

MINUTE ITEM

This Calendar Item No. 58 was approved as
Minute Item No. 58 by the California State Lands
Commission by a vote of 2 to 1 at its
12-9-04 meeting.

Minute Item
58

12/09/04
W26020
WP 4376
L. Burks

UNITED STATES OF AMERICA, DEPARTMENT OF THE NAVY
(ASSIGNOR); PORT OF STOCKTON (ASSIGNEE/LESSEE)

Regular Item 58: A staff presentation was made to the Commission regarding the assignment of a lease to the Port of Stockton and construction of a new bridge. The Commission amended the lease assignment and issuance of a new lease conditioned upon the establishment of a truck replacement program funded by a percentage of the Port's profits from the west complex, and directed staff to work with the Port to describe a program that: 1) is consistent with and equitable when compared to the programs of other ports and 2) has the flexibility to allow monies dedicated to the program to be spent on other air quality improvement measures that produced a greater benefit than truck replacement. The item was approved by a 2-1 vote.

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12/09/04
PRC 8589 W 26020
PRC 4376 WP4376.9
L. Burks

**ASSIGNMENT OF GENERAL LEASE - PUBLIC AGENCY PERMIT
NO. PRC 4376.9 AND ISSUANCE OF A NEW
GENERAL LEASE - PUBLIC AGENCY USE**

ASSIGNOR:

United States of America
Department of the Navy, EFA West

ASSIGNEE/LESSEE:

Port of Stockton

AREA, LAND TYPE, AND LOCATION:

0.34 acres, more or less, of tide and submerged lands in Burns Cutoff at Daggett Road, Rough and Ready Island, in the City of Stockton, San Joaquin County.

AUTHORIZED USE:

Proposed construction of a new bridge.

LEASE TERM:

25 years, beginning December 9, 2004

CONSIDERATION:

The public use and benefit; with the State reserving the right at any time to set a monetary rent if the Commission finds such action to be in the State's best interest.

OTHER PERTINENT INFORMATION:

1. This item was presented for Commission consideration at its meeting of October 6, 2004. At that meeting, testimony was received from both representatives of the Port of Stockton and the Natural Resources Defense Council (NRDC). The NRDC, along with the San Francisco law firm of Shute, Mihaly & Weinberger LLP (SMW), are representing plaintiffs in a legal challenge to the Port's Final Program Environmental Impact

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Report that was prepared and certified under the provisions of the California Environmental Quality Act (CEQA) for the Port's West Complex Development Plan.

The CEQA Guidelines provide that a responsible agency, such as the Commission in its consideration of the proposed bridge, must presume that an Environmental Impact Report approved by a lead agency is adequate, absent a court ruling to the contrary. Section 15231 states, in part, "A final EIR prepared by a lead agency ...shall be conclusively presumed to comply with CEQA for purposes of use by responsible agencies...."

In addition to the testimony received at the October meeting, NRDC and SMW submitted written information on October 4th and 5th that was included in the Commission record. Based upon the testimony given and the information received just prior to the meeting, the Commission moved the item be put over to a subsequent meeting to give staff time to analyze NRDC's and SMW's arguments as they relate to this application.

Subsequent to the meeting, staff received correspondence (dated October 22nd and November 16th) from NRDC and SMW in furtherance of their arguments that the Commission has broad discretion as a responsible agency to impose mitigation measures that the lead agency, the Port of Stockton, had not imposed.

Staff has consulted with the Office of the Attorney General, and has considered the arguments raised by the parties, as well as statutory, regulatory and case law as it relates to the matter at hand. The Commission is, without dispute, a responsible agency in the matter before the Commission. The process to be followed by a responsible agency is provided in section 15096 of the State CEQA Guidelines. Language throughout this section emphasizes the more limited responsibilities of a responsible agency as compared to those of the lead agency. For example, with respect to comments submitted by a responsible agency on the lead's environmental documentation, section 15096 (d) provides, in relevant part, "The comments shall be limited to those project activities which are within the agency's area of expertise or which are required to be carried out or approved by the agency or which are subject to the exercise of powers by the agency."

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Section 15096 (g)(1) of the State CEQA Guidelines states, in part, "When considering alternatives and mitigation measures, a responsible agency is more limited than a lead agency." Section 15096 (g)(2) provides further limitations to a responsible agency's ability, specifically, "When an EIR has been prepared for a project, the Responsible Agency shall not approve the project as proposed if the agency finds any feasible alternative or feasible mitigation measures *within its powers* that would substantially lessen or avoid any significant effect the project would have on the environment." (*Emphasis added.*)

Under section 6301 of the Public Resources Code, "The commission has exclusive jurisdiction over all ungranted tidelands and submerged lands owned by the State, and of the beds of navigable rivers, streams, lakes, bays, estuaries, inlets, and straits, including tidelands and submerged lands"

"The commission shall exclusively administer and control all such lands, and may lease or otherwise dispose of such lands, as provided by law, upon such terms and for such consideration, if any, as are determined by it."

Such powers, i.e., to lease or not lease lands under its jurisdiction for the construction and maintenance of the project before the Commission, specifically, the Daggett Road Bridge, are exercised within the context of the CEQA. CEQA, however, does not expand the Commission's powers and it exercises them in a manner consistent with its role as a responsible agency, as described above, for the proposed action. The Commission's review of environmental impacts is based upon the environmental impact report (EIR) prepared by the lead agency, here, the Port of Stockton. This is not a case in which the criteria are met for a shift in lead agency, and, thus, the lead agency responsibility has not shifted to the Commission.

2. Staff has been working with the Port of Stockton to more specifically define: 1) mitigation measures adopted by the Port to address potential direct and indirect transportation impacts that could result from the Port's West Complex expansion project, including the construction of the Daggett Road Bridge, the lease for which is currently before the Commission, and 2) the coordination between the Commission's Ballast Water Program and the Port regarding increased vessel calls at the West Complex facilities.

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The Port adopted Mitigation measure 4.3.2 with respect to a like numbered impact, "Trip Generation rates which result in substantial amounts of additional truck traffic." The mitigation specified, in part, the preparation of a Truck Travel Control Plan that is to be implemented upon completion of construction of the first project under the West Complex Development Plan. Components of the Plan were somewhat generally stated.

Under the language contained in Exhibit C, the Port of Stockton has agreed to expedite preparation and implementation of the portion of the Truck Travel Control Plan that pertains to access to and from the West Complex via Daggett Road. The Port has also agreed to provide more specificity as to those components of the plan that would be designed to minimize, for example, impacts to local residents from truck traffic accessing the West Complex. Such Plan is to be completed prior to opening access to the West Complex via Daggett Road. The following are some of the matters to be addressed by the Plan:

- Immediately upon opening Daggett Road as an access/exit point to the West Complex, the Port will make Daggett Road and the Daggett Road Bridge the primary gateway to the West Complex. This will be accomplished through notifications to existing and future tenants and their trucking companies and signage programs.
- Prior to opening access to the Port via Daggett Road, the Port will prepare signs to be installed at all tenant facilities at the West Complex informing truck drivers that Daggett Road is the primary access to the West Complex. The signs will (1) explain that it is important that the Port minimize truck traffic passing through the residential area adjacent to the Port; (2) identify the expected benefits to truck drivers from use of Daggett Road and Charter Way in terms of avoiding delay; and (3) provide a diagram of the preferred truck travel route. The Port will provide signs, to each of its existing tenants, which are to be displayed in a highly visible location at truck loading and unloading areas. The Port will monitor compliance with this request by inspecting truck loading and unloading areas on a monthly basis, and by including a requirement that these signs be posted at truck loading and unloading areas in any new or renewed tenant leases at the West Complex.

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- The Port will hire a licensed/registered traffic expert every two years to monitor traffic traveling to and from the West Complex, starting with the opening of access to the West Complex via Daggett Road, and extending for a period of 10 years. The Port will specify that the traffic expert conducting the monitoring study determine whether any further steps are necessary to ensure that truck drivers and others traveling to and from the West Complex minimize trips through residential areas adjacent to the Port. The Port will present any recommendations by the traffic expert to its Board of Port Commissioners as proposed modifications to its truck access and circulation plan at a noticed public meeting for public comment and Board consideration.

The Port also adopted, as part of its Mitigation Monitoring and Reporting Program, measure 4.8.4 to address the potential release of non-native organic organisms from ships calling at the Port. The measure required: 1) continued implementation of the Port's existing Ballast Water Management Plan; and 2) to the extent feasible, the Port's cooperation with State Lands and other agencies having regulatory authority over release of non-native aquatic organisms from vessels.

As indicated by the language in Exhibit D, the Port will implement a pilot program, for an initial period of one year, to provide for the collection and transmittal of ballast water release information from vessel operators to staff of the Commission's Marine Invasive Species Program. The information collected will be based upon an Advanced Arrival Questionnaire to be developed by the Port and Commission staff.

As indicated in Exhibit E, the Port has elected not to pursue shore side treatment of ballast water at this time. However, shore side treatment of ballast water might become appropriate in the future, and the Port agrees that it should plan its infrastructure and facilities in a manner that would not later preclude shore side treatment of ballast water should such treatment become feasible. Accordingly, the Port will (1) further investigate the feasibility of shore side treatment of ballast water once it has available to it meaningful and concrete information necessary to perform such an analysis, including the identity of tenants or other users of the West Complex, the types of vessels that are calling and will be calling at the West Complex, and the technical feasibility of onshore treatment facilities based upon the state of the art scientific information existing at

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the time that vessel operations at the West Complex substantially increase and (2) incorporate into its infrastructure and facility planning for the West Complex the infrastructure that likely would be needed to support shore side treatment of ballast water should such treatment later become feasible at the Port of Stockton.

Specifically, the Port, in its planning and development of the West Complex, will incorporate plans for potential future infrastructure facilities that may be needed for shore side treatment of ballast water. The Port, if acquiring off-site right of way for sewer pipelines to serve the West Complex, will to the extent practical acquire such additional right of way to accommodate pipelines that may be needed for shore side treatment of ballast water.

The clarifications set forth above will be incorporated as provisions in the Lease.

3. Applicant has a right to use the uplands adjoining the lease premises.
4. On January 1, 1970, the Commission authorized issuance of General Lease - Public Agency Permit No. PRC 4376.9 to the United States of America, Department of the Navy, for the existing bridge across Burns Cutoff at Daggett Road, Rough and Ready Island. The term of the lease was issued for 49 years. This lease will expire on December 31, 2018. On July 16, 2002, the bridge was transferred from the Department of the Navy to the Port of Stockton ("Port") by Quitclaim Deed, Document No. 2003-224095, dated September 29, 2003. The Port is now applying for the assignment of PRC 4376.9.
5. Relative to the Assignment:
Pursuant to the Commission's delegation of authority and the State CEQA Guidelines [Title 14, California Code of Regulations, section 15060(c)(3)], the staff has determined that the assignment is not subject to the provisions of the CEQA because it is not a "project" as defined by the CEQA and the State CEQA Guidelines.

Authority: Public Resources Code section 21065 and Title 14, California Code of Regulations, sections 15060(c)(3) and 15378.

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6. The Port has redevelopment plans to revitalize the old Navy marine terminals and warehousing facilities on Rough and Ready Island. The Port also has plans to develop approximately 500 acres for commercial and light industrial park on Rough and Ready Island. The Port anticipates creating over 10,000 full-time jobs within a ten to twenty year timeframe. The Port's first major development effort is to establish two improved access points and improve arterial roadways on Rough and Ready Island. Presently, the old Navy Bridge is the only access to the island, however it is considered functionally obsolete and structurally insufficient for future use. A secondary entrance to the island, the old Daggett Road swing Bridge was removed from service in the 1970s. The Bridge has been in the open position (parallel to the waterway) since 1974. The Port intends to replace the old Daggett Road Bridge, improving truck access from the marine terminals and proposed industrial park areas to Interstate 5 via State Route 4. The new bridge will be constructed adjacent to, and west of, the old Daggett Road Bridge. As required by the United States Coast Guard, to eliminate a potential navigational hazard, the old bridge will be removed within a reasonable time after the construction of the new bridge. The old bridge will remain under lease No. PRC 4376.9 until the new bridge is constructed. Removal of the old bridge will be subject to environmental review.
7. The old Daggett Road swing Bridge, constructed in the 1920s was a narrow two-lane bridge. The new bridge will be constructed to modern trucking standards and will meet the Caltrans bridge loading requirements. The bridge will provide four lanes of traffic, one 6 foot sidewalk on the eastern side only, and a center raised curb median 14 feet wide. The new bridge will be located 200 feet west of the old bridge.
8. A Section 401 Water Quality Certification has been issued by the California Regional Water Quality Control Board for this project. The RWQCB has indicated that construction activities may impact surface waters with increased turbidity and settleable matter. The Port will implement Best Management Practices (BMPs) to control sedimentation and erosion. All temporary affected areas will be restored to pre-construction contours and conditions upon completion of construction activities. The Port will conduct turbidity and settleable matter testing during in-water work, stopping work if Basin Plan criteria are exceeded or are observed.

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9. Relative to the Lease Issuance:
An EIR (SCH No. 2002032048) was prepared and certified for this project by the Port of Stockton. The California State Lands Commission staff has reviewed such document and Mitigation Monitoring Program adopted by the lead agency.
10. Findings made in conformance with the State CEQA Guidelines (Title 14, California Code of Regulations, sections 15091 and 15096) are on file in the Sacramento Office of the California State Lands Commission.
11. A Statement of Overriding Considerations made in conformance with the State CEQA Guidelines (Title 14, California Code of Regulations, section 15093) is on file in the Sacramento Office of the California State Lands Commission.

The Significant Impacts for which a Statement of Overriding Considerations was adopted by the Port of Stockton include:

- a. Conversion of 272 acres of prime farmland;
- b. Increased number of vehicle trips;
- c. Increased traffic, contributing to unacceptable levels of service at intersections within the Project Area and at freeway facilities;
- d. Increased operational emissions of criteria air pollutants;
- e. Increased ambient noise levels affect the noise environment of nearby sensitive land uses;
- f. Increased traffic on roads leading to the Project Area that would affect noise levels of sensitive receptors along some of the heavily traveled roads;
- g. Increased levels of low-frequency noise that would likely produce vibrations in lightweight structures;
- h. Future development activities resulting from the Plan may result in the alteration of, or disturbance to, sensitive natural communities within the Sacramento-San Joaquin Delta associated with an increased release of non-native aquatic organisms from ships;
- i. The demolition of existing structures on Rough and Ready Island and development of new facilities within the potentially eligible historic district will substantially affect a historic resources; and,
- j. Increased sources of light and glare that would adversely affect day or nighttime views in the area.

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12. This activity involves lands which have NOT been identified as possessing significant environmental values pursuant to Public Resources Code sections 6370, et seq. However, the Commission has declared that all state school lands and submerged lands are "significant" by nature of their public ownership (as opposed to "environmentally significant"). Since such declaration of significance is not based upon the requirements and criteria of Public Resources Code sections 6370, et seq., use classifications for such lands have not been designated. Therefore, the finding of the project's consistency with the use classification as required by Title 2, California Code of Regulations, section 2954 is not applicable.

APPROVALS OBTAINED:

United States Coast Guard, California State Reclamation Board, Reclamation District 524, California Department of Fish and Game, California Regional Water Quality Control Board.

EXHIBITS:

- A. Site Plan and Location Map
- B. Notice of Determination
- C. Transportation
- D. Ballast Water-Advance Notification
- E. Ballast Water-Shore Side Feasibility

PERMIT STREAMLINING ACT DEADLINE:

January 23, 2005

RECOMMENDED ACTION:

IT IS RECOMMENDED THAT THE COMMISSION:

CEQA FINDING:

1. RELATIVE TO ASSIGNMENT:
FIND THAT THE ACTIVITY IS NOT SUBJECT TO THE REQUIREMENTS OF THE CEQA PURSUANT TO TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15060(c)(3) BECAUSE THE ACTIVITY IS NOT A PROJECT AS DEFINED BY PUBLIC RESOURCES CODE SECTION 21065 AND TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15378.

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2. RELATIVE TO THE LEASE ISSUANCE:
FIND THAT AN EIR WAS PREPARED AND CERTIFIED FOR THIS PROJECT BY PORT OF STOCKTON AND THAT THE COMMISSION HAS REVIEWED AND CONSIDERED THE INFORMATION CONTAINED THEREIN.
3. ADOPT THE FINDINGS MADE IN CONFORMANCE WITH TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTIONS 15091 AND 15096(h), ON FILE IN THE SACRAMENTO OFFICE OF THE CALIFORNIA STATE LANDS COMMISSION.
4. ADOPT THE MITIGATION MONITORING PROGRAM, ON FILE IN THE SACRAMENTO OFFICE OF THE CALIFORNIA STATE LANDS COMMISSION.
5. ADOPT THE STATEMENT OF OVERRIDING CONSIDERATIONS MADE IN CONFORMANCE WITH TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15093, ON FILE IN THE SACRAMENTO OFFICE OF THE CALIFORNIA STATE LANDS COMMISSION.

SIGNIFICANT LANDS INVENTORY FINDING:

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

AUTHORIZATION:

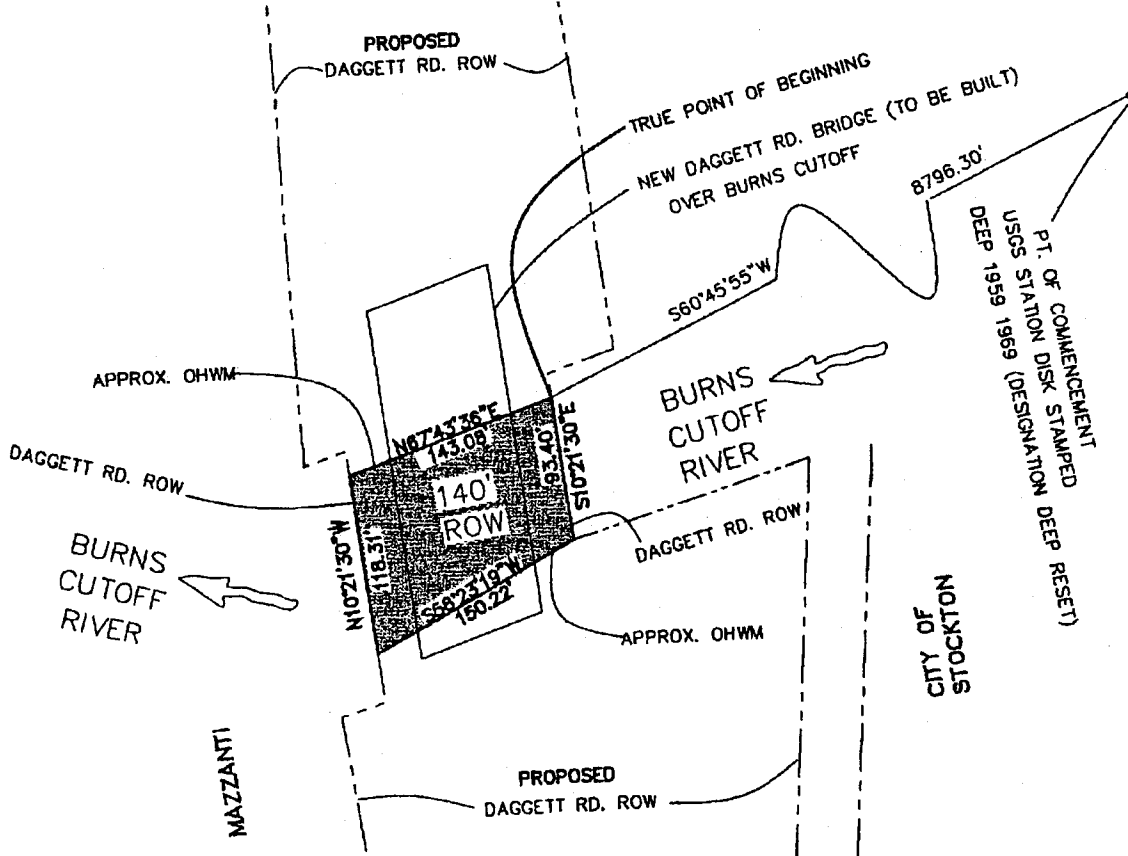
1. AUTHORIZE ASSIGNMENT OF GENERAL LEASE – PUBLIC AGENCY PERMIT NO. PRC 4376.9, FROM THE UNITED STATES OF AMERICA, DEPARTMENT OF THE NAVY, TO THE PORT OF STOCKTON; EFFECTIVE DECEMBER 9, 2004.
2. AUTHORIZE ISSUANCE TO THE PORT OF STOCKTON OF A NEW GENERAL LEASE – PUBLIC AGENCY USE, BEGINNING DECEMBER 9, 2004, FOR A TERM OF 25 YEARS, FOR CONSTRUCTION OF A NEW BRIDGE AS REPRESENTED ON THE LAND SHOWN ON EXHIBIT A ATTACHED AND BY THIS REFERENCE MADE A PART HEREOF; IN CONSIDERATION OF THE PUBLIC USE AND BENEFIT, WITH THE STATE RESERVING THE RIGHT AT ANY

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TIME TO SET A MONETARY RENT IF THE COMMISSION FINDS SUCH ACTION TO BE IN THE STATE'S BEST INTEREST.

NO SCALE

SITE MAP



Burns Cut-Off at Daggett Road, Rough and Ready Island
San Joaquin County

LOCATION MAP NO SCALE

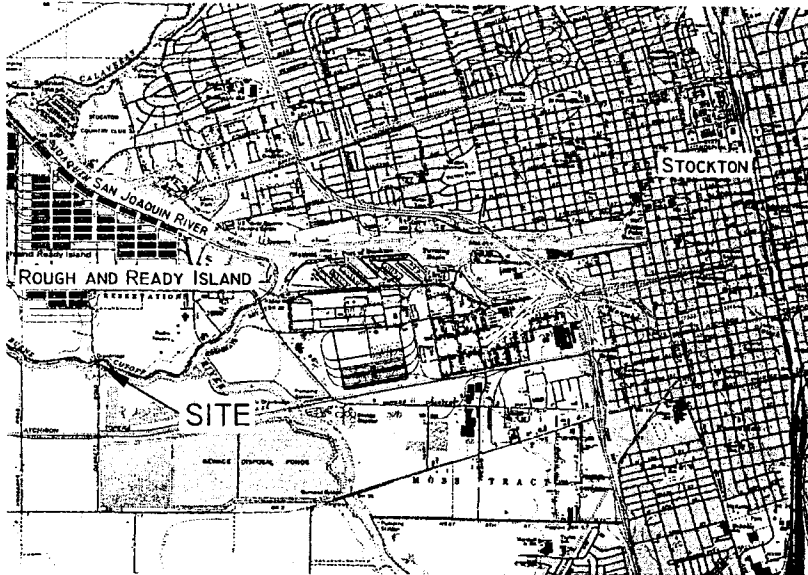


Exhibit A
 W26020
 APN 162-030-001
 APN 162-040-005
 Port of Stockton
 San Joaquin County



This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any state interest in the subject or any other property.

MAP SOURCE: USGS QUAD

RAB 09-04

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Exhibit B


Notice of Determination

ASSESSOR RECORDER
COUNTY CLERK
GARY W. FREEMAN

To: Office of Planning and Research
1400 Tenth Street, Room 121
Sacramento, CA 95814

County Clerk
County of San Joaquin
6 South El Dorado, 2nd Floor
Stockton, CA 95202

SAN JOAQUIN COUNTY

BY  DEPUTY

04 JUN 24 PM 3:42
From: Port of Stockton
2201 W. Washington Street
Stockton, CA 95201

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

Project Title: Port of Stockton West Complex Development Plan; Dredging and Placement Operations Project; and McCloy Avenue, Daggett Road & Daggett Road Bridge Project

State Clearinghouse Number: 2002032048
(If submitted to Clearinghouse)

Lead Agency: Port of Stockton
Area Code/Telephone/Extension: 209/946-0246
Contact Person: Jeff Kaspar, Deputy Port Director

Project Location: Rough and Ready Island, Stockton, San Joaquin County, California.

Description of Project: The West Complex Development Plan is a long term plan to guide future development of the West Complex. The Plan describes the potential development activities that could occur at the West Complex, given specific market or economic conditions for the area. Flexibility in development of the West Complex to allow response to changing market trends and needs is built into the Plan. The Plan includes infrastructure improvements to support both marine terminal and commercial and industrial park development, wharf upgrades, installation of cranes, rail to dock facilities, expanded break bulk marine terminal and cargo processing facilities and operations, automobile/roll-on-roll-off marine terminal and cargo processing facilities and operations, container marine terminal and cargo processing facilities and operations, intermodal transfer facilities and operations, diversified land uses, commercial and industrial park facilities and operations, and a water-related future expansion area.

The Dredging and Placement Operations Project is a project to dredge sediments from docks 14 through 20 along the waterfront at the Port of Stockton's West Complex. The depth of the dredge will vary at each location along the waterfront, but the primary objective is to remove material in front of each dock to result in a depth of 35 feet below MLLW.

The McCloy Avenue, Daggett Road, and Daggett Road Bridge Project is a project to provide primary access to Rough and Ready Island via Daggett Road, and improve Rough and Ready Island traffic circulation for planned development. The project includes realignment and improvements to McCloy Avenue, realignment and improvements to Daggett Road, and construction of a new bridge over Burns Cut-Off at Daggett Road.

This is to advise that the Board of Port Commissioners for the Port of Stockton, acting as Lead Agency under the California Environmental Quality Act (CEQA), on June 23, 2004 certified the Final EIR for the West Complex Development Plan; Dredging and Placement Operations Project; and McCloy Avenue, Daggett Road & Daggett Road Bridge Project. On June 23, 2004, the Board of Port Commissioners also approved the West Complex Development Plan; Dredging and Placement Operations Project; and McCloy Avenue, Daggett Road & Daggett Road Bridge Project, and made the following determinations regarding the above described project:

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

This is to certify that the Final EIR for the West Complex Development Plan; Dredging and Placement Operations Project; and McCloy Avenue, Daggett Road & Daggett Road Bridge Project, with comments and responses and record of project approval is available to the General Public at the following location:

Port of Stockton
2201 W. Washington Street
Stockton, CA 95201
Contact: Rita Koehnen



A. Richard Aschieris, Port Director

PORT OF STOCKTON

June 24, 2004

Date

Date received for filing and posting: JUN 24 2004

EXHIBIT C**TRANSPORTATION**

The Port of Stockton's mitigation measure 4.3.2 requires the Port to prepare a Truck Travel Control Plan, and to implement the Plan prior to completion of the first project under the West Complex Development Plan that would substantially increase truck trips from project operation. The Port of Stockton has agreed to expedite preparation and implementation of the portion of the Truck Travel Control Plan that pertains to access to and from the West Complex via Daggett Road, and the Port of Stockton has agreed to provide more specificity as to those components of the plan that would be designed to minimize impacts to local residents from truck traffic accessing the West Complex.

Prior to opening access to the West Complex via Daggett Road, the Port of Stockton will complete a Truck Travel Control Plan containing the following components:

- The Port will design the internal roadway system for the West Complex in a manner that directs traffic toward Daggett Road, increasing the likelihood that drivers will use the Daggett Road Bridge rather than the Navy Drive Bridge to access the West Complex. The Port will ensure compliance with this component each time that it approves construction plans for roadway improvements on the West Complex. The first set of such roadway improvements, the McCloy Avenue, Daggett Road and the Daggett Road Bridge, will achieve this objective as follows: McCloy Avenue, Daggett Road and the Daggett Road Bridge will form the backbone of the truck access and circulation plan on the West Complex. These roads are being designed and will be built to comply with the standards of the Surface Transportation and Safety Act of 1982 (STAA). STAA implements design standards for large trucks. Traffic circulation at the West Complex will move traffic to and from Daggett Road and onto Charter Way by providing truckers a direct route with easy curves and grades, limiting the need to stop or to make difficult turns. Use of the current Navy Drive Bridge to enter or exit the West Complex, by contrast, would require more stops, more difficult turns, and compliance with the posted 10 mile per hour speed limit on the Navy Drive Bridge.
- Immediately upon opening Daggett Road as an access/exit point to the West Complex, the Port will make Daggett Road and the Daggett Road Bridge the primary gateway to the West Complex. This will be accomplished through notifications to existing and future tenants and their trucking companies and signage programs, as detailed below.
- The Port will install signs on the roadways at the West Complex directing truck drivers to use Daggett Road to enter and exit the West Complex. Those signs will meet existing standards for traffic signage and be installed prior to opening access to the West Complex via Daggett Road. The Port will periodically monitor

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the effectiveness of its access and circulation plan, and based upon that monitoring, the Port will consider additional steps as may be necessary to ensure that truck drivers and others traveling to and from the West Complex minimize trips through residential areas adjacent to the Port. The additional steps may include, but not be limited to: improved signage, restrictions on turning movements by constructing physical barriers or by other means, internal roadway realignments, and construction of additional circulation paths on the West Complex.

- The Port will work with Caltrans to install signs on Highway 5, State Highway 4 and Charter Way directing truck drivers to use Charter Way and Daggett Road to access the West Complex, and to use the Charter Way on-ramp to access I-5 from the West Complex. These signs will be installed as soon as is practicable after opening access to the West Complex via Daggett Road. The Port has met with Caltrans regarding installation of these signs, and will continue to meet with Caltrans as it constructs Daggett Road and the Daggett Road Bridge. The Port will make good faith efforts to secure Caltrans commitment to these signs in a timely manner so that they can be installed before the opening of access to the Port via Daggett Road.
- Within the month prior to opening access to the Port via Daggett Road, the Port will meet with each of its tenants at the West Complex to inform them that Daggett Road should be used as the primary access to the West Complex, to explain to them why it is important that they minimize truck traffic passing through residential areas adjacent to the Port, and to ask that they encourage their employees to use Daggett Road and Charter Way to access the Port. The Port will continue to educate tenants at the West Complex regarding each of these issues, including the Port's designated truck circulation routes- into, within and out of the Port, as it enters into new or renewed tenant leases at the West Complex and at other times as may be necessary based upon the monitoring efforts previously described.
- Prior to opening access to the Port via Daggett Road, the Port will prepare signs to be installed at all tenant facilities at the West Complex informing truck drivers that Daggett Road is the primary access to the West Complex. The signs will (1) explain that it is important that the Port minimize truck traffic passing through the residential area adjacent to the Port; (2) identify the expected benefits to truck drivers from use of Daggett Road and Charter Way in terms of avoiding delay; and (3) provide a diagram of the preferred truck travel route. The Port will provide signs, to each of its existing tenants, which are to be displayed in a highly visible location at truck loading and unloading areas. The Port will monitor compliance with this request by inspecting truck loading and unloading areas on a monthly basis, and by including a requirement that these signs be posted at truck loading and unloading areas in any new or renewed tenant leases at the West Complex.
- The Port also will include, on the signs described above, information educating

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truck drivers about peak congestion periods at the Charter Way/Highway 5 on-ramps and off-ramps and advising truck drivers that they should avoid identified peak traffic periods by scheduling truck trips to and from the Port outside of those periods.

- The Port will hire a licensed/registered traffic expert every two years to monitor traffic traveling to and from the West Complex, starting with the opening of access to the West Complex via Daggett Road, and extending for a period of 10 years. The Port will specify that the traffic expert conducting the monitoring study determine whether any further steps are necessary to ensure that truck drivers and others traveling to and from the West Complex minimize trips through residential areas adjacent to the Port. The Port will present any recommendations by the traffic expert to its Board of Port Commissioners as proposed modifications to its truck access and circulation plan at a noticed public meeting for public comment and Board consideration.
- The San Joaquin Council of Governments is in the process of studying Port access, including the feasibility of extending the cross-town freeway. The Port of Stockton, the city of Stockton, the County of San Joaquin, and Caltrans are participating in that study as members of a technical advisory committee. The Port will provide State Lands Commission staff with periodic briefings on the status of the Port access study as it receives interim reports and the final reports from the SJCOG. More information also can be obtained directly from SJCOG by contacting Scott Butler at (209) 468-3913.

EXHIBIT D

BALLAST WATER- ADVANCE NOTIFICATION

Ballast Water Pilot Program

In furtherance of Mitigation Measure 4.8.4 in the Mitigation Monitoring Program adopted by the Port of Stockton (Port) for the West Complex Development Plan, the Port will, in cooperation with the California State Lands Commission's (CSLC) Marine Invasive Species Program:

- 1) Institute a pilot program to provide ballast water release information in advance of a vessel's arrival in the Port, and
- 2) Retain, as described below, an independent consultant to study the feasibility of shore side treatment of ballast water at the West Complex.

Pilot Program

Outreach. Prior to implementing a pilot program, the Port will advise agents of shipping companies having control over vessels that have called at the West Complex as of the date of its adoption of the cited Mitigation Monitoring Program, and agents of shipping companies having control over vessels that would be likely to call at the West Complex in the future about the pilot program and to encourage their participation. The Port will explain the substantial benefits of limiting release of ballast water, and the benefits of timely providing CSLC with information that can be used by CSLC to assist a vessel operator in complying with statewide ballast water requirements prior to calling at the Port of Stockton.

Initial Time Period. The program will be conducted for a period of one year and will be based on the development, by the Port and the CSLC, and use of an "Advance Arrival Questionnaire" (Questionnaire) that will be completed on behalf of vessels that are scheduled to call at the Port of Stockton.

Procedure. Under current Port of Stockton procedure, the agent or representative of the owner of each vessel calling at the Port (Vessel Operator) provides a berth application to Port staff approximately 24 hours prior to the vessel's arrival at the Port. In order to carry out this pilot program, upon issuance of a berth application to a Vessel Operator intending to call at the West Complex, Port staff will provide a copy of the Questionnaire to the Vessel Operator. Port staff will inform the Vessel Operator that the Questionnaire should be completed on behalf of the vessel, by its Captain or authorized representative, and provided to the CSLC's Marine Facilities Division's Northern

California Field and Sacramento Offices, either electronically or by facsimile, prior to the vessel's entry into San Francisco Bay or in the alternative, at least 24 hours prior to the vessel's arrival at the Port.

Content. The Questionnaire should, at a minimum, solicit the following information:

1. Does the vessel intend to discharge ballast water in San Francisco Bay, the Carquinez Strait or any other location(s) in a Delta waterway on its transit to the Port of Stockton?
2. Does the vessel intend to discharge ballast water in the Port of Stockton?
3. Which of the following means specified in the California Marine Invasive Species Act (CMISA) does the vessel operator intend to use to manage the vessel's ballast water: a mid-ocean exchange (as defined in Section 71200(g)); retain all ballast on board; or discharge the ballast water at the same location (as defined in Section 71204.2(c)(2)) where ballast originated, provided ballast water was not mixed with ballast water taken on in an area other than mid-ocean waters;

Periodic Evaluation. The pilot program will be evaluated by the Port and the CSLC at least quarterly during its term to, e.g., review the effectiveness of voluntary compliance, modify the questionnaire or its method(s) of completion, and determine whether the Questionnaire is an effective means to assist vessel operators in complying with the CMISA. Following the fourth quarter evaluation, the Port and the CSLC jointly will determine whether, and in what form, the pilot program may be extended, e.g., to include all vessels calling at the Port of Stockton.

The contact for the Port shall be Mike Tyler, who may be contacted at mtyler@stocktonport.com, by facsimile at (209) 465-8966, or by telephone at (209) 946-0246. The contact for the CSLC shall be Ms. Maurya Falkner, who may be contacted at falknem@slc.ca.gov, by facsimile at (916) 574-1950, or by telephone at (916) 574-2568.

EXHIBIT E**BALLAST WATER – SHORE SIDE FEASIBILITY****Shore Side Treatment of Ballast Water**

Records for 2000 - 2003, indicate that vessels calling at the existing facilities of the Port of Stockton discharged, on average, approximately 191,000 metric tons ($\sim 2 \times 10^8$ gallons) per year of ballast water. All but a small percentage of the vessels releasing ballast water at the Port of Stockton during this time period complied with the CMISA through ocean exchange of ballast water. Nevertheless, both the Port of Stockton and CSLC recognize the importance of minimizing the release of ballast water and associated risk of introduction of invasive species. The Port has elected not to pursue shore side treatment of ballast water at this time. However, shore side treatment of ballast water might become appropriate in the future, and the Port agrees that it should plan its infrastructure and facilities in a manner that would not later preclude shore side treatment of ballast water should such treatment become feasible. Accordingly, the Port will (1) further investigate the feasibility of shore side treatment of ballast water once it has available to it meaningful and concrete information necessary to perform such an analysis, including the identity of tenants or other users of the West Complex, the types of vessels that are calling and will be calling at the West Complex, and the technical feasibility of onshore treatment facilities based upon the state of the art scientific information existing at the time that vessel operations at the West Complex substantially increase and (2) incorporate into its infrastructure and facility planning for the West Complex the infrastructure that likely would be needed to support shore side treatment of ballast water should such treatment later become feasible at the Port of Stockton. The details of these commitments are as follows:

Further Investigation. The Port will initiate further investigation of the feasibility of shore side treatment of ballast water as soon as is practicable after the earlier of the following events: the date that vessel calls at the West Complex increase by 50 calls per year compared with the number of annual ship calls during the year that the Port opens Daggett Road and completes the Daggett Road Bridge; or the date that the International Maritime Organization or the U.S. Coast Guard requires retrofit of the types of vessels calling at the Port of Stockton West Complex to make the vessels compatible with shore side treatment of ballast water. The Port will retain an independent consultant to study the feasibility of shore side treatment of ballast water at the West Complex. The feasibility study shall examine, but not be limited to, issues related to ship operations, Port infrastructure requirements, and accessibility to City or County sewage treatment facilities. The results of such study shall be made available to the CSLC and used by the Board of Port Commissioners of the Port of Stockton to determine whether and under what conditions and at what time shore side treatment of ballast water at the West Complex may be feasible.

Facility and Infrastructure Planning. If the Port acquires rights of way

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for offsite sewer pipelines to serve the West Complex, it will plan for and acquire a sufficient amount of right of way to accommodate pipelines that may be needed for shore side treatment of ballast water to the extent that it is practicable to acquire such additional right of way. As the Port prepares plans for onsite infrastructure and facilities at the West Complex, it will incorporate plans for potential future infrastructure facilities that may be needed for shore side treatment of ballast water. To the extent practicable, the Port will not preclude installation of facilities that may be needed for shore side treatment of ballast water should the Port later determine that such treatment is feasible.

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