beach. The fault has been known for decades (it underlies one of the largest oil fields in southern California), but is not currently included in earthquake hazard assessments."

Please read the attached documents to understand the study findings in 2017-2018 that underscore the high danger from this undisclosed earthquake fault in the Harbor area affecting a multitude of hazardous operations within the area and at the Ports of Los Angeles and Long Beach.

*This information has been withheld from the public for far too long!

For decades, our residents have pleaded for intervention by the SLC for action on the mismanagement of the City & Port of Los Angeles in their uses of public trust lands servicing a “private” and highly explosive 25 Million Gallon liquefied petroleum gas storage facility (propane and butane) that sits in the “only” acknowledged “earthquake rupture zone” in the Los Angeles harbor area. This facility is now owned by Plains All American Pipeline (criminally convicted for the Santa Barbara oil spill) and lies within 150 ft. of the active Palos Verdes Fault (mag. 7.3) on land designated as “liquefaction and landslide zones”. EACH 12.5 million gallon butane gas tank has a blast radius (using the EPA formula for “flammables”) of over 3 miles! The City and Port of Los Angeles have never conducted a comprehensive risk analysis of this facility, nor of its rail and pipeline transport that endangers residents, schools, shops, traffic corridors and children’s sports fields located within 1,000 to 1,300 feet from the tanks and its rail line. The port of Los Angeles itself, with its own highly explosive marine oil terminals are located within a scant ¼ mile of the site. Having acknowledged the danger of the facility, the City of LA approved over 600 new homes being currently being constructed in the shadow of those tanks.

**As of this evening, our residents are now confronted with the news of the “Wilmington Fault” and its incredible vulnerability to the entire region!*

The complexion of this already grave issue has now taken a major turn for the worse!

For info: Jesse Marquez: Coalition for a Safe Environment (310) 590-0177

Janet Gunter: San Pedro Peninsula Homeowners United, INC. (310) 251-7075

Southern California Earthquake Center

www.scec.org

GeoScienceWorld

geosiceneworld.org

The Wilmington Blind-Thrust Fault: An active, concealed earthquake source beneath Los Angeles, CA.

Poster Presentation at July 27, 2018 SCEC Annual Meeting.

Wolfe, F. D., Shaw, J. H., Plesch, A., Ponti, D. J., Dolan, J. F., & Legg, M. R. (2018, 07).

Analysis of 2D and 3D offshore seismic reflection profiles, petroleum and water wells, and recent mapping of groundwater aquifers in the southwestern Los Angeles basin indicate that the Wilmington blind-thrust fault is tectonically active and capable of generating large, damaging earthquakes. This overturns the long-held view that the fault became dormant in the Late Pliocene, barring its inclusion in state-of-the-art regional earthquake hazard assessments. The size of the fault suggests that it is capable of generating moderate-magnitude earthquakes (M 6.2-6.3), while potential linkages with other nearby faults (e.g., Huntington Beach, Torrance, Compton) pose the threat of larger, multi-segment events ($M > 7$). These earthquakes would directly impact the Ports of Los Angeles and Long Beach, as well as the broader Los Angeles metropolitan area.

Southern California Earthquake Center

www.scec.org

Activity and earthquake potential of the Wilmington blind thrust, Los Angeles, CA: The largest earthquake source not on current southern California hazard maps?.

Poster Presentation at August 15, 2017 SCEC Annual Meeting. SCEC Contribution 7772

Wolfe, F. D., Dolan, J. F., Plesch, A., & Shaw, J. H. (2017, 08).

Abstract

The Wilmington blind thrust fault may represent one of the largest deterministic seismic hazards in the United States, in that it extends for more than 30 km along strike beneath the densely populated Los Angeles metropolitan area and the Ports of Los Angeles and Long Beach. The fault has been known for decades (it underlies one of the largest oil fields in southern California), but is not currently included in earthquake hazard assessments. This reflects a long-held view that the fault became tectonically inactive in the late Pliocene. However, offshore 3D seismic reflection data and recent mapping of aquifers in the southwestern Los Angeles basin (Ponti et al., 2007) suggest that Late Quaternary strata are folded and uplifted above this structure.

In this study, we used 2- and 3-D geophysical surveys, well data, and modeling techniques to define the geometry and displacement history of the Wilmington fault. This analysis suggests that the overlying Wilmington anticline is a fault propagation fold with a steep forelimb that is constrained by well picks and dip meter logs. The fault dips $\sim 48\text{-}52^\circ$ NE, and has $\sim 1200\text{-}1400\text{m}$ of reverse offset. Footwall ties from the adjacent seismic surveys in the Inner Borderlands and associated wells show an upward decreasing displacement of Miocene and Pliocene units along the fault. Lastly, forward and inverse modeling tools were employed to develop balanced and retro-deformable cross sections that are consistent with these findings and suggest the fault tip does not reach the surface (i.e., the structure is blind).

Mapping of shallow aquifers and axial surfaces on the forelimb of the Wilmington anticline within the Los Angeles Harbor and San Pedro Shelf region clearly demonstrate that folding above the tipline of the Wilmington blind-thrust uplifts and deforms Quaternary strata. The youngest of these strata thin onto the crest of the Wilmington anticline, implying they were deposited syn-tectonically. This suggests that reactivation occurred at $\sim 450\text{ka}$ and has continued in recent times (youngest unit resolvable is $\sim 30\text{ka}$).

Results of this study will directly contribute to the improvement of regional earthquake hazard assessments and shaking hazard maps by defining how the Wilmington thrust should be considered in such analyses.

Representations of the Wilmington blind-thrust fault will also be incorporated into the SCEC CFM, California Reference Fault Parameter Database, and the USGS Fault and Fold database.

Megan Barnes

From: Doug Willmore
Sent: Tuesday, September 3, 2019 3:34 PM
To: CC
Subject: FW: Rancho LPG Facility
Attachments: Attorney General Letter_CSLC-Rancho LPG.pdf; Surface Transportation Board (STB) decision against SPPHU.pdf; LAFD-CUPA Seismic Inspection Report.pdf; LA City Attorney 05-31-2012.pdf; Activist Blast Radius Claims for Rancho-Janet Gunter.pdf; State Land Commission-Rancho EPA RMP Validation.pdf; HR Bill 6489.pdf; Letter from CSFM 2.pdf

Importance: High

From: Ron Conrow <Ron.Conrow@plainsmidstream.com>
Sent: Tuesday, September 3, 2019 2:51 PM
To: Doug Willmore <DWillmore@rpvca.gov>
Subject: FW: Rancho LPG Facility
Importance: High

Dear City Manager Willmore,

Please know that Rancho LPG is disappointed in the letter dated August 30, 2019 from Rancho Palos Verdes Mayor Jerry Duhovic to Congresswoman Nanette Barragan concerning the relocation of the Rancho LPG facility located at 2110 North Gaffey Street in San Pedro, CA. As you are aware, Congresswoman Barragan sponsored the attached HR Bill 6489 with regards to establishing a grant program for the relocation of certain petroleum storage facilities. It appears this HR Bill if passed would be voluntary by application to the Secretary of Transportation and grant amounts may be only used for activities related to a qualifying LPG storage facility. For the record, the Rancho LPG facility is on private property not on land owned by the City of Los Angeles or the Port of LA. Moreover, the HR Bill has appropriations for \$500,000,000 of which only 50% can be used to facilitate any activity. To relocate the entire footprint of the Rancho facility, including purchasing new property, dismantling all equipment, purchasing like new equipment, installation of pipeline(s) to refineries, and full remediation of the existing site would easily consume the allocated funds for the activity. Furthermore, given the core activists long standing anti-Rancho rhetoric, be assured they will then coalesce with other NIMBY's by attempting to block any required permits and CEQA Environmental Impact Report for a new relocated facility. Finally, in discussions with my local Congressman Kevin McCarthy, given the issue of funding, it is unlikely it would pass even in the Democratic House of Representatives even so the HR Bill is dead on arrival in the Republican controlled Senate. The opinion of our well informed DC lobbyists is that regardless of the make-up of Congress, should President Donald Trump be re-elected in 2020 he would never sign such legislation.

It should be mentioned that Rancho is not the only facility in the greater Harbor Area that stores LPG within 5-miles of a populated area, home, or school. This fact is easy to confirm by simply visiting the Certified Unified Program Agency at the City of Los Angeles Fire Department (LAFD/CUPA) located at 200 North Main Street, 16th Floor in Downtown LA. There any citizen can view the Risk Management Plan (RMP) for any facility in California to find out the type and amount of hazardous materials onsite including with the "worst case" blast radius scenario and how many residents would be impacted. This might be an eye-opening experience for RPV City Council members and staff. I would welcome the opportunity to accompany any of you to LAFD/CUPA and review all harbor area hazardous facility RMP's with you. As mentioned several times by Councilmember Susan Brooks during recent RPV City Council meetings it appears the activists and now the City Council is "singling on the fat kid" ...in this case Rancho. Rancho's RMP as mandated by law is

on file for public review and the EPA vetted ‘worst case” scenario will clearly show not one RPV resident including Eastview is within the blast radius. From a public perspective viewpoint it may be prudent for the RPV City Council and staff to find out which facilities do in fact impact your constituents.

Most disappointing of all is the fact that over the years some RPV City Council members have yielded to the ongoing untruths from activists like Noel Weiss and Janet Gunter. It should be noted that both of these individuals have a history of knowingly disseminating false information about the Rancho facility. I have on numerous occasions resisted the impulse to refute these claims during your ‘public comments” period. Instead I have elected to send several letters to you to correct numerous false claims. My correspondence always contains supporting documentation from city, state, or federal regulatory or legal authorities with oversight over the facility which clearly refutes the activists allegations. While we support first amendment rights and understand public comments under the Brown Act, it is hard to imagine the RPV City Council would give Weiss and Gunter any credibility by writing a letter to Congresswoman Barragan.

Concerning Noel Weiss’ ongoing allegations that Rancho and the rail spur servicing the Rancho facility is on public trust lands under the jurisdiction of the State Lands Commission attached is a the letter from the State Attorney General Xavier Bercerra dated February 20, 2018. Both Weiss and Gunter received a copy of this letter during a State Lands Commission meeting held in RPV on February 27, 2018. The following is a summation of the attached letter:

1. Neither the Rancho LPG facility, nor the rail spur that serves it, falls within the Commission's direct jurisdiction over ungranted tidelands under Public Resources Code section 6301. As a result, the Commission lacks jurisdiction to take direct administrative action to address safety concerns about these facilities.
2. That the Commission has no jurisdiction to take direct administrative action concerning the Rancho LPG facility or the Port owned rail spur.

Clearly the facility is located on private property, not on land under the Commission's jurisdiction or on land under the Port's jurisdiction.

Additionally, In 2016, the Surface Transportation Board (STB) considered a petition from The San Pedro Peninsula Homeowners United (SPPHU) requesting a declaratory order against the Port for issuing the Rancho Permit without environmental review under the California Environmental Quality Act.

Furthermore, in the attached decision dated March 06, 2017 the STB ruled that it had exclusive jurisdiction over the regulation of rail transportation pursuant to the Interstate Commerce Act, as amended by the ICC Termination Act of 1995.8. The STB noted that federal law broadly preempted state and local regulation to avoid interference with interstate commerce. The ruling acknowledged that state and local entities retained police powers to protect public health and safety. The STB Decision also acknowledged that any exercised police power must be exercised in a way that (1) is nondiscriminatory and generally applied; and (2) does not unreasonably interfere with rail transportation1.1 In summary, the STB found:

1. The railroad spur track is subject to the exclusive jurisdiction of the STB.
2. PHL is a common carrier, subject to STB's jurisdiction.
3. Common carriers such as PHL have an obligation to transport hazardous materials.
4. Any terms in Port permits attempting to restrict the transportation of hazardous materials are preempted by federal law.

It should be noted that both Weiss and Gunter were party to the SPPHU petition to the STB and thus aware of the decision.

Prior to State Lands and STB legal rulings, the Los Angeles City Attorney findings from the attached letter dated May 31, 2012 are as follows:

The City Attorney's Office finds that the Harbor Department has contractual authority to terminate RP No. 10-05 pursuant to paragraph 3 of RP No. 10-05. Termination of RP No. 10-05 would result in a loss of insurance, indemnification, and rents to the Harbor Department that are provided under RP No. 10-05. Moreover, termination of RP No. 10-05 would not terminate rail service to Rancho as such service would continue to be provided by PHL pursuant to the San Pedro Bay Harbor Rail Operating Permit (Permit No. 1989). **The City Attorney's Office has**

reviewed and analyzed the relevant legal authorities and has found that the Harbor Department is not authorized to abandon or discontinue the railroad spur track that is the subject of RP No. 10-05. Abandonment or discontinuance of the railroad spur track that serves Rancho requires the approval of the STB, which has exclusive jurisdiction over such matters.

Over the years, local activists (primarily Janet Gunter) have stated numerous false blast radius estimates emanating from the Rancho facility illustrating cataclysmic disasters in order to propagate fear-mongering within the community. Therefore, it is our ambition to present facts about what is the “worst case” scenario that can occur at the Rancho facility based upon the applicable law and regulatory program governing offsite consequence events versus erroneous claims broadcasted by activists. The following is a sample of Ms. Gunter’s claims.

Minutes attached from the November 25, 2014 Green Committee meeting indicate Janet Gunter stated, “A recent private risk analysis estimates a 10-mile blast radius” emanating from the Rancho facility. To my knowledge, the Sustainability Committee, the NWSPNC Board, or Rancho has been provided with this analysis for review? Also, attached are activist memos stating alleged blast radius estimates emanating from the Rancho facility such as: 3.0 miles (October 14, 2013), 6.0 miles (November 03, 2013), and 6.8 miles (July 8, 2013 flyer). Confusing, but what is the correct answer...none of the above!

The governing regulation for “worst-case” scenarios related to offsite consequences is the Environmental Protection Agency (EPA) 40CFR68. This regulation was passed by the United States Congress in 1990 under the authority of section 112(r) of the [Clean Air Act](#), the [Chemical Accident Prevention Provisions](#) and requires facilities that produce, handle, process, distribute, or store certain chemicals to develop a Risk Management Program, prepare a Risk Management Plan (RMP), and submit the RMP to EPA. According to the EPA website, approximately 12,800 businesses are subject to this regulation. An essential requirement in this regulation mandates these covered facilities include a “worst case” release analysis for any potential offsite consequence event. Using specific standards, methodologies, and software mandated by EPA 40CFR68, Rancho LPG’s RMP “worst-case” model assumes a complete release of one tank of refrigerated butane into a passive mitigation system with an ensuing vapor cloud explosion at a 1.0 psi overpressure to endpoint.

Chapter 4 of the USEPA RMP guidance describes the 1.0 psi overpressure endpoint used for bounding the explosion hazard as follows: *“An overpressure of 1.0 psi is unlikely to have serious direct effects on people; this overpressure may cause property damage such as partial demolition of houses, which can result in injuries to people, and shattering of glass windows, which may cause skin laceration from flying glass.”* The RMP Guidance further states, *“Vapor cloud explosions are also unlikely events; in an actual release, the flammable gas or vapor released to air might disperse without ignition, or it might burn instead of exploding, with more limited consequences”.*

Attached is legal validation from EPA Region 9 Attorney Andrew Helmlinger and Plains third party legal counsel Cliff Mc Farland dated December 10, 2013. EPA Attorney Helmlinger clearly states the EPA has in fact calculated Rancho's RMP *“to be 0.5 miles and not 3.0 miles as Ms. Gunter asserts”* based upon the EPA regulatory formula.

Attached from the State Lands Commission Staff Report dated 08/17/2017 item #80 illustrates that activists again petitioned the EPA concerning the accuracy of Rancho’s RMP “worst case” scenario and again EPA validated Rancho’s RMP. *“As part of a risk management program, Rancho LPG is required to submit an Offsite Consequence Area determination or “OCA” which must be calculated based on federal regulations to show the area around the facility that would be impacted in the event of an accidental chemical release, before the chemical dissipated. This calculation is used to determine what schools should be notified and which emergency response agencies Rancho LPG should coordinate with in responding to incidents. In May 2016, the U.S. Environmental Protection Agency received a petition from community members requesting a re-examination of the risks associated with the Rancho LPG facility requiring Rancho LPG's parent company to resubmit Rancho LPG's OCA, colloquially referred to as its “blast radius”.* EPA staff have confirmed that it has completed review of this petition and has confirmed that Rancho LPG's OCA or blast radius was accurately calculated at approximately .5 miles, according to governing federal regulations. EPA staff noted that the Rancho LPG facility's OCA is reduced due to the presence of a passive mitigation system, in the form of a large pit, that would collect most of the butane in the event one of the larger tanks failed. EPA staff also noted that the facility is safer

than many other butane storage facilities because the butane is refrigerated and is not stored under pressure". The "worst case" scenario as contained in our RMP on file at LAFD/CUPA for public review is 0.5 miles. The EPA has vetted our "worst case" scenario as being "to the letter of the law".

In closing, it should be noted that the Facility is located in Congressman Ted Lieu's 33rd District and not Congresswoman Barragan's 44th District. Contrary to Janet Gunter's "late correspondence" letter Maegan Barnes, Congressman Lieu has not been absent on the Rancho issue. In fact, in 2013 at RPV residents urging, Lieu wrote a letter requesting the State Fire Marshall (SFM) investigate the facility and render a decision with regards to its safety and compliance. The subsequent attached letter from the SFM clearly stated the office had in fact inspected the facility and found it was in compliance and had "no safety violations". Later, Lieu toured the Rancho facility and acquired numerous audit/inspection documents from regulators and legal authorities. Additionally, Rancho keeps both Councilman Buscaino and Congressman Lieu informed as to regulatory inspections of the facility. Lastly, Rancho's legal, government affairs consultant and I have in the past been to Washington, D.C. to meet with Congressman Lieu and to provide an update on the facility.

Most likely, the activists will bring up the issue concerning the Wilmington Thrust Fault and related it to Rancho. Since 1998 Rancho and all California businesses (approximately 898) with threshold amounts of regulated chemicals onsite are to submit a seismic assessment and revalidation every 5-years under the California Accidental Release Prevention (CalARP) Program. CalARP's must be performed by a third party Civil Engineer registered by the State of California. Rancho's last CalARP seismic assessment was submitted in 2014 with the 5-year revalidation due in Q4 of 2019. The seismic parameters typically change every 5-years based upon the latest California Building Code (CBC) and American Society of Civil Engineers (ASCE/SEI-7) as mandated by the State. The Rancho facility was compliant with the 2014 parameters and expects compliance with 2019 standards as well given there are only minor changes. The Maximum Considered Event (MCE) is associated with an earthquake on the nearby Palos Verdes fault is 7.3. New data for the Wilmington Thrust Fault indicates a potential earthquake at 6.3-6.4 range at intervals of every 3200-4700 years. Therefore, despite impending activist hysteria about the Wilmington fault, it cannot produce an MCE greater than for the nearby Palos Verdes Fault and thus will not impact Rancho's CalARP.

In the future, I trust that RPV City Council members and staff would contact me concerning any issues or questions related to the Rancho LPG facility. Unlike the activists, I will provide the correct response with supporting documentation. Please share this correspondence with the RPV City Council members and legal counsel.

Regards,

Ron Conrow | District Manager, US LPG West
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www.plainsmidstream.com



From: Ron Conrow
Sent: Wednesday, August 21, 2019 1:40 PM
To: 'Jennifer.Lucchesi@slc.ca.gov'
Subject: Rancho LPG Facility

Dear Ms. Lucchesi,

Recently I received notice of the next California State Lands Commission (CSLC) meeting will be held on August 23, 2019 at the Sheraton Gateway Los Angeles Hotel. Even though the Rancho LPG Facility is not on the Agenda, we expect Janet Gunter of the San Pedro Peninsula Homeowners United (SPPHU) will exercise her first amendment right to use the "Public Comments" segment to bash the facility and knowingly spread inaccurate information concerning the facility.

As you are aware, the Rancho Facility has been on the CSLC Agenda on numerous occasions since 2014 with the last time being August 17, 2017. At that meeting CSLC opted to request a legal advice from the Californian State Attorney General with regards to the CSLC's legal basis for taking direct administrative action concerning either the Rancho LPG facility or the Port-owned rail spur that serves the facility. In summary the Attorney General ruled as follows in the attached letter dated February 20, 2018:

1. Neither the Rancho LPG facility, nor the rail spur that serves it, falls within the Commission's direct jurisdiction over ungranted tidelands under Public Resources Code section 6301. As a result, the Commission lacks jurisdiction to take direct administrative action to address safety concerns about these facilities.
2. That the Commission has no jurisdiction to take direct administrative action concerning the Rancho LPG facility or the Port owned rail spur.

Clearly the facility is located on private property, not on land under the Commission's jurisdiction or on land under the Port's jurisdiction.

Additionally, In 2016, the Surface Transportation Board (STB) considered a petition from The San Pedro Peninsula Homeowners United (SPPHU) requesting a declaratory order against the Port for issuing the Rancho Permit without environmental review under the California Environmental Quality Act.

In a decision dated March 06, 2017 the STB ruled that it had exclusive jurisdiction over the regulation of rail transportation pursuant to the Interstate Commerce Act, as amended by the ICC Termination Act of 1995.8. The STB noted that federal law broadly preempted state and local regulation to avoid interference with interstate commerce. The ruling acknowledged that state and local entities retained police powers to protect public health and safety. The STB Decision also acknowledged that any exercised police power must be exercised in a way that (1) is nondiscriminatory and generally applied; and (2) does not unreasonably interfere with rail transportation^{1.1} In summary, the STB found:

1. The railroad spur track is subject to the exclusive jurisdiction of the STB.
2. PHL is a common carrier, subject to STB's jurisdiction.
3. Common carriers such as PHL have an obligation to transport hazardous materials.
4. Any terms in Port permits attempting to restrict the transportation of hazardous materials are preempted by federal law.

Moreover, on page 6 (Item 80) of the CSLC Staff Report dated 08/17/2017 stated the following. "As part of a risk management program, Rancho LPG is required to submit an Offsite Consequence Area determination or "OCA" which must be calculated based on federal regulations to show the area around the facility that would be impacted in the event of an accidental chemical release, before the chemical dissipated. This calculation is used to determine what schools should be notified and which emergency response agencies Rancho LPG should coordinate with in responding to incidents. In May 2016, the U.S. Environmental Protection Agency received a petition from community members requesting a re-examination of the risks associated with the Rancho LPG facility requiring Rancho LPG's parent company to resubmit Rancho LPG's OCA, colloquially referred to as its "blast radius". ***EPA staff have confirmed that it has completed review of this petition and has confirmed that Rancho LPG's OCA or blast radius was accurately calculated at approximately .5 miles, according to governing federal regulations.*** EPA staff noted that the Rancho LPG facility's OCA is reduced due to the presence of a passive mitigation system, in the form of a large pit, that would collect most of the butane in the event one of the larger tanks failed. ***EPA staff also noted that the facility is safer than many other butane storage facilities because the butane is refrigerated and is not stored under pressure.*** Staff has not been able to locate information estimating a blast radius for a rail car carrying this type of product in this location".

Since 1998, California Code of Regulations (CCR) Title 19 Division 2 Chapter 4.5 has mandated seismic assessments be conducted on hazardous facilities under the California Accidental Release Prevention (CalARP) Program. The objective of the State's CalARP program is to provide reasonable assurance Regulated Substances (RS) would not be spilled due to a seismic event. The regulation also mandates that a seismic revalidation be performed every 5-years. In 2009, Rancho hired a third party expert consultant to perform the seismic assessment and issue the Report as required. Rancho's CalARP assessment was conducted using mandated standards contained in the 2007 California Building Code (CBC) and American Society of Civil Engineers (ASCE) 7-05, which stipulate seismic capacities of equipment to be expressed in

terms of peak ground acceleration (pga). On page 2-2 the Report concluded, *“Based upon these results, the tanks are shown not to fail when subjected to the CalARP specified seismic hazard”*. Rancho CalARP was audited by the Los Angeles Fire Department/Certified Uniform Program Agency LAFD/CUPA in August 2011 with *“No Notices of Violation (NOV’s) issued”*. The SPPHU has a copy of Rancho’s CalARP via EPA FOIA.

With regards to seismic compliance, in 2014, Rancho’s 5-year CalARP seismic revalidation was performed by certified state third party civil engineering firm using the mandated revised standards contained in the CBC 2013 and ASCE 7-10 codes. Subsequently, on 07/11/ 2017, the (LAFD/CUPA) conducted its mandated 3-year CalARP seismic inspection of the Rancho Facility. Rancho is pleased to report the attached inspection report shows that *“no Notices of Violation (NOV’s) were received”*.

Therefore, any statements made by Janet Gunter or associates concerning CSLC or STB jurisdiction over the Rancho facility or rail spur track contrary to the State Attorney General ruling or Surface Transportation Board decision is erroneous. Likewise, any catastrophic blast radius claim other than the 0.5 miles as calculated/confirmed by the EPA (the governing federal agency) is fictitious. Lastly, any allegation that the large refrigerated butane tanks at Rancho would not withstand the Maximum Credible Event (MCE) due to a seismic event is false.

Due to a previous commitment, I will not be able to attend the CSLC meeting on 08/23/2019. However, please let me know should you any questions concerning the Rancho LPG Facility located at 2110 North Gaffey Street in San Pedro, CA.

Regards,

Ron Conrow | District Manager, US LPG West
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Attorney-Client Privileged Communication

February 20, 2018

Jennifer Lucchesi
Executive Officer
California State Lands Commission
100 Howe Avenue, Suite 100 South
Sacramento, California 95825-8202

Dear Ms. Lucchesi:

This letter concerns a butane and propane storage facility that Rancho LPG Holdings LLC operates near the Port of Los Angeles in San Pedro, California and a nearby railroad spur located on property that the Port owns. Rancho LPG transports products to and from its facility over this rail spur. Members of the public have raised safety concerns about the facility and its operations.

On behalf of the California State Lands Commission, you have requested this office's legal advice concerning whether the Commission has a legal basis for taking direct administrative action concerning either the Rancho LPG facility or the Port-owned rail spur that serves it. Commission staff previously concluded that neither falls within the Commission's direct jurisdiction over ungranted tidelands. (See Commission Meeting Calendar Items dated June 19, 2014 (no. 91), October 14, 2014 (no. 109), August 17, 2017 (no. 80).) For the reasons discussed below, our opinion is that Commission staff correctly so concluded.

As background, California acquired title to all tidelands, submerged lands, and the beds of all inland navigable waters within its borders as an incident of its sovereignty when it was admitted to the Union on September 9, 1850. (See, e.g., *Oregon ex rel. State Board v. Corvallis Sand & Gravel Co.* (1977) 429 U.S. 363, 373-374; *Marks v. Whitney* (1971) 6 Cal.3d 251, 258; accord, *National Audubon Society v. Superior Court* (1983) 33 Cal.3d 419, 434; *Citizens for East Shore Parks v. Cal. State Lands Com.* (2011) 202 Cal.App.4th 549, 570; Pub. Resources Code, § 6009, subd. (a).) Tidelands are those lands lying between the lines of mean high tide and mean low tide. Lands seaward of the line of mean low tide are submerged lands. (*City of Long Beach v. Mansell* (1970) 3 Cal.3d 462, 478, n. 13.) The State owns these tidelands and submerged lands as a trustee for, and the public holds an easement over these lands for, statewide public purposes. (*Citizens for East Shore Parks v. Cal. State Lands Com.*, *supra*, 202 Cal.App.4th at p. 570; Pub. Resources Code, § 6009, subd. (a).) The Legislature

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has delegated to the Commission exclusive jurisdiction over all State-owned tidelands and submerged lands. (Pub. Resources Code, § 6301.)

The common law public trust doctrine traditionally defined these public trust uses as water-related commerce, navigation, and fishing. (*Marks v. Whitney, supra*, 6 Cal.3d at p. 259; Pub. Resources Code, § 6009, subd. (a).) California courts have since recognized bathing, swimming, boating, and other recreational purposes, as well as preservation of public trust lands in their natural state for scenic, scientific study, open space, and habitat values, as additional public trust uses. (*Marks v. Whitney, supra*, 6 Cal.3d at p. 259; *National Audubon Society v. Superior Court, supra*, 33 Cal.3d at pp. 434-435.) California law entrusts administration of the public trust to the Legislature. (*County of Orange v. Heim* (1973) 30 Cal.App.3d 694, 707-708.)

The Legislature may grant tidelands and submerged lands in trust to local entities. Granted lands remain subject to State supervision. Under such grants, the State acts as both the trustor and the representative of the people, the people are the trust beneficiaries, and the local grantee acts as trustee. (Pub. Resources Code, § 6009.1, subds. (a), (b).) Grantees must manage granted lands in a manner “consistent with the terms and the obligations of their grants and the public trust ...” (Pub. Resources Code, § 6009, subd. (d).) As a result, grantees may neither use state-granted lands for non-trust purposes nor apply revenues generated by such lands for non-trust purposes. (*Mallon v. City of Long Beach* (1955) 44 Cal.2d 199, 209-211; *City of Long Beach v. Morse* (1947) 31 Cal.2d 254, 257-258; Pub. Resources Code, § 6009.1, subd. (c)(7).)

A legislative grant of sovereign lands does not place the lands beyond the State’s supervision. Instead, the State has a continuing duty to protect the public trust on behalf of all of the people of California. (*Illinois Central R.R. Co. v. Illinois* (1892) 146 U.S. 387, 452-453; *City of Coronado v. San Diego Unified Port Dist.* (1964) 227 Cal.App.2d 455, 474.) The Legislature has delegated to the Commission all jurisdiction that remains in the State as to granted tidelands and submerged lands. (Pub. Resources Code, § 6301.)

The facts here, as Commission staff have explained them to us, are as follows:¹ In 1911, the Legislature granted certain filled and unfilled sovereign public trust lands to the City of Los Angeles. (Stats. 1911, chap. 651, as amended.) Under the City’s charter, the Port of Los Angeles, acting through its Board of Harbor Commissioners, manages the City’s granted lands located within the Port. The Legislature made this grant for the “establishment, improvement and conduct of a harbor, and for the construction, maintenance and operation thereon of wharves, docks, piers, slips, quays and other utilities, structures and appliances necessary or convenient for the promotion and accommodation of commerce and navigation ...” (*Id.* at § 1(a).)

¹ Our office has not independently researched these facts or pertinent underlying public records, nor has the Commission requested us to do so.

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Jennifer Lucchesi

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The Rancho LPG butane and propane storage facility is located on private property in San Pedro, not on sovereign lands granted to the Port. In 1994, the Port purchased a 20-foot railroad spur and the land underlying it using trust revenues generated by the Port's operations on its separate granted lands. Like the Rancho LPG facility, the railroad spur does not lie within the boundaries of sovereign tide and submerged lands granted to the Port. The spur is a separate real property asset that the Port owns. Rancho LPG operates the rail spur under a permit the Port issued to it in 2011, as a successor permit to one the Port issued in 1974 to Rancho LPG's predecessor. Butane, which is a byproduct of refined petroleum (and some of which is refined nearby), is transported to and from Rancho LPG's facility by rail to the Pacific Harbor Line.

Based on these facts, our advice – like Commission staff's conclusion – is that neither the Rancho LPG facility, nor the rail spur that serves it, falls within the Commission's direct jurisdiction over ungranted tidelands under Public Resources Code section 6301. As a result, the Commission lacks jurisdiction to take direct administrative action to address safety concerns about these facilities.

Instead, the Commission's jurisdiction in this case would be limited to that which it exercises in a supervisory capacity – as trustor and representative of the people – over a grantee's use of revenues from public trust lands. The Port here acquired the land under the rail spur with revenues generated by operations on the Port's separate granted lands. As discussed above, the Port must manage granted lands subject to the public trust and the terms of its grant. Under the authorities cited above, grantees like the Port cannot use revenues generated by granted lands for non-public trust purposes. (See *Mallon v. City of Long Beach*, *City of Long Beach v. Morse*, *supra*.) The Commission has previously taken the position in exercising its supervisory jurisdiction that private lands acquired with trust revenues become assets of the trust created by the statutory grant. (See Commission Meeting Calendar Items dated October 16, 2008 (no. 60), December 2, 2013 (no. 114), June 19, 2014 (no. 91), October 14, 2014 (no. 109), February 20, 2015 (no. 98), August 17, 2017 (no. 80); see also Stipulation for Entry of Judgment, dated February 2, 2005 in *People of the State of California ex rel. Lockyer, et al. v. The City of Oakland, et al.*, Alameda County Superior Court case no. RG05196720.) As a result, grantees are required to manage such lands in accord with the grant's terms and the public trust.

The Commission's remedies for addressing a non-trust use of revenues generated by granted lands, if it occurs, do not include direct administrative action by the Commission. Rather, the Commission has two options for how to proceed.

First, the Commission is empowered to institute litigation against a grantee like the Port for violating the terms of a grant or its fiduciary duties. The Commission has not asked us for our legal advice on the likelihood that such litigation would succeed. An analysis of that question is therefore beyond the scope of this letter. But we offer a general observation. The public trust doctrine permits uses that do not by themselves qualify as recognized public trust uses, as long as they are incidental to, or support, recognized public trust uses. (*People v. City of Long Beach* (1959) 51 Cal.2d 875, 879-880; *Haggerty v. City of Oakland* (1958)

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161 Cal.App.2d 407, 413-414.) In connection with the Port in particular, the Commission has previously recognized uses such as the operation of a marine museum and a freezer warehouse as uses that further waterborne commerce and navigation and thus comport with the State's grant to the Port and with the public trust. (See Calendar Items dated October 28, 1976 (no. 22), February 28, 1985 (no. 23).) Here, Rancho LPG transports butane using the rail spur. Butane is a byproduct of petroleum refineries that operate nearby. The processing of oil brought into California's ports for refinement supports waterborne navigation and commerce. Transporting byproducts of such refinement for storage could arguably so qualify as well.

Second, if the Commission cannot prove a public trust violation, its only other recourse to challenge the Port's operation of the rail spur would be to report the Port's activities to the Legislature. In that case, the Legislature would be empowered to revoke or amend the 1911 granting statute. Assessing the likelihood of the Legislature doing so is beyond the scope of this letter. But suffice it to say that the Commission would have no present power to take direct administrative action to address the rail spur while the Legislature assesses the appropriate path forward (assuming the Legislature takes up this question in the first place).

Therefore, for the reasons discussed above, our advice is that the Commission has no jurisdiction to take direct administrative action concerning the Rancho LPG facility or the Port-owned rail spur. We appreciate the opportunity to provide this letter to you. Please let us know if you have any questions.

Sincerely,



ANDREW M. VOGEL
Deputy Attorney General

For XAVIER BECERRA
Attorney General

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 36065

SAN PEDRO PENINSULA HOMEOWNER’S UNITED INC., JOHN TOMMY ROSAS,
TRIBAL ADMINISTRATOR, TONGVA ANCESTRAL TERRITORIAL TRIBAL NATION—
PETITION FOR DECLARATORY ORDER

Digest:¹ The Board denies the petition of San Pedro Peninsula Homeowner’s United Inc. and John Tommy Rosas for a declaratory order regarding certain rail movements associated with the Port of Los Angeles Harbor Department and Rancho LPG Holdings, LLC, but provides guidance on application of federal preemption under 49 U.S.C. § 10501(b).

Decided: March 3, 2017

On September 12, 2016, San Pedro Peninsula Homeowner’s United Inc. and John Tommy Rosas, Tribal Administrator, Tongva Ancestral Territorial Tribal Nation (collectively, SPPHU), filed a petition requesting that the Board issue a declaratory order addressing a “temporary rail permit” issued by the Port of Los Angeles Harbor Department to Rancho LPG Holdings, LLC (Rancho LPG), a corporate affiliate and subsidiary of Plains All-America Pipeline (Plains) (collectively, Rancho), which SPPHU states governs the use of a rail spur to access a liquefied petroleum gas storage facility owned by Rancho LPG. SPPHU seeks a Board finding regarding Rancho’s transportation of hazardous materials on the rail spur and whether a permit was used without required state environmental review. (See SPPHU Pet. 1, 5.)

Letters in support of SPPHU’s petition were filed by Congresswoman Janice Hahn, on October 25, 2016; San Pedro and Peninsula Homeowners Coalition on October 28, 2016; and June Burlingame Smith on October 28, 2016. Pacific Harbor Line, Inc. (PHL), and Rancho filed replies to SPPHU’s petition on October 31, 2016.² Also on October 31, 2016, the City of Los Angeles (City), acting by and through the Board of Harbor Commissioners (Harbor

¹ The digest constitutes no part of the decision of the Board but has been prepared for the convenience of the reader. It may not be cited to or relied upon as precedent. Policy Statement on Plain Language Digests in Decisions, EP 696 (STB served Sept. 2, 2010).

² By decision served September 30, 2016, the deadline for replies to SPPHU’s petition was extended to October 31, 2016.

Department),³ replied to SPPHU’s petition, requesting clarification on its understanding that federal preemption under 49 U.S.C. § 10501(b) applies to actions taken by the Harbor Department that affect rail transportation. Replies to City’s Reply were filed by SPPHU, PHL, and Rancho. On December 7, 2016, SPPHU submitted a supplemental filing.⁴

For the reasons discussed below, the Board will deny SPPHU’s request for a declaratory order but will provide guidance on the issue of § 10501(b) preemption.

BACKGROUND

Rancho LPG owns and operates a liquefied petroleum gas storage facility located in the Port of Los Angeles area of San Pedro, Cal. The storage facility is used to store butane and propane and includes two 12.5 million gallon refrigerated tanks and five 60,000 gallon horizontal storage tanks. (Rancho Reply 2, Oct. 31, 2016.) PHL provides rail service to the facility over tracks owned by the City,⁵ including the subject track that was constructed by the original owner of the facility (the Track). (City Reply 7.) The Track is now used by Rancho LPG, pursuant to a permit, Revocable Permit No. 10-05 (RP 10-05), issued by the Harbor Department.⁶ Under the terms of RP 10-05, “[Rancho LPG] may not handle, use, store, transport, transfer, receive or dispose of, or allow to remain on the premises . . . any substance classified as a hazardous material under any federal, state, local law or ordinance . . . in such quantities as would require

³ In its petition, SPPHU refers to the City and Harbor Department as “the Port of Los Angeles.” For the purposes of this proceeding, the Board will refer to the Port of Los Angeles as the Harbor Department.

⁴ Under 49 C.F.R. § 1104.13(c), a reply to a reply is not permitted. However, in the interest of a more complete record, the Board will accept the November 8, 2016 and December 7, 2016 filings of SPPHU and the November 21, 2016 filings of PHL and Rancho into the record.

⁵ See Pac. Harbor Line, Inc.—Operation Exemption—Port of Los Angeles, FD 33411 (STB served Dec. 2, 1997); City of Los Angeles—Acquis. Exemption—Rail Lines of Atchison, Topeka & Santa Fe Ry., FD 32427 (ICC served Jan. 12, 1994).

⁶ The petition pertains to track covered by a “Temporary Rail Permit” issued by the Harbor Department to Rancho LPG. SPPHU cites “Revocable Rail Spur Permit No. 110” (SPPHU Pet. 5, SPPHU Reply 2, Nov. 8, 2016), but the record contains no evidence of, or other reference to, such a permit. However, SPPHU refers to a permit that has been extended for 42 years and attaches as an exhibit Revocable Permit No. 1212 (RP 1212), which was issued by the Harbor Department in 1974 to Petrolane, Inc., a predecessor company to Rancho LPG, and which governed the construction and use of the Track. The record shows that RP 10-05 is a successor to RP 1212 (SPPHU Pet., Ex. 3 at 2) and is the only existing contractual agreement between the Harbor Department and Rancho LPG. (Id.; City Reply 7; Rancho Reply 3, Nov. 21, 2016.) Both RP 1212 and RP 10-05 pertain to the Track, described in both permits as “Parcel No. 1” depicted in Harbor Engineering Drawing No. 5-4327. Further, only RP 10-05 contains language governing the transportation of hazardous materials. Accordingly, the Board will view RP 10-05 as the permit that pertains to the Track.

the reporting of such activity to any person or agency having jurisdiction thereof without first receiving written permission of City.” (City Reply, Ex. 5, City of Los Angeles Harbor Department Revocable Permit No. 10-05, at 6.)

SPPHU contends that, in violation of the permit’s terms, Plains and Rancho LPG have continually moved hazardous materials on the Track. (SPPHU Pet. 1.) SPPHU further asserts that, by not submitting this “temporary” revocable permit to the Board “for a ruling,” the Harbor Department and Rancho have evaded the duty to assess the risk of transporting hazardous materials in a “Risk Management Plan” and through an updated California state Environmental Impact Report (EIR).⁷ (Id. at 1, 2, 4, 5.) Thus, it appears that SPPHU is requesting that, because the Board has exclusive jurisdiction over the Track, the Board issue a declaratory order finding that the transportation of hazardous materials over the Track “without an updated EIR” violates the terms of the revocable permit. (See SPPHU Pet. 5.)

In its reply, Rancho asserts that SPPHU has failed to present a specific controversy for the Board to resolve. (Rancho Reply 3-4, Oct. 31, 2016.) Both Rancho and PHL assert that the Track is not subject to state or local environmental regulation because the Track is subject to the Board’s exclusive jurisdiction. (Rancho Reply 4-5, Oct. 31, 2016; PHL Reply 2-4, Oct. 31, 2016.) The City likewise asserts that the Board has jurisdiction over the Track and that PHL, the operator of the Track, is a common carrier. (City Reply 9.) The City seeks clarification on whether it is therefore preempted from taking any action that would unreasonably interfere with rail service, including terminating or suspending rail service to the facility, adding additional regulation of rail tank cars that move product from the facility through the area beyond that imposed by federal law, or taking any other action that would improperly burden interstate commerce. (City Reply 10.)

DISCUSSION AND CONCLUSIONS

The Board has discretionary authority under 5 U.S.C. § 554(e) and 49 U.S.C. § 1321 to issue a declaratory order to terminate a controversy or remove uncertainty. See Intercity Transp., Co. v. United States, 737 F.2d 103 (D.C. Cir. 1984); Delegation of Auth.—Declaratory Order Proceedings, 5 I.C.C. 2d 675 (1989). For the reasons explained below, the Board will deny SPPHU’s request for a declaratory order, but will provide guidance on the preemption issues that are relevant to the circumstances presented here.

The Interstate Commerce Act, as amended by the ICC Termination Act of 1995, provides that the Board’s jurisdiction over “transportation by rail carriers” is “exclusive” and that “the remedies provided under 49 U.S.C. §§ 10101-11908 with respect to regulation of rail transportation are exclusive and preempt the remedies provided under Federal or State law.” 49 U.S.C. § 10501(b); see Ass’n of Am. R.Rs. v. S. Coast Air Quality Mgmt. Dist., 622 F.3d 1094, 1097-98 (9th Cir. 2010). The primary purpose of § 10501(b)’s broad preemption

⁷ According to Exhibit 3 of SPPHU’s petition, an EIR is an Environmental Impact Report, which, under the California Environmental Quality Act (CEQA), is required for certain state and local activities or construction. (SPPHU Pet., Ex. 3 at 1.)

provision is to prevent a patchwork of state and local regulation from interfering with interstate commerce. See H.R. Rep. No. 104-311, at 95-96 (1995), reprinted in 1995 U.S.C.C.A.N. 793, 807-08 (noting the need for “uniformity” of federal standards for railroads and the risk of “balkanization” from state and local regulation). The preemptive effect of § 10501(b) is broad and sweeping, and “[i]t is difficult to imagine a broader statement of Congress’s intent to preempt state regulatory authority over railroad operations.” City of Auburn v. United States, 154 F.3d 1025, 1030 (9th Cir. 1998) (quoting CSX Transp., Inc. v. Ga. Pub. Serv. Comm’n, 944 F. Supp. 1573, 1581 (N.D. Ga. 1996)).

Courts and the Board have found that state or local actions that “‘have the effect of managing or governing,’ and not merely incidentally affecting, rail transportation are expressly or categorically preempted” under § 10501(b). Tex. Cent. Bus. Lines Corp. v. City of Midlothian, 669 F.3d 525, 532 (5th Cir. 2012) (quoting Franks Inv. Co. v. Union Pac. R.R., 593 F.3d 404, 410 (5th Cir. 2010) (en banc)).⁸ Two broad categories of state and local actions are subject to this per se form of preemption: (1) state or local permitting or preclearance requirements (including environmental requirements generally) that could be used to deny a railroad the ability to conduct some part of its operations or proceed with activities that the Board has authorized; and (2) state or local regulation of matters that are directly regulated by the Board—such as the construction, operation, and abandonment of rail lines (see 49 U.S.C. §§ 10901-07); railroad mergers, line acquisitions, and other forms of consolidation (see 49 U.S.C. §§ 11321-28); and railroad rates and service (see 49 U.S.C. §§ 10501(b), 10701-47, 11101-24). Franks, 593 F.3d at 410-11; City of Auburn, 154 F.3d at 1027-31.

State or local actions that are not categorically preempted still may be preempted “as applied” if they would have “the effect of unreasonably burdening or interfering with rail transportation.” Franks, 593 F.3d at 414. This requires a fact-specific determination based on the circumstances of each case. See Adrian & Blissfield R.R. v. Vill. of Blissfield, 550 F.3d 533, 540 (6th Cir. 2008). Preemption applies to attempted regulation of railroad operations and facilities even where the Board does not license and/or actively regulate the activity involved. See Port City Props. v. Union Pac. R.R., 518 F.3d 1186, 1188-89 (10th Cir. 2008); Green Mountain R.R. v. Vermont, 404 F.3d 638, 642 (2d Cir. 2005).

Although preemption is broad, it is not unlimited. States and localities retain their police powers to protect the public health and safety. Ass’n of Am. R.Rs., 622 F.3d at 1098; Green Mountain, 404 F.3d at 643. Thus, nondiscriminatory regulations of general applicability (e.g., building, fire, and electrical codes) are not preempted, as long as they do not unreasonably interfere with rail transportation. Id. Federal statutes, including environmental statutes and statutes regulating hazardous materials by rail, are also given effect unless they irreconcilably

⁸ See also City of Auburn, 154 F.3d at 1027-31; DesertXpress Enterprises, LLC—Pet. for Declaratory Order, FD 34914, slip op. at 5 (STB served June 27, 2007) (holding that CEQA is preempted as it relates to a project within the Board’s jurisdiction); CSX Transp., Inc.—Pet. for Declaratory Order, FD 34662, slip op. at 7 (STB served Mar. 14, 2005) (finding that § 10501(b) preempted a local act that sought to govern the transportation of hazardous materials by rail through Washington, D.C.).

conflict and cannot be harmonized with the Interstate Commerce Act. Ass'n of Am. R.Rs., 622 F.3d at 1097; Tyrrell v. Norfolk S. Ry., 248 F.3d 517, 523 (6th Cir. 2001) (Federal Railway Safety Act not preempted).

Here, it is uncontested that the track at issue is subject to the exclusive jurisdiction of the Board under § 10501(b).⁹ (See SPPHU Pet. 1, 4; Rancho Reply 4, Oct. 31, 2016; PHL Reply 3, Oct. 31, 2016; City Reply 7, 9.) It is also uncontested that PHL is a common carrier railroad operating on track subject to the Board's jurisdiction. As a result, state entities such as the City and the Harbor Department are preempted from imposing requirements that could be used to restrict these rail operations. The Board has also made clear that rail carriers have not only a right, but a statutory common carrier obligation, to transport hazardous materials upon reasonable request. See Union Pac. R.R.—Pet. for Declaratory Order, FD 35219, slip op. at 4 (STB served June 11, 2009); see also Strohmeyer—Acquis. & Operation Application—Valstir Indus. Track in Middlesex & Union Ctys., N.J., FD 35527, slip op. at 2 (STB served Oct. 20, 2011), aff'd sub nom. Riffin v. STB, 733 F.3d 340 (D.C. Cir. 2013) (upholding Board's determination that railroads have a common carrier obligation to carry hazardous materials). Therefore, any terms in the temporary rail permit that attempt to restrict rail operations, including the transportation of hazardous materials, are preempted.¹⁰ Lastly, SPPHU suggests that the Harbor Department was required to submit the permit to the Board. However, while RP 10-05 pertains to track subject to the Board's jurisdiction, the Harbor Department was not required to submit the permit to the Board, as SPPHU suggests. (SPPHU Pet. 1.)

For these reasons, SPPHU's request for a declaratory order is denied.

It is ordered:

1. SPPHU's petition for declaratory order is denied.

⁹ SPPHU describes the track at issue as a "rail spur line." The relevant permits also refer to the track at issue as an "industrial rail spur track." However, Rancho contends that the Track is a line of railroad subject to entry and exit licensing under 49 U.S.C. § § 10901 and 10903, as opposed to excepted spur track under 49 U.S.C. § 10906, by virtue of the Board's having authorized PHL to operate over the Track. (Rancho Reply 2-5, Nov. 21, 2016.) The Board has jurisdiction over both railroad lines subject to Board licensing and excepted spur track. 49 U.S.C. § 10501(b)(2). Thus, federal preemption applies regardless of whether the track at issue is a line of railroad or a spur under § 10906.

¹⁰ This does not leave the transport of hazardous materials over the Track unregulated. Other federal agencies, including the Federal Railroad Administration, the Transportation Security Administration, and the Pipeline and Hazardous Materials Safety Administration, have statutory responsibilities to regulate the transportation of hazardous materials by rail, and that regulation typically applies notwithstanding § 10501(b) preemption. See Tyrrell v. Norfolk S. Ry., 248 F.3d at 523; Canadian Nat'l Ry.—Control—EJ&E W. Co., FD 35087 (Sub-No. 8), slip op. at 7 (STB served May 15, 2015).

2. This decision is effective on the date of service.

By the Board, Board Members Begeman, Elliott, and Miller.



THE LOS ANGELES FIRE DEPARTMENT

CALARP PROGRAM FACILITY INSPECTIONS

Facility Name	Last Inspection	Outstanding Violation	Last Updated
Air Liquide Industrial U.S. LP	12/14/2016	YES	12/16/2016
Air Products & Chemicals INC	9/27/2016	NO	9/27/2016
Anheuser-Busch INC	5/24/2016	NO	9/14/2016
Arctic Glacier USA Inc.	3/3/2016	NO	10/6/2016
Aryzta/La Brea Bakery	1/17/2017	YES	2/17/2017
City of LA - Hyperion Treatment	3/10/2016	NO	3/10/2016
Dixon Hardchrome	3/22/2016	NO	11/9/2016
Glacier Cold Storage	9/29/2016	YES	9/29/2016
Harbor Cogeneration Company LLC	4/21/2016	NO	11/4/2016
Huntsman Advanced Materials America	10/20/2016	NO	10/20/2016
ICPK/HPP Food Service	11/15/2016	YES	11/15/2016
JCI Jones Chemicals INC Western Div.	9/20/2016	NO	1/12/2017
Kings Hawaiian Bakery West	7/10/2018	YES	11/6/2018
Konoike Pacific California	7/25/2018	NO	11/6/2018
Konoike-E Street INC	7/11/2018	YES	11/6/2018
LA DWP - Aqueduct Filtration Plant	10/1/2018	NO	11/6/2018
LA DWP - Enino Reservoir/Chlorine	12/8/2016	NO	12/8/2016
LA DWP - Green Verdugo Chlorination	12/15/2016	NO	12/15/2016
LA DWP - Harbor Generating Station	9/8/2016	NO	10/25/2016
LA DWP - Manhattan Pump Station	5/16/2017	NO	11/6/2018
LA DWP - North Hollywood Chlorine S	5/3/2016	NO	5/3/2016
LA DWP - Santa Ynez Reservoir	5/18/2017	NO	11/6/2018
LA DWP - Scattergood Generating STA	10/4/2016	NO	10/4/2016
LA DWP - Stone Canyon Chlorination	12/5/2017	NO	12/5/2017
LA DWP - Tujunga Well Field Pumping	11/17/2016	NO	11/17/2016
LA DWP - Valley Generating Station	10/18/2016	NO	10/18/2016
Los Angeles Cold Storage Co.	12/13/2016	YES	1/3/2017
Los Angeles Refinery Wilmington PLT	2/11/2016	NO	2/11/2016
MWD - Jensen Facility	8/23/2016	NO	9/22/2016
Preferred Freezer Services	5/31/2018	YES	11/6/2018
Rancho Cold Storage	3/6/2018	NO	3/6/2018
Rancho LPG Holdings LLC	7/11/2017	NO	7/11/2017
Reyes Coca-Cola Bottling	4/13/2016	NO	11/6/2018
Shine Food INC	7/13/2017	NO	7/13/2017
Showa Marine	6/30/2016	NO	10/25/2016
Southern California Ice	7/7/2016	NO	10/21/2016
Spectolab INC	4/12/2016	NO	10/21/2016
Synear Foods USA	9/13/2017	NO	9/13/2017
Tesoro Refining and Marketing Co.	7/12/2016	NO	7/12/2016
Tri-Marine Fish Company	5/24/2018	YES	11/6/2018
Valero Asphalt Plant	9/12/2017	NO	9/12/2017
Valero Wilmington Refinery	9/15/2016	NO	9/15/2016

This page provides the most recent CalARP Program inspection date and inspection results for CalARP Program only, for each facility, performed by LAFD CUPA. The page does not include other agencies or other programs inspection results. To request additional CalARP public information data for LAFD, please refer to the following [Fact Sheet: RMP - Public Review Process and Public Access to Information](#) or send email to: LAFDCalARP@lacity.org

Within 15 calendar days after the RMP is accepted as complete it is submitted for formal public review and comment. The public shall have 45 calendar days to comment following the publication date of the notice. LAFD CUPA shall take the public comments into consideration during the evaluation review that follows the public review period.

DATE: MAY 31, 2012

PAGE 6 OF 6

SUBJECT: STAFF RESPONSE TO PCAC RECOMMENDATION NO. 110

CITY ATTORNEY:

The City Attorney's Office finds that the Harbor Department has contractual authority to terminate RP No. 10-05 pursuant to paragraph 3 of RP No. 10-05. Termination of RP No. 10-05 would result in a loss of insurance, indemnification, and rents to the Harbor Department that are provided under RP No. 10-05. Moreover, termination of RP No. 10-05 would not terminate rail service to Rancho as such service would continue to be provided by PHL pursuant to the San Pedro Bay Harbor Rail Operating Permit (Permit No. 1989). The City Attorney's Office has reviewed and analyzed the relevant legal authorities and has found that the Harbor Department is not authorized to abandon or discontinue the railroad spur track that is the subject of RP No. 10-05. Abandonment or discontinuance of the railroad spur track that serves Rancho requires the approval of the STB, which has exclusive jurisdiction over such matters.

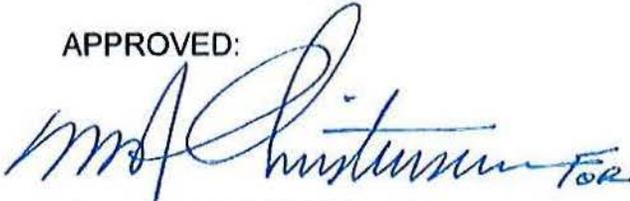
TRANSMITTALS:

1. Rancho Facility Site Map
2. RP No. 10-05
3. PCAC Recommendation No. 110

MJJ

fa/DAVID L. MATHEWSON
Director of Planning & Economic Development

APPROVED:



GERDINE KNATZ, Ph.D.
Executive Director

FIS Approval: (initials)

CA Approval: DL (initials)



KATHRYN McDERMOTT
Deputy Executive Director

Author: J. Ruddell

Kit Fox

From: Janet Gunter <arriane5@aol.com>
Sent: Monday, October 14, 2013 1:59 PM
To: wesling.mary@epamail.epa.gov; dan.tilema@csb.gov; helmlinger.andrew@epa.gov; don.holmstrom@csb.gov; Beth.Rosenberg@csb.gov; Rafael.Moure-Eraso@csb.gov; Mark.Griffon@csb.gov; lisa.pinto@mail.house.gov; elise.swanson@mail.house.gov; Kit Fox; chateau4us@att.net; sally.magnani@doj.ca.gov; rob.wilcox@lacity.org; maurice_lyles@boxer.senate.gov; michael_davies@feinstein.senate.gov; blumenfeld.jared@epa.gov
Subject: Fwd: Response from Prof. Heaton at Cal Tech re: LA Times article Seismic building collapse&RanchoLPG

For your immediate attention! Do you think the Professor's concern should be any less now that the tanks and infrastructure are over 40 years old?

-----Original Message-----

From: Heaton, Thomas H. <heaton@caltech.edu>
To: Janet Gunter <arriane5@aol.com>
Sent: Mon, Oct 14, 2013 11:11 am
Subject: RE: Massive Explosive Butane Tanks sitting in actual Rupture Zone of Palos Verdes Fault

Janet,

Earlier in my career I did some work about the hazards from liquefied gas tanks in San Pedro. If my memory serves me correct, these tanks were owned by Petrolane; perhaps, they are the same tanks you mentioned. I don't remember the details of my analysis, but I came away with the impression that failure of these tanks would indeed be truly catastrophic. My recollection was that I was concerned about potential sloshing of the liquefied gas. There was a double-wall Dewar configuration to the tank. If the fluid sloshed over the top of the inner tank it would contact the outer tank wall which could cause fracture because of the extremely low temperatures. Of course, that was more than 30 years ago and I have not had occasion to revisit this problem.

Tom Heaton

Thomas Heaton
Prof. of Engineering Seismology
Director of the Earthquake Engineering Research Laboratory
California Institute of Technology
626 395 4232
heaton@caltech.edu
<http://heaton.caltech.edu/>

From: Janet Gunter [<mailto:arriane5@aol.com>]
Sent: Monday, October 14, 2013 10:05
To: Heaton, Thomas H.
Subject: Massive Explosive Butane Tanks sitting in actual Rupture Zone of Palos Verdes Fault

Hello Professor-

Thank you so much for your recent study of the concrete buildings and the warning of their seismic risk. My name is Janet Gunter, and I am with a homeowners group in San Pedro that has been fighting for decades to remove an ultra hazardous facility that poses an enormous threat in multiple ways. Please see the attached LA Times articles that reflect grave concern from almost 40 years ago. On every level this threat has gotten only worse with time. It is a miracle that we have escaped catastrophe. I do not suspect that our luck will last forever. The two 12.5 MILLION GALLON butane gas tanks were built in 1972-73 to a seismic sub-standard of 5.5-6.0 on a Fault with a magnitude of 7.3. This facility (now owned by Rancho LPG) circumvented proper permitting process due to the fact that it was being promoted by Richard Nixon for his close friend and supporter, RJ Munzer (owner). This thing NEVER should have been built in that

documented "Earthquake Rupture Zone". My point is that while the concrete building collapse is certainly a concern of major significance.....the absence of consideration of the chemical and fuel resources located in such geologically sensitive areas such as this one...make our earthquake safety analysis incredibly deficient. An EPA worst case calculation of blast radius from a single 12.5 Million Gallon butane tank is over 3 miles. Butane gas burns so hot that it will ignite combustibles for miles and this site is surrounded by fuel storage. The cascading failure event caused from an event here would dwarf the loss of lives from collapsed buildings. Our voices on this are simply not being heard. The political aim is to avoid having to confront the powerful energy industry...but, at what cost? Please try to elevate this concern if you recognize it. It is only through professionals like yourself that we will be able to reduce these serious risks. Professor Bob Bea from UC Berkeley has reviewed some of the details of this facility and has acknowledged his concern in an article in the Men's Journal from last Feb. (see final paragraph) <http://www.mensjournal.com/magazine/bob-bea-the-master-of-disaster-20130225>
It appears that even his voice on the issue has not made the impact that we had hoped. It is more than obvious that we need help. Meanwhile we are teetering on the precipice of this looming disaster that no one seems to want to prevent. It is just insane.

Thank you for reading and best of luck to you.

Best,
Janet G

Kit Fox

From: Janet Gunter <arriane5@aol.com>
Sent: Sunday, November 03, 2013 12:29 AM
To: CPC@lacity.org; councildistrict15@lacity.org; Henry.Chu@lacity.org
Cc: lisa.pinto@mail.house.gov; elise.swanson@mail.house.gov;
maurice.lyles@boxer.senate.gov; michael_davies@feinstein.senate.gov;
richard.vladovic@lausd.net; rob.wilcox@lacity.org; MrEnvirlaw@sbcglobal.net;
noelweiss@ca.rr.com; sally.magnani@doj.ca.gov
Subject: PONTE VISTA HOUSING PROJECT....NO MORE HOUSING UNTIL EXPLOSIVE FACILITY REMOVED!
Attachments: la_times_apr4_1977.pdf; la_times_jul16_1977.pdf; Amerigas_la_city_council_action_05.doc; AmerigasMotionbyJaniceHahn.doc; rancho_rail_accident_photo.jpg; waxman_press_release_aug_1_2013.doc; 07.31.13_LIEU_to_SFM_Hoover_(1).pdf; 7_10_13_Rancho_EPA_Letter.pdf

TO WHOM IT MAY CONCERN....AND HOPEFULLY THERE IS "SOMEONE" THAT IT DOES CONCERN!

Any **notion** that it is "okay" to bring even 1 single additional resident into the North end of San Pedro while the extremely hazardous Rancho LPG facility is still operating.. is highly reckless and simply irresponsible!

Attached are two past Motions that were introduced by LA City Council members that clearly illustrate and confirm the **complete understanding by LA City** that this facility (operating at the time under the name of "Amerigas") is not only "inappropriate" in place, but, obviously "unsafe" to the existing residents of the San Pedro community. The proposed housing project at Ponte Vista, is aimed at introducing an **additional several hundred homes and thousands of additional residents**, at a site that is less than 1/4 mile (as the crow flies) from the grounds of the Rancho LPG facility. City Officials and agencies with jurisdiction over this development should be reprimanded for even **considering** this project in lieu of the dangers that are ever present from the high risk exposure posed by this massive 25 MILLION GALLON LIQUID PETROLEUM GAS facility! **NO FURTHER RESIDENTIAL HOUSING PROJECTS IN THIS LOCATION SHOULD BE INTRODUCED AT ALL WHILE THIS FACILITY IS STILL FUNCTIONING! IT IS INCONCEIVABLE THAT MORE POTENTIAL INNOCENT VICTIMS WOULD BE ENCOURAGED TO MOVE INTO THIS BLAST ZONE!**

The recent explosions in Florida from the "Blue Rhino LPG" facility caused a 1 mile evacuation of their sparse population. Because LPG fires cannot be extinguished with water or retardants, the fire caused them to wait 2 1/2 days for it to "burn itself out." The volume of gas involved in that disaster was approximately 1% of the volume of liquid energy gas stored at Rancho LPG.

Enclosed also are two archived articles from the LA Times in 1977 that exposed the City of LA's willingness during the early 1970's to exempt the LPG facility (operating under the name of Petrolane LPG at that time) from LA City Fire Regulations, CEQA, a proper public process, and allowed to use a fragmented permitting process. We have recently discovered that all of this was due to the influence of the Nixon White House whose close friend and campaign supporter, RJ Munzer, was owner of Petrolane LPG at that time.

The two largest Butane tanks at Rancho LPG sit in a LA Planning Department documented "Earthquake Rupture Zone", on land designated by USGS as "Landslide" and "Liquefaction" areas. The *active* Palos Verdes Fault (per Dr. Kate Hutton @ Cal Tech) that the tanks are sitting on has a magnitude of 7.3 while the tanks holding the ultra-hazardous gas were built *without* LA City Building Permits to **seismic sub-standard of 5.5-6.0!** Using an EPA calculation for worst case scenario....the two tanks alone (there are 5 other smaller LPG tanks) have a blast radius of over **6 miles!** That radius does NOT take into consideration the "cascading failure event" potential that is guaranteed since these tanks sit directly next to a major oil refinery, across the street from the Naval Fuel Depot (housing massive amounts of jet propellants), above a hornet's nest of chemical and fuel pipelines, and within 1/2 mile of several marine oil terminals at the Port of LA. Attached is a photo of a Rancho LPG railcar accident from a year ago that miraculously escaped devastating results. But, how much longer will that luck last?

As witnessed by the recent LAX deadly attack this past Friday, "Terrorism" and acts of violence are facing a significant rise. The tantalizing opportunity for terrorism at this facility is extraordinary. The tanks of this facility could be easily penetrated by any rifle or rocket launched grenade and produce overwhelming death and destruction. The Ports of LA and Long Beach rank high on the list of terrorism targets. Both of these ports could be easily decimated by an attack on the LPG tanks. Enclosed also in this email are recent letters from Congressman Waxman to Homeland Security regarding this facility, as well as letters from Congresswoman Hahn and Senator Lieu to other officials with

jurisdiction. Clearly, the jeopardy is extremely high and the *nerve* to contemplate additional population to this area at this time is **unfathomable**. No one should even be discussing it!

Until, and unless this major threat is removed there should be no further movement toward the creation of any additional housing. Rational minds must take hold to **protect public safety!**

Our City Councilman, Joe Buscaino, ran on the campaign slogan "PUBLIC SAFETY FIRST"! That is what people want! We call upon Councilman Buscaino to honor that pledge!! PEOPLE OVER PROFITS....regardless of whether that is the oil industry or real estate developers! The Councilman's commitment is to his constituency, not to his campaign coffers. It is outrageous to realize that this project has been allowed to move this far. STOP...AND ACT TO PROTECT PEOPLE NOW...BEFORE IT IS TOO LATE!!

Janet Gunter

(310) 251-7075

CITIZENS for RESPONSIBLE and EQUAL ENVIRONMENTAL PROTECTION

July 08, 2013

Professor Bob Bea has been hired by the US government to identify the "why" of major catastrophes including Katrina, San Bruno and the Gulf. His extensive research has indicated that ALL catastrophes were "preventable". Bea's goal now is to **prevent** such tragedies from occurring.

After reviewing the details of the 25 MILLION GALLON Rancho Liquid Petroleum Gas facility in San Pedro, Bea has expressed his concerns about the extraordinary risk exposure and potential for a cascading failure event at Rancho. This is due to the **multitude** of adjacent fuel resources surrounding this highly explosive and voluminous gas storage site.

Cornerstone Technologies provided a risk analysis that gives a 6.8 mile radius of impact from a worst case scenario at Rancho LPG. That analysis doesn't even acknowledge the cascading potential feared by Professor Bea.

The map on the reverse shows how wide a range could be affected by a rupture and resulting blast from the 40 years old Rancho tanks. There are a multiple of opportunities for catastrophe from this facility stemming from antiquated infrastructure, human error, terrorism or earthquake. The tanks sit in a *LA City Planning* documented "**Earthquake Rupture Zone**" (Palos Verdes Fault mag. 7.3) in tanks built to a seismic sub-standard of 5.5 to 6.0.

The 6.8 mile radius of impact (See Map) includes San Pedro, the entire Palos Verdes Peninsula, Rolling Hills, Lomita, Wilmington, Torrance, Carson and Long Beach.

Rancho has refused to share its insurance information with the Rancho Palos Verdes City Council calling it "proprietary information" and no "**comprehensive**" risk analysis has ever been performed.

The facility was sent a letter of cause by the EPA on violations issued in 2010 and 2011. The date for compliance was April 15, 2013. As of July 1, these demands have not been complied with.

The explosions, fires, death and destruction endured by West, TX, Louisiana, San Bruno, the Gulf and even Fukushima gave no previous warning to those affected by it. We have the enviable advantage of having received a formal warning. AND, that warning comes from an authority whose credentials are beyond reproach. What more do we need?
Let's do something NOW....while we still can!

For more info: www.hazardsbegone.com
Contact: Janet Gunter (310) 251-7075

Contact your own City Council, and public officials demanding elimination of this threat!

Senator Boxer(213) 894-5000	Senator Feinstein: (310) 914-7300
Congressman Waxman (310) 321-7664	Congressmember Hahn (310) 831-1799
Senator Ted Lieu (310) 318-6994	Senator Rod Wright (310) 412-0393
Assembly Muratsuchi (310) 316-2164	Assembly: Lowenthal (562) 495-2915
LA Mayor Carcetti (213) 978-0600	LA Councilman Buscaino (310) 732-4515



NORTHWEST SAN PEDRO NEIGHBORHOOD COUNCIL

Green COMMITTEE REPORT

Meeting Held at Peck Park Computer Room on Tuesday, November 25th, 2014

Committee Member Attendees: Sarah Valdez, Darlene Zavalney, Laurie Jacobs, Alexis Gelch

Non-Committee Member Attendees: Joseph Baroud, Daisy Zaarour, Janet Gunter, Jim

Montgomery, Joe Zaarour, Leah Hernandez

Committee Members not in attendance: N/A

Agenda Item 1: Discuss possible resolution in support of the GMO-Free LA motion proposed by City Council members O'Farrell and Koretz

Jim Montgomery from LabelGMOs.org attended our meeting. Jim discussed what Genetically Modified Organisms (GMO's) are, and what his organization is doing to stop them or at least have them labeled. He discussed the recent LA City ordinance proposed by Council members O'Farrel and Koretz. He discussed the importance of submitting a motion of support from our neighborhood council, and the pertinent timeline for doing so. The City Council is scheduled to vote on the matter on Tuesday, December 9th. Joe Buscaino is currently in China. We discussed the possibility of inquiring about his support, through Jacob or Ryan. Laurie Jacobs asked Jim, "Will this ordinance affect the price of food in the city?" The answer is a resounding, "No." The ordinance aims to ban the growth of GMO foods in LA City—mainstream groceries grown outside of the city would not be affected. *Laurie made a motion that the Northwest San Pedro Neighborhood Council should support the proposed city ordinance that aims to regulate the propagation, cultivation, raising, growth, and sale of genetically modified organisms in Los Angeles. Darlene seconded the motion. All Green Committee members voted in favor of the motion. We then decided that information regarding Genetically Modified Organisms should be added to the next NWSPNC newsletter. The committee also decided that it would be beneficial to send our resolution to Joe's office, when we inquire further regarding his support (or lack thereof) on the issue. Jim mentioned that he would be happy to attend the next Board meeting to be held on December 8th. If he is unable to attend, then he will have another colleague attend in his place.*

Agenda Item 2: Discuss next action steps regarding Rancho LPG. The Rancho LPG storage tanks pose a high risk to the community and should be moved away from our neighborhoods.

A sign-in sheet was passed around, and general attendee introductions were made. Janet Gunter mentioned that she'd like to be added as an official Green Committee member! Janet Gunter has been a long time activist on the issue of the Rancho LPG tanks in San Pedro. We asked her to come and give some general information about the issue, and to discuss what next action steps can be taken by the Green Committee and the NWSPNC. *Janet claims that local neighborhood councils have not taken an aggressive stand on Rancho LPG. A recent private risk analysis estimates a 10-mile blast radius. This is versus the 0.5 blast radius reported by Rancho LPG officials. Rancho LPG is the largest storage tank in the country located within this dense of a population. Rancho LPG tanks exist out of exemption and were never "grandfathered in." Port of LA granted use of rail to Rancho for \$1400/month with \$1 million insurance. That's nothing! What can the NWSPNC do? We can write letters to the figures*

involved—our leaders need to answer questions about liability (e.g. mayor, lands commission, homeland security, Janice Hahn). Laurie suggested that the presidents of the San Pedro and Wilmington Neighborhood Councils should gather, educate, and mobilize.

Agenda Item 3: Discuss possible motion to purchase reusable water bottles for the purpose of outreach at Board meetings, as well as for the purpose of mitigating the amount of single-use plastic water bottles used at Board meetings.

This item was rescheduled for the next Green Committee meeting, due to time constraints.

Agenda Item 4: Discuss possible greening/community improvement project on section of land that divides Western Avenue, between Summerland Avenue and West Crestwood Street

This item was rescheduled for the next Green Committee meeting, due to time constraints.

Agenda Item 5: Public comment

Joseph Baroud of the Random Lengths attended our meeting. He let us know to contact him should we ever be interested in Random Lengths coverage, etc.

New business

Contact President Ray Regalado, and discuss next action steps that should be taken to convene our local Neighborhood Councils about the Rancho LPG issue. Use our youth membership to mobilize and educate family and peers regarding the Rancho LPG issue.

Announcements & Next Meeting Date

Next meeting to be held on *Tuesday, December 16th*, from *6:00-7:30 pm*, located at the Peck Park Community Center Computer Room.

STAFF REPORT NO. 80 (CONT'D)

Compliance

The Los Angeles Certified Unified Program Agency (CUPA) for the Rancho LPG facility is the City of Los Angeles Fire Department. The CUPA permits the facility for the California Accidental Release Prevention Program, Hazardous Waste, and Hazardous Material. According to the CUPA, the facility is inspected every 3 years. According to the CUPA, an inspection was scheduled for July 11, 2017. However, the results from this inspection are not yet public. There were no violations recorded from the previous inspection on August 5, 2017.

In 2014, when this issue was last brought to the Commission's attention, the U.S. Environmental Protection Agency had recently completed a review of the facility. At that time, the U.S. Environmental Protection Agency had found several violations and fined Rancho LPG \$260,000. After making approximately \$7 million in improvements to the facility, EPA found that Rancho LPG cured the violations. EPA staff is not aware of any new or current violations.

As part of a risk management program, Rancho LPG is required to submit an Offsite Consequence Area determination or "OCA" which must be calculated based on federal regulations to show the area around the facility that would be impacted in the event of an accidental chemical release, before the chemical dissipated. This calculation is used to determine what schools should be notified and which emergency response agencies Rancho LPG should coordinate with in responding to incidents. In May 2016, the U.S. Environmental Protection Agency received a petition from community members requesting a re-examination of the risks associated with the Rancho LPG facility requiring Rancho LPG's parent company to resubmit Rancho LPG's OCA, colloquially referred to as its "blast radius".¹⁴ EPA staff have confirmed that it has completed review of this petition and has confirmed that Rancho LPG's OCA or blast radius was accurately calculated at approximately .5 miles, according to governing federal regulations. EPA staff noted that the Rancho LPG facility's OCA is reduced due to the presence of a passive mitigation system, in the form of a large pit, that would collect most of the butane in the event one of the larger tanks failed. EPA staff also noted that the facility is safer than many other butane storage facilities because the butane is refrigerated and is not stored under pressure. Staff has not been able to locate information estimating a blast radius for a rail car carrying this type of product in this location.

Risk Management/Insurance/Liability

California's major ports typically have risk management departments that handle insurance requirements for transporting hazardous materials. For example, the Port of

¹⁴ <https://www.epa.gov/aboutepa/plainsrancho-lpg-facility-rulemaking-petition-and-attachments>

115TH CONGRESS
2D SESSION

H. R. 6489

To direct the Secretary of Transportation to establish a grant program for the relocation of certain petroleum storage facilities, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 24, 2018

Ms. BARRAGÁN introduced the following bill; which was referred to the Committee on Transportation and Infrastructure, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To direct the Secretary of Transportation to establish a grant program for the relocation of certain petroleum storage facilities, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Safe LPG Storage Act
5 of 2018”.

6 **SEC. 2. LPG STORAGE FACILITIES RELOCATION PROGRAM.**

7 (a) **ESTABLISHMENT.**—Not later than 90 days after
8 the date of enactment of this Act, the Secretary of Trans-

1 portation shall establish a program (in this section re-
2 ferred to as the “Program”) under which the Secretary
3 may award grants to covered entities for the relocation
4 of qualifying LPG storage facilities.

5 (b) APPLICATIONS.—To be eligible for a grant under
6 the Program, a covered entity shall submit to the Sec-
7 retary an application at such time, in such form, and con-
8 taining such information as the Secretary may require.

9 (c) GRANT USES.—Grant amounts awarded under
10 the Program may only be used for activities related to the
11 relocation of a qualifying LPG storage facility.

12 (d) CONSIDERATIONS.—In selecting a covered entity
13 to receive a grant under the Program, the Secretary shall
14 consider the proximity of the applicable qualifying LPG
15 storage facility to—

- 16 (1) populated areas, homes, and schools; and
17 (2) communities that are disproportionately im-
18 pacted by environmental burdens.

19 (e) FEDERAL SHARE.—The Federal share of the cost
20 of an activity assisted with a grant awarded under the
21 Program may not exceed 50 percent.

22 (f) AUTHORIZATION OF APPROPRIATIONS.—There is
23 authorized to be appropriated \$500,000,000 to carry out
24 the Program.

1 (g) DEFINITIONS.—In this section, the following defi-
2 nitions apply:

3 (1) COVERED ENTITY.—The term “covered en-
4 tity” means—

5 (A) a State, local, or Tribal government
6 (including any political subdivision thereof);

7 (B) a special purpose district or public au-
8 thority, including a port authority;

9 (C) a group of entities described in sub-
10 paragraph (A) or (B); or

11 (D) an owner or operator of a qualifying
12 LPG storage facility.

13 (2) QUALIFYING LPG STORAGE FACILITY.—The
14 term “qualifying LPG storage facility” means a
15 land-based facility for the storage of liquefied petro-
16 leum gas that is located within 5 miles of a popu-
17 lated area, home, or school.

○



DEPARTMENT OF FORESTRY AND FIRE PROTECTION
OFFICE OF THE STATE FIRE MARSHAL

P.O. Box 944246
SACRAMENTO, CA 94244-2460
(916) 445-8200
Website: www.fire.ca.gov



February 3, 2014

The Honorable Ted W. Lieu
Senator, Twenty Eighth Senate District
State Capitol, Room 4061
Sacramento, California 95814

Re: Clarification of Jurisdictional Authority for Rancho Liquefied Propane Gas (LPG)
Holdings LLC. Facility

Dear Senator Lieu:

Thank you for your inquiry requesting additional clarification on the jurisdictional authority of the Department of Forestry and Fire Protection's (CAL FIRE's) Office of the State Fire Marshal (OSFM) in regards to the Rancho LPG Holdings LLC. facility located at 2110 North Gaffey Street in San Pedro, California.

The OSFM's Pipeline Safety Division previously had a portion of regulatory jurisdiction at the Rancho LPG facility dating back to 1985. The former owners (Petrolane and Amerigas) operated two pipelines from this facility to the Port of Los Angeles. These lines were taken out of service in 2008, at which point the OSFM ceased regulatory jurisdiction since the facility no longer used these pipelines.

Subsequently, the OSFM learned that some of the tanks at the facility were being used for remote storage for a BP refinery (now Tesoro). Liquid Butane was being shipped back and forth from the BP refinery to the Rancho LPG facility through a Valero pipeline. The OSFM determined, after reviewing federal interpretations of jurisdiction for breakout tanks, discussions with the operator, and a field visit in 2011, that these butane pipeline systems, vessels, and tanks at the Rancho LPG facility are under the regulatory responsibility of the OSFM. Specifically, the OSFM is responsible for inspecting Butane Tanks 1 and 2, and vessels V-1 and V-C2. An inspection of these systems was conducted by the OSFM in March 2012. No safety issues or violations were found. It is our understanding that the remainder of the facility is under the regulatory jurisdiction of the Los Angeles Fire Department.

If you have any additional questions, please contact CAL FIRE's Deputy Director for Legislation, Caroline Godkin, at (916) 653-5333 or caroline.godkin@fire.ca.gov.

Sincerely,

TONYA L. HOOVER
State Fire Marshal

"The Department of Forestry and Fire Protection serves and safeguards the people and protects the property and resources of California."

CALIFORNIA

Earthquake fault long thought dormant could devastate Los Angeles, researchers say



Los Angeles Times



Container ships and cranes at the Port of Los Angeles in San Pedro. (Los Angeles Times)

By DEBORAH NETBURN
STAFF WRITER

AUG. 31, 2019
9:42 AM

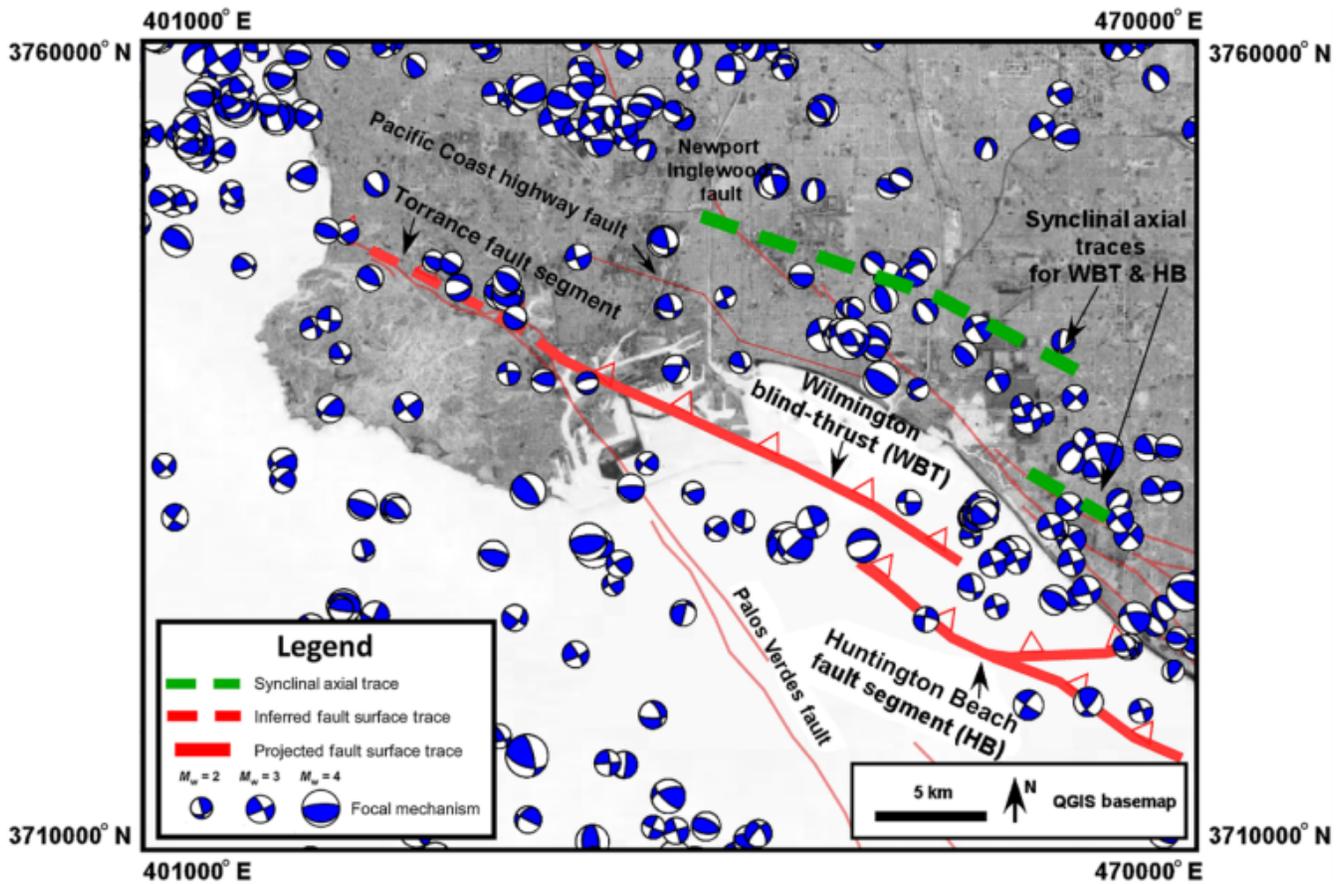


Scientists citing new research say an earthquake fault along the Los Angeles coast, previously believed to be dormant, is active and could cause a destructive 6.4 magnitude earthquake if it ruptured.

And if it linked with other faults, it could trigger an earthquake in the magnitude 7 range, according to a team of researchers from Harvard, USC and the U.S. Geological Survey.

The fault, known as the Wilmington Blind-Thrust fault, stretches for about 12.5 miles, running northwest from Huntington Beach, directly beneath the Los Angeles and Long Beach harbors, past the east side of the Palos Verdes Peninsula and out toward Santa Monica Bay.

Researchers have known for decades that the fault existed, but it was long thought to be dormant and therefore of no concern for the residents of Los Angeles.



Map of Wilmington Fault (U.S. Geological Survey)

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However, a new report, led by Franklin Wolfe, a doctoral student in the structural modeling and earth resources group at Harvard, has found that the Wilmington Blind Thrust Fault is in fact alive and kicking and could affect the overlying parts of Los Angeles and Long Beach.

“It doesn’t rupture frequently, but it’s like a sleeping giant beneath the harbor, ” Wolfe said. “Just because it’s slow, doesn’t mean it’s not dangerous.”

A blind-thrust fault is so named because the fault itself doesn’t reach the surface of the Earth. There are no hills, cracks or breaks to indicate its existence.

Scientists knew the Wilmington fault was there because it sits below the Wilmington Oil Fields and data collected by the oil industry revealed folding in deep layers of rock that indicated the existence of a fault. However, the tell-tale folding of the rock did not appear to extend to more shallow layers of earth. Therefore, the data suggested that the fault had gone dormant at least 2 million years ago.



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It’s all about the kids

By UNICEF USA

Just who is UNICEF helping, exactly? See their faces and learn the facts.

Then, about 10 years ago, a scientist at the USGS who was studying the architecture of groundwater reservoirs discovered that, in fact, there did appear to be some folding in the rock in more shallow layers than the oil industry researchers would have looked at.

Further research revealed that he was right. The folding in both the deep rock and the very shallow rock appeared to be caused by the same fault. That meant the Wilmington fault was still active.



Wolfe said that the fault is very slow moving and could be expected to rupture sometime in the next 3,000 to 5,000 years.

“It makes you wonder how many other faults are in California that are not detected and slow moving,” Wolfe said. “The San Andreas fault is the most noteworthy, but many other of faults in California capable of generating damage.”

The Wilmington fault runs near another notorious fault, the Newport-Inglewood.

That fault unleashed the 1933 Long Beach earthquake, which killed 120 people and prompted some of the state’s first seismic building regulations.

The Newport-Inglewood has long been considered one of Southern California’s top seismic danger zones because it runs under some of the region’s most densely populated areas, from the Westside of Los Angeles to the Orange County coast.

Research published [in 2017 found](#) the fault may be even more dangerous than experts had believed, capable of producing more frequent destructive temblors than previously suggested by scientists.

MORE ON EARTHQUAKES
