UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
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February 14, 2022

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

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

Dear Eric Jolliffe:

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

NEPA/CEQA Integration

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

guidance (NEPA and CEQA: Integrating Federal and State Environmental Reviews (2014). [1]

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

The Draft EA states that the Tentatively Selected Plan would increase the efficiency of ships entering/leaving the Oakland Harbor; therefore the EPA encourages USACE to work with the Port of Oakland to analyze and disclose how the resulting container movement efficiencies would influence the timing, scope, and location of port and freight throughput operations, and also impact local and regional air quality. Identifying all available construction and operational emissions reduction strategies and reducing emissions from the construction and widening activities, as well as from changes to port operations, is critical for protecting the health of the neighboring Oakland communities and the region. Given that the Inner Harbor widening results in greater impacts across multiple resources, the EPA also strongly recommends USACE update the analysis and disclosure of the potential impacts of an Outer Harbor Only Alternative that integrates electric dredge commitments, and present this option, and all alternatives, in a summary table with a discussion of how an Outer Harbor Only Alternative with electric dredge may meet project goals.

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

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

The EPA appreciates the opportunity to review this Draft EA. When the Final EA is released for public review, please notify Andy Zellinger, and make an electronic copy available. If you have any questions,

[1]NEPA and CEQA: Integrating Federal and State Environmental Reviews
https://opr.ca.gov/docs/NEPA_CEQA_Handbook_Feb2014.pdf

please contact me at (415) 947-4167, or contact Andy Zellinger, the lead reviewer for this project, at 415-972-3093 or zellinger.andrew@epa.gov.

Sincerely,

CONNELL DUNNING

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

for Jean Prijatel
Manager, Environmental Review Branch

Enclosures: EPA Detailed Comments

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

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EPA DETAILED COMMENTS ON THE DRAFT INTEGRATED FEASIBLITY REPORT AND ENVIRONMENTAL ASSESSMENT FOR THE OAKLAND HARBOR TURNING BASINS WIDENING NAVIGATION STUDY ALAMEDA COUNTY, CALIFORNIA—FEBRUARY 14, 2022

Synchronizing NEPA and CEQA

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

Recommendation:

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

Air Quality

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

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

[2]NEPA and CEQA: Integrating Federal and State Environmental Reviews https://opr.ca.gov/docs/NEPA_CEQA_Handbook_Feb2014.pdf

Recommendations:

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

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

Recommendations:

- Describe how USACE and the Port would monitor and enforce construction truck haul routes as part of the Truck Management Plan.
- In addition to the current features of the Truck Management Plan, include commitments to avoid designating truck routes in and near residential areas and other sensitive land uses.
- Consider deploying electric support equipment and electric haul trucks or best available control technologies to minimize tailpipe emission from truck activity associated with the project.
- Describe in the next environmental document the types of impacts that may result to the neighboring communities and any additional mitigation measures that may further reduce impacts to potentially affected communities.

Section 6.10 of the Draft EA analyzes air quality impacts including air emissions calculations from construction schedule and phasing, proposed construction equipment lists, activity levels, and worker and construction truck trips by phase. However, air emissions calculations in the Draft EA lack an analysis of emissions from vessel operations from the Proposed Action compared to the No Action alternative. According to the Draft EA, expansion of the Inner and Outer Harbor Turning Basins would provide beneficial effects by improving operational efficiency and allow larger vessels to serve the Port (by providing appropriately sized turning basins) but would not increase overall vessel traffic (p. 176). Other environmental impacts such as underwater noise from an active turning event for a large container

vessel (*One Aquila*) with three assist tugboats were analyzed in order to understand adverse/beneficial impacts from continued tug-based operations versus a future of vessels being able to turn in the Inner Harbor; however, air quality emissions from this type of turning event were not included in the Draft EA (p. 145). We note that Page 17 of the Draft EA describes current navigational limitations for large vessels calling at the Port of Oakland, including the requirement to back out of berth with multiple tugs and turn outside the Inner Harbor Channel. It further notes that these limitations have been adopted as standard practice for the pilots when handling PPX Gen IV vessels at the Port since 2016, including the four calls that occurred in 2020. The baseline emissions from these four calls may offer insight in predicting what actual air quality benefits may be realized when comparing current operations with what impacts are anticipated if larger vessels are able to turn around inside Inner Harbor.

Recommendations:

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

Revised Outer Harbor Only Alternative with Electric Dredge

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

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

Recommendations:

- Analyze the impacts from a design option for Alternative C – Outer Harbor Only – that includes

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

use of electric dredge for construction and present the impacts in a revised summary table so that the decisionmaker and the public can compare the relative impacts and benefits.

- Confirm if this revised Alternative C with electric dredge adequately meets objectives of improving the efficiency of operations of containerships within Oakland Harbor and allowing for more efficient use of containerships. Clarify the relative difference in impacts between Alternative D-2 and the revised Alternative C with electric dredge.

Environmental Justice and Civil Rights Act

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

Community Engagement

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

Recommendations:

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

- Ensure that all project-related information and updates are conveyed using plain language so that community members can readily understand the project and its potential impacts.[4] Describe any efforts that USACE undertook to address language barriers.
- Given that the West Oakland AB617 group includes a diverse array of community representatives and other stakeholders who have deep community knowledge and desire to address disproportionate air quality impacts in the community, we continue to recommend that USACE engage with the West Oakland AB 617 Steering Committee.

Environmental Justice Analysis

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

Recommendations:

- Ensure that the study area for the environmental justice analysis captures all project-related impacts. For example, the current study area does not appear to account for transporting sediment through communities to placement sites (e.g., landfills) or from offsite port-related operational activities (e.g., rail and truck activity).
- Given the importance of cumulative impacts within an environmental justice analysis, provide additional information on other past, current, and planned activities that contribute to pollution near the project area. Confirm whether the project would result in significant adverse impacts to nearby communities when considering these past, current, and planned activities. Consider cumulative impacts of highways and other sources of pollution in the port and areas surrounding the port.
- In addition to the summary of community outreach and feedback included on page 207 of the Draft EA, provide additional details on the community outreach that was undertaken, including the number of community meetings held, approaches that were taken to promote awareness of the meetings, and a description of meeting participants.
- For additional suggestions for strengthening the project's environmental justice analysis, we recommend that USACE consider the Federal Interagency Working Group on Environmental Justice's *Promising Practices for EJ Methodologies in NEPA Reviews.*[5] The EPA is available to coordinate with USACE regarding the EJ analysis for this project. Please contact Morgan Capilla, Environmental Justice Coordinator, at 415-972-3504 or capilla.morgan@epa.gov with any questions.

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

[4] For resources on plain language, see: https://www.plainlanguage.gov/

[5] Available at: https://www.epa.gov/sites/default/files/2016-08/documents/nepa_promising_practices_document_2016.pdf

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

Recommendation:

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

Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d
As the NEPA lead agency, the EPA recommends that USACE confirm all federal commitments which are relevant for this project, including Title VI of the Civil Rights Act of 1964 and the above Executive Orders. We note that in July 2019, the EPA's External Civil Rights and Compliance Office entered into an informal resolution agreement with the City of Oakland and Port of Oakland to resolve a Title VI complaint relating to a redevelopment project at the Port. That resolution agreement required, in part, that the City of Oakland and Port of Oakland submit for EPA approval a robust public engagement plan for the redevelopment project. The EPA and the Port of Oakland continue to review the project-specific public engagement plan to ensure that the community of West Oakland's concerns are addressed.

Recommendations:

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

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

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

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

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

Recommendations:

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

Integration with other Planned Projects

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

Recommendations:

- In the next environmental document, include how the footprint of the Oakland Turning Basins project would impact both the footprint of the existing uses of Howard terminal (such as goods movement staging operations) and other planned and proposed projects potentially using Howard Terminal.

- Provide clarification on how the proposed project would be integrated with other proposals for port operations, Howard Terminal and other Alameda land uses.
- Consider cumulative impacts of proposed land use projects and identify mitigation measures to reduce impacts.

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