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MR. ARMANDO WALLE: Good evening everyone. Again, my name is Armando Walle representing Congressman Gene Green's office and I'm going to make a brief statement by the congressman, written by him, and I will just go ahead and read it verbatim.

"While Congress is in session today, I

am unable to be here in person. I appreciate the opportunity to express my views about the Bayport terminal project of the Port of Houston and the Draft Environmental Impact Statement commissioned by the U.S. Army Corps of Engineers. I support this project that is critical to the future of the Port of Houston and the overall economic health of our community.

29-1

(Crowd noise.)

"The Port of Houston is the largest port for foreign cargo and second largest port facility in the United States."

(Crowd noise.)

"With shipping traffic estimated at approximately 7,000 vessels per year, it generates over 205,000 jobs and $7.7 billion to Houston's economy.

"However, in recent years, there has been an increase in the containerization of cargo. It is estimated by the year 2010, more than 90 percent of all the cargo shipped worldwide will be in containers. For Houston to continue as the largest foreign port in the U.S. and the eighth largest port in the world, we must have the capability to receive and ship these containers."

(Crowd noise.)

"The benefits that this project would bring to our community include an estimated 30,000 new jobs that otherwise would not be created, the addition of $3.3 billion to Houston's economy and an increase in tax revenue to state and local governments that will grow to approximately 150 million once full operational status is reached.

"In an effort to minimize the effect of this project on the surrounding community and the environment, the Port has proposed a comprehensive plan that will mitigate the impact of the Bayport terminal. Additionally, the construction and operation of the Bayport facility has -- have been included in the

6-4

supplemental implementation plan that has been approved by the Environmental Protection Agency.

"Again, I support the Draft EIS of the Bayport terminal project and hope that the Corps will give their final approval to this project. It offers the best combination of jobs, economic growth, balance with the minimal impact on our environment."

29-13

(Crowd noise.)

COL. LEONARD WATERWORTH: Next I would like to have, from the Texas Senate, Mike Jackson step forward to make comments.

(Applause.)

GENE GREEN
29TH DISTRICT, TEXAS

2335 RAYBURN
WASHINGTON, DC 20515
(202) 225-1688

256 N. SAM HOUSTON PKWY. EAST
SUITE 29
HOUSTON, TEXAS 77060
(281) 999-5879

11811 I-10 EAST
SUITE 430
HOUSTON, TEXAS 77029
(713) 330-0761

WWW.HOUSE.GOV/GREEN

Congress of the United States
House of Representatives
Washington, DC 20515-4329

COMMITTEE ON ENERGY AND COMMERCE
- SUBCOMMITTEE ON TELECOMMUNICATIONS AND THE INTERNET
- SUBCOMMITTEE ON HEALTH
- SUBCOMMITTEE ON ENVIRONMENT AND HAZARDOUS MATERIALS

DEMOCRATIC DEPUTY WHIP

DEMOCRATIC STEERING COMMITTEE

November 16, 2001

DF 10177

Col. Leonard D. Waterworth
District Commander
U. S. Army Corps of Engineers
PO Box 1229
Galveston, Texas 77553-1229

Dear Col. Waterworth:

I am writing today to express my views about the Port of Houston's Bayport Terminal expansion. Specifically, I am concerned that this important project may be unnecessarily delayed by an unwarranted extension of the ninety day period for interested parties to submit their comments on this project.

The Port of Houston is the largest port for foreign cargo and second largest port facility in the United States. With shipping traffic estimated at approximately 7,000 vessels per year, it generates 250,000 jobs and $7.7 billion for Houston's economy.

However, in recent years, more and more cargo to the port has been arriving in containers. The Barbors Cut Terminal, which handles more than half of all container cargo in the Gulf of Mexico, cannot handle more traffic due to a lack of expansion space. While the Port has contracted with the Port of Galveston to handle some additional traffic, the only viable option for long-term growth is the Bayport Terminal project. Without this expansion, the growth of the Port and the health of Houston's economy will be significantly impacted.

I urge you to carefully consider the impact of any delays in the Bayport Terminal project schedule before you make a decision on extending the comment period. I thank you for your time, and if I can be of further assistance, please do not hesitate to contact me.

Sincerely,

Gene Green
Member of Congress

cc: Michael Dickens, President, International Longshoremen's Association Local 24
The Port of Houston Authority Commissioners
H. T. Korengay, Executive Director, The Port of Houston Authority

GG:bt

PRINTED ON RECYCLED PAPER

GENE GREEN
29TH DISTRICT, TEXAS

2335 RAYBURN
WASHINGTON, DC 20515
(202) 225-1688

258 N. SAM HOUSTON PKWY. EAST
SUITE 29
HOUSTON, TEXAS 77060
(281) 999-5879

11811 I-10 EAST
SUITE 430
HOUSTON, TEXAS 77029
(713) 330-0761

WWW.HOUSE.GOV/GREEN

Congress of the United States
House of Representatives
Washington, DC 20515-4329

COMMITTEE ON ENERGY AND COMMERCE
- SUBCOMMITTEE ON TELECOMMUNICATIONS AND THE INTERNET
- SUBCOMMITTEE ON HEALTH
- SUBCOMMITTEE ON ENVIRONMENT AND HAZARDOUS MATERIALS

DEMOCRATIC DEPUTY WHIP

DEMOCRATIC STEERING COMMITTEE

December 7, 2001

DF 10229
AV

Col. Leonard D. Waterworth
District Commander
U. S. Army Corps of Engineers
PO Box 1229
Galveston, Texas 77553-1229

Dear Col. Waterworth:

I am writing today to express my views about the Bayport Terminal project of the Port of Houston (Port) that is the subject of a draft Environmental Impact Statement (DEIS) by the U. S. Army Corps of Engineers (Corps). I support this project because it is critical to the future of the Port of Houston and the overall economic health of our community. 29-1

The Port of Houston is the largest port for foreign cargo and second largest port facility in the United States. With shipping traffic estimated at approximately 7,000 vessels per year, it generates 205,000 jobs and $7.7 billion for Houston's economy.

However, in recent years, there has been an increase in containerization of cargo. It is estimated that by 2010, more than 90 per cent of all cargo shipped worldwide will be in containers. For Houston to continue as the largest foreign port in the U. S. and the 8th largest port in the world, we must have the capability to receive and ship these containers. 1-3

The Barbors Cut Terminal, which serves more than half of all container cargo in the Gulf of Mexico, cannot handle more traffic due to a lack of expansion space. While the Port has contracted with the Port of Galveston to handle some additional traffic, the only viable option for long-term growth is the Bayport Terminal. 2-1

There are many benefits that this project would bring to our community. When at full build-out, activity at the Bayport Terminal will add an estimated 39,000 jobs to our community. 6-15
Further, the economic impact of this project will add $3.3 billion to Houston's economy. Part of that impact will be felt in the tourism industry, as the cruise ship terminal at Bayport becomes fully operational. 6-16
Tax revenue to state and local governments is estimated at $41 million per year, and would grow to approximately $150 million per year, once full operational status is reached. 6-17

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In an effort to minimize the affect of this project on the surrounding community and the environment, the Port has proposed a comprehensive plan that will mitigate the impact of the Bayport Terminal. These measures include 200 acres of marsh habitat in Galveston Bay; a 163 acres conservation easement, including substantial wetlands, which will be part of the Armand Bayou watershed; storm water detention plans that exceed the requirements of Texas State law; and special lighting to reduce the impact on surrounding areas. Further, the plans call for the dedication 25% of the land to conservation easement and buffer zones. This includes a large 20 foot earthen berm that will shield surrounding areas from light and sound and the creation of new wetlands to compensate for those that are part of the construction site.

Additionally, the construction and operation of the Bayport facility have been included in the State Implementation Plan (SIP) that has been approved by the Environmental Protection Agency (EPA). The Port also plans to continue utilizing low- and no-emission power sources for vehicles and equipment, which will reduce the impact to our region's air quality. 7-11

Building this facility at any of the other locations examined by the Corps in the DEIS would only increase the potential risk for our environment. The need to dredge a brand-new channel and the replacement of the current dredge disposal site are just a few of the environmental problems associated with alternative sites. Additionally, the Bayport site superior in efficiency, operation, traffic congestion, and costs of construction. 2-8, 2-14

Again, I support the DEIS of the Bayport Terminal project, and I hope that the Corps give their final approval to this project. It offers the best combination of jobs and economic growth balanced with a minimal impact on our environment. 29-13

Sincerely,

Gene Green
Member of Congress

GG:bt

JAN 0 7 2002
DF 10672

Federal Emergency Management Agency

Region VI
Federal Regional Center
800 North Loop 288
Denton, TX 76209-3606

January 3, 2002

Kerry M. Stanley
Department of the Army
Galveston District, COE
PO Box 1229
Galveston, Texas 77553-1229

Ref: Comment on the Draft Environmental Impact Statement for the Port of Houston Authority's proposed Bay Channel Container/Cruise Terminal

Dear Mr. Stanley:

Thank you for the opportunity to comment on the proposed Bay Channel Container/Cruise Terminal project. It is important to our mitigation efforts that proper measures are taken to save lives and reduce property losses in floodplain areas.

We offer the following comment and additional information:

Referencing Volume III, Section 3.16.1, Regulatory Framework, paragraph 3, this paragraph and others (in this section) reference the correct Federal regulation regarding the elevation of building(s) to be constructed however, a local community's Flood Damage Prevention Ordinance may be more restrictive. For example, the community ordinance may include a one-foot freeboard. For this example, building(s) to be constructed are required to meet the Base Flood Elevation plus one-foot. We suggest that this section includes a statement to reflect that *all development shall meet the requirements of the National Flood Insurance Program rules and regulation and the local community's Flood Damage Prevention Ordinance/Court Order*. This may assist interested parties to associate construction projects with local flood ordinances. To ensure that proper steps are taken to meet local rules and regulations and to consider local floodplain management goals, additional contacts may be required. Enclosed is a list of floodplain administrators to contact. 25-7

Referencing Volume V, Appendix 1-2, Federal Statutes, consider adding: 25-8

44 CFR 59.1, Definitions
44 CFR 60.3, Flood plain management criteria for flood-prone areas
44 CFR 60.22, Planning considerations for flood-prone areas

There is a flood mapping restudy effort underway of Harris County. Additional information for this restudy effort can be found at http://www.tsarp.org/. If I can be of any further assistance regarding this matter, you may contact me at (940) 898-5463. 25-9

Sincerely,

Michael R. Long
Natural Hazards
Program Specialist

Enclosure

10672

Local Floodplain Administrators

John Blount
Floodplain Administrator
Harris County
9900 Northwest Freeway, Suite 103
Houston, Texas, 77092
713.956.3015

Douglas Knuepper
Floodplain Administrator
City of LaPorte
PO Box 1115
LaPorte, Texas 77572
281.471.5020

D. Paulissen
Floodplain Administrator
City of Morgans Point
PO Box 839
LaPorte, Texas, 77571
409.471.2171

Bert Simmons
Floodplain Administrator
City of Pasadena
PO Box 672, suite 15
Pasadena, Texas, 77501
713.477.1511

Ray Burgess
Floodplain Administrator
City of Seabrook
1700 First Street
Seabrook, Texas 77586
281.291.5705

Wayne Gamble
Floodplain Administrator
City of Shoreacres
601 Shoreacres Blvd.
LaPorte, Texas, 77571
281.471.2244

Natalie O'Neill
Floodplain Administrator
City of Taylor Lake Village
500 Kirby Blvd.
Taylor Lake Village, Texas, 77586
281.326.2843

Sean Welch
Floodplain Administrator
Galveston County
123 Rosenberg, Suite 4157
Galveston, TX 77570
409.770.5549

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COMMITTEE ON THE BUDGET

COMMITTEE ON EDUCATION AND THE WORKFORCE

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

WASHINGTON OFFICE:
1728 LONGWORTH BUILDING
WASHINGTON, DC 20515-4307
202.225.2571
FAX 202.225.4381

DISTRICT OFFICE:
10000 MEMORIAL DRIVE, SUITE 620
HOUSTON, TEXAS 77024-3490
713.682.8828
FAX: 713.680.8070

INTERNET:
WWW.CULBERSON.HOUSE.GOV

JOHN CULBERSON
7TH DISTRICT, TEXAS

January 28, 2001

Mr. Kerry M. Stanley
U.S. Army Corps of Engineers
Galveston District
Regulatory Branch
P.O. Box 1229
Galveston, Texas 77553-1229

Dear Mr. Stanley:

After reviewing the executive summary, I wish to express my support for the U.S. Army Corps of Engineers' Draft Environmental Impact Statement (DEIS) for the Proposed Bayport Marine Terminal. The merits of locating the facility on the Bayport Ship Channel are apparent in the DEIS, and I believe that the Port of Houston Authority has struck a careful balance between economic development and environmental stewardship with this project. The Port estimates that a full 25 percent of the acreage in this project is dedicated as buffer zones or land to address environmental concerns - a new standard in the maritime industry.

I encourage the USACE to complete its Final Environmental Impact Statement quickly and permit the Port of Houston Authority to construct the container and cruise terminal on the Bayport property. The Houston-Galveston region grew by 950,000 people in the 1990's - a greater growth in population than 40 of the 50 states. For Houston to remain a vibrant international city, the Port must expand its container capacity to meet demand. Additionally, attracting new cruise businesses to Texas will bring new revenue from tourism and make the Houston region an even more attractive place for companies and their employees to locate.

Thank you in advance for your consideration of this matter.

Sincerely,

John Culberson

John Culberson
Member of Congress

TOM DeLAY
22D DISTRICT, TEXAS
MAJORITY WHIP
COMMITTEE ON APPROPRIATIONS
SUBCOMMITTEES:
TRANSPORTATION
VA/HUD/INDEPENDENT AGENCIES

MAR 1 5 2002

2370 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-4322
(202) 225-5951

DF1[illegible]995

10701 CORPORATE DRIVE, SUITE 118
STAFFORD, TX 77477
(281) 240-3700
(800) 759-5748

One Hundred and Seventh

Congress of the United States

House of Representatives

Washington, DC 20515–4322

March 11, 2002

Mr. Kerry M. Stanley
U.S. Corps of Engineers
Regulatory Branch
P.O. Box 1229
Galveston, Texas 77553-1229

Dear Mr. Stanley:

I would like to take this opportunity to submit my comments regarding the Draft Environmental Impact Statement for the proposed Bayport Container Terminal.

I have recently met with area Mayors from Seabrook, Deer Park, Morgan's Point, La Porte, Shoreacres, El Lago, Taylor Lake Village, and Pasadena, as well as State Representative John Davis and State Senator Mike Jackson, regarding their serious concerns with the Port of Houston Authority's permit application for the Bayport Container Terminal. In addition, I have also received comments from many constituents regarding the DEIS.

In particular, I have enclosed two letters that address specific concerns of the cities of La Porte and Shoreacres.

Furthermore, although the Port of Houston Authority has proposed several mitigation features, it appears there are lingering questions regarding jurisdictional wetlands, including exact location; potential noise impacts; local traffic impacts; decrease in property values; and the issue of fine particulate matter (PM 2.5).

22-138

I ask that these questions and concerns are given your every consideration and are answered in a timely fashion. I look forward to receiving a response.

Sincerely,

Tom DeLay

Tom DeLay
Member of Congress

TD:td
Enclosure (2)

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FEB 21 20

City of Shoreacres

601 SHOREACRES BOULEVARD
SHOREACRES, TEXAS 77571
PHONE (281) 471-2244
FAX (281) 471-8955

A COMMUNITY OF BEAUTIFUL HOMES ON GALVESTON BAY
HOME OF THE HOUSTON YACHT CLUB

MAYOR
Nancy R. Edmonson

CITY SECRETARY
Shari Tait

February 19, 2002

The Honorable Tom DeLay
10701 Corporate Drive, Suite 118
Stafford, Texas 77477-4013

Dear Representative DeLay:

I just wanted to say thank you for taking the time to meet with the southeast Harris County mayors on February 8. I appreciate your interest in our fight against the Port of Houston's proposed Bayport Container Terminal. As we discussed during the meeting, there are alternative locations at which the Port can develop its terminal. Developing a container port at one of the alternative locations could still contribute to the region's economic growth without sacrificing quality of life, property values, and other forms of economic growth—such as recreation-based businesses—in our communities.

While we talked about a few areas where you could help us in this fight, we did not get the chance to discuss the Environmental Impact Statement (EIS) process. As you know, the Corps of Engineers has released a Draft EIS on the Bayport Container Terminal. Comments on this draft are due to the Corps on March 13. Unfortunately, the Draft EIS failed to assess the impacts of the container facility in a number of areas. Omitted analyses include the impacts on small particle air pollution, on property values, of the deepened ship channel, on traffic caused by additional train crossings, and many others. Many area cities and citizens are asking the Corps of Engineers to prepare a Supplemental Draft EIS to address these omissions. Since the Corps is a federal agency and it is conducting an EIS under the direction of federal law (the National Environmental Policy Act), I thought that you might be able to help us convince the Corps that conducting these additional analyses is not only required by law but would be the prudent path to ensure that significant impacts are not overlooked in the EIS process.

If you would like any more information on Bayport or the Draft EIS, please let me know. Again, I thank you for concern and assistance.

Sincerely,

Nancy R. Edmonson

1995

Bayport DEIS
Summary of Significant Problems

The following is a sampling of the problems in the Corps of Engineers Draft Environmental Impact Statement on the Bayport Container Terminal. These points are listed in no particular order.

- Failed to address impact on property values
- Failed to address small particulate and hazardous air pollution
- Failed to address the impact of foreseeable deepening of ship channel to allow larger ships
- Failed to address the impact on area traffic from additional train crossings
- Failed to conduct delay analysis for area roadways
- Failed to address traffic or noise impacts from cruise terminal
- Failed to assess impacts from proposed roadway expansions (e.g., assumes benefit of direct ramps into truck gate but does not include cost, noise, or visual affect of ramps on nearby communities)
- Failed to address impact of truck queuing on area traffic
- Failed to address impact on recreational sailing, racing, and Olympic venue
- Failed to include at least four significant public and private facilities in its inventory of recreational resources in Bayport area
- Failed to address the intention, legality, and impact of necessary condemnations of public (park) and private (industrial and residential) land
- Failed to address the risk of terrorism
- Failed to address the impact of ships' wakes on area harbors
- Failed to consider the cumulative impact of Bayport and San Jacinto Rail on same geographic areas
- Failed to address the noise impacts from additional train traffic
- Biased the selection of alternative sites
- Incorrectly estimated the number of acres of jurisdictional wetlands affected
- Used incorrect assumptions about the truck volumes in the noise analysis
- Used daily averages rather than maximums in noise analysis
- Incorrectly concluded that Bayport would have no effect on area recreational resources
- Failed to address the impact of Bayport at full build-out on regional ozone pollution attainment
- Incorrectly concluded that the risks from hazardous materials transport is the same across alternative sites rather than recognizing differences in size of population around alternative sites
- Inadequately assessed the risk of introduction of non-indigenous species from bilge water
- Failed to recognize significant residential, fishing, and recreational history of Bayport site and its surrounding communities
- Fails to address most construction impacts, even though construction would stretch over nearly twenty years

MAR 1 5 2002

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City of La Porte

Established 1892

March 1, 2002

The Honorable Tom DeLay
U.S. Congressman
10701 Corporate Drive, Suite 118
Stafford, Texas 77477

Dear Congressman DeLay:

I am enclosing a copy of a letter the City of La Porte submitted to the U.S. Army Corps of Engineers regarding the proposed Bayport Terminal.

The City of La Porte is opposed to the Bayport site because we believe that the Draft Environmental Impact Statement (DEIS) does not address the many concerns we have with this site.

We appreciate you taking the time to read our position paper and would welcome any support you would be willing to provide on our behalf.

Sincerely,

Robert T. Herrera

Robert T. Herrera
City Manager

Enclosure
cc: Mayor and City Council
John Joerns, Assistant City Manager

RTH:su

12995

MAR 15 2002

City of La Porte

Established 1892

January 10, 2002

Certified Mail
7000 1670 0002 2104 0259

Mr. Kerry M. Stanley
U.S. Army Corps of Engineers
Galveston District
Regulatory Branch
P.O. Box 1229
Galveston, Texas 77553-1229

Dear Mr. Stanley:

On behalf of the City of La Porte, please accept, record, and file this letter as the City of La Porte's comments regarding the Draft Environmental Impact Statement (DEIS) for the proposed Bayport Marine Terminal.

The City of La Porte appreciates the time and effort the U.S. Army Corps of Engineers has given to study the permit application received from the Port of Houston. We recognize that the review was complex and voluminous. We also believe that the Port of Houston has made a genuine effort to understand some of the concerns raised by residents of East Harris County and the communities they reside in.

Our City has participated with the work group developed by the Port Authority (Community Advisory Group) and has attended several public hearings and scoping meetings. The Port Authority continues to work in good faith with the Community Advisory Group in addressing elements of the DEIS and other issues raised during this process. However, it is the view of the Council, who represent the community, that concerns raised in the August 1999 position paper have been heard but not acted upon or resolved. Consequently, **the City is opposed to the Bayport site**, or any combination including Bayport, because we firmly believe the DEIS reinforces our concerns that this site would have substantial long term negative environmental impacts for our community.

We would hope that before you consider issuing a permit for this location, you will follow all adopted procedures to insure the public's due process and interests are held at the highest degree of accountability. In addition, we would request that all issues raised during the scoping process, that may not have been analyzed in the current DEIS, be looked at diligently and reported in the final EIS along with all comments received on the circumstances we have no control over. We further believe that the applicant has a duty

P.O. Box 1115 • La Porte, Texas 77572-1115 • (281) 471-5020

and stewardship responsibilities to the community that is not yet evident in their permit application.

The DEIS Executive Summary established two categories, non-environmental and environmental, for comparison of alternate sites. In general, our review finds that the proposed Bayport site ranked either favorably or equal to other sites in the non-environmental categories of availability, operational effectiveness and site constraints. However, within the environmental category, the Bayport site displayed many negative environmental impacts that were more significant than alternate sites. We sincerely hope that convenience, ease of construction and infrastructure costs for the PHA does not prevail over real environmental impacts to adjacent and nearby homes and communities.

Another great concern is the comment on air quality. Except for the No Action Alternative, the comments on Airshed Atmosphere Loading are the same for all alternative sites. Especially disturbing is the statement that,

> "2007 NO_x and VOC emissions generated by terminal construction and operations are included in the HGA ozone attainment plan. Therefore, the impact on the region's plan to attain the ozone standard is a long term, less than significant adverse impact."

In effect, this is saying that the increased emissions from Bayport can be spread out or balanced over an eight county region while in reality the impacts will be a loading to be borne by the adjacent communities. Please explain why other environmental impacts were site specific while this impact was assumed to be spread out over a region?

In La Porte we remember the traffic problems which resulted when Barbours Cut was being built. We remember the discussions and compromises by both sides, which resulted in a grudging acceptance of Barbours Cut by its neighbors. Today, we continue to live with those environmental impacts and lack of planning and public/community involvement in the development of Barbours Cut.

We are familiar with the much stricter environmental regulations that exist today and trust that the Corps of Engineers will recognize that Bayport is not the appropriate site.

ADDITIONAL CONCERNS WE REQUEST BE ADDRESSED BY YOUR AGENCY ARE LISTED BELOW

NOISE POLLUTION

- Homes to the north side of the Channel will experience disruptive amounts of noise. The DEIS notes that construction noise alone during the nighttime would exceed 55 dBA (decibels, A-weighted sound level) at the nearest residences for dredging, and the nighttime pile construction would exceed 55 dBA at the nearest residences. Operation sound levels at the residences north of the Channel would increase 16 to 22 dBA and exceed 65 Dba Ldn. Two of the alternate sites listed would not increase noise pollution or disturb area residents.

AIR POLLUTION

DEIS Statement

- The DEIS states "emissions of NO_x [Nitrogen Oxides ($NO + NO_2$) + the nitrate radical (NO_3)], SO_2 (Sulfur Dioxides), and PM_{10} (Particulate Matter less than 10 microns in diameter) will be generated by construction equipment engines as well as fugitive dust emissions. This is a short-term adverse impact.

Comment

- ➢ The EIS lacks discussion of fine particulate matter that will be discharged. Although this area currently is in compliance at 10 microns, a small increase from the port may cause it to be non compliant.

DEIS Statement

- Fugitive dust PM_{10} emissions would be mitigated by use of dust control measures. Emissions of NO_x, SO_2 and PM_{10} will be generated both offsite and onsite due to container and cruise terminal operations. These emissions represent a long-term adverse impact.

Comment

- ➢ The EPA is lowering the standard from 10.0 to 2.5, which mandates that the EIS address this issue.

DEIS Statement

- The impact on the Ozone Attainment Plan is stated as "2007 NO_x and VOC (Volatile Organic Compounds) emissions generated by terminal construction and operations are included in the HGA (Houston-Galveston Non-attainment Area) ozone attainment plan. Therefore, the impact on the region's plans to attain the ozone standard is a long-term, less than significant adverse impact.

- Less than significant impact is represented by an increase in pollutant loading that is incorporated into the HGA ozone attainment plan modeling and is not expected to jeopardize the ability of the area to reach attainment by 2007.

- Significant impact is represented by an increase in pollutant loading that has not been incorporated into the HGA ozone attainment plan modeling and may risk the ability of the area to come into attainment.

- Emissions incorporated into the HGA ozone attainment plan modeling for the terminal development in 2007 are:

    - Vessels – 3 tons per day (tpd) of NO_x and 0.076 tpd of VOC;
    - Non-road – 0.51 tpd of NO_x and 0.26 tpd of VOC;
    - Construction – 0.07 tpd of NO_x and 0.008 tpd of VOC;
    - Dredging – 0.24 tpd of NO_x and 0.003 tpd of VOC; and
    - On-road – not identified specifically but accommodated for as growth to the area.

- Emissions loading estimates past 2007 have not been evaluated.

Comment

- What about impacts after 2007 (Less than 5 Years) when increased operations and future expansions occur?
- Vessels emissions – does the modeling include both trips to and from port and while vessels are in port?
- Emissions from railroad activity is not included (and currently not subject to state regulations)

- Emissions from on-road activity is not identified specifically but accommodated for as growth to the area. Did the future growth include estimates for Bayport construction and future expansions – for the 2007 State Implementation Plan? After 2007? Again, currently commercial truck activity (and heavy equipment) is federally regulated and falls outside the TNRCC's Pollution Control Plan.

- The less than significant impact definition avoids the true impact to the communities adjacent to and near the Bayport site. It assumes it's not significant because a number has been plugged into an attainment plan that covers an eight county area. Airshed Impacts should be site specific and not assumed to be less than significant because it was spread out or balanced over an eight county area. There are alternative sites where the Airshed Impacts would not affect such a large population.

- The entire eight county region is being subjected to rules related to heavy construction limitations, landscape and lawn mowing limitations and new speed limits. Even though small in their total effect, we've all been asked to share the load while this proposed activity is a point source and a real impact borne by a few people, not fully projected for year 2007 and not projected at all beyond 2007.

- All of these concerns are amplified by the fact that the 2007 State Implementation Plan still falls short of needed NO_x reductions. Therefore, any increase in NO_x is unjustified and unreasonable.
  - Harris County officials have recently indicated they may take action on the proposed 55 mph speed limit. If this occurs and the 55 mph restriction is removed then the projected NO_x 2007 shortfall would be even greater.
  - Furthermore, five petitions filed with the 5th U.S. Circuit Court of Appeals cite different flaws in the plan as reasons the court should review and set aside the EPA's approval. The petition argues that the 2007 SIP Plan did not account for the future growth of emissions expected for entities like the Port of Houston. Please advise what the petition claims was not accounted for.

LIGHT POLLUTION

- Homes to the north side of the channel will experience disruptive amounts of light pollution. The DEIS states "Development of the Terminal complexes would change the visual character at any of the terminal location alternatives from a low level undeveloped area to a well-lighted, 24-hour transportation facility with high-mast lighting."

- The DEIS indicates the residential areas north of Bayport Terminal would not experience an increase in nighttime ambient light due to the distance from the light sources. However, operational lighting at Bayport could lead to nightglow that would be visible by virtually all the residential areas adjacent to Bayport. There are several alternative sites where there are no residential areas in the vicinity of the site.

EROSION

- The information on shoreline erosion at the Bayport Channel is documented in the DEIS. It was noted that, on the average, each bank has been retreating at a rate of 4.3 feet per year. This would be expected to increase because of increased traffic.

- The DEIS summary states that there is no short-term or long-term impact relating to shoreline erosion. We assume this is attributed to another statement that "unprotected shoreline to be protected as part of the project construction."

- Please confirm that plans for shoreline protection were part of the application and that they include protection of the private property at and around the northeast corner of the channel entrance to Bayport.

TRANSPORTATION ISSUES

- Delays will be caused at rail crossings and major thoroughfares due to increased vehicular and rail traffic. The DEIS presents references to roadways that will need to be improved upon but does little to discuss the actual additional traffic and the burden it would place on area residents. No consideration has apparently been given to conflicts with existing vehicular traffic. The only suggestions made are the widening of Port Road from the project site to SH 146 and "proposed interchange and ramp improvements in the vicinity of the Port Road and SH 146 interchange." The DEIS acknowledges that Red Bluff Road, Port Road, and SH 146 will need improvements in future years based on projected growth with or without the Bayport Terminal. As for rail traffic, the DEIS is even more vague, stating only that "The site is located so that trains from the site could easily be consolidated with those from the Barbours Cut Terminal" and suggests "road/rail grade separation at new rail crossings at SH 146."

- The DEIS addressed the impact to the transportation system on an area basis but does not address localized impacts. Local communities, which are already subject

to the worst environmental impacts, will thus realize immediate impact on their surface transportation and this must be discussed.

- An overpass must be constructed where Fairmont Parkway, a major thoroughfare, crosses the new inter port railway. This overpass and the highway modifications at the entrance to the port must be in place by the date the port begins operation.

- The DEIS erroneously implies that the Fairmont Parkway grade separation is fully funded by the Transportation Implementation Plan and Port of Houston Authority commitments. Harris County, also a party to this improvement, only recently agreed to the funding arrangements. The Texas Department of Transportation Agreements have yet to be signed.

SHIPPING

- The distance between ships moving into position at the docks may be inadequate to prevent collision and erosion.

- Ships entering the Bayport Terminal do not have to comply with the State air emissions reduction efforts and will bring their emissions into close proximity to a highly urbanized, residential area.

- The DEIS does not speak to reducing or mitigating the increased levels of pollution from marine vessel coatings and materials, which will come from the additional increase of foreign flagged vessels entering Galveston Bay. Use of antifouling coatings to reduce the organic growth of marine life by foreign vessels do not fall under and are immune to U.S. laws and regulations against the deposition of trace amounts of anti-fouling coating products in the U.S. waters.

  These coatings, designed deliberately to kill or slow marine growths on hulls, are leaked into the surrounding environment.

  Certain pollutants contained in these products have long been recognized as destructive to natural reefs and entire ecosystems.

- The permit application continues to be silent on the impact of deepening the channel from 45 feet to 50 feet even though the Bayport wharves are being designed for a 56-foot depth. We believe it is better to understand the incremental change from 45 feet to 50 feet today rather than hear the Port has decided to seek a permit for a 50-foot channel within the next five years.

- A potential exists for conflicts between commercial vessels and recreational boats between Bayport and the Houston Ship Channel. The DEIS does not develop any actions to mitigate this potential conflict except to suggest that recreational boaters will voluntarily relocate to less congested areas.

- The sailing distance from the Galveston sea buoy to the Bayport Terminal is approximately 36 miles. Two alternative terminal locations, Pelican Island and Shoal Point, have significantly less sailing distances. The DEIS indicates there would be less risk of ship collisions and groundings associated with development of the sites with shorter sailing distances.

SEWAGE

- Sewage from the ships and the port must be handled in a manner whereby there is no chance that it will enter Galveston Bay. A system approved by the TNRCC should be in place by the time operations begin.

WATER QUALITY

- The DEIS lacks discussion of current water quality for the portion of the bay that would be affected by the construction of this project and subsequent increase in shipping. It noted a few stations with data collected in 1997-1998 but the majority is from Galveston Bay Estuary Program reports dated 1992 and 1994.

- The DEIS lacks reference to ongoing projects and water quality results from current studies that address dioxin and bacteria, which could help, determine whether or not the Bayport Ship Channel will be added to the state list of impaired waters.

- The DEIS lacks discussion on the impact of dredging on water quality for the short or long term. If dredging causes re-suspension of contaminants, the Channel would be placed on a list that would require Total Maximum Daily Load studies.

- The DEIS lacks discussion on the potential impact of increased shipping activity and storm water runoff on water quality.

- The DEIS lacks discussion on the effects of ballast water on the Galveston Bay System.

WETLANDS/HABITAT

- Wetlands in the Galveston Bay watershed provide treatment of storm water runoff and buffer floods to reduce storm surges and additionally serve as habitat for wildlife and commercially valuable species.

- The DEIS describes 2.5 acres of wetlands under the jurisdiction of the Corps that will be destroyed and require mitigation and 103.5 acres of non-jurisdictional wetlands. The DEIS lacks adequate discussion on the impact of losing these wetlands.

- The DEIS lacks adequate discussion on the value of wetlands, specific mitigation requirements, or the location of mitigation.

BAYFRONT DEVELOPMENT/RECREATION

- The permit is silent in addressing the impact that Bayport development will have on future recreation and bayfront developments in La Porte. In 1993, the City adopted a Bayfront Master Plan. The primary aims of this study are to stimulate economic development within the City, to diversify the City's economic base through the stimulation of its tourist industry, and to create a more desirable physical environment through the enhancement of its waterfront assets. A copy of this report was given to the Port of Houston Authority consultants. They indicated that it was good we had plans for waterfront development and that they would study what impact the Bayport development would have on our vision and respond to us. No response has been afforded to us. The Corps should look at all plans which were adopted before Bayport was conceived to determine how the proposed development will hinder growth, redevelopment, and the ability for beautification and visual enhancement of the waterfront as well as of the waterfront district itself.

Approximately 2 ½ years ago we issued a position paper on the expansion. For the purpose of record keeping, we are resubmitting it to you as it was written and **delivered to your agency on August 17, 1999** at a scoping meeting held in Pasadena, Texas.

WE BELIEVE THAT OUR ORIGINAL CONCERNS REMAIN VALID AND REQUEST THE CORPS RESPOND TO THESE OBSERVATIONS AS WELL.

1) The development will bring about changes in our community which are disruptive and more than just a nuisance. Homes on the north side of the Channel to Bayport will experience noise, air pollution, lighting, and shoreline erosion problems. These issues, if not addressed, will cause the property owners' land values to be lowered, and their ability to sell their homes would be very difficult without taking a loss. If the Port Authority cannot correct these real estate concerns, then consideration from the Port Authority should be given to buy out the homes at fair market value, which abut the development.

2) The proposed development will bring with it major rail and vehicle transportation issues which will impact the City of La Porte and will affect neighboring communities. The proposed development will cause delays at rail crossings of major thoroughfares such as Fairmont Parkway, Shoreacres Boulevard, and Red Bluff Drive. Consideration from the Port of Houston must be given to working with local jurisdictions to resolve traffic concerns. In addition, the Port Authority should petition the State of Texas Highway Department to insure that State Highway 146 and State Highway 225 roadways are designed and constructed in advance to provide for the growth of the area and this development. It is recommended the Port Authority approach the State Highway Department to create a specialized truck lane on State Highway 146 to isolate the truck traffic to and from port facilities. The Port Authority should actively take a lead role in insuring rail crossings have overpasses and should also seek ways to fund these overpasses and their construction before the proposed development occurs.

3) The proposed development will add significant air pollution issues that cannot be ignored. The Bayport facility will generate additional air pollution from its use of diesel trucks, diesel ships, diesel cranes, and diesel vehicles that will operate at this location. The Port Authority should study the impact of this air pollution to the surrounding communities and to Harris County. Consideration should be given to using equipment that uses a cleaner burning fuel alternative. In addition, consideration should be given to the placement of air monitoring devices along the site boundaries to measure the air quality leaving the site. East Harris County is under orders of the EPA that our region must reduce nitrogen oxides (Nox) emissions by as much as 85 percent to come into compliance with the national ozone standard by the year 2007. Adding this facility at this location contradicts any state goal adopted to reduce Nox emissions in our region.

MAR 1 4 2002

UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE

Southeast Regional Office
9721 Executive Center Drive N.
St. Petersburg, Florida 33702

March 13, 2002

Colonel Leonard D. Waterworth
District Engineer, Galveston District
Department of the Army, Corps of Engineers
P.O. Box 1229
Galveston, Texas 77553-1229

DF- 11000
Clk

Dear Colonel Waterworth:

The National Marine Fisheries Service (NMFS) has reviewed Permit Application 21520 (Revised) dated December 5, 2001 and the Draft Environmental Impact Statement (DEIS) for Port of Houston Authority's Proposed Bayport Channel Container/Cruise Terminal dated November 2001. The proposed project is located on a primarily upland area adjacent to the Bayport Ship Channel in the City of Pasadena with access to Galveston Bay. Our comments to the DEIS are as follows:

GENERAL COMMENT

12-23

In Section 2.5 COMPARISONS OF ALTERNATIVE LOCATIONS AND IMPACTS, Table 2-3 Acreage of Dredge and Fill shows 23.5 acres as Submerged Area Filled; Table 2-5: Summary Comparison of Environmental Consequences, Topic: Ecology, shows 23.5 acres of bay bottom filled under the Bayport Alternative column; and Figure 2-3, under Legend, denotes a large colored area at the cruise terminal site as Aquatic Area Filled. We could not find any discussion of this 23.5 acres proposed for filling, environmental impact discussion to this area of Essential Fish Habitat (EFH), or proposed mitigation discussion for the loss of this valuable aquatic resource area in this section or anywhere in any of the six volumes of the DEIS. We request that this information be added to the appropriate sections of the DEIS.

SPECIFIC COMMENTS

SECTION 3.0 - AFFECTED ENVIRONMENT AND ENVIRONMENTAL CONSEQUENCES

3.20 ECOLOGY

3.20.2 Affected Environment

3.20.2.3 EFH in Galveston Bay

12-24 The Gulf of Mexico Fishery Management Council has identified the proposed project area as EFH for postlarval, juvenile, subadult and adult red drum (*Sciaenops ocellatus*), white shrimp (*Litopenaeus setiferus*) and brown shrimp (*Farfantepenaeus aztecus*) and juvenile and adult Spanish mackerel (*Scomberomorus maculatus*). Therefore, references to all life stages of pink shrimp, juvenile gray snapper, stone crab and all other species should be eliminated from this section and Appendix 3.20-2 Detailed Descriptions of EFH and Managed Species in the Project Area.

omitted scientific names

3.20.2.3 EFH in Galveston Bay

Guidance and procedures for implementing the 1996 amendments of the Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA) (P.L. 104 - 297) were provided through final rules established by the NMFS in 2002 (50 CFR Part 600). As set forth in the NMFS final rules, EFH Assessments must include: (1) a description of the proposed action; (2) an analysis of the effects, including cumulative effects, of the action on EFH, the managed species, and associated species by life history stage; (3) the Federal agency's views regarding the effects of the action on EFH; and (4) proposed mitigation, if applicable. If appropriate, the assessment also should include the results of an onsite inspection, the views of recognized experts on the habitat or species affects, a literature review, an analysis of alternatives to the proposed action, and any other relevant information. Although required by the NMFS final rules, there is no corresponding EFH Assessment in "SECTION 3.0 - AFFECTED ENVIRONMENT AND ENVIRONMENTAL CONSEQUENCES."

12-25 The consultation requirements in the MSFCMA direct Federal agencies to consult with NMFS when any of their activities may have an adverse effect on EFH. The EFH rules define an adverse effect as "any impact which reduces quality and/or quantity of EFH...[and] may include direct (e.g., contamination or physical disruption), indirect (e.g., loss of prey, reduction in species' fecundity), site-specific or habitat wide impacts, including individual, cumulative, or synergistic consequences of actions." Section 305(b)(4)(A) of the MSFCMA requires that NMFS provide EFH Conservation Recommendations for Federal agency action or permit that would result in adverse impacts to EFH. However, the DEIS does not contain sufficient information as required by the EFH final rules for NMFS to provide EFH Conservation Recommendations to the Corps of Engineers (COE). Therefore, to comply with the EFH consultation requirements either: 1) the EFH assessment in the DEIS needs to be significantly revised to include a complete EFH assessment in the Final EIS and the COE must address any EFH Conservation Recommendations that NMFS may offer before developing a Record of Decision or issuing a permit; or 2) the COE may provide NMFS with a separate and complete EFH assessment prior to the publication of the Final EIS.

Thank you for your consideration of our recommendations. If we may be of further assistance, please contact Mr. William Jackson of our Galveston Facility at (409) 766-3699.

Sincerely,

for: William B. Jackson

Andreas Mager, Jr.
Assistant Regional Administrator
Habitat Conservation Division

APR 0 2 2002

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS, TX 75202-2733

DF 11743

MAR 2 [illegible]2002

SCC

Colonel Leonard D. Waterworth
District Engineer
Galveston District
U.S. Army Corps of Engineers
P.O. Box 1229
Galveston, TX 77553-1229

Dear Colonel Waterworth:

In accordance with our responsibilities under Section 309 of the Clean Air Act, the National Environmental Policy Act (NEPA), and the Council on Environmental Quality (CEQ) Regulations for Implementing NEPA, the U.S. Environmental Protection Agency (EPA) Region 6 office in Dallas, Texas, has completed its review of the Draft Environmental Impact Statement (DEIS) for the proposed Bayport Container/Cruise Terminal, Pasadena, Harris County, Texas.

EPA rates the DEIS as "**EC-2,**" i.e., EPA has "**Environmental Concerns and Requests Additional Information in the Final EIS** (FEIS)." EPA has identified environmental concerns and informational needs to be included in the FEIS to complement and to more fully insure compliance with the requirements of NEPA and the CEQ regulations. Areas requiring additional information or clarification include: air quality and conformity certification, land use and zoning, coastal zone management, surface transportation, community infrastructure, noise, dredge material placement, socioeconomic, aesthetics and lighting, mitigation, and water quality. We suggest that the alternative selected be fully mitigated for those impacts that are unavoidable and that a mitigation plan be incorporated in the Record of Decision and made conditions to the Section 10/404 Corps of Engineers permit, as appropriate.

27-16

Our classification will be published in the Federal Register according to our responsibility under Section 309 of the Clean Air Act, to inform the public of our views on proposed Federal actions. Detailed comments are enclosed with this letter which more clearly identify our concerns and the informational needs requested for incorporation into the FEIS. If you have any questions, please contact Mike Jansky of my staff at 214-665-7451 for assistance.

EPA appreciates the opportunity to review the DEIS. Please send our office five copies of the FEIS when it is sent to the Office of Federal Activities, EPA (Mail Code 2252A), Ariel Rios Building, 1200 Pennsylvania Ave, N.W., Washington, D.C. 20460.

Sincerely yours,

Robert D. Lawrence, Chief
Office of Planning and
Coordination (6EN-XP)

Enclosure

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APR 0 2 2002

SUMMARY PARAGRAPH DF 13

ERP NUMBER D-COE-G39034-TX

TITLE: BAYPORT CARGO CONTAINER/CRUISE TERMINAL, PASADENA, HARRIS, COUNTY, TEXAS PROJECT

RATING ASSIGNED TO PROJECT EC-2

NAME OF EPA OFFICIAL RESPONSIBLE Robert D. Lawrence
Chief, Office of Planning
and Coordination

SUMMARY OF COMMENT LETTER

EPA rates this proposed action as "EC-2," i.e., EPA has "Environmental Concerns and Requests Additional Information in the Final IS." EPA has identified some environmental concerns that need to be included in the Final IS to fully insure compliance with the requirements of NEPA and the CEQ. regulations. Areas requiring further analysis include: air quality and conformity, land use and zoning, coastal zone management, surface transportation, community infrastructure, noise, dredge material placement, socioeconomic, aesthetics and lighting, air quality, mitigation, and water quality. We suggest that the alternative selected be fully mitigated for those impacts that are unavoidable and that a mitigation plan be incorporated in the Record of Decision and made conditions to the Section 10/404 Corps of Engineers permit, as appropriate.

PARAGRAPH APPROVED FOR PUBLICATION

_____
(Initials of
Approving Official)

DF 11713

DETAILED COMMENTS ON THE PORT OF HOUSTON AUTHORITY'S PROPOSED BAYPORT CONTAINER/CRUISE TERMINAL DRAFT ENVIRONMENTAL IMPACT STATEMENT (DEIS)

Background

The Port of Houston Authority has developed a plan to construct and operate a marine terminal complex on the Bayport Ship Channel in Texas. The proposed project includes a 752 acre container terminal complex which would contain wharves, container yards, gate facilities, intermodal yards, container freight stations, ancillary and support facilities, and industrial codevelopment areas. Another portion of the project is a 192 acre cruise terminal complex with related codevelopment areas. A related development is a 147 acre buffer area and stormwater management area.

The proposed facilities include approximately 7000 linear feet of new wharves and berths for container operations and approximately 5000 feet of wharves and berths for cruise ship operations. Accommodating the proposed project will require a new 1600 foot diameter cruise turning basin on the south side of the Bayport Channel, east of the proposed cruise terminals. A total of 95 acres located outside the project site would be used for new or improved rights-of-way for road and rail.

Container traffic in Houston has risen at an average growth rate of approximately 10 percent per year since 1992. Increasing from 490,000 Twenty-ton Equivalent Units (TEU) in 1994 to 1,007,200 TEU in 1999. Based on the assumed growth rate of 10 percent, up to 28 new container berths would be needed in the Texas Central Gulf Region between 2001 and 2028. To meet the projected container growth, the Port of Houston Authority intends to develop a modern load center facility with sufficient waterfront and upland area behind the berths to deploy, organize, and load/unload containers to/from trucks and rail.

Another goal of the proposed development is increased cruise ship traffic. This goal is to be accomplished through new landside and dockside cruise terminal facilities.

Alternatives Evaluated

No Action Alternative.

Under the No Action Alternative no proposed terminal complexes would be developed at any location.

Bayport Terminal Location Alternative.

The Bayport terminal location involves constructing and operating a marine terminal complex on approximately 1,091 acres along the south side of the Bayport Ship Channel. This development would require dredging the container and cruise berths to a depth of 40 feet mean low tide (MLT) which would generate approximately 5 million cubic yards of material for placement. This material would be utilized in the construction process for berms and fill in the facilities construction. Also included in this alternative is the dredging of a 1,400 foot diameter cruise turning basin (33 feet MLT) which would generate an additional 2.12 million cubic yards of material for placement. Some of this material would be used for beneficial use projects, such as marsh creation.

Spilmans Island Terminal Location Alternative.

This alternative is a terminal complex located at Spilmans Island with a design similar to the Bayport terminal location alternative. The dredging required for the navigational channel, two turning basins, and berthing areas to 40 feet Mean Low Tide (MLT) would generate approximately 27 million cubic yards of material for placement.

Shoal Point Terminal Location Alternative.

This terminal location would include seven container terminals adjacent to the north shore of the existing placement area along the existing Texas City Channel. The development of these seven terminals would require filling in an area of submerged lands at the east end of the existing placement area. The terminal layout also includes three cruise terminals to be developed adjacent to the existing Texas City Turning Basin.

The design of the terminal complex would be similar to the Bayport terminal location alternative. The cruise terminal complex would be similar to that proposed by the applicant at Bayport, except that it only would have three terminals. The development of this alternative would require the dredging of approximately 14 million cubic yards of sediments from the existing Texas City Channel and the terminal channel.

Cedar Point Terminal Location Alternative.

The development of this alternative would involve the excavation of a new channel area into the Cedar Point property. Seven container terminals would be developed along the south side of the harbor channel and turning basin. Five cruise terminals would be developed on the east and north sides of the turning basin. The total dredging volume to create the entrance channel, harbor channel, turning basin, and berths is approximately 29 million cubic yards. Some of this material would be used to raise the elevation of the terminal development area.

Pelican Island Terminal Location Alternative.

The development of this alternative would include new construction dredging of a harbor channel extending west from the existing Galveston Channel. Seven container terminals and three cruise terminals would be constructed along the north side of this new channel. A new fixed bridge would be constructed over the upper reach of the Galveston Channel to connect with I-45. A new lift bridge would also be constructed across the upper reach of the Galveston Channel to provide rail service to the new terminals. A total of 20 million cubic yards would be dredged to create the navigational channel.

Shoal Point/Bayport Terminal Location Alternative.

Under this alternative three container terminals would be developed at Shoal Point and four container terminals and five cruise terminals would be developed at the Bayport site. The design of the container terminal complex at Shoal Point would be similar to the Bayport alternative in terms of paved area, lighting, drainage, and container/intermodal capabilities. No cruise passenger terminals would be developed at the Shoal Point site under this alternative. The total dredging volume for this alternative is estimated to be approximately 12 million cubic yards.

Upper San Jacinto Bay/Bayport Terminal Location Alternative.

This alternative utilizes the Bayport facility components as the Shoal Point/Bayport terminal location alternative. Under this alternative, three container terminals would be developed on the west side of the Upper San Jacinto Bay, west of Alexander Island and next to the existing Reliant Energy Houston Lighting and Power facility. Navigational access to the site would be provided by a new deepwater channel extending south from the Houston Ship Channel on the east side of Alexander Island. The design of the terminal complex would be similar to the Bayport terminal location alternative. Approximately 18 million cubic yards of sediments would be dredged for this alternative.

Preferred Alternative.

Although the EIS does not specifically name a preferred alternative the original proposed action was the Bayport Terminal Location Alternative, which is assumed to be the preferred alternative.

DETAILED COMMENTS

Wetland Comments

The Port of Houston Authority has requested to develop a major marine terminal

complex on approximately 1,091 acres along the south side of the Bayport Ship Channel. The project would require the placement of fill material into approximately 2.5 acres of jurisdictional wetlands. The project site is located along the south side of the Bayport Ship Channel, between the cities of Shoreacres and Seabrook, in Harris County, Texas.

We understand that the U.S. Army Corps of Engineers is reviewing the applicant's wetland delineation. Some depressional wetlands at South of Port Road may be hydrologically connected to Pine Gully by ditches. EPA would like to review the finalized delineation. 14-4

The project will result in the loss of 106 acres of wetlands, of which about 103.5 acres may be isolated and therefore not jurisdictional. However these wetlands provide many functions including water quality enhancement, erosion control, and wildlife habitat. The applicant should consider other alternatives to avoid or minimize wetlands impacts. We also recommend that all wetland losses be compensated. Additional specific information is needed in reference to the proposal to use dredge material to create tidal marsh. 14-46, 2-13, 14-63

To compensate for impacts, the applicant has proposed to purchase a 163-acre tract of land located next to Armand Bayou Nature Center and Taylor Lake. The applicant subsequently proposes to create 12.38 acres of created freshwater emergent wetlands, the enhancement of more than 12 acres of existing wetlands, and the preservation of 137 acres of forested upland and coastal prairie. We believe that the proposed mitigation plan will not adequately compensate for the loss of freshwater wetlands. The site mostly consists of pasture that will become a tallow thicket that has a low habitat value. The other mitigation options listed in the January, 2002 document by Benchmark Ecological Services, Inc. should be explored. 14-63

The proposed fill to 23.5 acres of intertidal mud flats and potential impacts to oyster reefs for the terminal location should be avoided and/or minimized. These areas are considered important feeding grounds for coastal fish, shorebirds, and many invertebrates. The DEIS does not specify acreage amount of possible impacts to these oyster reefs. This acreage should be specified in the FEIS. A mitigation plan should be created for unavoidable losses. Please discuss fully in the FEIS. 12-41

Air Quality/Conformity DEIS Comments

Construction Emissions - 40 CFR 93.158(a)(5)(A) and 30 TAC 101.30(h)(1)(E)(i)(I) require the Texas Natural Resource Conservation Commission (TNRCC) to make a certification (with public review) that the emissions associated with the construction, together with all other emissions in the nonattainment area, will not exceed the emissions budget specified in the applicable State Implementation Plan (SIP) when transportation conformity is triggered. In the Bayport DEIS it is indicated that electrical (no air emissions) dredging equipment will be used and the rest of the construction emissions are below the 25 tpy level. To help ensure that emission levels stay below 25 tons per year (tpy), the U.S. Army Corps of Engineers' Section 7-133

10/404 permit should include the requirement that all dredging be conducted using electrically powered equipment. 7-133

The emissions related to stabilization and site elevation do not appear to be included in the summary tables for the construction phase of the project. Please clarify if emissions from the construction equipment utilized for stabilization and site elevation are included in the emissions total. If these emissions have not been included, then these emissions should be included in the total yearly construction emissions. A reevaluation of applicability of transportation conformity requirements should be included in the FEIS if the construction emissions are reevaluated. 7-163

Since the proposed project is attempting to remain de minimis, the construction emissions should be monitored closely. The U.S. Army Corps of Engineers' permit should be conditioned to require that construction emissions be limited to less than 25 tons per 12 consecutive month period, and that emissions should be calculated on a monthly basis. If some of the dredging is not done utilizing electrical power or if more construction emissions occur in one year than planned, the yearly construction emissions totals could easily exceed 25 tpy and result in conformity rules applying to the project. If this were to occur, then the U.S. Army Corps of Engineers would be responsible for contacting appropriate regulatory authorities to address the application of conformity requirements. 7-134

Requiring these limits to be included in the permit is based upon EPA's (July 13, 1994) General Conformity Guidance: Questions and Answers, page 12, that indicates limits keeping a source de minimis should be made State or Federally enforceable.

Operation Emissions - We are concerned if the build/no build analysis of the operations adequately considered the increased demand that would result from construction of Bayport. Of particular concern is for the U.S. Army Corps of Engineers to address what new growth would occur as a result of the federal action that would not be expected to occur without this project. 7-135

Attainment - We request the U.S. Army Corps of Engineers verify with the state that the proposed project(s) at the port are consistent with the TNRCC's Houston/Galveston Nonattainment Area (HGA) plans for attainment. Since the proposed source is de minimis, the general conformity rule does not apply to the project. As you may be aware, we recently approved TNRCC's SIP and are currently engaged with the TNRCC in continuing to study the HGA ozone nonattainment problem. Of potential concern is the level of operational emissions that will occur in the future due to the construction of Bayport and/or Shoal Point Harbor projects. From information included with the Bayport DEIS, the total estimated operating emissions from the Bayport facility is projected for 2007 to be 973 tpy of NOx (2.6 Tons per day of NOx) and for 2025 and beyond the total is projected to be 4954 tpy of NOx (13.6 Tons per day of NOx). From information included with the Shoal Point DEIS, the total estimated operating emissions from this facility is projected for 2007 to be 876 tpy of NOx (2.4 Tons per day of NOx) and for 2026 and beyond the total is projected to be 2178 tpy of NOx (6.0 Tons per 7-136

day of NOx).

The 2007 NOx emission estimates for each individual project are below the emission increase due to ship traffic that were included in TNRCC's SIP modeling. U.S. Army Corps of Engineers have indicated that both of the projects might actually be built. The combined operating emissions from both projects in 2007 (2.6 + 2.4 = 5.0 tpd of NOx) is a significant amount and a copy of the final operating emission calculations should be provided to TNRCC so the information can be utilized in future SIP actions. 7-136

Although not specifically mentioned, if any emission mitigation measures are contemplated under Texas Senate Bill 5, the U.S. Army Corps of Engineers should demonstrate that funding is available to implement them, specifically approved for this project, and request that requirements be included in the permit to construct to ensure that the reductions are enforceable. These measures are necessary since reductions from this bill are not guaranteed for any specific area. If measures are not taken to ensure that mitigation measures based on Senate Bill 5 are enforceable, such emissions should either be included in the analysis or the permit should be conditioned with the necessary limits (i.e. lower emission equipment, etc.) to maintain emissions less than 25 tpy on a 12-month rolling basis. 7-137

The DEIS did not address the projected impact of the construction and operation of the Bayport terminal on the PM-2.5 emissions of the Houston-Galveston area. Although EPA does not currently have a standard in place for PM-2.5, EPA believes that performing such an analysis would be beneficial. 7-119

We are requesting that you specifically address the above concerns and clarify the potential applicability of conformity regulations to the operations of the proposed facility in the FEIS.

Section 3.2 Land Use and Coastal Zone Management, Section 3.2.1 Introduction, Page 3.2-1.

The land use/coastal zone introduction (section 3.2.1) is limited and inaccurate. It is vague because, while it is supposed to introduce the entire Section 3.2, it only describes information that relates to the description of the Affected Environment (except for the mention of "consistency with coastal zone management"). It is inaccurate because it states that Section 3.2 "describes existing, planned, and permissible land uses" and "land use regulations". But planned and permissible land uses and land use regulations are not discussed anywhere in the section. Furthermore, it is unclear what is meant by "permissible" land uses.) Please explain and discuss fully in the FEIS. 4-55

Section 3.2.2.1 Affected Environment - Land Use, Page 3.2-1

This section appears to adequately describes existing land uses by jurisdiction, but it does not address anything else mentioned in the Introduction (Section 3.2.1). This section should reference the governing land use plans for each jurisdiction and describe planned land uses within each study area. Where applicable, zoning should be discussed, as well as any other applicable land use regulations, development goals, and policies. 4-56

This section is also limited to an economic stimulus analysis of the project. The analytical method does not include analysis of potential negative economic impacts (e.g., strain on social services and infrastructure). The demand for schools, hospitals, prisons, etc. to be affected by the proposed project should be compared to the no action alternative. The anticipated ability for the additional new development to pay for necessary new infrastructure projects should be discussed. The potential for current residents to incur tax and user rate increases as a result of the additional growth should be identified along with there potential impacts on residential property values (e.g., negative, as a result of increased noise; positive, as demand for housing increases). Are there any other potential social or economic concerns associated with an increase in 39,000 jobs in the project area (e.g., traffic, crime)? The analytical method also does not include analysis of the beneficial uses of the resources in the project area (e.g., recreation, commercial fishing) or how those uses might be affected by the anticipated environmental impacts. Please address this concern in the Final EIS. 6-100 6-7 19-11 27-41 6-118

Section 3.2.2.1 Affected Environment - Land Use, Page 3.3-11, P. 3.3-11 (top).

Please clarify the statement that, "The jobs, income, revenue, and tax impacts generated by the Applicant are a subset of the Applicant's impacts discussed in the previous section."(bullets): Please provide estimates of these impacts in the FEIS. 4-56

Table E-1.

Please list the potential social concerns for the proposed project site (Bayport Terminal) as "heavy residential to north, residential S and SE, and recreation." The analytical method does not include analysis of these concerns. The same is true of concerns for alternative sites identified in this table. Please discuss fully in the FEIS. 5-33

Table E-1.

Please list the potential environmental concerns for the proposed project site (Bayport Terminal) as "fish, birds, wetlands, plants." The analytical method does not include analysis of potential economic or social issues associated with these concerns. This information should be included in the FEIS. 5-33

Section 3.5 Surface Transportation: Section 3.5.2 Affected Environment, Page 3.5-1.

DF 11743

The description of the Affected Environment for surface transportation is thorough and well written. However, data could be better referenced on some of the tables (e.g., Table 3.5-1: the source note at the bottom of the table should reference the time period [June 2000] of the traffic count program. Table 3.5-1: no dates are provided for the data sources.) 27-9

Section 3.6 Community Infrastructure and Municipal Services, Section 3.6.2 Affected Environment, Page 3.6-1.

No quantification is provided for any of the utilities or services. It is not sufficient to simply state who provides the service. The available excess capacity for electrical power supply, natural gas supply, water supply, and wastewater treatment should be identified for each provider. For solid waste disposal, the landfills that service the study areas should be identified and their estimated remaining life with and without the project should be quantified. Please address in the FEIS. 24-6

Section 3.8 Noise, Section 3.7.2, Page 3.8-1.

Although the section covers the baseline material necessary, it would be helpful to have a table or two to present existing noise environments more concisely. In addition, the section makes comparisons between ambient noise levels and expected noise levels, and different language is used for each. Generally, the ambient noise across all sites is about the same, and the comparison should be to "typical" residential areas in all cases. Please address in the FEIS. 3-46

Section 3.9 Aesthetics and Light, Section 3.91, Page 3.9-1.

While no commonly used regulatory standards exist for visual resources, often the city or county comprehensive plan will address design review. If there is a zoning or comprehensive plan, please check for ordinances on lighting within this area. Please discuss fully in the FEIS. 17-15

Section 3.13 Public Safety, Section 3.13.1 Introduction, page 3.13-1.

An introductory background section should be added for hurricane evacuation. This introduction should explain the risk categories mentioned throughout section 3.13.2 and should include a reference to the DEIS section where hurricane frequency and intensity are discussed. Please incorporate into the FEIS. 21-54

Section 3.18 Sediments and Dredged Material Placement. Section 3.18.2, Page 3.18-1.

This section is very difficult to follow. While the methodology for what kind of sediments can be placed where is clear, the foundation for impact analysis is not laid very well. Impact analysis should consider whether there is adequate capacity at various disposal sites to 11-16

receive the volume of sediments to be generated. But the section does not identify available sites, commitments for disposal at those sites, or the "excess" capacity for receiving project sediments. This information is required if the impact analysis is to be given credence. Please address in the FEIS. 11-16

Section 3.20.2.5, page 3.20-27.

Descriptions of each site are presented. Terrestrial descriptions are adequate, but descriptions of the aquatic environment of Galveston Bay are lacking. There is a mention of "fish species common to Galveston Bay," but there is no mention of the kinds of habitat that might exist along each channel to be dredged or what habitat exists immediately adjacent to each site (the area that would be filled in many cases). Readers must get the impression that there are no differences among any of the benthic areas in the Bay. In the impact analysis for Bayport, an oyster bed near the location of the channel is mentioned, but it is not mentioned here. Are there other features that might affect potential impacts? Please clarify in the FEIS. 12-22

Section 3.2 Land Use and Coastal Zone Impacts, Section 3.2.3 Environmental Consequences, Page 3.2-7.

The land use analyses for each alternative superficially describe how land uses would change in some locations, but they do not quantify (in acres) the areas affected. The most important issues in land analysis are compatibility with existing nearby land uses and consistency with land use plans, policies, and zoning; but these issues are not addressed at all. If compatibility and consistency issues were addressed, it is possible that some potentially significant land use impacts would be identified. Please address in the FEIS. 4-57

The coastal zone analysis for each alternative lists the types of Coastal Natural Resource Areas (CNRAs) that would be impacted, but they do not quantify the areas affected. The applicable Texas Coastal Management Program (CMP) policies are listed in Appendix 3.2, but a discussion of consistency with the policies is not provided . If consistency with CMP policies was addressed, it is possible that some potentially significant coastal zone impacts would be identified. Please incorporate into the FEIS. 30-6

Section 3.3 Socioeconomics.

The analysis is limited in scope to the potential economic stimulus of the project in comparison to the no action scenario. There is no mention of any potential negative social or economic impacts (e.g., congestion, crime) of the project in comparison to the no action scenario. Increased infrastructure requirements, and potential associated impacts on current residents, are not discussed. There is also no discussion of the potential market and nonmarket impacts of the anticipated environmental effects from the port development and increased vessel traffic. Changes in environmental quality may affect the nonmarket value of water-related activity (e.g., 6-64 6-118 6-6

recreational fishing) with resulting market implications (e.g., effects on tourism sector); there may also be direct market impacts (e.g., effects on commercial fishing) or social implications (effects on subsistence use of a fishery). The FEIS should identify the important natural resource related uses of the area and what is the value of these uses. The FEIS should also explain how would these uses would be affected by the proposed project and project alternatives in comparison to the no action alternative. 6-6 6-118

Table E-1 lists the potential social concerns for the proposed project site (Bayport Terminal) as "heavy residential to north, residential S and SE, and recreation." These concerns are not discussed. (The same is true of concerns identified for alternative sites.) Please clarify in the FEIS. 5-33

Table E-1 lists the potential environmental concerns for the proposed project site (Bayport Terminal) as "fish, birds, wetlands, plants." These concerns are not discussed. (The same is true of concerns identified for alternative sites.) Please address in the FEIS.

Section 3.5 Surface Transportation Impacts, Section 3.5.3 Environmental Consequences, Page 3.5-10.

In the level-of-service (LOS) tables (3.5-10 through 3.5-33), the bolding of rows seems to indicate roadways where additional lanes are needed to improve LOS to D or better, but the bolding is inconsistently applied and is not explained. Please clarify in the FEIS. 27-100

Section 3.6 Community Services and Municipal Services Impacts, Section 3.6.3 Environmental Consequences, Page 3.6-2.

The assumptions and methodologies section provides "assumptions" about the utility and service demands of the project, but it does not describe a methodology for determining the significance of those impacts. The analyses for each alternative simply provides conclusions about the need for utility and service upgrades or extension of services. No quantification is provided for the additional capacity requirements. This is essential to determine the significance of the impacts. Please discuss fully in the FEIS. 24-6

Section 3.8 Noise, Section 3.8.3.3, Page 3.8-14.

The section on construction on this page does not indicate whether the noise levels indicated are cumulative noise levels or project-generated noise levels. One presumes that they are cumulative noise levels, but the document should specify what they are. Also, for construction, the time frame over which construction might occur is unclear. Again, presumably, construction could occur for several years. This is relevant to impact analysis. Finally, the operation section presents cumulative noise levels at receptors, and noise levels are labeled as "significant." The criterion used to indicate significance is not mentioned. Generally, an 3-49

operational noise level of 73 dB (Ldn) (the maximum cumulative noise level expected) must be considered "significant" in a residential neighborhood. Please clarify in the FEIS. 3-49

Section 3.9 Aesthetics and Light, Section 3.9.3.2, Page 3.9-6.

While it may be true that future growth would create a change in the visual environment of the area, it would probably be better stated that the site "could" change as opposed to would change. All growth is not a done deal. It sounds like if the proposed action is not carried forward other development will occur so really this won't be that big of an impact because change in the area is inevitable. Please clarify in the FEIS. 28-11

Under all alternatives, impacts from nightglow is expected. Minimization measures have been built into this proposal which reduces the impact from nightglow. However, nightglow appears to still be an impact. This irreversible and irretrievable impact needs to be address and identified according to NEPA. Also the visual impact of seeing a shipping harbor in your backyard during the day is not addressed. Since the EIS states that the viewshed will be impacted, then mitigations need to be developed for all alternatives . Please address in the FEIS. 17-14 28-12

Section 3.9.3.4, Page 3.9.9.

In the DEIS, the reasoning behind the no impacts conclusion from Spilmans Island is because existing nightglow from the Barbours Cut Terminal already exists. Because other impacts exist in the area does not mean that impacts will not be felt because of an additional source. There will be people disturbed by this sight even though a similar one exists in the area. The analysis should be note that there could be a cumulative impact as a result of this alternative (send reader to that section where it should be discussed) or by addressing here that the proposed action will impact some sensitive receptors in this area. Please address in the FEIS. 17-16

Section 3.9.3.10, Page 3.9-12.

In the summary section, it states that changes in night time ambient light levels would not be experienced by sensitive receptors at any of the alternative locations. However, under Section 3.9.3.3 (Bayport alternative), section 3.9.3.6 (Cedar Point Alternative), Section 3.9.3.7 (Pelican Island Alternative), and possibly for the Shoal Point and Upper San Jacinto alternatives, it states that ambient light levels would increase and be experienced by sensitive noise receptors. The summary does not match the analysis. Please correct in the FEIS. 17-17

Section 3.11 Parks and Recreation, Section 3.11.3.1.

According to the DEIS, indirect impacts include access limitations, visual or noise pollution, demographics or user population changes, vibration, and damage to flora and fauna. It is unclear from the analysis that these were actually reviewed. For example, in the Visual and 32-23

Light resources chapter, impacts to viewsheds occur under each alternative. However they are not addressed here. Also building a shipping terminal in a previously undeveloped area would affect flora and fauna. All items under the methodology should be addressed or the reader should be directed to where they area addressed. 32-23

There is no discussion of the increased vehicle traffic to recreationists that may be caused by the terminal. This would be an indirect impact. If this is contained in the transportation section, that information needs to be brought forward here or send the reader to transportation for the analysis. 32-24 The recreation section does not address safety and user conflict adequately. Recreational boating should be addressed in this section which also identifies user conflicts. If boating as analyzed under this section, then it could be construed as an impact. While it appears that the Navigation section reviews recreation, an analysis which addresses anticipated use levels is not done. 32-25 Without this analysis quantifying recreation use, the DEIS cannot draw the conclusion there would be no impact. Please address this concern in the FEIS.

Section 3.13 Public Safety Impacts, Section 3.13.3 Environmental Consequences, Page 3.13-11.

The analyses of impacts on local police, fire, and emergency medical services as a result of indirect growth due to project implementation is well quantified, but no indication is provided of the significance of these impacts. Also, the number of additional dwelling units that would require fire protection services over time are indicated in Table 3.13-3, but the need (impact) in terms of additional firefighters or equipment is not indicated. 21-55 Please address in the FEIS.

Section 3.14 Hazardous Materials, Hazardous Wastes, and Other Regulated Substances.

It would be easier to state how much hazardous waste would be generated in the section than referring the reader back to baseline conditions. The EIS should describe the typical waste streams associated with the port activities and how they are to be addressed. 8-11 Please address in the FEIS.

Section 3.15 Shoreline Erosion, Section 3.15.3.

The quantitative analytical methods described in Section 3.15.3 (and elaborated upon in Appendix 3.15) are appropriate and adequate for determining impacts, however, it is initially unclear as to why these methodologies (e.g. calculation of wave power density and estimation of shoreline erosion rates) are not applied to each alternative. For example, these analyses were not performed for the No Action alternative (even though vessel traffic will increase) or for the Pelican Island alternative. 15-36 Perhaps an explanatory paragraph should precede Section 3.15.3.1, Assumptions and Methodologies, to explain which alternatives warranted wave power density and shoreline erosion rate analyses, which did not, and why. As presented, it is somewhat difficult for the reader to accurately compare the impacts of each alternative because some are

presented quantitatively while others seem to be more anecdotal.

Section 3.16 Hydrology, Drainage and Flooding, Section 3.16.3.

In general, environmental consequences and resulting mitigation strategies seem to be most developed for the proposed alternative, the Bayport Terminal. It is recommended that a more comparable assessment be made of the other alternatives (e.g. pre- and post- hydrologic analysis) so that the differences in environmental impacts of the alternatives can be more uniformly scrutinized. Please clarify in the FEIS. 33-13

Page 3.16-15, Bayport Alternative.

Pine Gully should be clearly identified on Figure 3.16-1, as it serves as the primary receiving channel for stormwater runoff for this alternative. It is suggested that the pre- and post-development hydrology information be presented in a tabular format to provide additional clarity. As presented in the text, it is a bit cumbersome identifying peak flow and volume data for the two drainage areas comprising the Bayport Alternative watershed and may be difficult for the reader to follow. A technical appendix would be appropriate to provide the calculation methodologies employed in the impact analysis. 33-14

Page 3.16-19, Spilmans Island Alternative.

This alternative indicates that "significant" increases in the volume and rate of surface water would occur as a result of the action. However, the volume and runoff rates associated with the action are not quantified as they are in the Bayport Alternative and limited information is provided as to the nature of the receiving channels (e.g. "small ditches" and "drainage courses"). Additionally, this section indicates that stormwater infiltration will be significantly reduced as a result of the action and that natural vegetation may suffer as a result. If this reduction in infiltration is significant, it should certainly be addressed in the mitigation section. Potential mitigation may include the construction of infiltration basins to allow on-site infiltration rather than surface discharge to the bay. 33-15

Page 3.16-21, Shoal Point Alternative.

Similar to the Spilmans island alternative, this alternative indicates a reduction in infiltration and a subsequent impact to natural vegetation. Again, if this reduction in infiltration is significant, it should certainly be addressed in the mitigation section. Potential mitigation may include the construction of infiltration basins to allow on-site infiltration rather than surface discharge to the bay. Please discuss in the FEIS. 33-15

Page 3.16-22, Cedar Point Alternative.

This alternative indicates that increased stormwater flow may be "mitigated" by routing it to Water Oak Gully, thereby requiring lining, widening, and channelization of the gully. This process may in fact be considered an impact to Water Oak Gully and therefore not a "mitigation" measure for the action. The present functional value of this channel is not described (e.g. riparian habitat, sinuosity, etc.) and therefore cannot be inferred. Physical modification of this channel may require a Section 404 permit. Please clarify and address in the FEIS. 33-16

Page 3.16-24, Pelican Island Alternative.

Similar to the Spilmans alternative, this alternative indicates a reduction in infiltration and a subsequent impact to natural vegetation. Again, if this reduction in infiltration is significant, it should certainly be addressed in the mitigation section. Potential mitigation may include the construction of infiltration basins to allow on-site infiltration rather than surface discharge to the bay. Please discuss in the FEIS. 33-15

Page 3.16-26, Shoal Point/Bayport Alternative.

Similar to the Spilmans Island alternative, this alternative indicates a reduction in infiltration and a subsequent impact to natural vegetation. Again, if this reduction in infiltration is significant, it should certainly be addressed in the mitigation section. Potential mitigation may include the construction of infiltration basins to allow on-site infiltration rather than surface discharge to the bay. Please address in the FEIS.

Page 3.16-27, Upper San Jacinto/Bayport Alternative.

Similar to the Spilmans alternative, this alternative indicates a reduction in infiltration and a subsequent impact to natural vegetation. Again, if this reduction in infiltration is significant, it should certainly be addressed in the mitigation section. Potential mitigation may include the construction of infiltration basins to allow on-site infiltration rather than surface discharge to the bay. Please address in the FEIS. 33-15

Section 3.17 Water Quality, Section 3.17.3.

It is possible that accidental releases of materials such as hydrocarbons or human wastes from shipping vessels may indirectly occur as a result of the various actions. In particular, how will the sanitary sewer waters of the vessels be regulated? Will the cruse ships or container vessels be allowed to dump into the channel or will they discharge to a sanitary sewer for disposal for disposal. Given the increased shipping traffic expected for each of the alternatives, it is reasonable to assume that such an accidental release could occur while these ships are docked. Therefore, accidental releases, their potential impact to water quality, and the resultant 9-35 9-23

mitigation measures should be addressed in this section. Please incorporate into the FEIS.

Section 3.18 Sediments and Dredged Material Placement, Section 3.18.3-3, Page 3.18-16.

This section, where site-specific impacts discussion begins, is obtuse. First, it should indicate the volume of sediments to be dredged. Then it should indicate: How much of the dredged sediment would be used to fill the site (and, in the case of Bayport, build the noise protection berm). A distinction should be made between fill used to raise the level of the existing (dry land) site, and the fill used to make land out of Galveston Bay. 11-16 11-32

In addition, mention is made in a least two places that runoff from dredged material placed on land would exceed applicable water quality criteria but that this is not significant because "acute" criteria would not be exceeded. Chronic criteria for metals (the pollutants of concern) are based on the premise that receiving water concentrations would not exceed chronic criteria for more than four consecutive days once every three years. It is not clear how this could be accomplished if dredging is to occur continuously over long periods of time. With adequate mixing and dilution with Galveston Bay, Galveston Bay may not exceed criteria. But some mitigation might be necessary to accomplish this. Please discuss in the FEIS. 11-33

Finally, dredged material from this project would be used to expand the dike around disposal area 14. It is not clear whether this EIS is supposed to provide NEPA coverage for this expansion. If it is, no groundwork is laid and no impacts are discussed. Please clarify these concerns in the FEIS. 11-34

Section 3.20 Ecology, Section 3.20.3.3, Page 3.20-46.

This section, that starts the sections discussing impacts for each site, discusses impacts in a general way. It is generally adequate for terrestrial impacts and generally inadequate for aquatic impacts. Without more detailed information in the affected environment part of this section, little more can be done. An example of information that is more generally needed appears on page 3.20-49: "Oyster reefs are located near the mouth of the Bayport Channel..." While the assessment of impacts associated with these reefs is apparently correct, the discussion of the reefs here, without discussion in the affected environment section, raises the question as to whether there are other sensitive environments that have been overlooked for either this or other sites. In general, however, all benthic areas of Galveston Bay are apparently assumed to be the same, and the impacts are minimized in the EIS by indicating that disturbed bottoms would be recolonized quickly. While this might be true for large areas of the Bay, it is not true for all areas of the Bay. Please clarify in the FEIS. 12-45 12-22

Mitigations, Section 3.2 Land Use and Coastal Zone Management.

No mitigation measures were identified. If the scope of the analyses were expanded as 30-7

described above, however, a mitigation discussion may become necessary. Please discuss in the FEIS. 6-130

Section 3.3 Socioeconomics.

The same comments regarding limited analytical methods and limited scope of the analysis apply to the discussion of alternatives. The potential change in the range of economic and social conditions in comparison to those anticipated under the no action alternative needs to be discussed. There are no mitigations discussed. Please clarify in the FEIS. 6-129

Section 3.3, Page 3.3.-17.

No explanation is provided for the statement "No mitigation would be required for induced socioeconomic impacts." Please explain fully in the FEIS. 6-130

Section 3.5 Surface Transportation.

The roadway, intersection, and railroad improvements necessitated by project implementation are well-documented, but they are not specifically identified as "mitigation measures" that would "reduce potentially significant impacts to less than significant". This language is essential in a NEPA document. Also, the parties responsible for the improvements should be specified if they can be determined at this time. Please discuss fully in the FEIS. 27-101

Section 3.6 Community Services and Municipal Services.

Utility and service improvements necessitated by project implementation are mentioned, but they are not specifically identified as "mitigation measures" that would "reduce potentially significant impacts to less than significant". This language is essential in a NEPA document. Also, the parties responsible for the improvements should be specified if they can be determined at this time. 24-7

Section 3.9 Aesthetics and Light.

As there appear to be impacts, mitigation measures are required. However, none are provided. The Bayport alternative has minimization measures to reduce impacts, but they are not carried through to the other alternatives. If light is an issue with the other alternative site locations, they should be discussed in the FEIS. 17-12

Section 3.11 Parks and Recreation.

While impacts were identified, no mitigations were provided. Please discuss in the Final EIS. 32-26

Section 3.13 Public Safety.

The need for additional law enforcement officers and ambulances as a resulted of indirect growth due to project implementation is identified in tables 3.13-4 and 3.13-5, but provision of these increased capabilities is not specifically identified as the "mitigation measure" that would "reduce potentially significant impacts to less than significant". This language is essential in a NEPA document. Also, the parties responsible for the providing the additional capability should be specified if they can be determined at this time. Please address in the FEIS. 21-55

Section 3.18 Sediments and Dredged Material Placement.

No mitigations are identified for dredged material placement, but may be necessary for controlling runoff water quality for sites where elutriate sampling indicates metals exceedances of chronic water quality criteria. Also, no mitigation is identified to prevent impact to the oyster beds near the mouth of the Bayport Channel. Other mitigations might be required with analysis of more detailed information on the habitats likely to be affected by dredging or filling activities. Please address fully in the FEIS. 11-33, 9-16, 12-45

Section 3.20 Ecology.

In general, no mitigations are identified, although a least tern rookery would be lost from the Spillman's Island site. According to Table 3.20-1, one subspecies of least tern is listed. If it is the same subspecies that uses this rookery, mitigation is generally in order. Additional information is needed on the distribution of habitats potentially affected by dredged material placement in Galveston Bay. With additional information, other mitigations might be required. Please discuss in the FEIS. 12-46, 12-45

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COUNCILMAN MIKE LAIBLE: My name is Mike Laible. I live at 2823 Sea Ledge, Seabrook, Texas, and I'm Councilman Position 1 for Seabrook. Up front I want to make it clear that I am not against the port expansion, I am against the placement of the expansion at Bayport. The draft DEIS has not made a sufficient argument of why the expansion should not take place at Spilmans Island or the other alternatives, but mainly Spilmans Island. In fact, if one would read Tables E4-E5 of the summary it would seem clear that with the public and local citizens in mind, Spilmans Island is the right choice.

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And I'll just quote from the summary briefly. Operational effectiveness: Small delta between the two sites, Bayport trucks must travel 9 miles between the sites. Spilman is onsite so there's

no travel for the trucks so it would seem Spilman.

Site constraints: No mention of property rights in Bayport site. City of Seabrook will actively engage in site constraints within the city municipality boundaries.

Navigation: Minimal conflict between vessels and recreational boaters at Spilman Island, conflicts if it's built at Bayport.

Noise: No adverse noise impacts at

Spilman Island.

Esthetics and lights: No residential areas in the vicinity at Spilmans Island.

Ecology: You just need to take a look at the two sites and tell me which would have the least disruption to the ecology.

Availability: Port owns all of Spilman Island. The Port needs to acquire or condemn additional acreage for Bayport.

The last item is property rights. The Houston Port Authority would have to overturn municipality ordinances and condemn land in Seabrook if the Bayport site advances. The city of Seabrook is strongly opposed to HPA's land condemnation and HPA's disregard for municipality ordinances. The city will fight for its municipality rights.

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In closing, the city of Seabrook opposes the Bayport project and would welcome expansion on an alternative site such as Spilmans Island. Thank you.

29-3

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MAYOR JACK FRIDAY: Good evening. I'm Jack Friday, mayor of Seabrook. The City of Seabrook --

(Applause.)

-- would like to thank the Army Corps of Engineers for the opportunity to comment on the Draft Environmental Impact Study distributed to the area cities.

First and foremost, Seabrook opposes the Bayport location for the container cruise facility. We recommend an alternate location be found. 29-3 2-3

(Applause.)

The facility as proposed will have an adverse impact on the environment and the current socioeconomic base of the area. Equally important, it will -- it will have an adverse impact on the local and national security intent of the National Environmental Policy Act. Inadequate off site planning and implementation of needed facilities will result in an unacceptable impact on the environment, particularly air and water quality, not to mention the detrimental 9-6

deterioration in the local quality of life and property

values.

(Applause.)

The proposed facility will create an unacceptable environmental and land use impact if constructed at the Bayport location. 9-6

(Crowd noise.)

The conspicuous absence of public safety assessments in light of the terrorist attacks of 9-11 and the well-documented vulnerability of our nation's seaports and containerized shipping is incompetent and contrary to the spirit and intent of the NEPA regulations requiring environmental impact analysis. We strongly urge the Corps to reconsider the Bayport location in view of the recent terrorist attacks and potential attacks on our nation. 21-16 2-37

The City of Seabrook will submit documentation supporting our comments and written -- has written comments as needed by the February -- February 11th, 2002, deadline. Thank you very much.

(Applause.)

COL. LEONARD WATERWORTH: Now I would like to call forward Major -- mayor pro tem of Seabrook, Herman Burton. Please step forward, make your comments.

MAYOR HERMAN BURTON: Good evening, ladies and gentlemen. My name is Herman Burton. I'm the mayor pro tem of Seabrook, Texas. I appreciate your opportunity to let us speak here tonight, Colonel.

The comments by Senator Jackson and Representative Davis were very apropos for Seabrook. We only are asking that the Corps reevaluate the location. We have a wonderful way of life in Seabrook and it will be changed inextricably if the Bayport complex container facility is built there. Terrorism is a new way of life in the United States of America. George Bush --

2-17

(Crowd noise.)

George Bush --

COL. LEONARD WATERWORTH: Ladies and gentlemen, please let --

MAYOR PRO TEM HERMAN BURTON: Terrorism is now a way of life in America. The president of the United States George W. Bush has stated this on more

than one occasion. It's going to be with us for a while. If any terroristic act occurs at this location, it's going to be disrupting tens of thousands of people and it would be a shame to have this on the head of the colonel and the Corps.

There is a win/win situation, and we propose a win/win situation for everyone, the workers, the longshoremen, the residents of Clear Lake, the residents of Harris County. It only takes a relocation down to a more desirable location and not at Bayport. Thank you very much. 2.3

(Crowd noise.)

COL. LEONARD WATERWORTH: I would like to ask the mayor of the City of Taylor Lake Village to come forward, Natalie O'Neill.

CITY OF TAYLOR LAKE, TX DEC 12

MAYOR NATALIE O'NEILL: I even wore my heels, and it's still not -- okay.

I wanted to start out saying, we're not against jobs. We're not against the port. It's just the wrong location. 2-3

(Applause.)

As a mayor, my primary charge is the safety, health and welfare of the citizens who elected me into office. At the scoping hearing two years ago, citizens brought forth issues that concerned them the most. I expected them to be addressed completely and without bias in your DEIS document. It's unfortunate that they were not. 23-9

(Applause.)

Bayport's industrial expansion will forever change our residential communities, lower property values, cause traffic hazards, create major health and air quality issues. These issues go to the heart of our community. This permit will determine the health, safety and welfare of tens of thousands of citizens. As property values decrease, so will our tax 19-1 6-14

base, as will my ability to provide city services, like police and fire protection. But for the issuance of this permit, our neighborhoods would continue to be viable.

Your document -- your document shows 22,955 residents live within one mile of Bayport. If you add -- if you add the total number of citizens living within all five of the alternative sites

together, you will get half of the number of Bayport alone.

(Applause.)

It would be -- it would be impossible for me to address all of the DEIS inadequacies in the three minutes you've allotted me. It's a lengthy document. I've only read it through quickly once. You've had teams working on it 40 hours a week for three years. I ask you to extend our time so we have the opportunity to review it thoroughly and address our concerns properly. 83-31

(Crowd noise.)

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From what I have read, it's apparent the Corps of Engineers started with their answer, Bayport, and manipulated and omitted whatever data they could to defend that solution.

(Crowd noise.)

It is -- it is evident that there is a deep-seated bias in your analysis. In fact, Bayport

23-25

should have had a difficult time making it through the tier 2 evaluations. Road access, rail access, potential impacts to communities and the environment, if correctly measured without partiality, would have shown that alternatives have far less impact and offer better transportation options.

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(Crowd noise.)

Shoal Point or Spillman Island will create an equal number of jobs to those offered at the Bayport site, with fewer impacts.

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(Crowd noise.)

I urge you, once again, to include the

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50-foot dredge, small particle pollutants, loss of property value, loss of tax base.

You, the Army, neglected to address the serious issue of terrorism in our ports. 21-16

(Crowd noise.)

You are charged through a memorandum of agreement with the EPA to do a full and fair EIS. I urge you to carry out a supplemental DEIS to address those impacts. If you do, I'm sure you'll find the truth and you will just say no. 23-19

(Applause.)

COL. LEONARD WATERWORTH: At this time I would like to have the mayor pro tem, City of Del Lago, Natalie Ong, to come forward to make her comments.

MAYOR PRO TEM NATALIE ONG: As mayor pro tem, let me state from up front that the City of El Lago is adamantly opposed to a permit to build a container terminal in Bayport. 29-3

(Applause.)

When complete, Bayport will be larger than our entire city. It's the wrong location. 2-3

(Applause.)

Your facts are wrong. Your flawed and incomplete Draft EIS says El Lago will not be impacted. Not true. You say no evacuation routes will be affected. Not true. 9,000 port-related vehicle trips per day and our evacuation route will not be affected? What about accidents with their trucks and trains? What if they create the reason we have to evacuate? 27-19

(Crowd noise.)

COL. LEONARD WATERWORTH: Excuse me, ma'am.

MAYOR PRO TEM NATALIE ONG: We have

tried working with the Port to develop alternative sites. Spillman Island should be the preferred site in Harris County. 2-6

(Applause.)

It was created to be used for port expansion. It's on the Barbours Cut waterway, across from the Port's current container terminal, and ideally situated near the railhead and freeways headed in every direction. Jobs for longshoremen and pilots will be preserved. On-road travel time for trucks between the two container terminals will be greatly reduced. The air would benefit. Our roadways will benefit. Harris County taxpayers would benefit most --

(Applause.)

-- by sharing administrative, emergency and service facilities already in place at Barbours Cut, ongoing costs would be reduced. No additional land need be purchased. Mitigation for residential conflicts will be lessened.

Bayport is the only alternative

design -- identified with significant residential impacts. Your documents cite 23,000 people in the Bayport study area. Spillman Island has a mere 4100. More Asian Americans will be affected by a Bayport facility than any other by a factor of 32. No study was made of the environmental justice for Asian Americans who have been historically under-represented in Port operations, yet stand to have their livelihood in the seafood industry and property values put in jeopardy. 26-5

(Crowd noise.)

COL. LEONARD WATERWORTH: Excuse me, ladies and gentlemen. Please refrain for the speaker to finish her comments.

MAYOR PRO TEM NATALIE ONG: What are the impacts to those Bayport companies that rely on the 31-6

Bayport channel? What of potential disruptions during construction or after it to the operations of Baytank, PetroUnited, American Acryl, Atofina and Nova. Will those operations be at risk? Our Bayport companies represent real jobs for our neighbors and our local economy, not the truckers nor the construction workers who will be gone when this project is built.

What about the cruise terminals? Cruise 8-2

terminals should not be placed amid a busy container port. Let's --

COL. LEONARD WATERWORTH: Ma'am --

MAYOR PRO TEM NATALIE ONG: Let's seek --

COL. LEONARD WATERWORTH: -- please finish up your comments.

MAYOR PRO TEM NATALIE ONG: Let's think regionally and have a first class cruise terminal where the bay meets the gulf in Galveston. We don't want jobs to be on the line. There will be plenty of work in developing Spillman Island. The ships will come. Maybe it's not the new house envisioned by the Port of Houston, but the ships will come. We will still have the jobs, the benefit -- it will benefit the economy and handle the proposed traffic that the Port of Houston expects.

8-2

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A supplemental EIS to address the issues not yet adequately resolved should be done. Why the rush? Let's do it right. There's too much at stake. Bear in mind --

COL. LEONARD WATERWORTH: Excuse me, ma'am.

MAYOR PRO TEM NATALIE ONG: -- the Port

23-19

of -- the Port of Houston Authority has alternatives.

COL. LEONARD WATERWORTH: Excuse me. Ma'am. Your time is up, ma'am.

(Crowd noise.)

Ladies and gentlemen. Ladies and gentlemen.

MAYOR PRO TEM NATALIE ONG: Their pride may be on the line, but we have even more at stake than they do. It's our homes, our health, our safety, our families that we ask you to protect. That is your charge. Please do your job so we don't have to resort to the courts.

COL. LEONARD WATERWORTH: Okay.

(Crowd noise.)

At this point, I'd like to call forward mayor pro tem, City of Shoreacres, Nancy Edmonson.

(Applause.)

MAYOR PRO TEM NANCY EDMONSON: I may be the only one to have three minutes.

My name is Nancy Edmonson. I'm mayor pro tem of the City of Shoreacres. My children are Austin and Vivian. They didn't figure they'd have three minutes' worth to say, but they wanted to be here to express their opinion.

I think I'm probably a rare person in this room. I have, in fact, read the entire DEIS. It wasn't fun. I found innumerable problems with the DEIS, including omitted topics, flawed analyses, unsubstantiated conclusions, and even incorrect basic data. On my first pass through, I found 87 separate problems with the DEIS. However, I only have three minutes, so I want to touch on two of those topics that are particularly relevant to my city, City of Shoreacres. The rest of the comments will be submitted in writing.

A couple of examples of problems with the transportation analysis. I have a couple of

technical remarks to make, but the idea to give you a feel for the flaws in the analysis.

The DEIS, as some of you know, concludes that Bayport has no real effect on traffic because it uses a measure of traffic impacts that can't distinguish

27-20

between bad and awful traffic, while other measures, such as total delay time, can.

The DEIS includes no analysis of the effects of the trains on the roadway system. There is no calculation of delay time at crossings from the trains. I find this to be a major omission. 27-3

(Applause.)

The traffic -- the traffic analysis assumes the benefits of roadway improvements such as Port Road fly-arounds and an overpass on State Highway 146 for trains that are not in place, do not exist, and are not in the Port's jurisdiction to either build or approve. In fact, these projects are not approved by TXDOT. 27-9

Some similar ideas to -- similar problems I've seen with the noise analysis. As bad as I thought the traffic analysis was, I thought the noise was worse. The DEIS concluded that there would be no

adverse impacts from truck traffic along State Highway 146. But why? Because there were no sites along State Highway 146 modeled. Noise impacts from trucks in Shoreacres that are approximately a hundred yards from 3-5

State Highway 146 must be examined. The DEIS also include -- also concluded there were no adverse noise impacts from trucks because it assumed, if you can imagine, that the percentage of trucks on State Highway 146 with Bayport would be the same as the percentage of trucks without Bayport. 3-5

(Crowd noise.)

So, therefore, no impact.

Further, even though the traffic analysis takes credit for the roadway improvements I mentioned, such as the Port Road fly-arounds as well as the grade separation on State Highway 146 which would both be elevated roadways, the noise impact does not take into account the noise effects of elevating roadways, particularly roadways that would have 18-wheelers accelerating up and down them. 3-8

Finally, I can't help it. I have to talk about Jim Edmond's berm. He keeps talking about a 20-foot berm. First of all, I don't think it's going to

do a whole lot with the folks over in El Jardin and Seabrook, but, in addition, that berm is not proposed on the north side. Those of us who live on the north side have no mitigation from noise and there is no room for 3-10

mitigation.

(Applause.)

COL. LEONARD WATERWORTH: Mayor, if you'd try to conclude your remarks? Can you wind up your remarks, please? You've gone over your time.

MAYOR PRO TEM NANCY EDMONSON: I'm sorry.

COL. LEONARD WATERWORTH: Can you wind up your remarks?

MAYOR PRO TEM NANCY EDMONSON: Yes, I am. Despite the incomplete and often flawed analyses, I was struck by one major point after reading the DEIS, however. If you read the DEIS, you will find that Bayport is not the optimal facility for the -- optimal site for the facility. At least two other alternatives, Spillman Island and Shoal Point, offer the same benefits, and, yes, fellows, the same jobs, without the negative impacts on our communities.

2-6
2-36

(Applause.)

I believe the Corps should deny the

29-5

permit at the Bayport location. If the Port -- if the Corps doesn't feel like denying the application at the moment, the next step should be to extend the review period. I know how long that document takes to get through. The public deserves the opportunity to review it itself.

And, finally, the omissions and the problems in the analysis are significant enough that I think we must have supplemental DEIS to address them. If we go straight to final EIS at this point, the public will not have a chance to see the new and, I'm hoping, an improved analysis. Thank you.

COL. LEONARD WATERWORTH: Thank you very much.

(Applause.)

I would like to have our last elected official come forward, the mayor of the City of Pasadena, John Manlove.

(Applause.)

DEC 1 2 2001

DL 10071

MAYOR JOHN MANLOVE: My name is John Manlove. I'm the mayor of the City of Pasadena. It is in my city in which the Bayport terminal would be located. The City of Pasadena recognizes the Port of Houston Authority's importance in the region's economic success and appreciates the need for expanded container terminal facilities in the Houston-Galveston area. However, we strongly disagree with the EIS conclusion that Bayport is the best location. 29-37

(Applause.)

Viable alternatives, particularly the Spillman Island site, did not receive adequate consideration, especially given that the EIS deems the effects of construction to be virtually identical for all seven location options. 2-19 The arguments for the expansion cite a variety of economic benefits for the region, but in many cases, understate or ignore the negative impact on Pasadena and surrounding communities. 23-94

(Applause.)

The EIS fails to address the project's potential to overload the transportation system of

southeast Harris County. The estimate of 9,000 trucks per day traveling to and from the proposed complex is an increase of 28.6 percent above the initial projections. This only worsens the potential impact on area traffic.

Despite an estimated 16,000 daily trips to be generated by the Bayport project, EIS traffic impact maps show no effect on major thoroughfares other than Red Bluff Road, from Bay Area Boulevard to Fairmont Parkway. We know the effects will be more far-reaching than that. The impact of 9,000 trucks cannot be ignored.

(Applause.)

If even a small percentage of these trucks travel through Pasadena, the resulting gridlock would threaten to paralyze growth around one of the area's most thriving and promising residential and retail hubs.

The Bayport expansion's effect on recreation does not receive appropriate weight. Aside from allowing for potential conflict between commercial and recreational use, the EIS offers no clear indication of negative impacts on recreational activities, including fishing and sailing.

(Applause.)

The success of a community is measured in more than just dollars and cents. The EIS --

(Applause.)

-- process recognizes this with its stated goal of identifying an option that would avoid or minimize adverse effects upon the quality of the human environment. The Bayport location may be less costly from a financial standpoint, but the social impact of constructing a container facility at Bayport must be given even weight, particularly when the Corps of engineers has identified acceptable alternatives.

The Bayport proposal --

(Applause.)

-- the Bayport proposal suggests that we can afford to sacrifice communities for a stronger regional economy, but the economy is important only in the context of the communities it serves.

(Applause.)

22-118

A strong economy and quality of life can co-exist, and we encourage the Port to continue its search for a location that achieves this balance. Thank you very much.

(Crowd noise.)

COL. LEONARD WATERWORTH: Ladies and gentlemen, at this point, I'd like to reiterate the purpose of tonight's proceedings. We're here to gather information regarding your comments concerning the Draft Environmental Impact Statement and the Port's application. We will use this information in developing the final EIS and making a final decision on the applicant's proposal. We are not here for a question and answer session nor a vote. We're here to gather information.

Now I would like to have Mr. Dunn call forward the six speakers as we start this evening's proceedings of public comments.

CHIEF DOLAN DUNN: If you would -- excuse me. If you would, we're going to bring six folks up, and if you would, come to the speaker area. We have some staff members that will align you for your order of speaking.

The first six public presentations will be by Ms. Darlene Ruiz, Richard Lord, E. Dale Worthan, Beau McDaniel, Meredith Pickett and Derryl Wood. Please come forward.

And the first speaker will be Ms. Darlene Ruiz.

DEC 1 2 2001

MR. BEAU McDANIEL: Thank you for this opportunity. In keeping with your request to not add comments that have already been made, I would just like to state that the comments of my mayor of Seabrook and of our surrounding cities speak for themselves and I

have nothing else to add or take up your time.

(Applause.)

CHIEF DOLAN DUNN: Thank you. Meredith Pickett.

DL 10079

MIKE LAIBLE: Thank you. I think -- I don't think I -- I can't add to anything that's been said already tonight. I'll be really brief. I am definitely for jobs, I am definitely for port expansion,

but I think it's in the wrong place. I think it needs to be at Spillman Island. I think if you look at the summary of the tables, E4 and E5, you can go through the list of noise, aesthetics and the like, ecology, and our land, it has no impact on the Spillman Island section, but there's impacts under Bayport, so if everybody would build Bayport, I agree with you, but move it to Spillman Island.

(Crowd noise.)

MR. MARK LUMEN: Thank you. Next we have Richard Shaw.

COL. LEONARD WATERWORTH: I would ask the speakers that as you present your -- make your remarks, move closer to the microphones so that everyone can hear you, please.

DEC 1 2 2001

MR. RICHARD SHAW: Ladies and gentlemen, brothers and sisters, I'm with the Harris County AFL/CIO representing 72 units in Harris County. We support the Bayport terminal complex expansion, and our reasons are quite simple.

Number one, it means jobs, and good jobs. We're talking about 12,000 new jobs that will be created in ten years. These jobs are what we'll refer

to as high road jobs. They will -- they will boost our local economy, they will support businesses, and they will lift up families in liveable wages, decent benefits, and they will spread the wealth.

Secondly, the Bayport expansion will boost business. One billion dollars in business and after ten years.

Third, new tax revenue. State and local governments will benefit. $41 million after ten years.

And, finally, and most importantly in today's economy, it means diversification for Houston. Diverse -- diversification in our economy is needed right now. It will help protect us from the effects of recession.

(Applause.)

We urge you to approve the Bayport terminal complex. Thank you.

(Crowd noise.)

MR. MARK LUMEN: We have Rey Gonzales.

DEC 1 2 2001

DL 10083

MR. STAN KRAUHS: Thank you, Colonel. I'm Stan Krauhs. I'm an alderman in the City of Shoreacres, and I wanted to first of all say that I completely agree with all the words that Natalie O'Neill

spoke earlier generally speaking on the project for Taylor Lake Village and also the specific things that Nancy Edmonson mentioned. It really bothers me that someone like Nancy Edmonson, who's not a paid person on anyone's staff as far as the city or the Port or the Corps or the URS folks, can find so many holes in a document that the Corps has obviously spent -- has spent millions of dollars in producing.

(Applause.)

It just seems to me that the quality -- the air quality and noise and some of these other things are not things that actually can be mitigated. They can't be -- they can be mitigated for some people at some places, but they cannot be mitigated for all of the 23,000 people that it would be affecting. If Spillman Island is a better location and it affects fewer people, then I say, that's where it should go.

19-2

2-22

(Applause.)

CHIEF DOLAN DUNN: Thank you. Our next six speakers: Cynthia Sarthou, Jim Blackburn, Dennis -- Dennis Brown, Benny Holland, Bernard -- I'm sorry, but

Maristany, M A R I S T A N Y, and Laurence Tobin.

And the first speaker of those will be Cynthia Sarthou.

DEC 12 2001

DL 10088

LAURENCE W. TOBIN: I'm Laurence W. Tobin, council member from Taylor Lake Village.

(Applause.)

Much like Enron, we now realize the POHA -- POHA --

COL. LEONARD WATERWORTH: Excuse me, Mr. Tobin.

LAURENCE W. TOBIN: -- believes in using smoke and mirrors to present economic and employment potential. Back in '99, remember, 200,000 jobs? Now, what is it? 36,000? And of those, you can only account for a few, and the rest must be flipping hamburgers.

6-31

(Applause.)

The PO -- POHA also -- the POHA also uses misrepresentation. They think they can do anything they wish. In fact, Mr. Ted Walters signed the application that is a government document saying that the Port owned and controlled land under which it was making its application. Well, lo and behold, they did not own much of the land and much of that land was actually not available to them. They could not -- they

23-16

could not take that land by eminent domain. They would have to obtain the permission of the City of Pasadena and the City of Seabrook to do that taking. Therefore, the application was fraudulent on its face and should be withdrawn immediately.

23-23

(Applause.)

In fact, under the water code, the POHA cannot take these steps and the sovereignty of these cities are supreme.

The POHA claims in its latest notice to the public -- in the Public Hearing that it meets the requirements of the Texas Coastal Zone Consistency Certification. However, the Texas General Land Office gave notice to the applicant, POHA, that the Bayport application was premature and administratively

incomplete.

(Applause.)

Again, the POHA misrepresented material information within its application.

Overall, the whole DEIS is so

administratively incomplete that it calls for immediate withdrawal and we really should be looking further at a combined EIS, if this thing were even to consider at a further step, for it appears that the rail services going into the same location, same vicinity, and these problems and impacts are not being studied. 23-24

(Applause.)

And, again -- against all others, we should be looking for -- if none of these others things are stepped into, we need to look for at least an administrative and a supplemental DEIS to deal with the many deficiencies currently evident. Excuse me. 23-19

COL. LEONARD WATERWORTH: Excuse me. The timekeeper shows that your time's up. Please conclude your remarks.

LAURENCE W. TOBIN: Okay. I'm going to

close real quickly.

(Applause.)

The citizens of this region must understand that the primary objective of the Bayport

boondoggle is not good business. It is control of a vast amount of public monies to bargain as plums to extract contributions from the E & C contractors. This is what the POHA is all about.

29-11

(Crowd noise.)

MR. MARK LUMEN: Okay. We're going to call six more people to come up to the front, please: Jim Morrison, Diane Domenech, Mary Vitek, or Vitek, B. R. Williams, Dean Corgey, and Cora Ann Blytas, or Blytas. Please come up to the front.

The first speaker is Jim Morrison. Jim Morrison.

City of Shoreacres

601 SHOREACRES BOULEVARD
SHOREACRES, TEXAS 77571
PHONE (281) 471-2244
FAX (281) 471-8955

[redacted]

DL 10158

"A COMMUNITY OF BEAUTIFUL HOMES ON GALVESTON BAY"
HOME OF THE HOUSTON YACHT CLUB

MAYOR
Julia H. Browning

CITY SECRETARY
Shari Tait

November 14, 2001

Colonel Leonard D. Waterworth
District Engineer and Commanding Officer
U.S. Army Corps of Engineers, Galveston District, CESWG-DE
P.O. Box 1229
Galveston, Texas 77551

Dear Col. Waterworth:

Monday, the City of Shoreacres received its copy of the Draft Environmental Impact Statement for the Bayport Container Terminal. The Mayor and City Council of Shoreacres plan to review the document in detail both to provide direct comments to the Corps as well as to inform our citizens of any topics about which they may want to address either written or oral comments to the Corps of Engineers.

The Public Notice regarding Permit Application Number 21520 - the Port of Houston's proposed Bayport Container Facility issued November 9 stated, "all comments pertaining to this Public Notice must reach this office on or before December 11, 2001. All comments pertaining specifically to the DEIS must reach this office on or before February 11, 2002."

I understand that the Public Notice comment deadline pertains to comments relevant to the Corps' decision to grant or deny several permits in accordance with the public interest. That decision will likely include many of the same issues relevant to determining the adequacy of the EIS and the severity of any impacts to this area of Southeast Harris County. 23-2

It seems clear to me that commenting adequately on the Public Notice and the Corps' discharge of public interest responsibilities will require reviewing the entire 6-volume DEIS as well as other information. This is a huge document that took over 3 years to produce, and the City of Shoreacres should be given ample opportunity to review it and address the issues that arise. 23-30

The Shoreacres City Council and I are volunteers with limited time. We have no professional staff at the City with the appropriate background to review the DEIS. As you know, this six-volume document took paid professionals over three years to complete. And yet, we will have less than 30 days to review the document and inform our citizens of any important issues before the public hearing. 23-30

Therefore, I request that you extend the deadline for comments pertaining to the Public Notice to match the deadline for DEIS comments. We will not have had time to fully respond to the issues raised by then. I further request that you extend the overall comment period for at least 90 days beyond February 11, 2002. 23-5

Many of my fellow citizens plan on submitting their comments at the public hearing on December 12, 2001. The present Public Notice comment deadline precludes our participation. I hope that you will agree with me that more time is necessary to incorporate public involvement into this process. 23-2

Sincerely,

Julia H Browning

Julia Browning
Mayor

CC: Mr. Kerry Stanley, CESWG-PE-R, Galveston
Shoreacres City Council
Representative John Davis

City of Shoreacres

DL 10159

601 SHOREACRES BOULEVARD
SHOREACRES, TEXAS 77571
PHONE (281) 471-2244
FAX (281) 471-8988

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MAYOR
Julia H. Browning

CITY SECRETARY
Shari Tait

FAX COVER SHEET

Date: 11/30/01

To: Kerry Stanley

Fax No: 409-766-6301

From: Nancy Edmonson

Fax No: 281-842-1491

Number of pages: 3

Additional information:

10159

November 30, 2001

VIA FAX: 512/475-0680
Ms. Diane Garcia
Council Secretary
Coastal Coordination Council
P.O. Box 12873
Austin, TX 78711-2873

RE: FEDERAL ACTION, DEPARTMENT OF THE ARMY APPLICATION NUMBER 21520 - PORT OF HOUSTON AUTHORITY'S PROPOSED BAYPORT CONTAINER TERMINAL AND CRUISE SHIP FACILITIES, CCC PROJECT NUMBER 01-0400-F1

Request for Extension of Comment Period

Dear Ms. Garcia:

As I understand it, the deadline for comments on the federal consistency certification for the Army Department permit application number 21520 – the Port of Houston Authority's proposed Bayport Container Terminal ("Bayport") – before the Coastal Coordination Commission ("CCC") is 5:00pm December 21, 2001. Due to the complexity and significance of this project to our community, we believe that an extension is appropriate. 23-31

On November 9, 2001, the U.S. Army Corps of Engineers' Galveston District released a Public Notice regarding Bayport and Permit Application Number 21520. All dates pertaining to the federal notice and the federal agency's (Corps') Draft Environmental Impact Statement ("DEIS") have been moved to match a single February 11, 2002 date. This federal comment deadline may be further extended in the future.

The public will simply not have time to review and prepare comments on these issues by December 21. The information necessary for the public to comment adequately on CCC consistency review is contained in a 6-volume bound DEIS that exceeds 1700 pages. Holiday schedules, a public meeting for the federal review of this project on December 12th, and mid-January scoping meetings and legislative hearings on a concurrent action affecting the same area (the proposed BNSF-San Jacinto Rail line, U.S. Surface Transportation Board Finance Docket No. 34079) already crowd the agenda.

Please extend the deadline for comments pertaining to the Public Notice be made coterminous with the February 11, 2002 (or later) deadline for comments pertaining to the federal Public Notice and DEIS. 23-1

Local communities and residents have serious concerns with the ability of the Bayport project to meet the standards required for consistency with the Coastal Management Plan. 30-1
The DEIS as it stands is highly incompatible with the goals of the Coastal Management Plan. 30-2
The amount of jurisdictional wetlands and critical areas far exceeds the amount listed in the documentation provided by the Applicant to the CCC. 14-5
In addition, the Applicant and the Corps have failed to fairly analyze practicable alternatives, particularly for those areas with fewer impacts from dredging and dredge disposal, wetland fill, shoreline erosion, and land use change. 2-13
The Corps has also failed to analyze the foreseeable impact of a 50-foot ship channel associated with this project, despite the fact that the proposed wharves require excavation to accommodate a 50-foot draft. 23-36
The impact on human welfare and coastal ecology from that omission alone should give CCC members pause. I hope that CCC staff recommends this project for referral to the full committee immediately.

Thank you for your consideration.

Sincerely,

Nancy R. Edmonson

Nancy R. Edmonson.
Mayor Pro Tem
City of Shoreacres

CC: The Hon. David Dewhurst, Commissioner, GLO and Chairman, CCC
Ms. Sally Davenport, Director, Coastal Management, GLO and Chair, CCC Executive Committee
Sen. Mike Jackson (R-11)
Rep. John Davis (R-129)
Rep. Rick Noreiga (D-145)
Mr. Kerry Stanley, USACE-Galveston, RB

City of Shoreacres

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PHONE (281) 471-2244
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MAYOR
Julia H. Browning

CITY SECRETARY
Shari Tait

FAX COVER SHEET

Date: November 29, 2001

To: Colonel Waterworth

Fax No: 409-766-3951

From: Nancy Edmonson

Fax No: 281-842-1491

Number of pages: 6

Additional information:

November 29, 2001

VIA FAX: 202/761-1683
Lieutenant General Robert B. Flowers
Commanding General and Chief of Engineers
U.S. Army Corps of Engineers, Executive Office
441 G Street NW
Washington, DC 20314-1000

RE: PORT OF HOUSTON AUTHORITY'S PROPOSED BAYPORT CONTAINER TERMINAL AND CRUISE SHIP FACILITIES, DEPARTMENT OF THE ARMY APPLICATION NUMBER 21520

Dear Lt. General Flowers:

My fellow citizens and I are at risk of losing faith in the Corps of Engineers as an unbiased executor of federal law and protector of the public good. On November 9, 2001, the Galveston District released a Public Notice regarding Army Department Permit Application Number 21520 - the Port of Houston's proposed Bayport Container Facility. Subsequent to that release and that of the Draft Environmental Impact Statement the following week, the Port of Houston Authority (Applicant) acted to subvert the public comment process under NEPA. Because of this tampering, the Applicant should have their permit denied immediately.

The Applicant has made representations to the public, the media, and elected officials that the Corps has already selected the Bayport site as the best alternative for Applicant's proposal, and that the Corps will grant the Applicant a permit to construct at that site. The public statement from the Applicant – a press release dated November 13, 2001 – is attached for your review.

23-32

On November 14, 2001, the Galveston District's Chief of Public Affairs sent a message to the major print media outlet in Houston, the *Chronicle*. This message stated - contrary to Applicant's assertions that the Corps had declared its preferred alternative the "best location" and that construction "will begin soon" - that the Corps had "not reached a conclusion."

However, on November 27, 2001, the Chronicle printed an editorial that continued to state that the Corps has made a permit decision. Based on this, the Corps clearly needs to make a broader release of this counterpoint, and also needs to request that the Applicant retract its earlier public statements. That counterpoint and any future counterpoints, as well as this letter and all of its attachments, should be placed in the Administrative Record for this

application. Further, the Corps needs to evaluate appropriate sanctions against the Applicant, including denial of its permit.

These statements represent an attempt to tamper with the NEPA public comment process by creating the perception that the Corps has already decided the issue and finished its analysis and statutory responsibilities. It is also an attempt not only to stifle public participation, but to pressure the Corps into issuing the permits on an expedited schedule, without adequate time for public review. The public hearing on the DEIS is scheduled for December 12, 2001. The thousands and thousands of citizens opposed to this project need to be assured that their attendance at this meeting as well as their written comments (not due until February 11, 2001 or hopefully a later date to allow for adequate review of the voluminous document) are relevant—that the Corps has not already made its decision.

23-32

To convince citizens that its preferred alternative site is "a done deal," the Applicant has undertaken a sustained public relations offensive for the past 3 years. That offensive has proceeded without consideration of those who might be harmed, and has now tarred the reputation of the Corps and its Galveston District. It is high time that offensive was halted, and that the Applicant's tampering was recognized as a violation of NEPA, inimical to the public interest, and worthy of permit denial.

Sincerely,

Nancy R. Edmonson

Nancy R. Edmonson
Mayor Pro Tem
City of Shoreacres

CC: Brig. Gen. Robert Griffin, HQ-CW, Washington
Brig. Gen. David F. Melcher, Commander, CESWD, Dallas
The Hon. Nick Lampson, TX-9
The Hon. Ken Bentsen, TX-25
Col. Leonard D. Waterworth, CESWG-DE, Galveston

FOR IMMEDIATE RELEASE

Corps Environmental Impact Statement Shows Bayport Best Gulf Terminal Location, Environmentally Friendly: Port Produces 12,000 New Jobs, $1 billion in New Business, $40 million Annual New Taxes

HOUSTON-Nov. 13. 2001--A Draft Environmental Impact Statement (DEIS) released yesterday by the U.S. Army Corps of Engineers demonstrates that Bayport is the best location for a new container and cruise complex, according to Port of Houston Authority Chairman James T. Edmonds.

"When you combine environmentally responsible operations with almost 12,000 new jobs in the first 10 years, over $1 billion in new business, and more than $40 million in new taxes each year, the facts are clear: The Bayport Container Terminal should be built and brought into operation as soon as possible," Edmonds said.

Job creation will occur not only at the Port, but in stores, offices and trucking terminals throughout the Gulf Coast and Texas, according to Edmonds. By the time the project is fully built-out, the Port of Houston - including the Bayport Terminal - will be responsible for 272,000 jobs, $24.3 billion in direct and indirect business revenue, and more than $1.1 billion in state and local tax revenue, he added.

New Environmental Standards

The Port's plan for the Bayport Container Terminal project "sets new national standards for environmental performance in new terminal planning and construction," Edmonds said. The plan raises the bar among industry facilities for the level of commitment in protection of environmental resources with steps such as dedicating about 25 percent of the land associated with the project to conservation easement areas and buffer zones.

The Port chairman reported that the Corps of Engineers report gave the project high grades in four primary areas of potential environmental concern: air quality, traffic, wetlands and water quality.

* Air Quality - "The study shows we can have Bayport and clean air too," Edmonds said. The Corps report models conclude that air emission and traffic control systems planned for the Bayport Terminal will significantly lower the level of emissions previously assumed for the project in the State Implementation Plan (SIP), which achieves compliance with federal air quality standards.
* Traffic - "The study shows that the Bayport facility plan effectively addresses traffic impacts," according to Edmonds. Most of the roadways in the project area would not experience a significant degradation of their level of service as a result of Bayport Terminal related traffic. Improvements to roadways will be needed, although most will be required as a result of traffic growth whether or not the Bayport Terminal is built.
* Wetlands - The study shows the Bayport plan does an outstanding job of protecting area wetlands, establishing permanent protection for 163 acres of mixed habitat and creating 12.4 acres of new wetlands, a more than 5 to 1 ratio of compensation for jurisdictional wetland areas affected by the site's development.
* Water Quality - "The study shows we can have Bayport and keep our water clean too," Edmonds reported. The DEIS concludes that construction and operation of the Bayport Terminal would comply with all regulations for storm water and waste water discharges. The terminal incorporates detailed designs to capture and treat the "first-flush" of storm water after rainfall, which exceeds Texas law. In addition, ballast water impacts at the terminal are minimal.

Alternative Sites

The Corps' report also reviewed four other potential alternative sites and two split location options for a container terminal complex. "The report's findings, combined with an assessment of the practicality of building rail or highway infrastructure at several of the sites, leads us to the conclusion that Bayport is the best possible location environmentally, logistically and commercially," Edmonds said. Serious adverse trade-offs would be involved in any of the other locations, he added.

"In conclusion, we believe the plans for construction and operation of the Bayport Terminal Complex set a new standard for environmentally responsible growth. We are committed to being a good neighbor during the building and operation of the Bayport Terminal complex. We believe the Corps analysis indicates this plan for Bayport will be an economic, environmental and aesthetic success, and we hope it will help establish Houston as the example to be followed across the nation for responsible development to support growth and safeguard future generations' interests."

CONTACT: Sommers & Associates, Houston
Tom Sommers or Cindy Shanley, 713/222-1600

<>

Houston Chronicle/November 28, 2001 EDITORIAL
Bayport: Ideally suited for new container, cruise ship terminals

For years the Port of Houston has argued that the best place to build new or expanded maritime facilities is at an existing port. In this case, port officials propose to build a new container facility and cruise ship terminal on land the port owns at Bayport, on Galveston Bay.

A draft environmental report prepared for the Army Corps of Engineers concludes that Bayport is the best place to build these facilities, and would not damage the bay's water quality. Design changes to the project will reduce the amount of noise and air pollution from the machinery and truck fleet.

Opponents to the project argue along two lines: Other locations in the Galveston Bay ecosystem are more suitable for expanded container and cruise ship facilities, and the Bayport project would inflict unacceptable environmental damage.

Even before the Corps' environmental study, common sense dictates that it is better to accommodate ships where ships already go than to send them somewhere where they do not go at present -- somewhere with a shoreline likely to be more sensitive than that of an existing port. Since the alternative sites are farther than Bayport from the cargo's local destination (businesses or rail yards) the amount of toxic emissions produced in moving the cargo would be greater and affect many more neighborhoods and towns.

The port's new facilities at Bayport will be neither silent nor free of all grime, so it is important for the port to make every effort, as it says it is doing, to set a high standard for environmental stewardship and civic-mindedness. The Corps' report gives weight to the port's claims to environmental sensitivity.

The Port of Houston handles more than half the container traffic in the Gulf of Mexico at its Barbours Cut facility near Bayport. The port must gain overflow capacity in order to keep its current customers and win new ones.

The port's opponents, some of whom bill the taxpayers for the time they spend protesting maritime expansion, argue that all sorts of new port activity and battalions of additional trucks will cause clouds of new pollution without producing new jobs and revenues. **Exactly the opposite is true, as the Corps' report makes clear.**

The Port of Houston needs new facilities, and Bayport, it turns out, is ideally suited to accommodate them.

DEC 12

City of Tomball

DL 10248

MD

WARREN DRIVER
CITY MANAGER

MARY COKER
CITY SECRETARY

H.G. HARRINGTON
MAYOR

December 12, 2001

Mr. Kerry M. Stanley
U.S. Army Corps of Engineers
Galveston District
Regulatory Branch
P.O. Box 1229
Galveston, Texas 77553-1229

Re: The USACE Draft Environmental Impact Statement for the Proposed Bayport Marine Terminal

Dear Mr. Stanley:

After reviewing the executive summary, I want to express my support for the U.S. Army Corps of Engineers' Draft Environmental Impact Statement for the Proposed Bayport Marine Terminal. The merits of locating the facility on the Bayport Ship Channel are apparent in the Draft Environmental Impact Statement (DEIS) and I believe all issues of concern have been addressed in the document. 29-13 2-27

The DEIS accurately reflects that the Bayport Project will not have significant impact on air quality in the Houston region. Additional study in this area is not needed. The fact that the Bayport project is already included in the federally mandated State Implementation Plan on air quality has allowed the Houston-Galveston area to include Bayport in it plans for addressing air quality issues. 7-20

The Port of Houston Authority has mitigated environmental, storm water run off, water quality, ecological, aesthetic, noise and lighting concerns of the Bayport Terminal with several measures including a three-mile berm constructed around the south and east sides of the Bayport facility, 121 acres of buffer zone, retention/detention ponds, high tech lighting, a 163-acre conservation easement containing over 12 acres of new jurisdictional wetlands – a 5:1 ratio over the affected jurisdictional wetlands on the Bayport site and 200 acres of estuarine marsh habitat in Galveston Bay. These measures will protect and in some cases improve the environment and allow the Bayport Terminal to be constructed without having a significant environmental impact on the area. 23-53

The DEIS accurately shows traffic from Bayport not to be a concern to the Clear Lake and Kemah areas. Further, roadway improvements on State Highway 146 north of Bayport would be needed whether Bayport is built or not. The Port of Houston Authority will be the local sponsor for some of the improvements on State Highway 146. 27-15

DL 10248

Rail crossings would not cross major roads in the State Highway 146 corridor in the Port's plans for the Bayport Terminal. Grade separations for the rail would reduce traffic congestion and increase safety. Additionally, it is unnecessary for the USACE to study the BNSF San Jacinto Rail to the Bayport Chemical Loop in relation to the Bayport Terminal. The Port of Houston Authority's customers will not use this rail service to move containers, so the railroad is unrelated to Bayport Terminal. 27-22

The Bayport area is home to one of the largest petrochemical complexes in the world. Over 50 separate companies have facilities in the Bayport area. The Bayport Terminal will be consistent with the commercial/industrial land use of the area. No residential areas would have to be moved or bought out, and effects on residential areas have been mitigated with measures that include the three-mile berm and buffer zones. 4-10

It is clear to draw the conclusion from the DEIS that the alternative sites to Bayport are inferior in deep water access, space to build a terminal, intermodal infrastructure, and traffic congestion concerns. That is not to mention the reality that many of the sites are unfeasible due to costs or environmental concerns. The only site that would make economic and logistic sense for the Port of Houston Authority to build a seven-berth container terminal and a five-berth cruise terminal is at the Bayport site. 2-44

Finally, I would like to request that the USACE not extend their deadline for comments from the current 90 days. I believe any extension of the comment period would simply result in an unnecessary delay for the Bayport project, without any beneficial comments or recommendations resulting from the delay. 23-57

I encourage the USACE to quickly complete its Final Environmental Impact Statement and permit the Port of Houston Authority to construct the container and cruise terminal on the Bayport property. The Houston-Galveston region has grown through the 1990s by over 950,000 people – a greater growth in population than 40 of the 50 states. A new cruise and container terminal will attract jobs for these new residents and will also allow for a lower cost quality of life. If you have any questions on my written comments for the Bayport DEIS, please call me. 29-13

Sincerely,

H.G. "Hap" Harrington
Mayor, City of Tomball

cc: Port of Houston Authority
VIA FACSIMILE: 713-670-2425

sdf

DEC 14 DL 10249

City of Friendswood

910 South Friendswood Drive
Friendswood, Texas 77546-4856
(281) 996-3270
Fax: (281) 482-1634

Mayor
HAROLD L. WHITAKER

Councilmembers
KITTEN BRIZENDINE
JERRY ERICSSON
TRACY GOZA
KIM BRIZENDINE
LARRY TAYLOR
MEL MEASELES

City Manager
RONALD E. COX

City Secretary
DELORIS McKENZIE, T.R.M.C.

December 12, 2001

Mr. Kerry M. Stanley
U.S. Army Corps of Engineers
Galveston District
Regulatory Branch
P.O. Box 1229
Galveston, Texas 77553-1229

Re: The USACE Draft Environmental Impact Statement for the Proposed Bayport Marine Terminal

Dear Mr. Stanley:

After reviewing the executive summary, I want to express my support for the U.S. Army Corps of Engineers' Draft Environmental Impact Statement for the Proposed Bayport Marine Terminal. The merits of locating the facility on the Bayport Ship Channel are apparent in the Draft Environmental Impact Statement (DEIS) and I believe all issues of concern have been addressed in the document. 29-13 2-27

The DEIS accurately reflects that the Bayport Project will not have significant impact on air quality in the Houston region. Additional study in this area is not needed. The fact that the Bayport project is already included in the federally mandated State Implementation Plan on air quality has allowed the Houston-Galveston area to include Bayport in it plans for addressing air quality issues. 7-20

The Port of Houston Authority has mitigated environmental, storm water run off, water quality, ecological, aesthetic, noise and lighting concerns of the Bayport Terminal with several measures including a three-mile berm constructed around the south and east sides of the Bayport facility, 121 acres of buffer zone, retention/detention ponds, high tech lighting, a 163-acre conservation easement containing over 12 acres of new jurisdictional wetlands – a 5:1 ratio over the affected jurisdictional wetlands on the Bayport site and 200 acres of estuarine marsh habitat in Galveston Bay. These measures will protect and in some cases improve the environment and allow the Bayport Terminal to be constructed without having a significant environmental impact on the area. 23-53

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DL 10249

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Sincerely,

Harold Whitaker
Mayor, City of Friendswood

cc: Port of Houston Authority
VIA FACSIMILE: 713-670-2425

sdf

DL 10250
MS

NORTH CHANNEL AREA CHAMBER OF COMMERCE

December 12, 2001

Mr. Kerry M. Stanley
U.S. Army Corps of Engineers
Galveston District
Regulatory Branch
P.O. Box 1229
Galveston, Texas 77553-1229

Re: The USACE Draft Environmental Impact Statement for the Proposed Bayport Marine Terminal

Dear Mr. Stanley:

Upon review of the executive summary, the Executive Board of the North Channel Area Chamber of Commerce wishes to express our support for the proposed Bayport Marine Terminal. The Draft Environmental Impact Statement concisely states the merits of locating the facility on the Bayport Ship Channel while clearly addressing all issues of legitimate concern. 29-41 2-44

It goes without saying that the Port of Houston plays a major economic role in Harris County and throughout the region. Construction and operation of the Bayport container terminal will only serve to further the Port's economic impact. 6-50

The Port has addressed appropriate residents' concerns in Bayport's design such as proposed moving of gates, providing for specially controlled lighting, protection of wetlands and a 3 mile berm to contain noise. The end result is a thoughtful plan that allows for both environmental protection and economic growth. 23-62

We are confident that upon careful consideration of ALL issues, you will agree that Bayport needs to be built. 1-17

Sincerely,

Wayne R. Oquin
President & CEO

cc: Port of Houston Authority
VIA Facsimile: (713) 670-2425

13301 I-10 East, Ste. 100 • P.O. Box 9759 • Houston, Texas 77015 • Phone: (713) 450-3600 • Fax: (713) 450-0700

MARK Ellis
HOUSTON CITY COUNCIL MEMBER, DISTRICT F

DL 10251
MJ

December 12, 2001

Mr. Kerry M. Stanley
U.S. Army Corps of Engineers
Galveston District
Regulatory Branch
P.O. Box 1229
Galveston, Texas 77553-1229

Re: The USACE Draft Environmental Impact Statement for the Proposed Bayport Marine Terminal

Dear Mr. Stanley:

After reviewing the executive summary, I want to express my support for the U.S. Army Corps of Engineers' Draft Environmental Impact Statement for the Proposed Bayport Marine Terminal. The merits of locating the facility on the Bayport Ship Channel are apparent in the Draft Environmental Impact Statement (DEIS) and I believe all issues of concern have been addressed in the document. 29-13 2-27

The DEIS accurately reflects that the Bayport Project will not have significant impact on air quality in the Houston region. Additional study in this area is not needed. The fact that the Bayport project is already included in the federally mandated State Implementation Plan on air quality has allowed the Houston-Galveston area to include Bayport in it plans for addressing air quality issues. Furthermore, the issues relating to particulate matter, both PM10 and PM2.5, have been adequately addressed in the USACE's DEIS. 7-20 7-30

The Port of Houston Authority has mitigated environmental, storm water run off, water quality, ecological, aesthetic, noise and lighting concerns of the Bayport Terminal with several measures including a three-mile berm constructed around the south and east sides of the Bayport facility, 121 acres of buffer zone, retention/detention ponds, high tech lighting, a 163-acre conservation easement containing over 12 acres of new jurisdictional wetlands – a 5:1 ratio over the affected jurisdictional wetlands on the Bayport site and 200 acres of estuarine marsh habitat in Galveston Bay. These measures will protect and in some cases improve the environment and allow the Bayport Terminal to be constructed without having a significant environmental impact on the area. 23-53

The DEIS accurately shows traffic from Bayport not to be a concern to the Clear Lake and Kemah areas. Further, roadway improvements on State Highway 146 north of Bayport would be needed whether Bayport is built or not. The Port of Houston Authority will be the local sponsor for some of the improvements on State Highway 146. 27-15

Rail crossings would not cross major roads in the State Highway 146 corridor in the Port's plans for the Bayport Terminal. Grade separations for the rail would reduce traffic congestion and increase safety. Additionally, it is unnecessary for the USACE to study the BNSF San Jacinto Rail to the Bayport Chemical Loop in relation to the Bayport Terminal. The Port of Houston Authority's customers will not use this rail service to move containers, so the railroad is unrelated to Bayport Terminal. 27-22

P.O. BOX 1562 HOUSTON, TEXAS 77251-1562 713-247-2002 FAX 713-247-1851

DL 10251

The Bayport area is home to one of the largest petrochemical complexes in the world. Over 50 separate companies have facilities in the Bayport area. The Bayport Terminal will be consistent with the commercial/industrial land use of the area. No residential areas would have to be moved or bought out, and effects on residential areas have been mitigated with measures that include the three-mile berm and buffer zones. 4-10

It is clear to draw the conclusion from the DEIS that the alternative sites to Bayport are inferior in deep water access, space to build a terminal, intermodal infrastructure, and traffic congestion concerns. That is not to mention the reality that many of the sites are unfeasible due to costs or environmental concerns. The only site that would make economic and logistic sense for the Port of Houston Authority to build a seven-berth container terminal and a five-berth cruise terminal is at the Bayport site. 2-44

Finally, I would like to request that the USACE not extend their deadline for comments from the current 90 days. I believe any extension of the comment period would simply result in an unnecessary delay for the Bayport project, without any beneficial comments or recommendations resulting from the delay. 23-57

I encourage the USACE to quickly complete its Final Environmental Impact Statement and permit the Port of Houston Authority to construct the container and cruise terminal on the Bayport property. The Houston-Galveston region has grown through the 1990s by over 950,000 people – a greater growth in population than 40 of the 50 states. A new cruise and container terminal will attract jobs for these new residents and will also allow for a lower cost quality of life. If you have any questions on my written comments for the Bayport DEIS, please call me. 29-13

Sincerely,

Mark Ellis

Mark Ellis
Council Member
City of Houston

cc: Port of Houston Authority
VIA FACSIMILE: 713-670-2425

sdf

Lee P. Brown
Mayor

OFFICE OF THE MAYOR
CITY OF HOUSTON
TEXAS

[redacted]

Duplicate

December 12, 2001

Mr. Kerry M. Stanley
U.S. Army Corps of Engineers
Galveston District
Regulatory Branch
P.O. Box 1229
Galveston, Texas 77553-1229

Re: The USACE Draft Environmental Impact Statement for the Proposed Bayport Marine Terminal

Dear Mr. Stanley:

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Sincerely,

Lee P. Brown
Mayor

cc: Port of Houston Authority
VIA FACSIMILE: 713-670-2425

LPB:sdf/rsv

DEC 14

Lee P. Brown
Mayor

OFFICE OF THE MAYOR
CITY OF HOUSTON
TEXAS

DL 10253
MG

December 12, 2001

Mr. Kerry M. Stanley
U.S. Army Corps of Engineers
Galveston District
Regulatory Branch
P.O. Box 1229
Galveston, Texas 77553-1229

Re: The USACE Draft Environmental Impact Statement for the Proposed Bayport Marine Terminal

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901 Bagby, 3rd Floor • Post Office Box 1562 • Houston, Texas 77251-1562 • 713/247-2545 • 713/247-1067 Fax

DL 10253

Finally, I would like to request that the USACE not extend their deadline for comments from the current 90 days. I believe any extension of the comment period would simply result in an unnecessary delay for the Bayport project, without any beneficial comments or recommendations resulting from the delay. 23-57

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Sincerely,

Lee P. Brown
Mayor

cc: Port of Houston Authority
VIA FACSIMILE: 713-670-2425

LPB:sdf/rsv

DL 10256 DEC 12 2001
MB

The City of South Houston Chamber of Commerce

P. O. Box 75
58 Spencer Highway • South Houston, TX 77587-0075
(713) 943-0244 • Fax: (713) 943-3978 • E mail: chamber@pdq.net

December 12, 2001

Mr. Kerry M. Stanley
U.S. Army Corps of Engineers
Galveston District
Regulatory Branch, CESWG-PE-RE
P.O. Box 1229
Galveston, TX 77553-1229

RE: The USACE Draft Environmental Impact Statement for the Proposed Bayport Marine Terminal

Dear Mr. Stanley:

I have been following the Port of Houston Authority's progress on obtaining a permit for a new container terminal. I have reviewed all of the facts, heard arguments from those for and against, and have come to the conclusion that Bayport should be built. 29-45

Construction and operation of the Bayport container terminal creates a tremendous economic impact for southeast Texas. Bayport brings new jobs to Harris County, cultivates business, and increases the local and state tax base. This increased economic activity as well as availability and variety of products allows Houston to keep our high standard of living at a reasonable cost. 6-50

In viewing the alternative areas proposed, I see Bayport as the most logical, efficient and effective selection for a new container terminal. The proposed Bayport site is a large contiguous tract of land the Port already owns with easy access to existing state highway systems and rail lines, located among a high concentration of existing petrochemical facilities. The other locations lack the space needed, would cause traffic jams, and increase construction costs. 2-62, 2-44

The Port has drafted an environmentally responsible construction and operation plan for a new container facility. They have incorporated residents' concerns into Bayport's design such as planning to move gates, install specially controlled lighting, protect wetlands and build a 3-mile berm to contain noise. The Port has created a thoughtful plan that allows for environmental protection AND economic growth. Bayport needs to be built. 23-62, 1-17

Sincerely,

Ken Legler
Verified via phone call
2-12-02 MB

Chairman of the Board, South Houston Chamber of Commerce

cc: Port of Houston Authority
VIA FASCIMILIE: (713) 670-2425

City of Galena Park

P.O. Box 46
Galena Park, TX 77547
(713) 672-2556
FAX (713) 672-1840

DEC 12

DL 10257
MJ

R.P. BARRETT
Mayor
JOHN L. COOPER
City Administrator
MARGARET STEVENS
City Secretary
JIM L. DEFOYD
City Attorney

COMMISSIONERS
JAMES E. BROOKS
Position No. 1
JOSEPH B. THIBODEAUX, JR.
Position No. 2
DAWN T. FISHER
Position No. 3
MAXIE L. CAMPBELL
Position No. 4

December 12, 2001

Mr. Kerry M. Stanley
U.S. Army Corps of Engineers
Galveston District
Regulatory Branch
P.O. Box 1229
Galveston, Texas 77553-1229

Re: The USACE Draft Environmental Impact Statement for the Proposed Bayport Marine Terminal

Dear Mr. Stanley:

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The DEIS accurately shows traffic from Bayport not to be a concern to the Clear Lake and Kemah areas. Further, roadway improvements on State Highway 146 north of 27-15

DL 10257

Bayport would be needed whether Bayport is built or not. The Port of Houston Authority will be the local sponsor for some of the improvements on Sate Highway 146. 27-15

Rail crossings would not cross major roads on the State Highway 146 corridor in the Port's plans for the Bayport Terminal. Grade separations for the rail would reduce traffic congestion and increase safety. Additionally, it is unnecessary for the USACE to study the BNSF San Jacinto Rail to the Bayport Chemical Loop in relation to the Bayport Terminal. The Port of Houston Authority's customers will not use this rail service to move containers, so the railroad is unrelated to Bayport Terminal. 27-22

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Sincerely,

For R.P. "Bobby" Barrett
Mayor, City of Galena Park

cc: Port of Houston Authority
Via Facsimile: 713-670-2425
sdf

DEC 12 2001

PUBLIC HEARING COMMENT

DL 10444
20

U.S. Army Corps of Engineers
Galveston District

DRAFT
ENVIRONMENTAL IMPACT STATEMENT
FOR THE PROPOSED
BAYPORT MARINE TERMINAL

This form may be used to provide your comments resulting from review of the Draft Environmental Impact Statement for the proposed Bayport Marine Terminal. Written comments may also be sent directly to:

Mr. Kerry M. Stanley
U.S. Army Corps of Engineers
Galveston District
Regulatory Branch
P.O. Box 1229
Galveston, TX 77553-1229
Facsimile: 409-766-6301
Email: kerry.m.stanley@swg02.usace.army.mil

All written comments should be received by February 11, 2002.

Name: Natahé S. O'Neill, Mayor Taylor Lake Village

Address: 500 Kirby Blvd.

City, State and Zip: Taylor Lake Village, Texas

Comment: See attached Comments + Council Resolution

10444

December 12, 2001
DEIS comments-
Natalie S. O'Neill, Mayor, Taylor Lake Village

As a Mayor, my primary charge is the **Safety, Health, and Welfare** of the citizens who elected me into office. At your Scoping Hearing, ~~three~~ two years ago, citizens brought forth the issues that concerned **them** the most. I **expected** them to be addressed **completely** and **without bias** in **your** DEIS Document, **it is unfortunate that they were not**. 23-3

Bayport's industrial expansion would forever change our residential communities; lower property values, cause traffic hazards, and create major health and air quality issues. These issues go to the heart of our community. This permit will determine the health, safety, and welfare of tens of thousands of citizens. As property values decrease so will our tax base, as will my ability to provide city services like police and fire protection. "But for" the issuance of this permit our neighborhoods would continue to be viable. 5-4, 6-13, 27-14, 7-10

Your document shows that **22,955** residents live within adjacent census tracts of Bayport. If you **add** the total number of citizens living within adjacent census tracts of **ALL FIVE** of the **alternative sites TOGETHER** you get just **half** the number of those citizens affected by Bayport **ALONE.**

It would be impossible for me to address all of the DEIS' inadequacies in the three minutes you have allotted me. It is a lengthy document, and I have only read through it quickly once. You have had **teams** working on it **40 hours a week for three years**. I ask you to extend **our** time so we have the opportunity review it thoroughly and address our concerns properly. 23-54

RESOLUTION NO. 00-586

A RESOLUTION ENCOURAGING AREA CITIES, RESIDENTIAL COMMUNITIES BAYPORT INDUSTRIAL DISTRICT INDUSTRIES (BID) AND THE ASSOCIATION OF BAYPORT COMPANIES (ABC) TO TAKE ACTIONS NECESSARY TO SEE THAT ENVIRONMENTAL STANDARDS CONTAINED IN THE BAYPORT INDUSTRIAL DISTRICT DEED RESTRICTIONS ARE PRESERVED AND ENFORCED TO PROTECT THE HEALTH, SAFETY AND WELFARE OF THE SURROUNDING AREA.

* * * * * * * * * * * *

WHEREAS, the creators OF Bayport Industrial District (Humble Oil & Refining Co., Land Division, and later Friendswood Development Company) established Bayport Environmental Standards, in the form of Deed Restrictions, to insure proper use, appropriate development and improvement of the land within Bayport Industrial District ("BID") so as to protect surrounding landowners in residential and commercial areas from property depreciation and health impairment, as well as protecting plant site owners from improper uses of other plant sites in BID;

WHEREAS, these Deed Restrictions, that run with the land, regulate such matters as noise, light, odors, toxic discharges, liquid wastes, surface drainage, and other activity that could affect the use, enjoyment, health and property values of surrounding residential communities, as well as existing BID industries;

WHEREAS, the proposed Bayport Container Facility as designed by the Port of Houston Authority ("PHA"), threatens the preservation of property values, existing land uses, health and use, and enjoyment of the surrounding owners/users of residential properties and BID industries;

WHEREAS, the local residential communities, cities and existing industries at Bayport Industrial District and ABC have a common and continuing interest in the proper enforcement and integrity of these Deed Restrictions and the goals for which they were designed;

WHEREAS. The Bayport Industrial Association (now Association of Bayport Companies – "ABC") was created by these Deed Restrictions to administer and enforce these environmental standards;

WHEREAS, the ABC Deed Restrictions expire in 2003 the City of Taylor Lake Village asks that ABC renew said Deed Restrictions protecting the interest of the local community

BE IT THEREFORE RESOLVED BY THE CITY OF TAYLOR LAKE VILLAGE, STATE OF TEXAS:

THAT, the City of Taylor Lake Village encourages all local cities, residential communities, all individual BID industries and ABC to fully investigate and take actions necessary to see that these Environmental Standards, and the purposes for which they were created, are fully enforced and preserved so that the health, property values and land uses for all residential, commercial and BID industrial owners/users are maximized, as intended.

PASSED, APPROVED, AND RESOLVED, THIS 15th DAY OF NOVEMBER 2000.

CITY OF TAYLOR LAKE VILLAGE

Natalie O'Neill, Mayor Protem

ATTEST:

Lorena E. Briel. City Secretary

RESOLUTION NO. 01-589

SUNSET REVIEW OF THE PORT OF HOUSTON AUTHORITY

A RESOLUTION ENCOURAGING AREA LEGISLATORS TO SUPPORT HOUSE BILL 564 WHICH PROPOSES THAT THE PORT OF HOUSTON BECOME SUBJECT TO SUNSET REVIEW LEGISLATION

WHEREAS, after 73 years of operation, it is time for a thorough re-examination of the political, economic and operational characteristics of the Port of Houston Authority. The Port Authority needs to be held accountable to the public it serves for the manner in which it finances its operations, manages public funds, provides for meaningful public participation in rule making and other decisions, and effects through its operations homeowners, business, and the fragile ecosystem of Galveston Bay.

WHEREAS, Texas law (found in §325.01 of the Government Code) provides for Sunset review of all state agencies. Sunset review is the regular assessment of the continuing need for a state agency to exist. The review process also provides a mechanism for lawmakers to look closely at each agency and make fundamental changes to its mission or operations, if needed.

WHEREAS, State Representative Rick Noriega has introduced House Bill 564, co-authored by State Representative John Davis, to make the Port of Houston Authority subject to the Sunset Review Process.

BE IT THEREFORE RESOLVED BY THE CITY OF TAYLOR LAKE VILLAGE, STATE OF TEXAS:

THAT, the City of Taylor Lake Village encourages area legislators to support House Bill 564 and require accountability from the Port of Houston Authority.]20-9

AND IT IS SO ORDERED PASSED AND APPROVED ON THIS SEVENTH DAY OF MARCH, 2001.

Einar Goerland, Mayor

ATTEST:

Lorena E. Briel, City Secretary

Reso 01-589
03/21/01

10444

RESOLUTION NO. 98-525

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TAYLOR LAKE VILLAGE, TEXAS, IN OPPOSITION TO THE EXPANSION PLANS OF THE HOUSTON PORT AUTHORITY IN THE BAYPORT COMPLEX.

* * * * *

WHEREAS, the City of Taylor Lake Village has been a tranquil, lakeside, residential community with a small town atmosphere for over 35 years; and

WHEREAS, the City of Taylor Lake Village has chosen not to pursue any industrial enterprises which may disturb the peace and tranquility enjoyed by its residents; and

WHEREAS, the Houston Port Authority plans expansion of the Bayport complex, including a large scale railroad yard for loading and unloading containers which will be utilized by 7,060 trucks per day and 57 trains per week; increasing heavy traffic on Red Bluff and Highway 146, streets our citizens and school buses travel every day; and

WHEREAS, the peace and tranquility of the citizens of Taylor Lake Village will be disturbed by noise, light, water, and air pollution from the 24 hour a day operation of trains, cranes, trucks, and other heavy equipment; and

WHEREAS, there will be increased health risks from truck diesel fumes and chemicals transported by trucks, rail, and shipping vessels; and

WHEREAS, there will be a potential for spills of chemicals and other hazardous materials due to the increased transportation of these; and

WHEREAS, the Houston Port Authority expansion calls for the destruction of over 100 acres of federally protected wetlands; and

WHEREAS, the residential property values will decrease because of the aforementioned noise, light, water, and air pollution, increased traffic, and disruption of the quality of life that draws people to this area, reducing the tax base the city is dependent on; and

WHEREAS, the City of Taylor Lake Village has less than 90 vacant lots and has little opportunity for future growth and is therefore entirely dependent on maintaining and raising current property values to support the annual budget; now therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TAYLOR LAKE VILLAGE, TEXAS:

Section 1. The City Council of the City of Taylor Lake Village hereby expresses its opposition to the expansion of the Houston Port Authority into our predominantly residential communities and asks that an alternative site in a suitable community be considered.] 29-31

PASSED, APPROVED, AND RESOLVED this the 19th day of August, 1998.

CITY OF TAYLOR LAKE VILLAGE

Einar H. Goerland

Einar H. Goerland, Mayor

ATTEST

Alice Cumming

Alice Cumming, City Secretary

RESOLUTION NO. 99-559

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TAYLOR LAKE VILLAGE, TEXAS, IN OPPOSITION TO THE PROPOSED PORT OF HOUSTON AUTHORITY BAYPORT CONTAINER FACILITY AND IN FAVOR OF A REGIONAL PORT CONCEPT FOR GALVESTON BAY.

* * * * * *

WHEREAS, the Port of Houston Authority has proposed a container facility at Bayport that will require utilization of over 100 acres and will generate peak traffic demand at build out of approximately 7000 trucks per day; and

WHEREAS, the Bayport container facility plan was prepared by the Port of Houston Authority without a public participation process that allowed stakeholder input to the design process; and

WHEREAS, the Bayport container facility will generate significant air quality impacts from the diesel trucks, diesel ships, diesel cranes and diesel vehicles that will be active at the Bayport container facility; and

WHEREAS, the Bayport area is currently violating the federal health-based standard for air pollution; and

WHEREAS, monitoring data indicates that the federal health standard for fine particle air pollution is being exceeded downwind of the Bayport facility; and

WHEREAS, the Bayport container facility is adjacent to residential developments at El Jardin del Mar, Seabrook, Shoreacres and Taylor Lake Village that will be negatively impacted by the noise, light and air pollution from the Bayport facility; and

WHEREAS, residential areas throughout the Bay Area will be negatively affected by traffic and air pollution generated by Bayport; and

WHEREAS, Galveston Bay is a nationally-important estuary; and

WHEREAS, the likelihood exists that the Bayport container facility ultimately will be dredged to 50 or more feet to accommodate the mega-ships that are being constructed today; and

WHEREAS, a channel constructed to a depth of 50 or more feet into the Galveston Bay system as far up as Bayport would increase salinity levels and decrease marine productivity in Galveston Bay; and

WHEREAS, other sites exist in the Galveston Bay system that are not adjacent to residential developments; and

WHEREAS, other sites exist in the Galveston Bay system that are better served by rail than is the Bayport site and would generate less truck traffic and less air pollution than would Bayport; and

WHEREAS, one site exists in the Galveston Bay system that is already approved for 50 foot channel depths and will have significantly less impact to the Galveston Bay system than would a 50 foot channel to Bayport; and

WHEREAS, a regional approach to container facility siting that considers the entire Galveston Bay system is desirable; and

WHEREAS, a regional approach to container facility siting could provide for the public involvement and stakeholder participation that never occurred prior to the development of the plan for the Port of Houston Bayport Facility.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Taylor Lake Village, Texas:

1. The City of Taylor Lake Village is opposed to the permitting, licensing and construction of the proposed Port of Houston Authority Bayport container facility. 29-31

2. The City of Taylor Lake Village is committed to a regional container port siting process that considers all reasonable sites within the Galveston Bay system, fully develops environmental and economic information as part of the input into the siting process and fully integrates stakeholders into the process and considers their input in the decision-making process regarding regional port site selection. 2-49

PASSED, APPROVED and RESOLVED this the 4th day of August, 1999.

Einar Goerland
Mayor

ATTEST:

Deborah L. Bludworth
City Secretary

RESOLUTION 01-618 10444

A RESOLUTION OF THE CITY OF TAYLOR LAKE VILLAGE, TEXAS, REAFFIRMING THE CITY'S OPPOSITION TO EXPANSION PLANS OF THE HOUSTON PORT AUTHORITY AND ACKNOWLEDGEMENT OF FURTHER HAZARDS & VULNERABILITY DUE TO TERRORIST ACTIONS.

* * * * * * * * * * * *

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TAYLOR LAKE VILLAGE, TEXAS:

WHEREAS, the City of Taylor Lake Village is a tranquil, residential community with a small-town atmosphere; and

WHEREAS, the City of Taylor Lake Village has chosen not to pursue heavy industrial enterprises which may disturb the peace, tranquility, health, safety, and welfare enjoyed by its residents; and

WHEREAS, the Houston Port Authority plans an expansion of the Bayport complex, including a large scale railroad yard for loading and unloading containers; and

WHEREAS, the peace, tranquility, health, safety, and welfare of the citizens of the City of Taylor Lake Village will be disturbed by noise, light, water and air pollution from the 24 hour per day operation of trains, cranes, trucks and other heavy equipment; and

WHEREAS, this expansion will have an extreme negative environmental impact on the City of Taylor Lake Village and surrounding areas; and

WHEREAS, the City of Taylor Lake Village Resolutions 99-544, 99-559, and 00-579 have previously expressed the City's opposition to the Bayport expansion; and

WHEREAS, the terrorist attacks of September 11, 2001 constitute further evidence that the location of large industrial complexes, such as the Port of Houston, near residential communities is dangerous and creates and unacceptable hazard to the City of Taylor Lake Village citizens and citizens of surrounding communities; and

WHEREAS, the recent attacks and events in our country also prove that additional time is needed for citizens and cities to comment on the EIS when it is released to the public;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF TAYLOR LAKE VILLAGE, STATE OF TEXAS:

THAT, the Mayor and City Council of the City of Taylor Lake Village does reaffirm unanimous opposition to the expansion plans of the Houston Port Authority and acknowledges the additional dangers to the health, safety, and welfare of our citizens; and, further, 29-31

THAT, the City Council respectfully requests that the public be granted at least 180 days to comment following the release of the DEIS due to the recent terrorists' attacks and threats, the magnitude of this project and its effect on the City of Taylor Lake Village and surrounding communities. 23-68

PASSED, APPROVED, AND RESOLVED, this 7th day of November 2001.

CITY OF TAYLOR LAKE VILLAGE

Natalie S. O'Neill, Mayor

ATTEST:

Lorena E. Briel, City Secretary

Res. 01-618
11/07/01

E. DALE WORTHAM, President

RICHARD C. SHAW, Secretary-Treasurer

DEC 12 2001

DP 10598

HARRIS COUNTY AFL-CIO COUNCIL

AFFILIATE OF THE A. F. of L. - C. I. O.

2506 SUTHERLAND · (713)923-9473 · Fax(713)923-5010

HOUSTON, TEXAS 77023-5305

December 12, 2001

Statement of Richard C. Shaw, Secretary-Treasurer to the U.S. Army Corps of Engineers
Support of the Port of Houston Authority's Bayport Terminal Complex

In 1999, Harris County voters approved a $387 million bond proposal for the Port of Houston Authority's Bayport Terminal Complex. Clearly, the voters spoke in favor of this expansion at Bayport.

The Harris County AFL-CIO Council, representing 72 Unions, is also in favor of the Bayport Terminal Complex expansion. Our reasons are quite simple. **It means jobs and good jobs at that**. It is predicted that nearly 12,000 new jobs will be created in ten years with 39,000 new jobs at full build-out. These jobs will be what we refer to as "high road" jobs that boost our economy by supporting local businesses and lift up families with livable wages, decent benefits and where affluence is spread among as many as possible. **It means boosting business**. There will be $1 billion in new business after ten years with $3.3 billion when fully developed in 15 to 30 years. **It means new tax revenue**. Taxes for state and local governments will general $41 million after ten years and $150 million at full build-out. The Houston- Gulf Coast Region's future as a major port will be secured. **It means diversification of Houston's economy**. Diversification of our economy is sorely needed. Diversification will help protect us from the effects of recession.

The Draft Environmental Impact Study (EIS) and has concluded that there are no significant threats to air, water or commercial fisheries by the Bayport expansion project. In fact, the Bayport container terminal will set new national standards for environmental planning and construction. We believe, therefore, that it will be a ***good*** neighbor.

We urge you to approve the Bayport Terminal Complex. Let's move Houston forward!

DEC 27 2001

DL 10609

Harris County Precinct One

El Franco Lee
Commissioner

1001 Preston Ave., Suite 950
Houston, Texas 77002
713/755-6111

December 17, 2001

Mr. Kerry M. Stanley
U.S. Army Corps of Engineers
Galveston District
Regulatory Branch
P.O. Box 1229
Galveston, Texas 77553-1229

Re: The USACE Draft Environmental Impact Statement for the Proposed Bayport Marine Terminal

Dear Mr. Stanley:

This letter is forwarded for the purpose of expressing my support for the U.S. Army Corps of Engineers' Draft Environmental Impact Statement (DEIS) regarding the Proposed Bayport Marine Terminal.

Based on the Corps' DEIS report, it is imperative that expanded maritime development and enterprise be undertaken at the Port of Houston through construction of a new container facility and cruise ship terminal. Houston must be able to expand its container capacity to meet the demands of the increasing attraction of new businesses and tourism, as well as continue in the maintenance of its status as an international city. It must maintain its capacity to deliver quality service in that the Bayport area is home to one of the largest petrochemical complexes in the world, having over 50 separate companies with facilities within the immediate Bayport area. 29-48 1-24

The Port of Houston Authority has mitigated environmental elements, storm water run offs, water quality, ecological, aesthetic, noise and lighting concerns of the Bayport Terminal with several measures to protect and, in some cases, improve the environment and allow the Bayport Terminal to be constructed without having a significant environmental impact on the area. The federally mandated State Implementation Plan on air quality has allowed the Houston-Galveston area to include Bayport in its plans for addressing air quality issues. The DEIS report reflects that the project will not have a significant impact on air quality in the Houston region. Also, the Port of Houston Authority has committed to local sponsorship of some of the needed roadway improvements for the benefit of the project, including an increase in safety measures. 22-98 7-38 27-35

The DEIS also reveals that it will not be necessary to have residential areas moved or engage in buy-outs, and the terminal will be consistent with the commercial/industrial

DEC 27 2001

10609

land usage of the area. Of the other sites mentioned as alternatives, the report reveals that the Bayport Terminal is the only site that would make economic and logistic sense for the Port of Houston Authority to build a seven-berth container terminal and a five-berth cruise terminal. This project will not only provide area economic development, including jobs, it will also equip the overall Houston region with a high tech, state-of-the-art terminal while setting a new standard for environmental stewardship, thus benefiting the public, in general. 4-15 22-99

As a Harris County representative of portions of the proposed impacted area, I am excited about the prospect of the passage of the proposed Bayport project and request that the Corps retain the comment period to remain at the current 90-day period. This period will provide sufficient time to hear and digest comments, and assist in finalizing the Environmental Impact Statement. I am encouraged by the DEIS and urge that the Port of Houston Authority be permitted to construct the container and cruise terminal on Bayport property. 23-74 23-76

I would appreciate your support for the project. Should you require additional comments, please advise.

Sincerely,

El Franco Lee

/dmlw

xc: James T. Edmonds
Chairman, Port of Houston Authority
Via Facsimile: 713.670.2429

Commissioners, Port of Houston Authority
Via Facsimile: 713.670.2425

DEC 27 2001
DL 10621

WGMA

WEST GULF MARITIME ASSOCIATION

1717 East Loop, Suite 200 • Houston, Texas 77029
(713) 678-7655 • Fax (713) 672-7452

Houston • Galveston • Freeport • Texas City • Corpus Christi • Brownsville • Beaumont • Orange • Port Arthur • Lake Charles

AV

December 21, 2001

Mr. Kerry M. Stanley
U.S. Army Corps of Engineers
Galveston District
Regulatory Branch, CESWG-PE-RE
P. O. Box 1229
Galveston, Texas 77553-1229

RE: PORT OF HOUSTON - BAYPORT CONTAINER TERMINAL

Dear Mr. Stanley:

We write you in support of the Draft Environmental Impact Statement (DEIS) recently released and discussed at the public hearing on December 12, 2001.] 29-1

The West Gulf Maritime Association is comprised of 72 companies actively engaged in the maritime industry as ship owners, ship agents and stevedores located in all the Texas ports and the Port of Lake Charles, Louisiana. Our main office is in Houston, Texas and the majority of our members are also located in Houston.

Many of our members and their employees work and live in the greater Clear Lake/ Pasadena/Bayport area, and they have therefore followed with interest the development of the Bayport Container Terminal. The DEIS as developed under the guidance of the U.S. Army Corps of Engineers (USACE) clearly and correctly identifies the Bayport location as the most suited for the Port of Houston to expand their needed facilities to handle containerized shipments.] 2-27

The Port of Houston Authority has gone out of their way to address the concerns that have been raised by the local residents in the area and the environmental interests. The concerns that have been addressed include erosion control, gate relocation, buffer zones and traffic flow improvement. On the environmental side the concern about water quality, air quality and environmental management have been addressed and a creation of wetlands of many acres have been created.

The DEIS accurately confirms that the Bayport project will not have a significant impact on the environment and an additional study in this area is therefore not needed. The Bayport] 23-41

DEC 27 200

10621

area is home to one of the largest petrochemical complexes in the world and the Bayport Terminal will be consistent with the industrial and commercial use of land in the area.

The Bayport project is already two years behind schedule if not more and we request that the USACE not extend the deadline for comments beyond the current 90 days. We believe such an extension would mean additional unnecessary delay of the project and no beneficial results would be forthcoming from this delay. 23-44

We encourage the USACE to complete its current and final study as soon as possible and permit the Port of Houston Authority to construct the container and cruise terminal on the Bayport property. 29-49

This will attract jobs to the area and have a positive impact on the economy in the entire State of Texas.

We wish to thank you for the opportunity to comment on the DEIS and hope that you will proceed towards finalization as quickly as possible.

Very truly yours,

WEST GULF MARITIME ASSOCIATION

Ted Thorjussen
President

TT:bc

c: Port of Houston Authority
WGMA Members

DEC 31 2001

Houston Citizens Chamber of Commerce

2808 WHEELER AVENUE • HOUSTON, TEXAS 77004-5351 • OFFICE: 522-9745

A COMMUNITY SERVICE ORGANIZATION

DL 10629
AV

December 27, 2001

Mr. Kerry M. Stanley
U.S. Army Corps of Engineers
Galveston District
Regulatory Branch, CESWG-PE-RE
P.O. Box 1229
Galveston, TX 77553-1229

RE: The USACE Draft Environmental Impact Statement for the Proposed Bayport Marine Terminal

Dear Mr. Stanley:

29-2 In support of the proposed Bayport Marine Terminal, I have been following the Port of Houston Authority's progress on obtaining a permit for a new container terminal. I have reviewed all of the facts, heard arguments from those for and against, and have come to the conclusion that "Bayport should be built."

29-1 As an economic overview, construction and operation of the Bayport container terminal creates a tremendous economic impact for Southeast Texas. Bayport brings new jobs to Harris County, cultivates business, and increases the local and state tax base. This increases economic activity as well as availability and variety of products allows Houston to keep our high standard of living at a reasonable cost.

2-14 In viewing the alternative areas proposed, I see Bayport as the most logical, efficient and effective selection for a new container terminal. The proposed Bayport site is a large contiguous tract of land the Port already owns with easy access to existing state highway systems and rail lines, located among a high concentration of existing petrochemical facilities. The other locations lack the space needed, would cause traffic jams, and increase construction costs.

23-41 The Port has drafted an environmentally responsible construction and operation plan for a new container facility. They have incorporated residents' concerns into Bayport's design such as planning to move gates, install specially controlled lighting, protect wetlands and build a 3-mile berm to contain noise. The Port has created a thoughtful plan that allows for environmental protection AND economic growth. Bayport needs to be built.

1-11 In summary; for Houston to maintain its competitive advantage in the global marketplace, we must be prepared to import and export these containers. The new century holds the promise of new prosperity as increased capacity at the PHA is created to handle escalating trade opportunities.

Sincerely,

Earl B. Loggins

Earl B. Loggins
Chairman of the Board
Houston Citizens Chamber of Commerce

EBL:dh

CC: Port of Houston Authority
Via facsimile: (713) 670-2425

JAN 1 1 2002

DL 10692

AV

P.O. Box 898 **Seabrook, Texas 77586**

Gerry Guerrieri, President

El Jardin's response to the US Army Corps of Engineer's Draft of the Environmental Impact Study

The Corps was good enough to grant my request for a CD of the DEIS and I studied it. I can state my evaluation in one word..... Disappointed. Not so much in what it covered but rather what it did not cover and what seemed to be pandering to the Port of Houston Authority.

22-4

I speak for the 368 homes in El Jardin and the approximately 1,000 citizens who reside here.

We who live in El Jardin are particularly concerned with the Intermodal Rail Yard that will literally be across the street (Todville Road) from our

Subdivision. We have many concerns all of which your DEIS seems satisfied with the PHA's claim that these concerns have been mitigated by a 20 foot berm which will divide our side of Todville Road and the Intermodal Rail Yard. We don't think so; allow me to innumerate our primary concerns:

1. Aesthetics - PHA will build a 20-foot earthen berm between their road and Todville road. We say their plan shows that they will be storing containers on their side of the berm. It is their practice to stack containers five high which measures 40 feet. Therefore, we will see the beautiful bay to the East and containers to the West.

28-1

2. Noise abatement – The PHA said the berm would also abate the noise factor. We say an incoming track that butterflies to 18 tracks and has trains switching and unswitching, on-loading and off-loading, can not be muffled by a berm when all of this is taking place 24 hours

3-15

a day 1200 feet from our homes.

3. Light Pollution – The PHA said they would use a state of the art light shields that would significantly abate the problem of ambient light. We say a ring of lights on poles 120 feet high even with shields would not make a significant difference on homes less than a quarter mile away. Homes located on the west end of the subdivision will never see stars again. 7-8

4. Air Pollution – This berm that PHA claims will mitigate all the concerns of the people of El Jardin, will divide two roads. Todville Road directly to the East and directly to the West the road that will service an estimated 7 to 5000 semi tractor trailer trucks every day most of which use diesel fuel and none of which was counted in the PHA Clean Air evaluation. The 7-36

nox and particulates that will be generated by this traffic would be a very serious threat to the people of El Jardin some of whom live 40 feet from this road. Of course, this condition will be exacerbated by the diesel trains that will be occupying 18 tracks within a very confined area.

1-1

1-36

We citizens of El Jardin are also very disappointed in the very short notice this DEIS gave to alternate locations not even mentioning the Beltway 958 acres most of which the PHA already owns or the Texas City Privately Funded location. Could it be the Corp was dazzled by the prospects of the $1.2 Billion the Bayport will cost.

2-55

2-9

My fellow neighbors from El Jardin will tell you that this PHA expansion project would, for them, end a way of life that is being enjoyed in our pristine subdivision. An area that the City of Pasadena calls their window to the Bay.

5-1

But from me you're just going to hear how very disappointed I am in a federal agency that is

supposed to be looking out for the welfare of the Citizens under their jurisdiction.

I'm an old Corporate man so I understand the Baby-boomer mindset of 'win at any cost' the people running the PHA have.... They don't disappoint me... But the mighty United States Army Corps of Engineers has disappointed me deeply because I firmly believe your evaluation of this DEIS did not have the best interest of the Citizens under your jurisdiction in mind. 28-104

The only saving grace is that this is indeed a Draft and you have the opportunity to correct these errors.

Respectfully submitted, Gerry Guerrieri
EJCA, President
January 10, 2002

JAN 14 2002

PUBLIC HEARING COMMENT

DL 10694

AV

U.S. Army Corps of Engineers
Galveston District

DRAFT ENVIRONMENTAL IMPACT STATEMENT FOR THE PROPOSED BAYPORT MARINE TERMINAL

This form may be used to provide your comments resulting from review of the Draft Environmental Impact Statement for the proposed Bayport Marine Terminal. Written comments may also be sent directly to:

Mr. Kerry M. Stanley
U.S. Army Corps of Engineers
Galveston District
Regulatory Branch
P.O. Box 1229
Galveston, TX 77553-1229
Facsimile: 409-766-6301
Email: kerry.m.stanley@swg02.usace.army.mil

All written comments should be received by February 11, 2002.

Name: Beth J. Rickert Director for Communications/Public Info. Officer

Address: 301 East Fairmont Parkway

City, State and Zip: La Porte, TX 77571

Comment:

Resolution presented at the La Porte Independent School District Board meeting January 8, 2002.

10694

La Porte Independent School District
Board of Trustees

Resolution

Be it therefore resolved by the La Porte Independent School District Board of Trustees on this eighth day of January in the year two thousand and two.

Whereas, be it resolved that the Port of Houston has failed to include impact studies regarding emissions for increased vehicles; and] 7-4

Whereas, such emissions could affect the health, welfare, and well being of students, faculty and citizens; and] 7-8

Whereas, be it resolved that without information that reflects such impact, the Board of Trustees of the La Porte Independent School District is on record against such Port expansion as the Bayport project.] 7-3

PASSED AND APPROVED, this the 8th day of January 2002.

ATTEST:

Gordon Westmoreland 1/8/2002

Gordon Westmoreland
President, Board of Trustees

L. J. Guillot

L. J. Jay Guillot
Secretary, Board of Trustees

THE CITY OF SEABROOK 1830

1700 First Street, Seabrook, Texas 77586

Telephone (281) 291-5600 Fax (281) 291-5690

JAN 2 3 2002

DL 10697

AV

January 16, 2002

Colonel Leonard D. Waterworth
District Commander of the Galveston District
U.S. Army Corps of Engineers
P.O. Box 1229
Galveston, Texas 77553-1229

RE: Request for Extension of Time to Respond to the DEIS for the proposed Bayport Container Facility

Dear Colonel Waterworth,

Enclosed please find a certified copy of the City of Seabrook Resolution No. 2002-03, unanimously approved by the Seabrook City Council on January 15, 2002, requesting that the U.S. Army Corps of Engineers establish a revised deadline of March 28, 2002 to allow the public to respond to the DEIS for the proposed container facility at Bayport.

235

Sincerely,

JC Fryday

Jack C. Fryday, Mayor

JCF/mlg

Attachment: City of Seabrook Resolution No. 2002-03

xc:

The Honorable Phil Graham
United States Senate
24 Greenway Plaza, Suite 1705
Houston, TX 77046

The Honorable Kay Bailey Hutchison
United States Senate
1919 Smith Street, Suite 800
Houston, TX 77002

The Honorable Nick Lampson
United Stated Representative
Ninth District
601 Rosenberg, Suite 216
Galveston, TX 77550

The Honorable Tom DeLay
United States House of Representatives
District 22
10701 Corporate Drive, Suite 118
Stafford, TX 77477

The Honorable Robert Eckels, Judge
Harris County
1001 Preston, 9th Floor
Houston, TX 77002

The Honorable James Fonteno, Commissioner
Harris County, Precinct 2
1001 Preston, 9th Floor
Houston, TX 77002

JAN 2 3 2002

10697

1700 First Street, Seabrook, Texas 77586 E-mail: mglaser@seabrook-tx.com
Telephone (281) 291-5663 Fax (281) 291-5690; (281) 291-5684

Michele L. Glaser, TRMC
City Secretary

CERTIFICATE
CITY OF SEABROOK

STATE OF TEXAS §
§
COUNTY OF HARRIS §

I, Michele L. Glaser, duly appointed City Secretary of the City of Seabrook, Texas, do hereby certify that the attached document is a true and complete copy of the City of Seabrook Resolution No. 2002-03, "Request for Additional Response Time to the DEIS for the Proposed Bayport Terminal Expansion".

I have hereunto set my hand and the official seal of the City of Seabrook on this the 16th day of January, 2002.

Michele L. Glaser, TRMC
City Secretary

Sent to: Colonel Leonard Waterworth, District Commander
U.S. Army Corps of Engineers

CITY OF SEABROOK
RESOLUTION NO. 2002-03
REQUEST FOR ADDITIONAL RESPONSE TIME TO THE DEIS FOR THE PROPOSED BAYPORT TERMINAL EXPANSION

A RESOLUTION REQUESTING THAT THE U.S. ARMY CORPS OF ENGINEERS EXTEND THE FEBRUARY 11, 20002 DEADLINE FOR RESPONSE TO THE DEIS TO ALLOW ADDITIONAL TIME TO SUBMIT WRITTEN COMMENTS IN THE MATTER OF THE PROPOSED BAYPORT TERMINAL EXPANSION.

235

WHEREAS the City Council of Seabrook, Texas (the City Council) is profoundly concerned about the permitting process for the proposed expansion of the Bayport terminal, and

WHEREAS the City Council wishes to ensure a due and fair process, in particular to ensure the inclusion of all professional analyses and written comments appropriate to the process, and

WHEREAS the Draft Environmental Impact Statement (DEIS) took two years to prepare and is approximately 1700 pages in length, and

WHEREAS a staff of ten (10) or more professional consultants are currently laboring at preparing written comments to respond to the DEIS, and

WHEREAS the deadline for written comment currently stands at February 11, 2002, and

WHEREAS, it is the opinion of the City Council that the February 11, 2002 deadline provides insufficient time to allow the public to respond to the DEIS;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SEABROOK, STATE OF TEXAS:

THAT the City Council respectfully petition Col. Leonard Waterworth, District Commander, U. S. Army Corps of Engineers, to EXTEND THE DEADLINE FOR WRITTEN COMMENTS on the same Bayport DEIS for an additional 45 days to a revised deadline of March 28, 2002.

AND IT IS SO ORDERED.

PASSED, APPROVED AND ADOPTED THIS 15th DAY OF JANUARY, 2002.

Jack C. Fryday, Mayor

10697

ATTEST:

Michele L. Glaser

Michele L. Glaser, TRMC
City Secretary

JAN 0 9 2002

DL 10743

DENTAL

"committed to excellent care"

PHILIP L. NAUERT, DDS, FAGD
FELLOW OF THE ACADEMY OF
GENERAL DENTISTRY

Mr. Kerry M. Stanley
U.S. Army Corps of Engineers
Galveston District
Regulatory Branch
P.O. Box 1229
Galveston, Texas 77553-1229

Re: The USACE Draft Environmental Impact Statement for the Proposed Bayport Marine Terminal

Dear Mr. Stanley:

After reviewing the executive summary, I want to express my support for the U.S. Army Corps of Engineers' Draft Environmental Impact Statement for the Proposed Bayport Marine Terminal. The merits of locating the facility on the Bayport Ship Channel are apparent in the Draft Environmental Impact Statement (DEIS) and I believe all issues of concern have been addressed in the document. 29-1 23-85

The DEIS accurately reflects that the Bayport Project will not have significant impact on air quality in the Houston region. Additional study in this area is not needed. The fact that the Bayport project is already included in the federally mandated State Implementation Plan on air quality has allowed the Houston-Galveston area to include Bayport in it plans for addressing air quality issues. 7-44

The Port of Houston Authority has mitigated environmental, storm water run off, water quality, ecological, aesthetic, noise and lighting concerns of the Bayport Terminal with several measures including a three-mile berm constructed around the south and east sides of the Bayport facility, 121 acres of buffer zone, retention/detention ponds, high tech lighting, a 163-acre conservation easement containing over 12 acres of new jurisdictional wetlands – a 5:1 ratio over the affected jurisdictional wetlands on the Bayport site and 200 acres of estuarine marsh habitat in Galveston Bay. These measures will protect and in some cases improve the environment and allow the Bayport Terminal to be constructed without having a significant environmental impact on the area. 18-16 23-53

The DEIS accurately shows traffic from Bayport not to be a concern to the Clear Lake and Kemah areas. Further, roadway improvements on State Highway 146 north of Bayport would be needed whether Bayport is built or not. The Port of Houston Authority will be the local sponsor for some of the improvements on State Highway 146. 27-39

General & Cosmetic Dentistry
4562 BISSONNET ST.
BELLAIRE, TEXAS 77401
713.668.9119
FAX 713.592.8014

Rail crossings would not cross major roads in the State Highway 146 corridor in the Port's plans for the Bayport Terminal. Grade separations for the rail would reduce traffic congestion and increase safety. Additionally, it is unnecessary for the USACE to study the BNSF San Jacinto Rail to the Bayport Chemical Loop in relation to the Bayport Terminal. The Port of Houston Authority's customers will not use this rail service to move containers, so the railroad is unrelated to Bayport Terminal.

The Bayport area is home to one of the largest petrochemical complexes in the world. Over 50 separate companies have facilities in the Bayport area. The Bayport Terminal will be consistent with the commercial/industrial land use of the area. No residential areas would have to be moved or bought out, and effects on residential areas have been mitigated with measures that include the three-mile berm and buffer zones.

It is clear to draw the conclusion from the DEIS that the alternative sites to Bayport are inferior in deep water access, space to build a terminal, intermodal infrastructure, and traffic congestion concerns. That is not to mention the reality that many of the sites are unfeasible due to costs or environmental concerns. The only site that would make economic and logistic sense for the Port of Houston Authority to build a seven-berth container terminal and a five-berth cruise terminal is at the Bayport site. 2-72

Finally, I would like to request that the USACE not extend their deadline for comments from the current 90 days. I believe any extension of the comment period would simply result in an unnecessary delay for the Bayport project, without any beneficial comments or recommendations resulting from the delay. 23-57

I encourage the USACE to quickly complete its Final Environmental Impact Statement and permit the Port of Houston Authority to construct the container and cruise terminal on the Bayport property. The Houston-Galveston region has grown through the 1990s by over 950,000 people – a greater growth in population than 40 of the 50 states. A new cruise and container terminal will attract jobs for these new residents and will also allow for a lower cost quality of life. If you have any questions on my written comments for the Bayport DEIS, please call me.

Sincerely,

Phil Nauert
Councilman, City of Bellaire

cc: Port of Houston Authority
VIA FACSIMILE: 713-670-2425

sdf

JAN 3 1 2002

DL 10750

Carol Alvarado

City Council Member, District I

January 25, 2002

Mr. Kerry M. Stanley
U.S. Army Corps of Engineers, Galveston District
Regulatory Branch, CESWG-PE-RE
P.O. Box 1229
Galveston, TX 77553-1229

Dear Mr. Stanley:

I am writing to lend my support for the construction of the Bayport Container Facility. Many of my constituents work for the Port of Houston, which is located in my district. As a life-long resident and elected representative of the East End community, I have seen first-hand how a state of the art port has made a direct impact on the economy of our community. I believe that the construction of the Bayport facility should move forward to ensure that our ship channel area remains competitive and does not lose its standing as a top tier port.

The Bayport facility will ensure new business growth and development for Houston and Harris County. Construction and operation of the Bayport facility will also create new jobs and stimulate our local economy. We will also see increases in the local and state tax base. 6-67

The Port has drafted an environmentally conscious construction and operation plan for a new container facility. Moreover, the construction and operation of the Bayport facility have been included in the State Implementation Plan (SIP) that has been approved the Environmental Protection Agency (EPA). The Port also plans to continue using low and no-emission sources of power for its vehicles and equipment, which will help reduce the impact to our community's air quality. 23-92 7-11

I am pleased to support the construction of the Bayport Terminal project and I encourage the Corps of Engineers to give their final approval to this important project. 29-55

Sincerely,

Carol Alvarado
Houston City Council Member, District I

cc: James T. Edmonds, Chairman, Port of Houston Authority
Michael Dickens, ILA Local 24

CA:jgr

Mailing: P.O. Box 1562 • Houston, Texas 77251-1562 • **Physical:** 900 Bagby, 1st Floor • Houston, Texas 77002
Ph: 713.247.2011 • Fax: 713.247.3067 • www.cityofhouston.gov • E-mail: carol.alvarado@cityofhouston.net

FEB 2 1 2002

DL-10821

Houston-Galveston Area Council

PO Box 22777 • 3555 Timmons • Houston, Texas 77227-2777 • 713/627-3200

February 19, 2002

Mr. Kerry M. Stanley
Regulatory Branch
U. S. Army Corps of Engineers
P. O. Box 1229
Galveston, Texas 77553-1229

Dear Mr. Stanley:

I am writing with comments of the Houston-Galveston Area Council on the Draft Environmental Impact Statement (DEIS) for the Bayport Channel Container/Cruise Terminal.

22-142 The H-GAC Board of Directors adopted comments on the DEIS at its January 15, 2002 meeting. Those comments recommended that additional technical analysis should be completed addressing water quality, wetlands/habitat, air quality and transportation impacts. Preparation of a Supplemental Draft Environmental Impact Statement to address the issues raised was recommended.

Subsequent to Board action, H-GAC was provided additional information addressing our comments. After reviewing this additional information, H-GAC no longer recommends that a Supplemental DEIS be developed. A summary of original findings and resolution to them is enclosed. H-GAC does have the following comments, which it recommends be considered.

7-97 • Though not yet a criteria pollutant, H-GAC recommends that the applicant explicitly address PM 2.5 emissions that may result from this project.

27-80 • The DEIS addresses traffic impacts on certain facilities immediately adjacent to the project. It does not specifically address impacts on other local thoroughfares. H-GAC recommends that the applicant explicitly address whether the project will impact other local thoroughfares in the area.

27-77 • The applicant should clarify that no formal travel demand analysis was done on combined alternatives. Travel demand analysis was done for individual sites and combined alternatives were calculated using modeling results for individual sites.

We appreciate the opportunity to comment on this project. Please contact us if you have any questions.

Sincerely,

Steve Howard

Steve Howard
Director of Program Operations

cc. Mr. H. Thomas Kornegay (w/enclosure)
Enclosure

Recycled

10821

**DRAFT ENVIRONMENTAL IMPACT STATEMENT FOR:
PORT OF HOUSTON AUTHORITY'S PROPOSED BAYPORT CHANNEL CONTAINER/CRUISE TERMINAL**

Background
The Port of Houston Authority (PHA) proposes the construction of a container and cruise terminal at the Bayport Channel, located on the western shore of Galveston Bay in southeast Harris County between the city limits of La Porte and Pasadena. The Bayport Channel site is the apparent preferred site of PHA. Bayport was evaluated with six alternative sites and a "no action" alternative in nineteen areas of potential impact.

H-GAC's Community & Environmental and Transportation Departments reviewed specific issues addressed in the DEIS – water quality, wetlands/habitat, surface transportation and air quality. Based on this review, initial comments were developed. Subsequently, PHA responded with additional clarifying information. Presented below are initial comments, with brief summary of the response and H-GAC final resolution of the initial comment.

Initial Comments--Water Quality
- The DEIS lacks discussion of current water quality data for the portion of the bay that would be affected by the construction of this project and subsequent increase in shipping. The DEIS noted a few stations with data collected in 1997-98, but the majority of data discussed in the document comes from Galveston Bay Estuary Program reports dated 1992 and 1994.
- The DEIS lacks reference to ongoing projects and water quality results from current studies that address dioxin and bacteria which could help determine whether or not the Bayport Ship Channel is added to the state's list of impaired waters (303(d) List).
- The DEIS lacks discussion of the short- or long-term impacts of dredging on water quality. If dredging causes resuspension of contaminants, the Bayport Channel would be eligible for placement on the state list of impaired waters, leading to Total Maximum Daily Load studies.
- The DEIS lacks discussion of potential water quality impacts of increased shipping activity and storm water runoff.

Response and resolution—Water Quality
The applicant clarified its data sources, which were coordinated with EPA and TNRCC. It clarified that dioxin and bacteria are not constituents of concern in discharges for this project. The applicant also clarified its finding regarding dredging activities and that they would not cause a violation of water quality standards. Finally, the applicant clarified its plans for mitigating stormwater runoff.

H-GAC finds that all these issues have been satisfactorily addressed.

Initial Comments--Wetlands/Habitat
Wetlands in the Galveston Bay watershed provide treatment of storm water runoff and buffer floods reducing storm surges as well as serving as habitat for wildlife and commercially valuable species.

- The DEIS describes 2.5 acres of jurisdictional wetlands that will be destroyed. There are 103.5 acres of wetlands described as non-jurisdictional. The 2.5 acres of jurisdictional wetlands are under the regulatory jurisdiction of the Corps and require mitigation. The 103.5 acres of non-jurisdictional wetlands are identified as aquatic resources but may not require mitigation. These 103.5 acres of aquatic resources do function as flood buffers and provide some treatment of storm water runoff. Staff believes the DEIS lacks sufficient discussion on the impact of losing these functional wetlands.
- The DEIS lacks adequate discussion of the value of wetlands, specific mitigation requirements, or the location of mitigation.

Response and resolution
The applicant clarified that its analysis of affected aquatic resources included all wetlands, jurisdictional and non-jurisdictional. Its plans for mitigation are significant. H-GAC finds that these issues have been adequately addressed.

DRAFT ENVIRONMENTAL IMPACT STATEMENT FOR:
PORT OF HOUSTON AUTHORITY'S PROPOSED BAYPORT CHANNEL CONTAINER/CRUISE TERMINAL (continued)

Initial Comments--Air Quality

- The DEIS lacks discussion of fine particulate matter that will be discharged. Although the Houston-Galveston area is, at the moment, compliant with particulate matter (PM) criteria (10 microns), area air quality monitoring shows increases that might push the area into non-attainment for PM 10. Also, with the U.S. EPA moving toward criteria of PM 2.5, it seems reasonable that a major project like this address the issue in the DEIS.

Response and resolution
The applicant clarified how PM 2.5 emissions are estimated as part of PM 10, but did not separately estimate PM 2.5 emissions attributable to this project.

Though not yet a criteria pollutant, H-GAC recommends that the applicant consider more fully addressing impacts of PM 2.5 emissions from this project.

Initial Comments--Surface Transportation

- The DEIS addressed the impact to the transportation system on a sub-regional scale. The DEIS does not address localized impacts. The localized impacts will affect the communities already subject to most of the potential environmental impacts from this project and which could be the most severe, immediately realized impacts.
- The comparative analysis of alternative sites appears to be credible and sensible. However, there is some question as to how the analysis was done for combined alternatives – Shoal Point/Bayport and Upper San Jacinto/Bayport. Travel demand analysis was not performed on these combinations, only the individual site analyses.

Response and resolution
The applicant responded to H-GAC concerns about impact on local thoroughfares and how it conducted travel demand analysis for combined site alternatives. It stated that traffic impacts for the project would not be severe or immediate, and that no roadways would be significantly impacted in the project's earlier phase.

H-GAC recommends that the applicant specifically address whether the project will impact local thoroughfares in the area over the course of the project's development. H-GAC also recommends that it further clarify that formal travel demand analysis was not conducted on combined site alternatives.

Initial Recommendation
Based on review of the Bayport Terminal Draft Environmental Impact Statement, H-GAC recommended that the applicant perform a Supplemental Draft Environmental Impact Statement to address the questions raised.

Final Recommendation
H-GAC is no longer recommending that a Supplemental Draft Environmental Impact Statement be prepared. It recommends that the U.S. Army Corps of Engineers consider H-GAC's remaining comments.

1700 First Street, Seabrook, Texas 77586
Telephone (281) 291-5600 Fax (281) 291-5690

DL 10871

October 19, 2001

Colonel Leonard D. Waterworth
District Commander of the Galveston District
U.S. Army Corps of Engineers
P.O. Box 1229
Galveston, Texas 77553-1229

Dear Colonel Waterworth:

On behalf of the citizens of Seabrook, Texas, we are requesting the Corps to re-evaluate the applicable portions of the environmental impact study which assesses possible locations for the Port of Houston's proposed container facility. This request is being made in consideration of the September 11, 2001, terrorist attacks on the World Trade Center and the Pentagon.

We are asking the Corps for an evaluation of each site based upon the potential impact upon human life and the environment, if each of the sites were to suffer an attack of the same magnitude as that suffered by the World Trade Center. The reassessment should also take into consideration the potential for collateral damage to surrounding storage and/or manufacturing facilities, including the potential for secondary explosions and release of toxic materials. This assessment should also include the exposure to additional marine vessels, rail cars and trucks with their respective cargoes. In light of our government's recent disclosure of suspected terrorists obtaining permits to transport hazardous materials, we feel the study should also address the expanded areas of exposure (e.g., potential collateral impact to residential and petrochemical facilities) adjoining the primary land and sea routes to and from each site.

On behalf of the Mayor and City Council of the City of Seabrook, I am respectfully tendering this request for your consideration. A response to our concerns would be greatly appreciated.

Sincerely,

Robert T. "Bo" McDaniel
City Manager

For and in behalf of the Mayor and City Council as a result of an unanimous vote, taken on October 16, 2001, in favor of endorsement of this letter.

RTM/mlg

RTM/mlg

Attachments: Resolution No. 2001-17, "Reaffirming Seabrook's Opposition to Expansion Plans of the Houston Port Authority into and within the City of Seabrook"
Letter to various federal, state and local officials dated October 19, 2001

xc: Mayor and City Council, City of Seabrook

1871

RESOLUTION NO. 2001-17
REAFFIRMING SEABROOK'S
OPPOSITION TO EXPANSION PLANS OF THE HOUSTON PORT AUTHORITY
INTO AND WITHIN THE CITY OF SEABROOK

WHEREAS, Seabrook is a tranquil, seaside, residential community with a small-town atmosphere; and

WHEREAS, the City of Seabrook has chosen not to pursue heavy industrial enterprises which may disturb the peace, tranquility, health, safety, and welfare enjoyed by its residents; and

WHEREAS, The Houston Port Authority plans an expansion of the Bayport complex, including a large scale railroad yard for loading and unloading containers and a four-lane parkway which may encourage heavy traffic through Seabrook; and

WHEREAS, the aforementioned rail yard will be located within the city limits of Seabrook in violation of the City's zoning ordinance; and

WHEREAS, the peace, tranquility, health, safety, and welfare of the citizens of Seabrook will be disturbed by noise, light, water and air pollution from the 24 hour per day operation of trains, cranes, trucks and other heavy equipment; and 18-2

WHEREAS, this expansion will have an extreme negative environmental impact on Seabrook and surrounding areas; and 19-6

WHEREAS, several hundred acres of land zoned light industrial will be removed from the tax rolls, forever thwarting the city's long range plans of economic development, thereby preventing expansion of the tax base needed to support the ever-growing population; and 6-18

WHEREAS, City of Seabrook Resolutions 98-23, 98-15 and 99-19 have previously expressed the City's opposition to the Bayport expansion; and 23-6

WHEREAS, the terrorist attacks of September 11, 2001 constitute further evidence that the location of large industrial complexes, such as the Port of Houston, near residential communities is dangerous and creates an unacceptable hazard to Seabrook citizens and citizens of surrounding communities; and 21-25

WHEREAS, the recent attacks and events in our country also prove that additional time is needed for citizens and cities to comment on the EIS when it is released to the public;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF SEABROOK, STATE OF TEXAS:

THAT, the City Council of the City of Seabrook, by the individual signatures of each member hereon, does reaffirm unanimous opposition to the expansion plans of the Houston Port Authority which would locate any portion of the Port closer to the City of Seabrook and thus would present additional dangers to the health, safety, and welfare of our citizens; and, further,

THAT, the City Council respectfully requests that the public be granted at least 180 days to comment following the release of the DEIS due to the recent terrorists' attacks and threats, the magnitude of this project and its effect on Seabrook and surrounding communities.

AND IT IS SO ORDERED.

ADOPTED THIS 16TH DAY OF OCTOBER 2001.

JACK C. FRYDAY
MAYOR

HERMAN BURTON
MAYOR PRO TEM &
COUNCILOR, POSITION 6

MIKE LAIBLE
COUNCILOR, POSITION 1

DICK ROGAN
COUNCILOR, POSITION 2

RICK SAMMONS
COUNCILOR, POSITION 3

BUDDY HAMMANN
COUNCILOR, POSITION 4

PETE BRACCIO
COUNCILOR, POSITION 5

11871

ATTEST:

Michele L. Glaser, TRMC
City Secretary

THE CITY OF SEABROOK 1830

1700 Firs Street, Seabrook, Texas 77586
Telephone (281) 291-5600 Fax (281) 291-5690

1871

October 18, 2001

The Honorable Tom Ridge, Director
Office of Homeland Security
The White House
1600 Pennsylvania Ave
Washington, DC 20502

Dear Mr. Ridge:

On behalf of the citizens of Seabrook, Texas, we would like to enlist your support and influence to encourage the Port of Houston Authority to reconsider its site selection for the proposed expansion of its container operations. The Port Authority has selected Bayport, a site that is surrounded by residential communities and is immediately adjoining chemical manufacturing and storage facilities. The storage facilities alone have a capacity for storing over 200,000,000 gallons of acids, organic and inorganic chemicals and other petroleum products. In addition the primary land route serving this facility (Hwy 225), which will be used by the majority of the estimated 7,000 trucks visiting the facility each day, traverses the entire length of the Houston ship channel petro-chemical manufacturing complex, the second largest in the world.

Increases in the availability of nuclear weaponry along with chemical and biological agents to governments known to be sympathetic or in outright support of terrorists' causes, heightens our concerns as to the selection of this site. Shipping containers offer a unique method for the concealment of contraband. Discovery of illegal cargo in shipping containers almost always occurs after the container has been landed within the fenced boundaries of the port. An after the fact discovery of a forty-foot shipping container full of explosives or toxic contraband, once inside the Bayport site, will be too late.

We feel the Bayport location provides an increased inducement for targeting of a terrorist attack due to the volatile nature of the contents of adjoining industrial facilities and their respective proximity to the surrounding residential communities. An attack, similar in magnitude to that suffered by the World Trade Center or Pentagon, if inflicted upon the Bayport site, would result in potential collateral damage to the surrounding industrial facilities and could result in spontaneous secondary explosions and releases of toxic materials. These explosions and releases would be catastrophic in terms of immediate loss of human life and negative impact upon the environment. Secondly, the following economic impact upon the area and on the City of Houston, would be in excess of hundreds of millions of dollars. We must also recognize the vulnerable aspects of the Houston ship channel through which all marine traffic to and from

Bayport must pass. Any vessel sunk in the Houston Ship Channel would cause a shutdown of the entire Port of Houston, our nation's largest Port.

President Bush has stated that the United States is in a state of war and this will be a protracted war. We are not suggesting "no-build," we are saying that we are presented with a unique opportunity to select a site on which we can build a state of the art container terminal. A facility that can meet the operational objectives for the Port of Houston, the State of Texas and the entire gulf coast while at the same time can minimize the potential for it being selected to serve as a terrorists' weapon. The proposed Bayport facility is still in the preliminary stages and no construction has taken place. The site for this facility needs to be relocated to a location that is apart from residential communities and industrial facilities, that will have access routes with restricted exposure, and that meet the additional challenges of this new kind of war.

We are hoping that you will join us in using your influence and communicate to the Port of Houston Authority your belief of the necessity to select an alternate location that addresses the conditions forced upon us by the events of September 11, 2001.

On behalf of the Mayor and City Council of the City of Seabrook, I am respectfully tendering this request for your consideration. A response to our concerns would be greatly appreciated.

Sincerely yours,

Robert T. "Bo" McDaniel
City Manager

For and in behalf of the Mayor and City Council, as a result of an unanimous vote taken on October 16, 2001 in favor of endorsement of this letter.

RTM/mlg

Enclosures: Resolution No. 2001-2001-17, "Reaffirming Seabrook's Opposition to Expansion Plans of the Houston Port Authority"
Letter to the U. S. Army Corps of Engineers dated October 18, 2001

xc: The Honorable Phil Gramm, United States Senate
The Honorable Kay Bailey Hutchison, United States Senate
The Honorable Tom DeLay, United States House of Representatives
The Honorable Ken Bentsen, United States House of Representatives
The Honorable Kevin Brady, United States House of Representatives
The Honorable Gene Green, United States House of Representatives
The Honorable Sheila Jackson Lee, United States House of Representatives
The Honorable Nick Lampson, United States House of Representatives
The Honorable Ron Paul, United States House of Representatives

The Honorable Rick Perry, Governor, State of Texas
The Honorable Mike Jackson, Texas State Senate
The Honorable John Culberson, Texas House of Representatives
The Honorable John Davis, Texas House of Representatives
The Honorable Rick Noriega, Texas House of Representatives
The Honorable Robert Eckels, Harris County Judge
The Honorable El Franco Lee, Harris County Commissioner, Precinct 1
The Honorable Jim Fonteno, Harris County Commissioner, Precinct 2
The Honorable Steve Radack, Harris County Commissioner, Precinct 3
The Honorable Jerry Eversole, Harris County Commissioner, Precinct 4
The Honorable Russell Applebe, Mayor, City of Morgan's Point
The Honorable Lee Brown, Mayor, City of Houston
The Honorable Julia Browning, Mayor, City of Shoreacres
The Honorable Brad Emel, Mayor, City of El Lago
The Honorable John Manlove, Mayor, City of Pasadena
The Honorable Donald Matter, Mayor, City of Nassau Bay
The Honorable Norman Malone, Mayor, City of La Porte
The Honorable Natalie O'Neill, Mayor, City of Taylor Lake Village
The Honorable Wayne Riddle, Mayor, City of Deer Park
Mayor and City Council, City of Seabrook

DL10872
PC

MAR 0 1 2002

City of La Porte

Established 1892

January 10, 2002

Certified Mail
7000 1670 0002 2104 0259

Mr. Kerry M. Stanley
U.S. Army Corps of Engineers
Galveston District
Regulatory Branch
P.O. Box 1229
Galveston, Texas 77553-1229

Dear Mr. Stanley:

On behalf of the City of La Porte, please accept, record, and file this letter as the City of La Porte's comments regarding the Draft Environmental Impact Statement (DEIS) for the proposed Bayport Marine Terminal.

The City of La Porte appreciates the time and effort the U.S. Army Corps of Engineers has given to study the permit application received from the Port of Houston. We recognize that the review was complex and voluminous. We also believe that the Port of Houston has made a genuine effort to understand some of the concerns raised by residents of East Harris County and the communities they reside in.

Our City has participated with the work group developed by the Port Authority (Community Advisory Group) and has attended several public hearings and scoping meetings. The Port Authority continues to work in good faith with the Community Advisory Group in addressing elements of the DEIS and other issues raised during this process. However, it is the view of the Council, who represent the community, that concerns raised in the August 1999 position paper have been heard but not acted upon or resolved. Consequently, **the City is opposed to the Bayport site**, or any combination including Bayport, because we firmly believe the DEIS reinforces our concerns that this site would have substantial long term negative environmental impacts for our community. 29-67

We would hope that before you consider issuing a permit for this location, you will follow all adopted procedures to insure the public's due process and interests are held at the highest degree of accountability. In addition, we would request that all issues raised during the scoping process, that may not have been analyzed in the current DEIS, be looked at diligently and reported in the final EIS along with all comments received on the circumstances we have no control over. We further believe that the applicant has a duty 29-27 23-6

P.O. Box 1115 • La Porte, Texas 77572-1115 • (281) 471-5020

DI-10872

and stewardship responsibilities to the community that is not yet evident in their permit application.

The DEIS Executive Summary established two categories, non-environmental and environmental, for comparison of alternate sites. In general, our review finds that the proposed Bayport site ranked either favorably or equal to other sites in the non-environmental categories of availability, operational effectiveness and site constraints. However, within the environmental category, the Bayport site displayed many negative environmental impacts that were more significant than alternate sites. We sincerely hope that convenience, ease of construction and infrastructure costs for the PHA does not prevail over real environmental impacts to adjacent and nearby homes and communities. 2-122

Another great concern is the comment on air quality. Except for the No Action Alternative, the comments on Airshed Atmosphere Loading are the same for all alternative sites. Especially disturbing is the statement that,

> "2007 NO_x and VOC emissions generated by terminal construction and operations are included in the HGA ozone attainment plan. Therefore, the impact on the region's plan to attain the ozone standard is a long term, less than significant adverse impact."

In effect, this is saying that the increased emissions from Bayport can be spread out or balanced over an eight county region while in reality the impacts will be a loading to be borne by the adjacent communities. Please explain why other environmental impacts were site specific while this impact was assumed to be spread out over a region? 7-34 7-45

In La Porte we remember the traffic problems which resulted when Barbours Cut was being built. We remember the discussions and compromises by both sides, which resulted in a grudging acceptance of Barbours Cut by its neighbors. Today, we continue to live with those environmental impacts and lack of planning and public/community involvement in the development of Barbours Cut.

We are familiar with the much stricter environmental regulations that exist today and trust that the Corps of Engineers will recognize that Bayport is not the appropriate site.

DP 10872

ADDITIONAL CONCERNS WE REQUEST BE ADDRESSED BY YOUR AGENCY ARE LISTED BELOW

NOISE POLLUTION

- Homes to the north side of the Channel will experience disruptive amounts of noise. The DEIS notes that construction noise alone during the nighttime would exceed 55 dBA (decibels, A-weighted sound level) at the nearest residences for dredging, and the nighttime pile construction would exceed 55 dBA at the nearest residences. Operation sound levels at the residences north of the Channel would increase 16 to 22 dBA and exceed 65 Dba Ldn. Two of the alternate sites listed would not increase noise pollution or disturb area residents. 3-41

AIR POLLUTION

DEIS Statement

- The DEIS states "emissions of NO_x [Nitrogen Oxides ($NO + NO_2$) + the nitrate radical (NO_3)], SO_2 (Sulfur Dioxides), and PM_{10} (Particulate Matter less than 10 microns in diameter) will be generated by construction equipment engines as well as fugitive dust emissions. This is a short-term adverse impact.

Comment

- ➢ The EIS lacks discussion of fine particulate matter that will be discharged. Although this area currently is in compliance at 10 microns, a small increase from the port may cause it to be non compliant. 7-4

DEIS Statement

- Fugitive dust PM_{10} emissions would be mitigated by use of dust control measures. Emissions of NO_x, SO_2 and PM_{10} will be generated both offsite and onsite due to container and cruise terminal operations. These emissions represent a long-term adverse impact.

Comment

- ➢ The EPA is lowering the standard from 10.0 to 2.5, which mandates that the EIS address this issue. 7-6

10872

DEIS Statement

- The impact on the Ozone Attainment Plan is stated as "2007 NO_x and VOC (Volatile Organic Compounds) emissions generated by terminal construction and operations are included in the HGA (Houston-Galveston Non-attainment Area) ozone attainment plan. Therefore, the impact on the region's plans to attain the ozone standard is a long-term, less than significant adverse impact.

- Less than significant impact is represented by an increase in pollutant loading that is incorporated into the HGA ozone attainment plan modeling and is not expected to jeopardize the ability of the area to reach attainment by 2007.

- Significant impact is represented by an increase in pollutant loading that has not been incorporated into the HGA ozone attainment plan modeling and may risk the ability of the area to come into attainment.

- Emissions incorporated into the HGA ozone attainment plan modeling for the terminal development in 2007 are:

    - Vessels – 3 tons per day (tpd) of NO_x and 0.076 tpd of VOC;
    - Non-road – 0.51 tpd of NO_x and 0.26 tpd of VOC;
    - Construction – 0.07 tpd of NO_x and 0.008 tpd of VOC;
    - Dredging – 0.24 tpd of NO_x and 0.003 tpd of VOC; and
    - On-road – not identified specifically but accommodated for as growth to the area.

- Emissions loading estimates past 2007 have not been evaluated.

Comment

- What about impacts after 2007 (Less than 5 Years) when increased operations and future expansions occur?
- Vessels emissions – does the modeling include both trips to and from port and while vessels are in port?
- Emissions from railroad activity is not included (and currently not subject to state regulations)

7-50
7-49
7-4

- Emissions from on-road activity is not identified specifically but accommodated for as growth to the area. Did the future growth include estimates for Bayport construction and future expansions – for the 2007 State Implementation Plan? After 2007? Again, currently commercial truck activity (and heavy equipment) is federally regulated and falls outside the TNRCC's Pollution Control Plan.

- The less than significant impact definition avoids the true impact to the communities adjacent to and near the Bayport site. It assumes it's not significant because a number has been plugged into an attainment plan that covers an eight county area. Airshed Impacts should be site specific and not assumed to be less than significant because it was spread out or balanced over an eight county area. There are alternative sites where the Airshed Impacts would not affect such a large population.

- The entire eight county region is being subjected to rules related to heavy construction limitations, landscape and lawn mowing limitations and new speed limits. Even though small in their total effect, we've all been asked to share the load while this proposed activity is a point source and a real impact borne by a few people, not fully projected for year 2007 and not projected at all beyond 2007.

- All of these concerns are amplified by the fact that the 2007 State Implementation Plan still falls short of needed NO_x reductions. Therefore, any increase in NO_x is unjustified and unreasonable.
  - Harris County officials have recently indicated they may take action on the proposed 55 mph speed limit. If this occurs and the 55 mph restriction is removed then the projected NO_x 2007 shortfall would be even greater.
  - Furthermore, five petitions filed with the 5th U.S. Circuit Court of Appeals cite different flaws in the plan as reasons the court should review and set aside the EPA's approval. The petition argues that the 2007 SIP Plan did not account for the future growth of emissions expected for entities like the Port of Houston. Please advise what the petition claims was not accounted for.

LIGHT POLLUTION

- Homes to the north side of the channel will experience disruptive amounts of light pollution. The DEIS states "Development of the Terminal complexes would change the visual character at any of the terminal location alternatives from a low level undeveloped area to a well-lighted, 24-hour transportation facility with high-mast lighting."

- The DEIS indicates the residential areas north of Bayport Terminal would not experience an increase in nighttime ambient light due to the distance from the light sources. However, operational lighting at Bayport could lead to nightglow that would be visible by virtually all the residential areas adjacent to Bayport. There are several alternative sites where there are no residential areas in the vicinity of the site.

EROSION

- The information on shoreline erosion at the Bayport Channel is documented in the DEIS. It was noted that, on the average, each bank has been retreating at a rate of 4.3 feet per year. This would be expected to increase because of increased traffic.

- The DEIS summary states that there is no short-term or long-term impact relating to shoreline erosion. We assume this is attributed to another statement that "unprotected shoreline to be protected as part of the project construction."

- Please confirm that plans for shoreline protection were part of the application and that they include protection of the private property at and around the northeast corner of the channel entrance to Bayport.

TRANSPORTATION ISSUES

- Delays will be caused at rail crossings and major thoroughfares due to increased vehicular and rail traffic. The DEIS presents references to roadways that will need to be improved upon but does little to discuss the actual additional traffic and the burden it would place on area residents. No consideration has apparently been given to conflicts with existing vehicular traffic. The only suggestions made are the widening of Port Road from the project site to SH 146 and "proposed interchange and ramp improvements in the vicinity of the Port Road and SH 146 interchange." The DEIS acknowledges that Red Bluff Road, Port Road, and SH 146 will need improvements in future years based on projected growth with or without the Bayport Terminal. As for rail traffic, the DEIS is even more vague, stating only that "The site is located so that trains from the site could easily be consolidated with those from the Barbours Cut Terminal" and suggests "road/rail grade separation at new rail crossings at SH 146."

- The DEIS addressed the impact to the transportation system on an area basis but does not address localized impacts. Local communities, which are already subject

to the worst environmental impacts, will thus realize immediate impact on their surface transportation and this must be discussed.

- An overpass must be constructed where Fairmont Parkway, a major thoroughfare, crosses the new inter port railway. This overpass and the highway modifications at the entrance to the port must be in place by the date the port begins operation. 27-74

- The DEIS erroneously implies that the Fairmont Parkway grade separation is fully funded by the Transportation Implementation Plan and Port of Houston Authority commitments. Harris County, also a party to this improvement, only recently agreed to the funding arrangements. The Texas Department of Transportation Agreements have yet to be signed.

SHIPPING

- The distance between ships moving into position at the docks may be inadequate to prevent collision and erosion. 31-5

- Ships entering the Bayport Terminal do not have to comply with the State air emissions reduction efforts and will bring their emissions into close proximity to a highly urbanized, residential area. 7-92

- The DEIS does not speak to reducing or mitigating the increased levels of pollution from marine vessel coatings and materials, which will come from the additional increase of foreign flagged vessels entering Galveston Bay. Use of antifouling coatings to reduce the organic growth of marine life by foreign vessels do not fall under and are immune to U.S. laws and regulations against the deposition of trace amounts of anti-fouling coating products in the U.S. waters. 8-7

  These coatings, designed deliberately to kill or slow marine growths on hulls, are leaked into the surrounding environment.

  Certain pollutants contained in these products have long been recognized as destructive to natural reefs and entire ecosystems.

- The permit application continues to be silent on the impact of deepening the channel from 45 feet to 50 feet even though the Bayport wharves are being designed for a 56-foot depth. We believe it is better to understand the incremental change from 45 feet to 50 feet today rather than hear the Port has decided to seek a permit for a 50-foot channel within the next five years. 20-1 9-9

- A potential exists for conflicts between commercial vessels and recreational boats between Bayport and the Houston Ship Channel. The DEIS does not develop any actions to mitigate this potential conflict except to suggest that recreational boaters will voluntarily relocate to less congested areas. 31-4

- The sailing distance from the Galveston sea buoy to the Bayport Terminal is approximately 36 miles. Two alternative terminal locations, Pelican Island and Shoal Point, have significantly less sailing distances. The DEIS indicates there would be less risk of ship collisions and groundings associated with development of the sites with shorter sailing distances.

SEWAGE

- Sewage from the ships and the port must be handled in a manner whereby there is no chance that it will enter Galveston Bay. A system approved by the TNRCC should be in place by the time operations begin. 20-32

WATER QUALITY

- The DEIS lacks discussion of current water quality for the portion of the bay that would be affected by the construction of this project and subsequent increase in shipping. It noted a few stations with data collected in 1997-1998 but the majority is from Galveston Bay Estuary Program reports dated 1992 and 1994. 9-5 9-6

- The DEIS lacks reference to ongoing projects and water quality results from current studies that address dioxin and bacteria, which could help, determine whether or not the Bayport Ship Channel will be added to the state list of impaired waters. 9-5 8-8

- The DEIS lacks discussion on the impact of dredging on water quality for the short or long term. If dredging causes re-suspension of contaminants, the Channel would be placed on a list that would require Total Maximum Daily Load studies. 15-7

- The DEIS lacks discussion on the potential impact of increased shipping activity and storm water runoff on water quality. 9-2

- The DEIS lacks discussion on the effects of ballast water on the Galveston Bay System. 20-4

WETLANDS/HABITAT

- Wetlands in the Galveston Bay watershed provide treatment of storm water runoff and buffer floods to reduce storm surges and additionally serve as habitat for wildlife and commercially valuable species.

- The DEIS describes 2.5 acres of wetlands under the jurisdiction of the Corps that will be destroyed and require mitigation and 103.5 acres of non-jurisdictional wetlands. The DEIS lacks adequate discussion on the impact of losing these wetlands. 14-2

- The DEIS lacks adequate discussion on the value of wetlands, specific mitigation requirements, or the location of mitigation. 12-7

BAYFRONT DEVELOPMENT/RECREATION

- The permit is silent in addressing the impact that Bayport development will have on future recreation and bayfront developments in La Porte. In 1993, the City adopted a Bayfront Master Plan. The primary aims of this study are to stimulate economic development within the City, to diversify the City's economic base through the stimulation of its tourist industry, and to create a more desirable physical environment through the enhancement of its waterfront assets. A copy of this report was given to the Port of Houston Authority consultants. They indicated that it was good we had plans for waterfront development and that they would study what impact the Bayport development would have on our vision and respond to us. No response has been afforded to us. The Corps should look at all plans which were adopted before Bayport was conceived to determine how the proposed development will hinder growth, redevelopment, and the ability for beautification and visual enhancement of the waterfront as well as of the waterfront district itself. 32-20 4-39

Approximately 2 ½ years ago we issued a position paper on the expansion. For the purpose of record keeping, we are resubmitting it to you as it was written and **delivered to your agency on August 17, 1999** at a scoping meeting held in Pasadena, Texas.

WE BELIEVE THAT OUR ORIGINAL CONCERNS REMAIN VALID AND REQUEST THE CORPS RESPOND TO THESE OBSERVATIONS AS WELL.

1) The development will bring about changes in our community which are disruptive and more than just a nuisance. Homes on the north side of the Channel to Bayport will experience noise, air pollution, lighting, and shoreline erosion problems. These issues, if not addressed, will cause the property owners' land values to be lowered, and their ability to sell their homes would be very difficult without taking a loss. If the Port Authority cannot correct these real estate concerns, then consideration from the Port Authority should be given to buy out the homes at fair market value, which abut the development. 18-2

2) The proposed development will bring with it major rail and vehicle transportation issues which will impact the City of La Porte and will affect neighboring communities. The proposed development will cause delays at rail crossings of major thoroughfares such as Fairmont Parkway, Shoreacres Boulevard, and Red Bluff Drive. Consideration from the Port of Houston must be given to working with local jurisdictions to resolve traffic concerns. In addition, the Port Authority should petition the State of Texas Highway Department to insure that State Highway 146 and State Highway 225 roadways are designed and constructed in advance to provide for the growth of the area and this development. It is recommended the Port Authority approach the State Highway Department to create a specialized truck lane on State Highway 146 to isolate the truck traffic to and from port facilities. The Port Authority should actively take a lead role in insuring rail crossings have overpasses and should also seek ways to fund these overpasses and their construction before the proposed development occurs. 27-73

3) The proposed development will add significant air pollution issues that cannot be ignored. The Bayport facility will generate additional air pollution from its use of diesel trucks, diesel ships, diesel cranes, and diesel vehicles that will operate at this location. The Port Authority should study the impact of this air pollution to the surrounding communities and to Harris County. Consideration should be given to using equipment that uses a cleaner burning fuel alternative. In addition, consideration should be given to the placement of air monitoring devices along the site boundaries to measure the air quality leaving the site. East Harris County is under orders of the EPA that our region must reduce nitrogen oxides (Nox) emissions by as much as 85 percent to come into compliance with the national ozone standard by the year 2007. Adding this facility at this location contradicts any state goal adopted to reduce Nox emissions in our region. 7-83

DP 10872

PC

4) The Port of Houston should require a complete Environmental Impact Study be performed by the Army Corps of Engineers and require the Corps of Engineers to seek input from all communities and agencies which adjoin or may play some role in protecting the waters of Galveston Bay as a nationally important estuary. The Port Authority should also engage a consultant to study the existing shipping traffic patterns that enter and use the Bayport Channel and apply this usage to their traffic models. Furthermore, it is recommended that the same consultant study the water area of the Bayport Channel as it relates to the use of water recreational activities such as sailing, fishing, and shrimping. 12-21 31-12 23-126

5) The proposed development may bring about detrimental marine changes whose impact must be understood. The operation of a facility of this type will cause additional erosion to the north boundary of the Bayport Channel. Measures must be in place to protect and eliminate the continual loss of shoreline to ship activity visiting and leaving the development. As larger ships come into play, the Port of Houston should attempt to understand the impact to Galveston Bay marine ecosystem if the channel is ever dredged to a depth of 50 feet. The Port Authority should require the Army Corps of Engineers to look at this depth as well as the 45-foot depth, which is proposed, to better understand the incremental change that may occur, if any. 15-29 12-2

If you should require any additional information, please let me know.

Sincerely,

Mayor Norman L. Malone

Peter Griffiths, Councilman At-Large A

Alton Porter, Councilman At-Large B

Guy Sutherland, Councilman District 1

Chuck Engelken, Jr. Councilman District 2

Howard Ebow, Councilman District 3

James Warren, Councilman District 4

Charlie Young, Councilman District 5

Jerry Clarke, Councilman District 6

cc: Robert T. Herrera, City Manager
Knox W. Askins, City Attorney

DL 10880 PG MAR 0 1 2002

Transportation Policy Council

For the Houston-Galveston Transportation Management Area

3555 Timmons Lane
Houston, Texas 77027

P.O. Box 22777
Houston, Texas 77227-2777

Telephone: 713.627.3200
Fax: 713.993.4508

February 22, 2002

Mr. Kerry M. Stanley
Regulatory Branch
U.S. Army Corps of Engineers
PO Box 1229
Galveston, TX 77553-1229

Dear Mr. Stanley:

I am writing with comments of the Houston-Galveston area's Transportation Policy Council on the Draft Environmental Impact Statement (DEIS) for the Bayport Channel Container/Cruise Terminal. As the Metropolitan Planning Organization (MPO) for the Houston-Galveston region, the Transportation Policy Council is responsible for development of the area's long-range multi-modal Metropolitan Transportation Plan. In addition, the Policy Council approves the programming of the Federal Highway Administration (FHWA) and Federal Transit Administration (FTA) funds to projects in the eight-county area as part of its Transportation Improvement Program.

The Transportation Policy Council adopted the following comments at its February 22, 2002, meeting:

- Safe, efficient movement of goods is a vital component of the Houston-Galveston area's regional economy. Expansion of the region's port and airport infrastructure is essential to regional, state, and national economic competitiveness. I-41

- The preferred alternative contained in the Bayport DEIS is consistent with the region's 2022 Metropolitan Transportation Plan as revised. Specifically, the MTP anticipates the impact of increased on-road vehicular travel generated by expansion of the region's ports, including the additional expansion of the proposed Bayport Terminal. 27-75

- Reduction of air pollution is an important goal of the region's transportation plan. Though not yet a criteria pollutant, Particulate Matter 2.5 emissions may result from this project, and the DEIS should explicitly address this matter. 7-4

- The DEIS addresses traffic impacts on certain facilities immediately adjacent to the project. It does not specifically address impacts on other local thoroughfares. The Policy Council recommends that the applicant explicitly address whether the project will have an impact on other local thoroughfares in the area. 27-76

- The applicant should clarify that no formal travel demand analysis was done on combined alternatives. Travel demand analysis was done for individual sites, and combined alternatives were calculated using modeling results for individual sites. 27-77

The Transportation Policy Council appreciates the opportunity to comment on this project. Please contact me or Alan Clark, MPO Director, should you have any questions.

Sincerely,

Robert Eckels
Harris County Judge
Chairman, Transportation Policy County

cc: Mr. Thomas Kornegay, Port of Houston Authority
Mr. Alan Clark, MPO Director

MAR 8 2002

City of El Lago

DL 10920

March 4, 2002

Mr. Kerry M. Stanley
U.S. Army Corps of Engineers
Galveston District/Regulatory Branch
P O. Box 1229
Galveston TX 77553-1229

RE: Port of Houston Bayport Container and Cruise Terminal DEIS

Dear Mr. Stanley

On behalf of the City of El Lago, please accept, record, and file this letter and its attachments as the City's comments regarding the Draft Environmental Impact Statement (DEIS) for the Port of Houston Authority's proposed Bayport Container and Cruise Terminal.

El Lago has participated with the Community Advisory Group established by the PHA, and has attended all public hearings and scoping meetings. It is the view of my Council and my community that many concerns have yet to be, or have inadequately been, addressed in the DEIS. Consequently, the City is **opposed to the Bayport site, or any combination including Bayport,** because we firmly believe the DEIS reinforces our concerns that this site would have substantial long-term negative environmental and socio-economic impacts for our community. 29-88

We hope that before you consider issuing a permit for this location you will consider the findings of the Galveston Bay Conservation and Preservation Association, which the City endorses and has partially funded, as well as the comments attached from others who have read through the six volume DEIS on behalf of our city.

When compared to other sites, Bayport displays many negative environmental impacts that are more significant to nearby residential communities. The impacts to our air quality, roadways, emergency management, and changes in land use and property values cannot be minimized or mitigated. The "needs and welfare of the people" you are charged to protect, should be more important than convenience, ease of construction and infrastructure costs for the Port of Houston.

98 Lakeshore Drive El Lago, Texas 77586-6136 (281) 326-1951

In addition, we request that all issues raised during the scoping process that may not have been analyzed in the current DEIS be looked at diligently and reported in a Supplemental DEIS.

The City of El Lago appreciates the time and effort the U.S. Army Corps of Engineers has given to study this permit application. We trust that before you consider issuing a permit for this location, you insure the public's due process and interests are held at the highest degree of accountability.

Respectfully,

Brad Emel, Mayor

K. Natalie Ong,
Council Position 1
Mayor Pro Tem

Katrina L. Williams,
Council Position II

W. T. Schwander,
Council Position III

David Noffsinger,
Council Position IV

Glendora M. Hill,
Council Position V

Resolution: 2002-02

A RESOLUTION OF THE CITY OF EL LAGO, TEXAS, REAFFIRMING OPPOSITION TO THE PORT OF HOUSTON'S PROPOSED BAYPORT CONTAINER FACILITY AND ASKING THAT THE U.S. ARMY CORPS OF ENGINEERS DENY A PERMIT TO BUILD AT BAYPORT, OR REQUIRE A SUPPLEMENTAL DRAFT ENVIRONMENTAL IMPACT STATEMENT TO ASSURE OUR CONCERNS ARE FULLY ADDRESSED BEFORE A PERMIT IS CONSIDERED. 23-149

Whereas, the U.S. Army Corps of Engineers Draft Environment Impact Statement does not fully address the environmental and socio-economic concerns of the City of El Lago and its residents; and

Whereas, the USACE draft EIS does not adequately address community impacts to roadways, safety and infrastructure; and

Whereas, the draft EIS fails to adequately address emergencies, or evacuation, or terrorism; and

Whereas, the draft EIS fails to take into consideration the combined impact of the Bayport terminal and the San Jacinto Rail/BNSF project; and

Whereas, promises of further analysis in the Final EIS will not give our community the opportunity to review and comment on forthcoming findings; and

Whereas, alternative sites, with less impact on residential communities, have not been adequately studied,

NOW THEREFORE, BECAUSE OF THESE DEFICIENCIES, THE MAYOR AND COUNCIL OF THE CITY OF EL LAGO, TEXAS, RESPECTFULLY ASK THAT A SUPPLEMENTAL DRAFT ENVIRONMENTAL IMPACT STATEMENT BE PREPARED AND NO USACE PERMIT BE ISSUED FOR THE PROPOSED BAYPORT CONTAINER AND CRUISE TERMINAL. 23-150

PASSED, APPROVED AND RESOLVED THIS THE 4TH DAY OF MARCH, 2002.

BRAD EMEL, MAYOR

ATTEST:

JILL McCAMMON, CITY SECRETARY

CITY OF EL LAGO, TEXAS

The following attachments are an integral part of the City of El Lago's response to the USACE Port of Houston Bayport Container and Cruise Terminal DEIS. Comments are provided on behalf of the City by:

K. Natalie Ong
407 Willow Vista Drive
El Lago TX 77586

Richard J. Gillen
410 Woodvine Drive
El Lago TX 77586

Richard B. Ferguson
419 Cedar Lane
El Lago TX 77586

John W. Tully
310 Cedar Lane
El Lago TX 77586

Aleck C. Bond
234 Driftwood Drive
Taylor Lake Village TX 77586

March 4, 2002

DL 11753

Mr. Kerry M. Stanley
U.S. Army Corps of Engineers
Galveston District/Regulatory Branch
P.O. Box 1229
Galveston TX 77553-1229

RE: Port of Houston Bayport Container and Cruise Terminal DEIS

Dear Mr. Stanley:

In addition to comments made at the December 12, 2001 Bayport Public Hearing (copy attached), I have more to say. Three minutes is not enough.

What about the introduction of non-native species of termites and mosquitoes, or hazardous materials from ships or train derailments into Armand and Taylor Bayous? No study was made to assess the probability and impact of pollutants and invasive species into Taylor Lake from breeches at the headwaters of Taylor Bayou. Our bayou is separated by a mere 9 feet from the Bayport Channel, "protected" by a gate that is unlikely to withstand storm surges and erosion from increased ships' wakes.

The Bayport master plan includes property not yet owned. The Port of Houston would require many more acres be purchased to complete their master plan, especially for the Cruise Terminal. To date, property owners have been reluctant to sell and condemnation in the cities of Pasadena and Seabrook appears remote. Plans are not specific as to location of detention pond(s) and first flush area(s) because American Acryl has refused to sell their mitigation site to the PHA. And, can a mitigation site be acquired as mitigation? If the project can't be completed as envisioned, the permit application is flawed.

Take a hard look at Spilmans Island. If dewatered, filled and compacted, the property should be useable. There is an island under there. Excavation for a turning basin in the Barbours Cut Channel could be a source of fill. The cruise terminal should be decoupled from the container port and promoted in Galveston. Shoal Point will take the pressure off the "need" for another container terminal in Galveston Bay while the Port of Houston prepares Spilmans Island.

Let's talk security. Spilmans Island is surrounded by water and connected to the mainland by a narrow land span, easily fenced and secured to control ingress and egress. Bayport plans a 3-mile long berm to separate the port from residential neighborhoods. Will that be adequate? When will the berm and trees be in place? And what about maintenance? Will that keep noise from becoming a nuisance? Does it keep vermin, contraband, drugs and people from being introduced into our community?

What of the combined impacts of Bayport and the San Jacinto Rail/ BNSF? If approved, the San Jacinto Rail will serve Port customers and is designed to create an alternate route out of the Bayport Industrial District in anticipation of increased Port container traffic on the existing Union Pacific/PTRA track. The impacts reach directly into Clear Lake City and southeast Harris County with many more affected if there is the Bayport Container Port envisioned. The cumulative impact of the two proposed projects needs to be assessed.

Will CAG recommendations have weight? I had been a member of the Port of Houston's Community Advisory Group until March 2001 and am well aware of, and participated in, attempts to minimize and mitigate impacts of a Bayport Container Port and Cruise Terminal. When it became apparent the same process was not being given to alternate sites and that CAG recommendations would be used to influence your decision to grant the Bayport permit, the cities of El Lago, Taylor Lake Village, Shoreacres, and Seabrook resigned. (Earlier withdrawals from the CAG included GBCPA, El Jardin Community Association, the Oyster Growers Association and the Houston Yacht Club.) Since then, the Galveston Bay Foundation and the Cities of LaPorte and Pasadena, who remained on the CAG, have spoken out against the Bayport site.

The mission statement of the Community Advisory Group read:

The mission of the Port of Houston Authority Community Advisory Group is to build a shared understanding among stakeholder interests, including those of the Port of Houston Authority, about the community, environmental, recreational, and maritime trade issues associated with expansion of terminal facilities in Galveston Bay, and to develop recommendations to the Port of Houston Authority that eliminates or minimizes adverse community, environmental, recreational and human health impacts.

Recognizing that a diversity of viewpoints exists within the Community Advisory Group, any recommendations developed in this process are in no way to be interpreted as an endorsement of any proposed terminal facility.

This was not a Bayport CAG as the mission statement makes clear. Be mindful that the CAG no longer represents any "Community" stakeholders who favor the Bayport site. What's left are groups that see Bayport as the ideal site — groups representing maritime interests, groups that receive financial support from the Port of Houston, and groups that espouse economic development as their charter. Some groups are all of the above.

Bottom line: The detrimental impacts of a Bayport facility too near our residential communities cannot be overcome, and an alternate site should be preferred. **The best way to avoid, minimize or mitigate our concerns at Bayport is to deny the permit. The welfare of the people should be more important than any investment the Port has made in real estate.**

You will have reams of paper pointing out flaws and omissions in the DEIS, much of it repetitive. I don't envy your task, Kerry, and appreciate that you are trying to be impartial. But, the DEIS is NOT complete, and I add my hopes that a Supplemental DEIS will be forthcoming before you consider any permit.

Respectfully,

K. Natalie Ong

K. Natalie Ong
Mayor Pro Tem
City of El Lago

03/02/02

10920

Recorded as Public Hearing Remarks # 10069

USACE Bayport Public Hearing presentation -

K. Natalie Ong for El Lago

As Mayor Pro Tem, let me state upfront that the City of El Lago is adamantly opposed to a permit to build a container terminal at Bayport.

When complete Bayport will be larger than our entire city! It will make our sometimes bad air worse, make travel on our already congested roadways worse; change land use in the surrounding area and reduce the quality of life we envisioned when we chose to live in our beautiful city. Your flawed and incomplete draft EIS says El Lago won't be impacted. NOT true! Your DEIS says no evacuation route will be affected. NOT true! 9000 port related vehicle trips per day and our evacuation route won't be affect? Come on. What about accidents with their trucks and trains? What if THEY create the reason we need to evacuate?

We have tried working with the Port toward development of alternative sites. Spilmans Island should be the preferred site in Harris County. It was created to be used for port expansion. It's on the Barbours Cut waterway across from the Port's current container terminal and ideally situated near the rail head and freeways headed in every direction. Jobs for our Longshoremen and Pilots will be preserved. On-road travel times for trucks between the two container terminals would be greatly reduced. The air would benefit, our roadways would benefit. Harris County taxpayers would benefit most. By sharing administrative, emergency and service facilities already in place at Barbours Cut, ongoing costs could be reduced. No additional land need be purchased. Mitigation measures for residential conflicts would be less.

Bayport is the only alternative identified with "heavy residential" impacts. Your document cites 23,000 people in the Bayport study area. Stilmans Island has a mere 4,100. More Asian Americans will be effected by a Bayport facility than any other by a factor of 32 (382:12). No study was made of the Environmental Justice for Asian Americans who have been historically underrepresented in Port's operations, yet stand to have their livelihood in the seafood industry and property values put at jeopardy.

You say Property Values will be addressed in the final EIS. Why not speak to that concern before a permit is issued? Our school district will be greatly affected by any decline in property values. Property owners will have to make up for that loss in increased taxes, or reduced services.

What of the potential loss and cost to those Bayport companies that currently rely on the Bayport Channel? What of potential disruption during construction, or after, to the operations of Baytank, PetroUnited, American Acryl, Atofina and Nova? What about safety issues with multiple pipelines coursing through, across and off shore this area? What of the safety and health of their employees subject to noise, dust and emissions at their open air plants? Will their operations be at risk? Our Bayport companies represent REAL jobs for our neighbors and our local economy, not the truckers, nor the construction workers who will be gone when the project is built.

Again, Spilmans Island is in an industrial area ideally situated for a container facility. What about the cruise terminal? Cruise terminals should not be placed amid a busy container port. Let's think regionally, and have a 1st class cruise facility where the bay meets the gulf in Galveston. The Houston/Galveston area is unlikely to be able to support 2 competing cruise facilities, especially in these economic times. It's a longer drive, but our labor unions will have jobs they can count on.

We don't want jobs to be on the line. They'll be plenty of work developing Spilmans Island. Maybe it's not River Oaks. And maybe it's not the new house envisioned by the Port of Houston. It will still create jobs, benefit the economy and handle the growth the Port of Houston expects.

We have been greatly disadvantaged by the money and influence of the Port of Houston Authority--with their paid staff and consultants, economic and political connections and media access. I believe they have tried to rush the process and unduly influence you and your contractors to come to their preferred conclusion. A supplemental EIS to address issues not yet adequately resolved including the cumulative impacts of other Corps projects like Texas City's Shoal Point and the San Jacinto RR needs to be done. Why the rush? Let's do this right. There's too much at stake. Bear in mind, the Port of Houston Authority has alternatives. We do not. Their pride may be on the line, but we have even more at stake than they do. It's our homes, our health, our safety, our families that we ask you to protect. That is your charge. Please do your job, so we won't have to resort to the courts.

12/12/01

[redacted] Recorded as DR 11755

10920

Report prepared for the City of El Lago by Richard J. Gillen

RE: The Port of Houston Authority's proposed Bayport Container Port and Cruise Terminal Draft Environmental Impact Statement as presented by the U.S. Army Corps of Engineers.

March 01, 2001

This write-up pertains to the Bayport Draft Environmental Impact Statement submitted by the US Army Corps of Engineers. These comments were prepared by Richard J. Gillen. I have a BS in Mechanical Engineering and an MS in Aeronautical Engineering and nearly 40 years of engineering experience in private industry and with the Federal Government (as a civilian on U.S. Air Force projects and at NASA).

****

It is my firm belief that the documents submitted by the US Army Corps of Engineers (USACE) that are supposed to be a Draft Environmental Impact Statement (DEIS) of the proposed Bayport containerized facility are without merit. These should not be allowed to stand as a legitimate DEIS; these are nothing more than sales brochures, obviously written to support a premise that the Bayport containerized project should be built. A Supplemental DEIS should be prepared and submitted that honestly recognizes and honestly evaluates all the omissions and unfounded claims that I point out. If the USACE prepares a new report that makes all the corrections and honestly tells how dangerous this facility would be, that would be satisfactory. If this is honestly done, then the USACE should issue a ruling that the permit should be denied. If, however, the USACE doesn't properly recognize and evaluate the serious deficiencies, then the public would be prevented from having an effective review and approval authority or input. We are entitled to a review and evaluation of a legitimate, honest DEIS. 23-146

The study dismisses all potential problems and makes many claims without proof or basis. They "assume" and "expect" and "anticipate" many wonderful things will magically happen to prevent problems. Many examples are cited below.

Page ES-16 (ES=Executive Summary) regarding future roadways and accommodations for 16,000 more truck trips per day (more than 11 trips per minute in my neighborhood), the report glibly says, "The majority of the roadway improvements would be needed with or without the project". This has to be an untrue statement. Is someone planning all these road improvements without regard to traffic needs and projections? This is a common type of baseless claim that is used throughout the report. Isn't this supposed to be an engineering report? 27-109

Page ES-19 regarding public safety and increased traffic. The study "anticipates" that public safety will not be affected by Bayport. This has to be a lie and a faulty anticipation. Please tell us how many more accidents will occur because of the 16,000 more truck trips per day. Honestly, how many of these will be school bus accidents and please include current supporting data? How many injuries and fatalities do you project for the increase of up to 16,000 more semis per day? How many do you plan to allow? This increased truck traffic will seriously affect my family's safety, so honestly address this enormous problem. If a project causes an increase in traffic then the engineering study and the projected effects of the traffic must recognize and report this situation for public enlightenment and evaluation. 21-48

Page ES-19 regarding transportation of hazardous materials. The statement is made, "The potential of a hazardous material spill occurring during truck transport would increase proportionally. Area public services are adequate to address this increase". This is another wild, unsubstantiated claim and is an insult to the reader. Exactly who regulates what hazardous materials that can be shipped into and out of the facility?" Who are these people who will address these problems? What provisions will the Bayport project provide to us, the neighbors, for hazardous materials spills? List and detail what hazardous materials were "assumed" in the 8-9

study? The assumption that less than five percent of the throughput will be hazardous is spurious, at best. Who regulates this? Please honestly address this problem.

Page A3.12.1-6 Admits our area is "a severe nonattainment area for 03". Please explain to us neighbors how adding the emissions from the 16,000 truck trips per day (plus all onsite emissions) can help this terrible situation. Be very specific and enlighten us about all your assumptions including new diesel engines and new fuels. Also explain how reducing VMT (vehicle miles traveled) in our area will be accomplished and enforced. This is another vague claim without data or substantiation. Exactly how did the engineers calculate the increase in 03 amount due to all sources, especially the diesel exhaust? How much will the 03 increase in terms of PPM? It is important to recognize current news reports that 03 has been clearly proven to cause asthma, and not just be an influencing factor. It is very troubling that the small 2.5-micron particles can be overlooked-how underhanded! These are known to be more dangerous to the human body than the 10-micron size particles. Please honestly tell us how much this facility and truck traffic will increase the concentration of these small particles? 7-114 22-145

Page A3.12.1-8, para 2.5 makes a vague statement excusing the Applicant from EPA regulations. Exactly which regulations are excused and why? Please provide a clear, complete explanation. Who regulates these exclusions? 22-146

App A.3.12-1 Table 2, ES, p21 hints at things that will improve air quality but gives no supporting data. My questions follow:

*Voluntary mobile emissions-Who enforces? How exactly was this applied to Bayport? Reduces 23 tons of what? How? What change would that make in our pollution? 7-115

*Tier 2/3 purchase-early replacement, etc.- When is this required? Who enforces? What change is calculated for our environment?

*Calif. off-highway- When is this required? Who enforces? What change will this make to our pollution?

*Limit on heavy-duty, on-road trucks idling to 5 minutes-Who enforces? Is this per mile, per day, per what? Exactly what change will this make?

*Transportation control measures-What is this all about? Is this law? When required? What change will this make?

App A.3.12-1, Table 5, ES,p24. This table is out of date and should be updated. 22-147

*SB5 enrolled, etc- explain this in clear English.

*EPA must approve SIP, etc- Did they? Update.

Table 10 Entitled "Bayport Project EIS Bayport Container Facility Onsite Emissions from Vehicles" shows increasing emissions as the years go by, which is consistent with an increase in traffic. However, Table 3 in this same general area shows a decrease in emissions, which is inconsistent and can't possibly make sense. This is another example of faulty data which must be explained in a supplemental DEIS. 23-147

Table 12, footnote e: "assumed" that engine idle time will be 15 minutes for cruise and containerized trucks, HDDV trucks, off-site. What idle time was assumed for containerized facility trucks, on site? What does Barbours Cut data show about idle times at that facility for on-site idle times over the past several years? 23-148

The USACE is supposed to take into account various economic effects of proposed projects, (page A1.3-7) but the study is seriously deficient in this area. The study only seems to assume jobs, real estate values, etc. but a huge economic distinction exists between Shoal Point and Bayport, for example. That difference is the cost to taxpayers. The cost at Bayport is forecast at $1.2 billion of public money, while at Shoal Point there is no public money required. This economic impact must be honestly considered and evaluated in the study. How could you overlook $1.2 billion? What about all the road and bridge costs? 6-120

[redacted] 10920

Over the past 3 years how much money has the Port Authority paid to the companies that did these DEIS studies? Please report these values.

Respectively submitted,

Richard J. Gillen

10920

March 1, 2002

Mr. Kerry M. Stanley
Regulatory Branch, CESWG-PE-RE
U. S. Army Corps of Engineers
P. O. Box 1229
Galveston, Texas 77553-1229

Previously Recorded
Comment
#DP 10915

Subject: Bayport Container Terminal
Draft Environmental Impact Statement (DEIS)

Dear Mr. Stanley;

Rather than presenting an objective, unbiased assessment of the application submitted by the Port of Houston Authority (PHA), the DEIS is a blatant proposal to accommodate the applicant. I am listing several instances where the DEIS errs on the side of the applicant.

(1) Alternate Petrochemical Bayport Expansion

In many instances in the DEIS the assumption is made that the Bayport Terminal will be expanded with facilities similar to those existing presently at the west end of the channel (paragraphs 3.9.3.2 & 3.9.3.10) should this application not be approved. In keeping with the objectivity mandate, the USACE should not construct a hypothetical growth scenario from which relative comparisons are made with the adverse characteristics of the proposed project. Such alternate growth potential of Bayport petrochemical terminal facilities will depend upon future growth of the underlying petrochemical industrial base. The need for such growth will depend upon free market economics – not by some political body with tax funds. In addition, such growth of the petrochemical industrial complex will be subjected to various regulatory authorities before development. Further, should the Bayport petrochemical port facilities actually be expanded as the DEIS hypothesizes, the environmental impacts on surrounding areas will be far less severe than a container port with its elevated acoustic and lighting characteristics.

The present environmental situations at Bayport must be used as the baseline for projections of the impact of the proposed container port.

(2) Placement of Dredged Materials

According to Section 3.18.3.3, dredged material from the initial phase would be used to raise the present site elevation and to construct a noise reduction berm. Priority will obviously be given to site elevation with the berm construction deferred until all other site needs are fulfilled. There is no assurance or guaranty that the berm would be constructed early in the development phase, or for that matter ever be constructed.

(3) Dredging Operations and Requirements

In comparing dredging requirements for Bayport versus Spillmans Island (Table E-3), the DEIS identifies a need to dredge 291 acres of material at Spillmans island. This amounts to 100 acres greater than required at Bayport but only 44 acres of the "dredge" amount at Spillmans Island are under water. The other 247 acres are "upland excavation", thus the actual requirement for submerged dredging and filling is four times greater at Bayport. Use of the terminology "dredging" for upland excavation is grossly misleading and this anomaly is compounded in Table E-4 where the DEIS states "substantial dredging would be required for the terminal basin" for Spillmans Island. Table E-5 states dredging requirements in terms of cubic yards rather acreage but I assume much of the 22 mcy required at Spillmans Island is upland excavation rather than dredging.

(4) Noise Levels in Surrounding Residential Areas

As noted in Table 3.8-3, El Jardin is presently being subjected to sound levels up to and beyond acceptable limits by the standard the DEIS follows (Ldn of 65dB). Yet the DEIS (Table 3.8-15) predicts that sound levels will decrease by as much as 17dB (98% reduction) after building the container port at Bayport. It is certainly not logical and no explanation is offered in the DEIS. If the berm was constructed and attained your theoretical decrease in sound by 17dB (the DEIS assumes 10dB), the sound levels would be as predicted but without the container port build. That the container port would not contribute towards increasing the sound level above the predicted level is left unexplained.

Under "Cumulative Project Sound Levels – (Bayport)" (page 3.8-26), the second paragraph states that project sound levels would be 57 dBA Ldn at the closest receptors. Further, no residences would be exposed to sound levels that exceed 65 dBA Ldn. In the same paragraph, the DEIS states that - - - "no significant impacts would result from this alternative". Yet the very next two paragraphs contradict these statements. "Cumulative project sound levels would be as high as 73 dBA at locations across the Bayport Ship Channel". Also "Cumulative project sound levels at the residences in the vicinity of Surf Oaks would be approximately 62 dBA Ldn". In both of these residential areas the DEIS concludes, "These residences would be significantly impacted by this (Bayport) alternative". Because of the "net reduction" in noise level with the project, El Jardin is not listed as an impacted area. These gross inconstancies remain unexplained.

On page 3.8-1, the DEIS states that if sound intensity is doubled, the sound level only increases by 3 dB regardless of the initial sound level. While this statement is technically correct, it could only be inserted to mislead the readers.

The incremental increase in decibels is 10 times the log of the ratio of the final intensity to the initial intensity. Ten times the log of 2 is 3. This does not alter the fact that the noise intensity is doubled.

(5) Mitigation Measures

The DEIS uses this technique throughout to attempt to soften potential impacts. They are presented as possible steps that could be taken; however, there are no indications that these would be mandatory if this application were approved by the USACE. If they are not mandatory, such items have no place in the DEIS. The fundamental reason for producing the final EIS is its use in determining the acceptability of the planned project. If the USACE identifies shortcomings in the planned project then it should make such requirements mandatory. The EIS is not the place for suggestions or unenforceable post-build requirements. Some of these examples are listed as follows:

-Extend the existing berm which is north of the existing port facilities eastward.

-Equipment that has the lowest possible noise emissions and acoustic heights - - should be selected. (Even if this is made mandatory, who would be the determining authority?)

-The PHA could select quieter straddle cranes, electric powered dredges and drilling equipment.

-Other items, such as early replacement of equipment, would remain unenforceable even if the USACE made this kind of requirement mandatory.

SUMMARY

No other final site candidate comes close to the major environmental impacts that Bayport would impose. More nearby residents will be impacted at Bayport than would be impacted by all other final candidate sites combined. While PHA claims that it would be less costly for them, no consideration is afforded the vast number of homeowner's financial losses as a result of these adverse environmental impacts.

The present DEIS falls far short of being an unbiased, objective assessment of the potential environmental impacts of Bayport. I urge you to critically review this preliminary assessment before the USACE makes a decision on this application.

Sincerely yours,

Richard B. Ferguson
419 Cedar Lane
Seabrook, Texas 77586

[redacted]

10920

Recorded as DP 11754

Comments on the Bayport Container Terminal
Draft Environmental Impact Study

As a resident of the City of El Lago, one of the communities surrounding the proposed Bayport Terminal area, I am requesting that a Supplemental Environmental Impact Statement be prepared. This SEIS must give an unbiased and detailed evaluation of alternate sites, such as, Spilmans Island and Shoal Point.

I will not attempt to repeat the incisive, in-depth technical comments from numerous other sources. The focus is on the issues resulting from the effect that a Bayport Terminal will have on this community.

In your initial **Public Notice** the factors you are required to consider include the "needs and welfare of the people". This factor needs to be addressed.

Socioeconomics

The DEIS fails to consider or mention the major adverse impact of decreasing property values for the residents and homeowners that are located in close proximity to this site. This parameter is one of the most critical and important concerns of the thousands of residents in the nearby residential communities and the others within a few miles radius of the proposed Bayport facility, where property values will be affected. Its omission in the evaluations does a major disservice to this group of concerned citizens. Therefore, a complete and thorough assessment of residential property values is imperative for a proper consideration of impacts.

6-12

Consultants for GBCPA feel that Bayport will totally transform land use patterns in Southeast Harris County. This is even more apparent with the announcement of the San Jacinto Rail plan to develop a new rail line north of the Clear Lake area. Land use changes that will occur within the region due to Bayport must be analyzed by the USACE. 4-47

The land use experts expect that Bayport will ultimately cause the houses of over 5000 people, within one mile of the site, to be uninhabitable and result in their being abandoned over time. They also expect that Bayport will severely and negatively affect another 20,000 people living within a few miles of the site. We also ask the USACE to clearly analyze and explain any decline in residential land use or any change in existing residential land use patterns.

No allowance for the impact on the people living around Bayport and the alternate sites was made. These areas varied in density from: Bayport-22,955; Spilmans Island-4,109; Shoal Point-2,553; Cedar Point-6176; Pelican Island-532; Upper San Jacinto Bay-23. 5-30

The DEIS section on Community Infrastructure and Municipal Services (E.6.2.6) provides no analysis of the needs imposed by Bayport and its offsite support facilities. It uses the arrogant assumption that existing water supplies, sanitary waste treatment facilities, natural gas service are adequate or will be provided by someone on demand. 24-6

Cruise Terminal

An explanation is needed for the container Terminal and the Cruise Terminal being joined at the hip. This arrangement complicates the analysis of alternate locations beyond measure. In ES3, paragraph 3 23-151

the mission of the Port of Houston, includes contributing to the economic development of the Texas Coastal Region. There is no consideration of economic development of the Texas Coastal Region to be found. 6-122

However, rather than competing with the cruise ship activity in the Port of Galveston, The Port of Houston should support a strong cruise ship business in Galveston. This will take advantage of the lesser bay transit time and the established use of Galveston as a port-of-call. Such an approach will allow a thorough and focused evaluation of the Container Terminal siting question, without the distraction of the Cruise Terminal. 20-42

If the Cruise Terminal continues as part of the package, then a SEIS should include a detailed analysis of the Cruise Terminal as comprehensive and detailed as the Container Terminal. Among the questions to be considered are: Where are the codevelopment areas expected to be and their effect on the adjacent communities? What are the projected levels of auto and bus traffic? How will the surrounding communities be impacted when this traffic is added to the truck congestion from the Container Terminal? Where will the parking be? What collateral facilities associated with the Cruise Terminal are assumed in the analysis? 20-43

Transportation

The DEIS glosses over the impact that the projected truck traffic of over 3 per minute in 2025 will have on the non-Bayport traffic. It assumes that any improvements needed will be provided by some other agency, but the expense is not included in the cost estimates. 27-87

There is no analysis of the effect on traffic of an overlay of the port related traffic to the normal mix of autos and trucks. The effect of 18-wheeler slowing speed and startup delays on the flow through congested intersections is not evaluated. 27-88

There is no evaluation of the trade-off of trucks VS rail. Comparisons of current experience at Barbours Cut and Bayport assume Barbours Cut is a suitable model for Bayport. The containers at Barbours Cut are drayed to Burlington Northern Santa Fe and Union Pacific/Southern Pacific railyards. No analysis was made of the reduction of truck traffic by improved rail movements. 27-89

The impact of train movement and train traffic was not analyzed. Because of trains crossing an intersection, a road or neighborhood will be blocked almost 3 hours per day. There is no indication where the intersections are that will be blocked by Bayport trains. As a result, there is no analysis of the adverse affect on local travel in the surrounding communities. 27-3

The DEIS does not look at truck traffic impacts on Red Bluff Rd., Genoa-Red Bluff, Fairmont Parkway, or Bay Area Blvd thorough Clear Lake City. 27-49

Hazardous Materials

Considering the volume of truck traffic the DEIS states, "the potential of a hazardous material spill occurring during truck transport would increase proportionally. Area public services are adequate to address this increase." This unsubstantiated claim to the potential spill problem, which is compounded by the high increase in truck traffic and 8-6

general traffic density, needs to be addressed in detail. Such safety services are always lagging and many times are not improved by local governments until well after the occurrences of a major catastrophy and the loss of life. 2-6

There needs to be an expanded analysis of the hazardous material area. Who regulates the hazardous material transport, both truck and rail? What assistance will Bayport provide to its neighbors for hazardous materials spills? What hazardous materials were assumed in the DEIS? 8-9

Air Quality

For the past 2 years, the Houston area has been considered the smog capital of the country. The state has imposed a number of controversial measures in order to meet the EPA standards. The data in Section 3.12 uses data from the 1980 time period. An analysis using data for the more recent years and considering the effects of container ships, cruise ships, cargo movers, and 16,000 diesel trucks is required. 7-118

In addition, the DEIS did not analyze fine particle (PM 2.5) air pollutants. These are known to be more dangerous to the human body than the PM 10 particles. A Supplemental EIS needs to address and to include a thorough and complete analysis of the impact of fine particle air pollutants on this area. 7-119

Public Safety

The DEIS claims that there are "no substantial differences between any of the sites" with regard to Public Safety. This is an irresponsible conclusion since simple logic dictates that safety is adversely affected in direct proportion to the proximity of population density, which obviously was not taken into consideration. With the horrendous increase in projected truck traffic, it stands to reason that traffic accidents with commercial, individual, and municipal vehicles will definitely increase in high-density population areas. In addition, the incidence of spills from trucks and rail cars carrying hazardous fluids and flammable materials will further constitute a safety impact to local residents. 21-49

The statement in E6.2.13, that hurricane evacuation will not be effected, is absurd on its face. Evacuation before a major storm will have to start at least two to three days before landfall. It is doubtful that Bayport operations would cease early to allow local residents to move out. The trucks from Bayport will be clogging the same roads that are the evacuation routes for the areas to the south and north of the project. The residents will have to compete with the terminal's truck traffic, which will impede and further add to confusion and safety at such a critical time. 21-50

John W. Tully

February 27, 2002

10920

January 29, 2002

Mr. Kerry M. Stanley
U.S. Army Corps of Engineers
Galveston District
Regulatory Branch
P.O. Box 1229
Galveston, Texas 77553-1229

Previously Received Comments # DP10753

Subject: Critique and Comments regarding the Draft Environmental Impact Statement (DEIS) for the proposed Bayport Marine Terminal

Dear Mr. Stanley,

The purpose of this letter is to forward my critique and associated comments resulting from the review of the subject draft statement for your consideration in preparing the final impact statement for this project.

Mr. Stanley, let me first begin by saying that I have always considered the U. S. Army Corps of Engineers to be a high level professional and ethical organization, however, I have been extremely disappointed in the Corps' recent actions on the Bayport matter as well as in the quality of the subject document. I had expected the Corps to take an unbiased and objective approach to developing the DEIS, but frankly I cannot say that this has been the case. There are a number of instances in which the sense of bias can be detected. The document is a ponderous treatise which is overburdened with a very cumbersome organizational structure and very much needless repetition. It also has many instances of obvious obfuscation as well as the inclusion of irrelevant material and information, which do nothing toward the development of impacts. Many potential problems or impacts are dismissed without any substantiation and are set aside with such words as "assume", "expect" and "anticipate". The Corps has been guilty of trying to substitute quantity for quality which, in my professional experience, is not acceptable and detracts from the soundness of any important professional document. I have included some more specific comments below which relate to the above.

ALTERNATIVE LOCATIONS

In addressing alternative site locations resulting from the Tier 3 evaluation process the DEIS considers seven locations, three of which include Bayport. It appears that the Corps is partial to Bayport in view of the large extent of discussion allotted to it as compared to the several other alternate sites. It is quite apparent that the Spillmans, Cedar Point and Pelican Island locations have as much or more merit than Bayport and should be given such equal consideration. Further, another point that seems to be missed is that, logically, Cruise Lines would find the Galveston/Texas City locations to be more of an advantage because of the lesser bay transit times and the use of Galveston as a port of call, however, the DEIS fails to treat such alternatives. I believe that three other

combination alternative sites, Spillmans/Shoal Point, Cedar Point/Shoal Point and Pelican Island/Shoal Point should also be evaluated.

NO ACTION ALTERNATIVE

Section E3.1 makes the assumption under the No Action Alternative that the Bayport site would be developed for other types of port facilities similar to those now located along the western portion of the Bayport Channel. I believe that such an assumption is premature and unfounded in view of the existing legal and regulatory controls on the continuing development of such industrial facilities and which could very well change the character of these developments and thus result in much less adverse impacts to the surrounding communities than those of the Bayport Container Terminal. This alternative needs to be readdressed and evaluated with a more substantive basis than a simple assumption.

SOCIOECONOMICS

This subject area of the report considers only the broad picture of jobs and their attendant economic benefits for all of the alternative sites but fails to consider or even mention the major adverse impact of decreasing property values for the residents and homeowners that are located in relative close proximity to these sites. This parameter is one of the most critical and important concerns of the thousands of residents in not only the nearby but also the several other residential communities which are within a few miles radius of the proposed Bayport facility where property values will be adversely affected. Its omission in the evaluations does a major disservice to this group of concerned citizens and therefore a complete and thorough assessment of residential property values is imperative for a proper consideration of impacts.

SURFACE TRANSPORTATION

According to the data on page ES-16 it is projected that in the year 2005 there would be approximately 700 daily vehicle trips per day to a given site which would result in 16 truck trips per hour or 1 every 4 minutes. For the year 2015 truck trips escalate to 1.4 per minute and by the year 2025 the rate increases to better than 3 per minute. Compounded with the current truck traffic that exists on SH 146 this translates into a solid and steady stream of bumper to bumper vehicular traffic even at the lower rate of the 2005 projection. This, in itself, should be considered a major impact and is not only irresponsible but ludicrous to even consider imposing such a horrendous condition on any residential neighborhood. If the Corps accepts such an imposition it certainly appears that the intent is to relegate the entire area in proximity to the Bayport site to heavy industry and thus drive out all residents by shear dominance over the community. If such traffic projections are valid it would be more than logical for the Corps to require that rail transportation, which is much more economical and energy efficient, be seriously explored and considered.

NAVIGATION

This section of the DEIS analyzes and makes projections of the increased ship and barge traffic in Galveston Bay from the present up to the year 2030. These projections indicate

that such traffic will be almost three times as much as that encountered in the year 2000, yet the only stated impact regarding this increased traffic concerning the Bayport Terminal is that "a potential exists for conflicts between commercial vessels and recreational boats in the reach of the Bayport Ship Channel". The degree of impact is not stated nor is there any consideration of the increased potential for accidents, collisions, spills, etc. resulting from this increased water traffic. This problem presents more than simple conflicts and must be addressed in a thorough and responsible manner. Further, it is not clear why the No Action Alternative results in a higher rate of boat traffic than the Bayport alternative. Please explain.

AIR QUALITY

The Air Quality Summary, paragraph (3.12.3.10), states that "each of the terminal alternatives would have associated emissions from construction and operations that are similar in impact", and attempts to say that the air pollution for the Bayport Terminal would be less than that at the alternative sites. The purported basis for this claim that the other sites "would require additional stabilization and/or an increase in elevation" defies all logic and is unsubstantiated. It also appears that the Corps has either ignored or has not been attuned to the fact that Houston, for the past two years, has been considered the smog capitol of the country and that the State is currently attempting to ameliorate this serious pollution problem through such measures as vehicle highway speed reductions, lawnmowing bans, etc., in order to meet EPA standards. Figures 4-3 and 4-4 show selected data of ozone exceedance days from only a single monitoring site, during the 1980 thru 1997 time period, and the report attempts to conclude that since the exceedances show some reduction even with population growth and vehicle miles increases, that this should solve the problem. This is specious reasoning. Exceedances are exceedances, and the problem in still there and will obviously be much further exacerbated with the addition of the projected 16,000 plus diesel truck trips per day. This analysis is unsatisfactory and incomplete and raises several questions like; "what do the data of other monitoring sites show and what about data for the more recent years, 1998 thru 2001"? The Corps obviously needs to face the issue of air quality squarely and completely and at the same time come up to speed on the major air quality issues of Houston and the Bay Area for a proper assessment of impacts. It also needs to address and include a thorough and complete analysis of the impact of fine particle (PM 2.5) air pollutants, which were completely ignored in this DEIS.

PUBLIC SAFETY

The DEIS claims that there are "no substantial differences between any of the sites" with regard to Public Safety. I consider this an irresponsible conclusion since simple logic dictates that safety is adversely affected in direct proportion to the proximity of population density which obviously was not taken into consideration. With the horrendous increase in projected truck traffic it only stands to reason that traffic accidents with commercial, individual and municipal vehicles will definitely increase in the high density population areas. Also the incidence of spills from trucks and rail cars carrying hazardous fluids and flammable materials will further constitute a safety impact to the local residents. The statement that hurricane evacuation will not be adversely affected is

challenged since the Corps apparently did not consider the fact that evacuation before a major storm would have to start at least two to three days before expected landfall and it is doubtful that Bayport Terminal operations would cease early to allow the local residents to move out. The residents would have to compete with all of the terminal's truck traffic which would impede and further add to the confusion and adverse safety at such a critical time.

HAZARDOUS MATERIALS

The DEIS report states that there are no substantial differences between any of the sites with regard to hazardous materials. This conclusion is not necessarily so when the 9/11/01 terrorist factor is taken into consideration. This factor is now being heavily emphasized by Federal and State agencies in any and all activities, where there is a public safety concern. This consideration is completely ignored in the study and must be duly addressed because shipping terminals are an easy prey to such threats and which could cause not only extensive property damage but also result in major impacts to the economic well-being and stability of the country. This factor becomes site specific and the Bayport Terminal would obviously constitute a major terrorist threat because of the high density storage of chemicals and petrochemicals already located and stored at this site. A well conceived terrorist plot could easily strike chaos in the area by simply planting incendiary bombs and devices, which could be remotely activated, in shipping containers as part of the throughput at the terminal.

The DEIS states, "Therefore, the potential of a hazardous material spill occurring during truck transport would increase proportionately. Area public safety services are adequate to address this increase." This unsubstantiated claim to the potential spill problem, which is compounded by the high increase in truck traffic needs to be addressed in detail since such safety services are always lagging, and many times are not improved by local government entities until well after the occurrence of a major catastrophe and the loss of life.

Mr. Stanley, the above comments are offered with the intent of being constructive and helpful toward your task of developing a proper impact statement. It is hoped that you and your team of writers will use them in considering whether to rework and reissue the DEIS or to proceed with a final and hopefully complete, unbiased and unambiguous impact statement.

Sincerely yours,

Original / S /

Aleck C. Bond

234 Driftwood Drive
Seabrook, Texas 77586-4704

DL 10940
SCC

MAR 0 8 2002

CLEAR CREEK
INDEPENDENT SCHOOL DISTRICT
Committed to Educational Excellence

John E. Wilson, Ph.D.
Superintendent

2425 East Main Street
League City, Texas 77573
Phone: (281) 338-5806
Fax: (281) 338-5801

March 6, 2002

Mr. Kerry Stanley
U.S. Army Corps of Engineers
Galveston District
Regulatory Branch
P.O. Box 1229
Galveston, Texas 77553-1229

Dear Mr. Stanley:

Enclosed is a Resolution signed by officers of the Clear Creek ISD Board of Trustees, which expresses our opposition to the proposed Bayport Expansion. Please share this Resolution with the appropriate people. Thank you.

Sincerely,

John E. Wilson

Enclosure

10940 MAR 0 8 2002

Clear Creek Independent School District
2425 East Main Street
League City, Texas 77573

BOARD OF TRUSTEES
RESOLUTION

WHEREAS, the Port of Houston authority has failed to provide adequate impact studies indicating the effect of emissions from increased numbers of vehicles due to proposed the Port of Houston Bayport expansion; and 7-7

WHEREAS, emissions from additional traffic in the Port of Houston Bayport expansion area could have a detrimental effect on the health, welfare, and well-being of school children, faculty, staff, and residents of the Clear Creek Independent School District; and 7-10

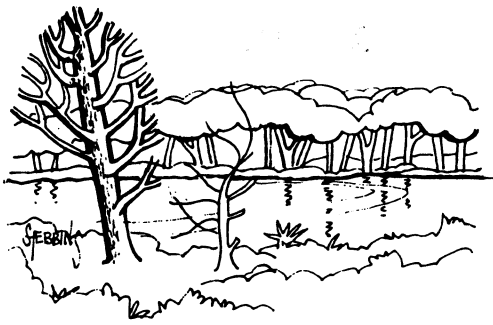
WHEREAS, without adequate information regarding the impact on personal health and safety and the total environmental impact of the proposed Port of Houston Bayport expansion, 21-33

BE IT RESOLVED, that the Board of Trustees of the Clear Creek Independent School District cannot support the Port of Houston Bayport expansion as proposed. 29-3

Passed and Approved on the 26th day of February 2002.

Paula Tomasi, President
Board of Trustees

Paula Thomas, Secretary
Board of Trustees



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CA WT

TAYLOR LAKE VILLAGE

—a residential community on the lakes—

March 7, 2002

Mr. Kerry Stanley
U.S. Army Corps of Engineers
Galveston District
Regulatory Branch
P. O. Box 1229
Galveston, Texas 77553-1229

Re: Bayport DEIS Comments

Dear Mr. Stanley,

As you are well aware, the City of Taylor Lake Village has been opposed to the Proposed Bayport Expansion into primarily residential communities since 1998. Our City has attended all of the public hearings and the Scoping Meeting. During each of these meetings we have made oral comments addressing our concerns with the project. Additionally, we have submitted letters and resolutions to your office. At the Scoping Meeting and in the form of letters the citizens and cities asked you to review several issues. Our list of concerns centers around incompatible land uses within our residential area, resulting in real health and safety hazards.

During the scoping process, we requested that the Corps consider in the DEIS a number of issues of concern to our residents. These issues include, but are not limited to: air quality degradation (increased loading of PM2.5, NOx, VOC's and HAPs); the recognized threat of terrorism (Item 12 on the list of scoping issues from the Houston Yacht Club); environmental degradation resulting from the likely need to further widen and deepen the ship channel; ecological impacts of invasive species arriving in ballast water; and the treatment of stormwater runoff on site and non-point source pollutants running off the roads that bridge Armand and Taylor Bayous. The omission of these studies clearly make the current DEIS insufficient in its scope and requires a supplemental DEIS be performed to address these failings. 23-4

500 KIRBY BLVD. • TAYLOR LAKE VILLAGE, TX 77586-5298 • (281) 326-2843

This proposed container port expansion at Bayport will destroy the residential and recreational use of the area that is established and thriving. A Bayport container facility will undermine property values, cause traffic hazards, and create major health and air quality issues. Maintaining high quality residential and recreational areas, including a healthy aquatic habitat, is essential for the positive development and growth of Harris County and the other communities surrounding Galveston Bay. Therefore, Bayport should not be the site for a new Port of Houston container facility — the impacts to the existing community are just too great.

Our comments of specific issues contained within the DEIS follow.

Land Use, Property Values and a Full Cost Evaluation

Bayport is in conflict with the land use plan for Taylor Lake Village. In August of 1998, the City of Taylor Lake Village adopted our Long Range Plan. Our Mission Statement, "Taylor Lake Village exists to provide citizen's a distinctive community by preserving and enhancing the quality of life associated with single family residential neighborhoods that are safe, clean, green, and attractive." Our number one goal,
" Preserve green space by securing and developing additional recreational facilities and tranquil surroundings"(*emphasis added*). Goal two, "Continue to have the highest average home values in the Bay Area". Our City is made up of 1,355 residences and 7 businesses. Approximately 70% of our budgeted income is from Ad Valorum taxes, additionally we receive 4% from Sales Tax revenues. Maintaining property values is essential for the city to provide police, fire, and ambulance protection as well as solid waste disposal services. Citizens move to Taylor Lake Village to enhance their quality of life. If Bayport is permitted, our community will become undesirable due to increased traffic, health, safety, air and water quality issues. The essential established character of our community will be forever transformed. Our loss of property values and subsequent lowering of our tax base will reduce both the ability of our City to provide municipal services as well as our School District to provide a quality education to our children.

- The DEIS makes wrong assumptions about alternative land uses in Bayport. It assumes that under a no-action alternative the Bayport site would become industrial. The City of Seabrook has zoning laws prohibiting rail and heavy industrial uses. Currently, Seabrook has a plan for areas in their jurisdiction that calls out the Bayport site as a preferred area for wetlands conservation. Further, the Port of Houston's rail on the Bayport permit application is in the city limits of Seabrook and currently not allowed. 27-54 22-73

- The Bayport site should not stand alone in this DEIS. The proposed Burlington Northern Santa Fe Rail ends at the PHA's port property and is currently going through it's own DEIS. By law, the cumulative impact of these two projects must be considered. 18-26

- According to Dale O. Cloninger, Professor and Doctor of Business Administration at U. H. Clear Lake, certain critical costs are excluded from the analysis. The anticipated benefits of The Bayport project must be evaluated against all the costs of the project.

The decreased value of property in adjacent and nearby communities is not addressed. The loss in property value due to the extraordinary scale of the project may amount to a taking of property without due compensation. Other omitted costs include the fifty foot dredge, air quality, water quality, and land losses and all affected fish and wildlife values. Additionally, the full costs attributed to road improvements; vehicular congestion and delays of emergency vehicles should be taken into account. The costs associated with a terrorist event in a highly populated area must be considered, currently, only 2% of containers entering Galveston Bay are inspected. Furthermore, the economic impacts to our recreational uses are not included in the evaluation even though the proposed Bayport site is immediately adjacent to the Houston Yacht Club. **The total costs of the Proposed Bayport site should be compared with the total costs at alternative sites.**

6-118

32-21

Our city not only opposes the Bayport site location, but any combination including Bayport. **All** alternative site combinations in the DEIS include [site #7] Bayport. Spilman's Island or Shoal Point are both reasonable sites to be combined with Upper San Jacinto Bay, Pelican Island, or Cedar Point. The Corps DEIS has excluded all non-Bayport combinations. In all DEIS alternatives; the cruise terminal has inexorably been in combination with the container terminal. Given the tenuous nature of the cruise market in upper Galveston Bay the cruise terminal may not even come to fruition. The Tier 3 evaluation incorrectly eliminated sites because they were too small to include a cruise terminal.

2-127

24-37

2-171

Fifty Foot Dredge

The DEIS does not address a fifty-foot dredge depth in Bayport. The DEIS states (ES-4) "This includes having facilities large enough to accommodate more Panamax vessels, as well as eventually even larger post Panamax vessels." If we know these larger ships will come calling and Bayport is designed to 56' depth, why is there still no environmental analysis of the 50 ' dredge? The Port of Houston Authority has denied the need for the further widening and deepening verbally (in local public forums) but acknowledges the future need in AAPA meetings and the DEIS. They are certainly aware that after investing two billion dollars in the Bayport site it will be easier to get the future dredge approved. We ask again that the fifty-foot dredge depth be analyzed **now** because the DEIS declares a future need.

20-44

There are other analyses associated with a fifty foot channel that the DEIS fails to consider:

- The DEIS does not consider the costs of a fifty-foot channel. Not doing an analysis of the fifty-foot dredge sets apart the dredge costs associated with Bayport — these costs are not included in the Tier 2 evaluation, but MUST be considered.

6-119

- How will a fifty-foot dredged channel affect our oyster reefs? The DEIS studied impacts to fin-fish, but failed to consider the effect of increased salinity from channel expansion on oyster productivity. The oyster population is an important element of

12-28

Galveston Bay for maintaining water quality and as the basis for a thriving fishery. The economic value of the oyster fishing industry must be considered in the DEIS. 12-28

Water Quality and Wetlands

The DEIS omits important water quality and wetland considerations.

- Both Armand and Taylor Bayou's have high aquatic life and are recreational strongholds for watersports. The effect of runoff into the waters of Taylor Bayou and Armand Bayou is not addressed at all in the DEIS. Heavy truck and train traffic will cross both bayous. In the event of an accident, spill or leak the environmental consequences to the bayous could be devastating; this impact must be evaluated. 9-25 9-26

- The DEIS provides no discussion on the introduction of non-native species from ballast water and their impact to our communities. Also, the impacts from non-marine invasive species, such as Formosan termites, could be significant. 12-29

- The proposed Bayport facility would concrete over hundreds of acres of wetlands, some jurisdictional, some not. All of these wetlands filter storm water runoff before it enters Galveston Bay or Pine Gully. 14-22

- The DEIS incorrectly calculated wetlands acreage. In the Bayport DEIS alternatives analysis Bayport is shown to be the preferred site due to lesser numbers of impacted wetlands. However in the Texas City DEIS, also compiled by the Corps, the two sites alternative analysis provides **different** numbers of impacted wetlands – a contradiction exists. Further, it is suspiciously convenient that the number of affected wetlands changed from more than 100 acres to 2.5 acres, just below the cut off of 3 acres requiring a 404 B.1 analysis under the Clean Water Act. That law prohibits the selection of a site containing more than 3 acres of wetlands if a practicable alternative exists that would impact fewer wetlands. Evidence suggests that Bayport contains significantly more than 3 acres of wetlands, requiring the Corps to deny this permit if more wetlands are destroyed at Bayport than the alternative sites. 14-61

Noise and Light

The DEIS does not adequately provide an assessment for negative noise and light impacts. Despite the fact that the City of Taylor Lake Village is approximately one and a half miles from the proposed Bayport Site the citizens living on Taylor Lake will be affected by both light and noise. 3-43

- The proposed buffer to mitigate these impacts is ineffective: the buffer provides the best noise and light reduction to the areas immediately adjacent to the berm; away from the berm the noise and light buffer value is substantially reduced. There are no buffers to reduce noise traveling across the lake, and sound travels easily over water.

- The noise models do not take into account the jarring clang of a container being offloaded. The movement of containers will occur 24 hours a day. In the quiet night, over the lake, the jarring noise will awaken citizens in portions of Shoreacres, El Jardin, Seabrook, El Lago and Taylor Lake Village. 3-44

- Nightglow has not been demonstrated to be mitigated by berms. Light propagation in moist air is extreme. The DEIS omits any analysis of these issues. The citizen's living in Timber Cove, Taylor Lake Estates, and Taylor Lake Shores can see the few short stacks from existing plants. Twelve story lights and even taller cranes will be clearly visible from these lake front homes, unlike the stars in the sky. 17-14

Transportation

Traffic and noise impacts from trucks on Red Bluff road are not included in the DEIS. Based on transportation issues, Bayport should have had a difficult time making it through the Tier Two evaluations. Road access, rail access, potential impacts to the communities, and the environment, if correctly measured, without partiality, would have shown that many other alternatives have far less impacts to the environment and the surrounding communities as well as offer better transportation options. 27-90 2-156

- Very few large trucks currently use Red Bluff Road. If the Bayport facility is built, there will assuredly be a huge increase in truck traffic on Red Bluff Road. Red Bluff Road is immediately adjacent to Taylor Lake Shores. These homes will be impacted by the traffic, noise, and light from both the facility and the trucks. The homes in this subdivision are currently valued upwards from $700,000.00. When the traffic, noise, and light impacts are realized our tax base will be devastated. 27-90 6-124

- The DEIS has inconsistently analyzed traffic impacts for the proposed alternatives. Transportation impacts are not analyzed on Genoa- Red Bluff, Fairmont Parkway, or in the Clear Lake Area. Despite this lack of local impact analysis, the DEIS evaluates traffic impacts for Shoal Point and Pelican Island as far away as I45 and South Belt. 27-49

- The DEIS **assumes** State Highway 146 upgrades, including fly ramps, overpasses and widening improvements to be in place when Bayport is built. At this time, TxDOT is doing a Major Investment Study on State Highway 146. TxDOT has not approved the improvements assumed in the DEIS and they are not in the Transportation Improvement Program or Metropolitan Transportation Plan. These projects are not funded, or even in the Port's jurisdiction. The four locally impacted cities and many citizens have spoken out against the proposed elevated bypass from 518 through Seabrook to Red Bluff Road. Finally, the costs of these improvements are not considered in the cost analysis. Unfunded, unscheduled, unapproved solutions should be omitted from the DEIS. 27-91

- The DEIS does not discuss the delay calculations for local traffic from Union Pacific, Port Terminal Railroad Association or Burlington Northern Santa Fe trains crossing our roadway systems. 27-92

Air Quality

The DEIS fails to assess important air pollutants. The proposed Bayport facility will utilize thousands of diesel trucks and many diesel cranes, diesel ships, diesel trains, and diesel hysters. **Diesel exhaust from combustion engines is the leading producer of fine particle pollutants (PM 2.5) and Hazardous Air Pollutants (HAPs).** 7-128

- Diesel exhaust is undeniably the major air quality issue, yet in the DEIS there is no consideration of the effects of PM2.5 or HAPs included in the Air Quality Analysis. Modeling must be included for **all** pollutants for which national standards exist. 7-128

- **Increased air pollutants will put Houston over the EPA standards.** A national ambient air quality standard has been set by the EPA of 15 micrograms per cubic meter averaged over a full year. In 1999, Sonoma Technology prepared a study of Fine Particle Yearly Average Concentrations for the Mayor of Houston showing between 13 to 15.5 micrograms per cubic meter across the Greater Houston Metropolitan Area. 7-129

- The DEIS states that the NOx and VOC emissions are included in the State Implementation Plan. However, in that plan our local impacts are mathematically diffused over an eight county region. Realistically, our local air quality will be significantly impacted. The Corps portrayal of a less than significant impact is particularly upsetting because the Southeast region of Harris County already has the worst air quality in the nation. 7-130

- Recent studies show that the public affected by these increased levels will experience negative health effects including increases in respiratory infections, asthma, heart and lung disease and even an increase in mortality rates. 7-131

Summary

As a concerned city, we have tried many times to provide constructive input to the Port of Houston. We fought to be invited into the Port of Houston's Citizen's Advisory Group (CAG). We withdrew, with five other primary and core affected communities, in protest in March 2001 when the issue of siting was removed from the CAG's purview. The PHA's list of invitees to the CAG was disproportionate, impacted community representation was offset by port interests and non-impacted parties. In any consensus driven discussion our local communities were always far outnumbered and we were concerned that those CAG's consensus recommendations would be misconstrued as a sanctioned mitigation plan allowing you to permit rather than avoid the impacts to our communities.

Our city has joined with the GBCPA and many other local cities to help fund technical studies. These additional comments will be submitted to you on our behalf by GBCPA. Also enclosed are copies of resolutions our city has adopted.

The DEIS for the proposed Bayport container facility is extremely inadequate. The U.S. Army Corps of Engineers is charged through a Memorandum of Agreement with the EPA to protect our citizens. The DEIS clearly shows more citizens will be impacted by the Bayport Site than any of your alternative sites. In your DEIS core study area Bayport affects 22,955 residents, Spilman's Island only 4,109 residents, Shoal Point only 2,553 residents, Cedar Point 6,176 residents and Upper San Jacinto Bay only 23 residents. 23-157 2-160

The PHA, through it's powerful lobbying and heavy public relations efforts, maybe working to bias opinion, however the results of the DEIS should avoid that slant and eliminate bias. "But for" the issuance of this permit these impacts will not occur. "But for" the issuance of this permit our neighborhoods would continue to be viable. The impacts of this site will disservice the greatest number of people to benefit only a few. Those same benefits will be realized even if Shoal Point or Spilman's Island is determined to be your preferred site location. Alternate sites, if studied thoroughly, will prove more acceptable than the current Bayport proposal. We are not asking for a no-build scenario, we are asking for a wise build. Please move this facility to an appropriate location, one that promotes the concepts of sustainable development. 2-160

Sincerely,

Mayor, Natalie S. O'Neill

Councilmember, Laurence Tobin

Councilmember, Judy Cloninger

Councilmember, Richard Mills

Councilmember, Mark Sheridan

Councilmember, Jodie Seeger

RESOLUTION 02-626

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TAYLOR LAKE VILLAGE, TEXAS, AFFIRMING THAT THE TECHNICAL STUDIES CONTRACTED THROUGH GBCPA AND BLACKBURN & CARTER, PARTIALLY FUNDED BY RESOLUTION 00-579 AS WELL AS INDIVIDUAL DONATIONS FROM OUR CITIZENS, TO ASSESS THE IMPACT ON TRAFFIC, NOISE, LAND USE, WETLANDS, AND AIR QUALITY, BE SUBMITTED TO THE U S ARMY CORPS OF ENGINEERS ON OUR BEHALF AND THAT A SUPPLEMENTAL DRAFT EIS BE FILED TO ADDRESS CONCERNS NOT ACCOUNTED FOR

* * * * * * * * * * * * *

WHEREAS; the U.S. Army Corps of Engineers Bayport Container Terminal Draft EIS fails to address fully the concerns of the City of Taylor Lake Village; and

WHEREAS; in the Draft EIS, the Corps has failed to analyze a 50' deep channel as requested during the Scoping Hearing; and

WHEREAS; in the Draft EIS the Corps failed to analyze the additional dangers to our community from terrorism as requested during the Scoping Hearing by the Houston Yacht Club; and

WHEREAS; in the Draft EIS, the Corps failed to analyze the impact of fine particle (PM 2.5) and hazardous air pollutants and GBCPA has hired accomplished technical consultants to assess these impacts; and

WHEREAS; in the Draft EIS, the amount of affected wetlands that will be filled by the proposed project is claimed to be [2.5 acres] significantly lower than the amount originally determined by three separate sources [>116 acres] and GBCPA has hired expert technical consultants to determine the actual wetland acreage that would be affected; and

WHEREAS; the study of future land use and property values is vital to us and our surrounding communities and because the Corps' Draft EIS is woefully inadequate the GBCPA hired expert technical consultants who have assessed those impacts; and

WHEREAS; the Draft EIS study of transportation does not fully disclose the impacts to roads, safety, and infrastructure, nor did it take into consideration the combined impact from the BNSF/San Jacinto Rail project and GBCPA has hired expert technical consultants to assess these impacts; and

WHEREAS; the Corps promises further analysis, on some of the above issues, in the Final EIS not giving the surrounding communities the opportunity to review and comment on those analysis; and

WHEREAS; the Corps has not agreed to complete a supplemental DEIS answering those questions and inadequacies reviewed above, then allowing further public comment on those findings; and

WHEREAS; the City of Taylor Lake Village may have minor differences of opinion with GBCPA's technical studies but believes the assessment of impacts in these studies to be substantially correct and more complete than the assessment in the Corps Draft EIS; and

WHEREAS; the City of Taylor Lake Village participated in the funding of experts through GBCPA to provide studies on Air Quality, Traffic, Land Use, Noise and Wetlands; and

WHEREAS; many citizens of the City of Taylor Lake Village donated money to fund GBCPA's technical studies on Air Quality, Traffic, Land Use, Noise and Wetlands

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF TAYLOR LAKE VILLAGE, STATE OF TEXAS;

THAT, that the technical studies prepared by the experts commissioned by GBCPA, other Cities and citizens and the citizens and the City of Taylor Lake Village be submitted, on our behalf's, to the U.S. Army Corps of Engineers for their consideration during the NEPA process and, further,

THAT, the Mayor and City Council respectfully requests that the U S Army Corps of Engineers prepare a Supplemental Draft EIS addressing those issues listed above.

PASSED, APPROVED, AND RESOLVED, this 16th day of January, 2002.

CITY OF TAYLOR LAKE VILLAGE

Natalie S. O'Neill, Mayor

ATTEST:

Lorena E. Briel, City Secretary

Res. 02-626
CC 01/16/02

RESOLUTION NO. 00-586

A RESOLUTION ENCOURAGING AREA CITIES, RESIDENTIAL COMMUNITIES BAYPORT INDUSTRIAL DISTRICT INDUSTRIES (BID) AND THE ASSOCIATION OF BAYPORT COMPANIES (ABC) TO TAKE ACTIONS NECESSARY TO SEE THAT ENVIRONMENTAL STANDARDS CONTAINED IN THE BAYPORT INDUSTRIAL DISTRICT DEED RESTRICTIONS ARE PRESERVED AND ENFORCED TO PROTECT THE HEALTH, SAFETY AND WELFARE OF THE SURROUNDING AREA.

* * * * * * * * * * * *

WHEREAS, the creators OF Bayport Industrial District (Humble Oil & Refining Co., Land Division, and later Friendswood Development Company) established Bayport Environmental Standards, in the form of Deed Restrictions, to insure proper use, appropriate development and improvement of the land within Bayport Industrial District ("BID") so as to protect surrounding landowners in residential and commercial areas from property depreciation and health impairment, as well as protecting plant site owners from improper uses of other plant sites in BID;

WHEREAS, these Deed Restrictions, that run with the land, regulate such matters as noise, light, odors, toxic discharges, liquid wastes, surface drainage, and other activity that could affect the use, enjoyment, health and property values of surrounding residential communities, as well as existing BID industries;

WHEREAS, the proposed Bayport Container Facility as designed by the Port of Houston Authority ("PHA"), threatens the preservation of property values, existing land uses, health and use, and enjoyment of the surrounding owners/users of residential properties and BID industries;

WHEREAS, the local residential communities, cities and existing industries at Bayport Industrial District and ABC have a common and continuing interest in the proper enforcement and integrity of these Deed Restrictions and the goals for which they were designed;

WHEREAS. The Bayport Industrial Association (now Association of Bayport Companies – "ABC") was created by these Deed Restrictions to administer and enforce these environmental standards;

WHEREAS, the ABC Deed Restrictions expire in 2003 the City of Taylor Lake Village asks that ABC renew said Deed Restrictions protecting the interest of the local community

BE IT THEREFORE RESOLVED BY THE CITY OF TAYLOR LAKE VILLAGE, STATE OF TEXAS:

THAT, the City of Taylor Lake Village encourages all local cities, residential communities, all individual BID industries and ABC to fully investigate and take actions necessary to see that these Environmental Standards, and the purposes for which they were created, are fully enforced and preserved so that the health, property values and land uses for all residential, commercial and BID industrial owners/users are maximized, as intended.

PASSED, APPROVED, AND RESOLVED, THIS 15th DAY OF NOVEMBER 2000.

CITY OF TAYLOR LAKE VILLAGE

Natalie O'Neill, Mayor Protem

ATTEST:

Lorena E. Briel. City Secretary

RESOLUTION NO. 01-589

SUNSET REVIEW OF THE PORT OF HOUSTON AUTHORITY

A RESOLUTION ENCOURAGING AREA LEGISLATORS TO SUPPORT HOUSE BILL 564 WHICH PROPOSES THAT THE PORT OF HOUSTON BECOME SUBJECT TO SUNSET REVIEW LEGISLATION

WHEREAS, after 73 years of operation, it is time for a thorough re-examination of the political, economic and operational characteristics of the Port of Houston Authority. The Port Authority needs to be held accountable to the public it serves for the manner in which it finances its operations, manages public funds, provides for meaningful public participation in rule making and other decisions, and effects through its operations homeowners, business, and the fragile ecosystem of Galveston Bay.

WHEREAS, Texas law (found in §325.01 of the Government Code) provides for Sunset review of all state agencies. Sunset review is the regular assessment of the continuing need for a state agency to exist. The review process also provides a mechanism for lawmakers to look closely at each agency and make fundamental changes to its mission or operations, if needed.

WHEREAS, State Representative Rick Noriega has introduced House Bill 564, co-authored by State Representative John Davis, to make the Port of Houston Authority subject to the Sunset Review Process.

BE IT THEREFORE RESOLVED BY THE CITY OF TAYLOR LAKE VILLAGE, STATE OF TEXAS:

THAT, the City of Taylor Lake Village encourages area legislators to support House Bill 564 and require accountability from the Port of Houston Authority.

AND IT IS SO ORDERED PASSED AND APPROVED ON THIS SEVENTH DAY OF MARCH, 2001.

Einar Goerland, Mayor

ATTEST:

Lorena E. Briel, City Secretary

RESOLUTION NO. 98-525

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TAYLOR LAKE VILLAGE, TEXAS, IN OPPOSITION TO THE EXPANSION PLANS OF THE HOUSTON PORT AUTHORITY IN THE BAYPORT COMPLEX.

* * * * *

WHEREAS, the City of Taylor Lake Village has been a tranquil, lakeside, residential community with a small town atmosphere for over 35 years; and

WHEREAS, the City of Taylor Lake Village has chosen not to pursue any industrial enterprises which may disturb the peace and tranquility enjoyed by its residents; and

WHEREAS, the Houston Port Authority plans expansion of the Bayport complex, including a large scale railroad yard for loading and unloading containers which will be utilized by 7,060 trucks per day and 57 trains per week; increasing heavy traffic on Red Bluff and Highway 146, streets our citizens and school buses travel every day; and

WHEREAS, the peace and tranquility of the citizens of Taylor Lake Village will be disturbed by noise, light, water, and air pollution from the 24 hour a day operation of trains, cranes, trucks, and other heavy equipment; and

WHEREAS, there will be increased health risks from truck diesel fumes and chemicals transported by trucks, rail, and shipping vessels; and

WHEREAS, there will be a potential for spills of chemicals and other hazardous materials due to the increased transportation of these; and

WHEREAS, the Houston Port Authority expansion calls for the destruction of over 100 acres of federally protected wetlands; and

WHEREAS, the residential property values will decrease because of the aforementioned noise, light, water, and air pollution, increased traffic, and disruption of the quality of life that draws people to this area, reducing the tax base the city is dependent on; and

WHEREAS, the City of Taylor Lake Village has less than 90 vacant lots and has little opportunity for future growth and is therefore entirely dependent on maintaining and raising current property values to support the annual budget; now therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TAYLOR LAKE VILLAGE, TEXAS:

Section 1. The City Council of the City of Taylor Lake Village hereby expresses its opposition to the expansion of the Houston Port Authority into our predominantly residential communities and asks that an alternative site in a suitable community be considered.

PASSED, APPROVED, AND RESOLVED this the 19th day of August, 1998.

CITY OF TAYLOR LAKE VILLAGE

Einar H. Goerland

Einar H. Goerland, Mayor

ATTEST

Alice Cumming

Alice Cumming, City Secretary

RESOLUTION NO. 99-559

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TAYLOR LAKE VILLAGE, TEXAS, IN OPPOSITION TO THE PROPOSED PORT OF HOUSTON AUTHORITY BAYPORT CONTAINER FACILITY AND IN FAVOR OF A REGIONAL PORT CONCEPT FOR GALVESTON BAY.

* * * * * *

WHEREAS, the Port of Houston Authority has proposed a container facility at Bayport that will require utilization of over 100 acres and will generate peak traffic demand at build out of approximately 7000 trucks per day; and

WHEREAS, the Bayport container facility plan was prepared by the Port of Houston Authority without a public participation process that allowed stakeholder input to the design process; and

WHEREAS, the Bayport container facility will generate significant air quality impacts from the diesel trucks, diesel ships, diesel cranes and diesel vehicles that will be active at the Bayport container facility; and

WHEREAS, the Bayport area is currently violating the federal health-based standard for air pollution; and

WHEREAS, monitoring data indicates that the federal health standard for fine particle air pollution is being exceeded downwind of the Bayport facility; and

WHEREAS, the Bayport container facility is adjacent to residential developments at El Jardin del Mar, Seabrook, Shoreacres and Taylor Lake Village that will be negatively impacted by the noise, light and air pollution from the Bayport facility; and

WHEREAS, residential areas throughout the Bay Area will be negatively affected by traffic and air pollution generated by Bayport; and

WHEREAS, Galveston Bay is a nationally-important estuary; and

WHEREAS, the likelihood exists that the Bayport container facility ultimately will be dredged to 50 or more feet to accommodate the mega-ships that are being constructed today; and

WHEREAS, a channel constructed to a depth of 50 or more feet into the Galveston Bay system as far up as Bayport would increase salinity levels and decrease marine productivity in Galveston Bay; and

WHEREAS, other sites exist in the Galveston Bay system that are not adjacent to residential developments; and

WHEREAS, other sites exist in the Galveston Bay system that are better served by rail than is the Bayport site and would generate less truck traffic and less air pollution than would Bayport; and

WHEREAS, one site exists in the Galveston Bay system that is already approved for 50 foot channel depths and will have significantly less impact to the Galveston Bay system than would a 50 foot channel to Bayport; and

WHEREAS, a regional approach to container facility siting that considers the entire Galveston Bay system is desirable; and

WHEREAS, a regional approach to container facility siting could provide for the public involvement and stakeholder participation that never occurred prior to the development of the plan for the Port of Houston Bayport Facility.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Taylor Lake Village, Texas:

1. The City of Taylor Lake Village is opposed to the permitting, licensing and construction of the proposed Port of Houston Authority Bayport container facility.

2. The City of Taylor Lake Village is committed to a regional container port siting process that considers all reasonable sites within the Galveston Bay system, fully develops environmental and economic information as part of the input into the siting process and fully integrates stakeholders into the process and considers their input in the decision-making process regarding regional port site selection.

PASSED, APPROVED and RESOLVED this the 4th day of August, 1999.

Einar Goerland
Mayor

ATTEST:

Deborah L. Bludworth
City Secretary

RESOLUTION NO. 99-549
OPPOSING SENATE BILL 1502

A RESOLUTION OPPOSING SENATE BILL 1502 WHICH IS AN EMERGENCY BILL BEING SPONSORED BY SENATOR LINDSEY RELATING TO THE CONDEMNATION POWERS OF NAVIGATION DISTRICTS, THE ABILITY OF NAVIGATION DISTRICTS OR PORT AUTHORITIES TO FORM LOCAL GOVERNMENT CORPORATIONS AND PROCUREMENT POWERS OF NAVIGATION DISTRICTS. (SECTION 62.106, WATER CODE)

WHEREAS, Senator Jon Lindsey has introduced S.B. 1502 at the request of the Houston Port Authority to change section 62.106, Water Code to eliminate the following; [(d) "NO RIGHT OF WAY MAY BE CONDEMNED THROUGH ANY PART OF AN INCORPORATED CITY OR TOWN WITHOUT THE CONSENT OF THE LAWFUL AUTHORITIES OF THAT CITY OR TOWN"]; and

WHEREAS, This bill would seek to eliminate or subordinate the powers of all Municipalities to appointed officials as they relate to navigational districts or port authorities to consent or withhold its consent; and

WHEREAS, Senate Bill 1502 promotes the rights of appointed officials of quasi-governmental organizations above the rights of elected officials of municipalities throughout the State of Texas;

WHEREAS, S.B. 1502 further requests amendment of SECTION 2, subsection 431.003(3), Transportation Code, to read as follows "local government means a municipality [or] county or navigational district or port authority created under Article III, Section 52 or Article XVI Section 59, Texas Constitution, or other public port authority."; and

WHEREAS, Section 4. States "The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three separate days in each house be suspended, and this rule is hereby suspended."; and

WHEREAS, The Executive Director of Houston Port Authority on March 18, 1999 in a public meeting of the Harris County Mayors and Councils Association stated that the Houston Port Authority is responsible for the above requested changes due to the City of Seabrook enacting Ordinance No. 98-15 "AMENDMENT TO THE

10993

COMPREHENSIVE ZONING ORDINANCE ENUMERATING CERTAIN PROHIBITED USES FOR CLARIFICATION PURPOSES INCLUDING THE PROHIBITION OF RAIL TRACKS AND ASSOCIATED USES";

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TAYLOR LAKE VILLAGE, TEXAS

THAT, the City Council of the City of Taylor Lake Village **adamantly opposes Senate Bill 1502 and demands that Senate Bill 1502, which usurps the powers and duties of elected officials, be deleted.**

AND FURTHER, that the City of Taylor Lake Village encourages all Cities in Texas to actively oppose this infringement upon their powers to govern.

PASSED AND APPROVED this the 7th day of April, 1999.

Eivan H. Goerlaut

MAYOR

ATTEST:

Deborah L. Bludwoth

CITY SECRETARY

RESOLUTION 01-618

A RESOLUTION OF THE CITY OF TAYLOR LAKE VILLAGE, TEXAS, REAFFIRMING THE CITY'S OPPOSITION TO EXPANSION PLANS OF THE HOUSTON PORT AUTHORITY AND ACKNOWLEDGEMENT OF FURTHER HAZARDS & VULNERABILITY DUE TO TERRORIST ACTIONS.

* * * * * * * * * * * *

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TAYLOR LAKE VILLAGE, TEXAS:

WHEREAS, the City of Taylor Lake Village is a tranquil, residential community with a small-town atmosphere; and

WHEREAS, the City of Taylor Lake Village has chosen not to pursue heavy industrial enterprises which may disturb the peace, tranquility, health, safety, and welfare enjoyed by its residents; and

WHEREAS, the Houston Port Authority plans an expansion of the Bayport complex, including a large scale railroad yard for loading and unloading containers; and

WHEREAS, the peace, tranquility, health, safety, and welfare of the citizens of the City of Taylor Lake Village will be disturbed by noise, light, water and air pollution from the 24 hour per day operation of trains, cranes, trucks and other heavy equipment; and

WHEREAS, this expansion will have an extreme negative environmental impact on the City of Taylor Lake Village and surrounding areas; and

WHEREAS, the City of Taylor Lake Village Resolutions 99-544, 99-559, and 00-579 have previously expressed the City's opposition to the Bayport expansion; and

WHEREAS, the terrorist attacks of September 11, 2001 constitute further evidence that the location of large industrial complexes, such as the Port of Houston, near residential communities is dangerous and creates and unacceptable hazard to the City of Taylor Lake Village citizens and citizens of surrounding communities; and

WHEREAS, the recent attacks and events in our country also prove that additional time is needed for citizens and cities to comment on the EIS when it is released to the public;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF TAYLOR LAKE VILLAGE, STATE OF TEXAS:

THAT, the Mayor and City Council of the City of Taylor Lake Village does reaffirm unanimous opposition to the expansion plans of the Houston Port Authority and acknowledges the additional dangers to the health, safety, and welfare of our citizens; and, further,

THAT, the City Council respectfully requests that the public be granted at least 180 days to comment following the release of the DEIS due to the recent terrorists' attacks and threats, the magnitude of this project and its effect on the City of Taylor Lake Village and surrounding communities.

PASSED, APPROVED, AND RESOLVED, this 7th day of November 2001.

CITY OF TAYLOR LAKE VILLAGE

Natalie S. O'Neill, Mayor

ATTEST:

Lorena E. Briel, City Secretary

Res. 01-618
11/07/01

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WR

MAR 1 1 2002

March 5, 2002

Mr. Kerry Stanley
U.S. Army Corps of Engineers
Galveston District
Regulatory Branch
P.O. Box 1229
Galveston, Texas 77553-1229

Sent by certified mail: 7000 1670 0007 1952 7965

Re: Draft Environmental Impact Statement for Proposed Bayport Terminal

Dear Mr. Stanley:

The City of Seabrook hereby submits these comments in response to the instructions contained in the document delivered to the city.

The official position of the City of Seabrook is the project is incompatible with the existing development of the city, would negatively affect the future expansion of the land use patterns of the city, and poses unacceptable threats to the environmental, economic, social and physical character of the city and its citizens. Additional events following 9-11 make containerized shipping facilities located near residential populations a serious question of national and local security. A more logical and compatible choice would be to place such a project in a more centralized industrial complex, such as Spillmans Island.

4-51
21-51
2-162

The following comments are provided to address the specific issues Seabrook perceives and the statements with which the City takes exception.

INTRODUCTION AND PURPOSE

The City of Seabrook abuts the proposed project on the south and any development of the magnitude proposed will have direct and serious consequences for the city. In addition, Seabrook provides public services to residential areas outside the city limits and has a responsibility as a public utility to consider the welfare of its customers. Specifically Seabrook serves the El Jardin Del Mar Subdivision with water, and sewer services. As such the welfare of the residents is important and the proposed project will have devastating

19-12

impact on this neighborhood. We can think of no mitigation measures, and none are proposed that will prevent the complete destruction of this residential community once it is surrounded by trail yards, storage container yards, 24 hour per day truck movements, noise, light, and congestion that is clearly in the proposed project. 19-12

Seabrook opposes the project at the Bayport location because the design, scheduling, resulting direct impacts on the transportation system and the lack of environmental, social, and economic sensitivity are all ignored in the proposal. As mentioned above, the more logical choice for the project is Spillmans Island. It would seem that an engineering endeavor of building on spoil would create more jobs for construction than other alternatives preferred by the Port of Houston. 29-90 2-162

FUNDAMENTAL PREMISES OF THE PROJECT

The Bayport Project is promoted based on an economic belief that Houston will become one of five United States Mega Ports in the 21st Century. Public pronouncements by the Executive Director, Chairman and Public Relations Staff of the Port of Houston have consistently promoted Houston as the premier port of the Gulf Coast. Their goal is to position Houston as the largest and most efficient Port complex in the Gulf of Mexico. Fundamental to that accomplishment, and not denied by the Port of Houston, is the worldwide shift to large vessels known as Post Panamax Vessels. These ships are too large to transit the Panama Canal but can carry up to 7000 containers on each ship. Current container ships carry 2000 to 4500 containers. If Houston is to rise to the status of one of America's five mega ports it must accommodate the Post Panamax ships. Despite the assertions of the Port of Houston to the contrary it is not possible to be competitive in a shifting world market economy if the major container port on the gulf coast is not capable of serving these ships. It is Seabrook's conclusion that the Port of Houston Authority is submitting a permit application that is based on a Master Plan and Business Plan that is fundamentally dependent upon the development of a port facility that must serve Post Panamax ships. Those ships require channel depths of 52 feet, without exception, and the Port of Houston Authority has completely ignored the environmental impacts of a 55-foot depth channel from the Gulf of Mexico to Bayport Channel. Such consideration is required of the Corps of Engineers under 42 U.S.C. § 4331 and 33 U.S.C. § 1451. 1-47

The DEIS contains a section entitled Economics in Vol. V, page A1.3-7, which states: "However, the USACE, in appropriate cases, may make an independent review of the need for the project from the perspective of the *overall public interest*." Because of the requirements in 33 C.F.R. 320.4 regarding the Public Interest "*All factors* which may be relevant to the proposal are considered, including the cumulative effects thereof." Seabrook considers the independent review of the need for the project to be warranted. The reliance upon the Port of Houston Authority to assert from its own studies that it is building for the 21st

Century and seeks to be one of five U.S. Mega Ports but not planning for Post Panamax ships defies logic and the facts as presented by their own officials. This conflict raises issues of public credibility or rational reliability. 1-47

PROJECT OVERVIEW SECTION

The applicant admits the project would require significant improvements to the roadway system (SH-146) that is the only north bound evacuation route for Seabrook, Kemah, and eastern Galveston County. The proposed project statement admits the port cannot operate without significant roadway improvements yet ignores any timely planning or construction of those same facilities. The Texas system of transportation planning is a competitive process that makes no commitment to proposals until they reach the Transportation Improvement Plan stage (TIP). The applicant leaves the surface transportation system responsibilities to others with no certainty that improvements will ever be made in a timeframe that will mitigate the massive traffic generation the project will create. Thus, and unlike the public process throughout the state and nation, a major contributor to traffic congestion, air quality and land use impacts has not taken the responsibility to include the off site impacts of his project as part of the development plans they are proposing. Such indifference violates the provisions of the National Environmental Policy Act and should not be permitted. 27-96

HOMELAND SECURITY REALITIES - POST 9-11

The applicant bases its project need statement on the state of the container industry prior to September 11, 2001, when no limits were in place to restrict the movements of containers into United States ports. After 9-11 ports have begun to experience transit limitations that reduces the number of ships, of any type, that can transit into Galveston Bay, and thus the premise that demand for berths will be dependent only on land side facilities is invalid. Security measures have and will continue to reduce the number of vessels that can transit the upper Galveston Bay area. The reduction in vessel transits makes the upper Bay area subject to both landside facility capacity and operational restrictions. The premise therefore that 28 new berths will be needed is not valid unless the Houston Ship Channel is both widened and deepened and security measures are developed to restore the transit capacity of the Bay and channel. The need for the project must be re-examined with the new restraints and economic realities and the USACE should conduct that analysis independently of the applicant. *The well demonstrated fact that only 2% of all containers are actually inspected,* renders the containerized shipping process a serious National Security threat without substantial changes being implemented. The Port of Houston is silent on this issue. Failure to recognize this issue by the USACE in sharp contrast to heighten security at federal facilities including the local office USACE in Galveston sends mixed if not serious questions to the nearby residential population. The USACE should address the following question: 1-48 21-52

Since 9-11, federal facilities have increased security at local offices, including the USACE office in Galveston. Additionally, the USCG and US Customs only inspect 2% of all containers. How can the USACE meet the letter and spirit of NEPA regarding security and be silent on this issue? 21-52

The failure to comment on this publicly is viewed by the City of Seabrook as a major omission on the part of the Port of Houston. Should the USACE not address these issues, the City of Seabrook must ask its Congressional representatives how the USACE can ignore them after the President of the United States, our nation's Commander in Chief, stated that this nation is "in a state of war with terrorists and terrorist activities"?

CRUISE TERMINAL FACILITIES

The applicant has publicly stated that the Cruise Terminal Facilities will be built "as needed" and designed for the dual purpose of Cruise and Containers. The application, consistent with NEPA policy, should describe the project in the terms most damaging to the environment (including socio-economic and security issues), and therefore the entire project should be treated as a container terminal. The applicant fails to consider the impacts of those five berths on traffic, noise, light and congestion if operated as container berths. Because they will be designed for that purpose, the failure to add their impacts to the total container plan is a significant deficiency. The full twelve berths must be used as container berths to be consistent with the described goals of the project. 23-159

Additionally, cruise terminals substantially increase public activity near uninspected containers creating an enhanced target of opportunity for potential terrorist activities. 21-53

PROJECT ALTERNATIVES

All of the project alternatives share common faults. They include the depth of the required channels and turning basins to serve Post Panamax ships, the land use impacts on adjoining and affected properties, transportation impacts, and a generally flawed assessment of the environmental, social, and planning impacts. 2-163

Depth and configuration of channels, berths and docks.

As stated previously, the Master Plan of the Port of Houston Authority is to position Houston as one of the five Mega Container Ports serving the United States in the 21st Century. The DEIS makes no case for such a Master Plan and none is assumed by the USACE, however the economic justification of a project is a relevant examination in the EIS process ("All factors that may be relevant to the proposed development were considered", DEIS, Vol. 1, Abstract). Post Panamax ships require 52 feet of draught (http://www.ldeo.columbia.edu/eeg/e9282_lect06/sld031.htm, Columbia 1-47

University) and such a ship is shown on Sheet 3, DEIS Vol. V, Appendix 1-1). The depth of the berth is shown at 42 feet, which is too shallow for the ship depicted by the Applicant. The Channel to accommodate these ships must also be 52 feet and therefore the Houston Ship Channel would also have to be 52 feet deep. There is no consideration in any socio-economic tables of the cost of deepening the channels or maintaining the channels.

22-152 ∞

6-125

Land Use Impacts.

Bayport is located adjacent to developed residential property and a significant environmental wetlands conservation area designated by the Houston-Galveston Area Council under a planning program supported by the EPA. The impact of "one of America's five principal container ports in the 21st Century" is significant and incompatible with those existing land uses. Of the alternatives considered Bayport has the greatest impact on land use and Spillmans Island has the least. Contrary to the data shown in Tables E-1 through E-5 Bayport has the following characteristics:

4-51

2-162

Table Reference	Bayport Statement	Seabrook Response
E-1 (7)	Minimal Dredging	Turning Basin will be dredged from scratch, channel will have to be deepened to 55' for Post Panamax ships, and Houston Ship Channel will have to be deepened to 55' will require extensive lowering of existing properties.
E-1 (7)	Environmental Concerns: Fish, Birds, Wetlands, Plants	Air quality emissions; inadequate roadway access, inadequate drainage, shoreline erosion.
E-1 (7)	Social Concerns: Heavy Residential to North, Residential S and SE, recreation	This is true for the Bayport site. It must be pointed out that Spillmans Island (#53) has "None" listed under this category.
E-2 (Bayport #7)	1050 acres available	Adjacent landowners have refused to sell family lands for industrial development. Port is undertaking Condemnation proceedings. It must be pointed out the Port owns all of Spillmans Island. Land acquisition costs could be diverted to anticipated higher construction costs.
E-7 (Bayport #7)	All other categories	Directly contradicts statements in Table E-1.

22-154 ∞

4-53

Table Reference	Bayport Statement	Seabrook Response
E-3	Dredging Requirements	Ignores Bayport and Houston Ship Channel deepening for Post Panamax Ships. Ignores land alteration necessary to route on-site storm drainage and ignores the fact that Pine Gully Ditch (owned by Harris County Flood Control District) is presently at 100% capacity and cannot be expanded without severe impacts on wetlands, recreation and water quality. Port drainage proposals would use all available area capacity and prevent development of over 500 acres of land in Seabrook for any urban purpose.
E-4	Availability	Applicant does not own 1086 acres of land (see Table E-2). Under Spillmans Island, the applicant owns entire site.
E-4	Operational Effectiveness	Applicant proposal is to operate Bayport in concert with Barbour's Cut. If so there is no need for a second inter-modal yard within 9 miles nor co-development areas to store empty containers.
E-4	Site Constraints	Pine Gully Watershed is at 100% capacity. Development will require relocation of pipelines, impact industrial operations at plants, and impact wetlands.
E-5	Land Use	Land Use would be significantly impacted for all existing residential development on the north and east. Land is not now "undeveloped" but is residential and wetlands preserve.
E-5	Socio-economic Environment	Creates the most significant impact of all alternatives on urban established residential development, existing impacts on low and moderate-income persons and elderly. Ignores all off-site impacts and land uses within 1 and 3 miles of the site (a standard criterion.
E-5	Social Impacts and Enviro-Justice	Applicant is currently pursuing condemnation of properties needed to build the complex. The applicant ignores the significant direct impacts on the adjacent and isolated community of EL Jardin, Baywood and other subdivisions on the east side of the proposed complex. Ranked as the 2nd highest impact of alternatives for EJ (Shoal Point DEIS).

22-155

22-156

4-54

6-126

5-31

Table Reference	Bayport Statement	Seabrook Response	
E-5	Surface Transportation	Acknowledges need for transportation improvements but declines any responsibility to fund or create improvements in a timely fashion to complement the schedule of the development. Relies on others to cure applicant created transportation problems.	27-97
E-5	Noise	Operations are acknowledged to exceed EPA noise minimums for residential land uses and would be significantly greater than any of the other alternatives. Spillman Island notes "No adverse noise impacts".	3-45
E-5	Aesthetics	Applicant site is the most negatively impacted of the alternatives.	28-10
E-5	Cultural Resources	The numbered sites listed may be of local significance and warrant further review.	16-5
E-5	Parks and Recreation	Robinson Park abuts the site on the south. Pine Gully Park receives runoff from the proposed site and is directly impacted by the proposed port according to their engineers who plan to direct drainage into Pine Gully.	32-22
E-5	Hazardous Materials	Applicant admits up to 12% of shipments contain hazardous materials. These are in direct proximity to the residential areas both north and east of the site.	8-10
E-5	Shoreline erosion	Wakes will affect Seabrook shoreline and applicant is proposing only to protect the north side of the Bayport Channel. Additional protection is needed south because of prevailing winds, tides, and wake dynamics.	15-33
E-5	Hydrology and Floodplains	Pine Gully is at 100% capacity and applicant discharges will prevent any other development of the remainder of the watershed without significant detention, which destroys all value of the properties that now are zoned for reasonable development.	33-9
E-5	Ecology	Live Oyster reefs would be impacted (Shoal Point DEIS); High probability of unrecorded terrestrial cultural resource sites (Shoal Point DEIS)	12-38

Community Sovereignty

The Bayport Project violates the sovereignty of the City of Seabrook by proposing the exercise of the power of Eminent Domain within the city without 22-153

any authority. The Applicant proposes to construct rail access lines across land within Seabrook that is in direct violation of adopted city ordinance. The applicant has failed to conform to the laws of the State of Texas. PRIVATE PROPERTY PRESERVATION RIGHTS ACT, §2007.01, Tex. Gov. Code, Vernon's, 2001, and therefore this application should be denied.

2-153

Better Alternative Site - Spillmans Island

Spillmans Island is a far better site for the following reasons:

- Already located in an industrial area.
- Uses land owned by Port of Houston, will not require land acquisition or condemnation costs.
- Minimal conflict between vessels and recreational boaters.
- No adverse noise impacts.
- Significantly fewer home rights in the immediate area.
- Additional construction costs will fuel additional construction jobs stimulating the local economy in the near term.

2-162

ECOLOGICAL CONCERNS WITH CONTAINERIZED SHIPPING

Because of the petrochemical complex of the Houston area, Galveston Bay is crisscrossed with many pipelines, currently laid at depths too shallow for a 52" deep channel.

What environmental impacts will result from lowering of existing pipelines? Can NEPA requirements be met without addressing this issue?

12-37

Significant ecological impacts with containerized global commerce have been ignored. The problems arise in part from two sources: the first is the practical and economic reality that only 2% of containers can be impacted leaving a gaping hole in national, local and ecological security. The trade deficit, or the second, results in *one way, no deposit no return accumulation* of shipping containers negatively impacting the environment. Specifically

- Uninspected containers shipped to areas with high residential populations and tourist populations associated with cruise lines are attractive targets of opportunity jeopardizing security and contrary to the DEIS statement E3.13 Public Safety. *Sec. attached*

21-52

- Uninspected containers threaten the ecology and environment with potential adverse invasive species similar to fire ants, brown tree snakes, Mediterranean fruit flies and Formosa termites that can cause serious harm to the nation's natural environment and ecology. This fact is ignored in E3.20 Ecology.

12-34

- Surplus containers from one-way shipments will require excess land for storage, impairing the local visual impact and encouraging the disposal of containers to areas adverse to the property right impacts\ed by storage containers. This issue has not been considered per ES-18, 3.9-1 Aesthetics and Light or adequately in ES-14, 3.3-1 Socioeconomics. 4-52

CONCLUSION

In summary, the official position of the City of Seabrook is the project is incompatible with the existing development of the city, would negatively affect the future expansion of the land use patterns of the city, and poses unacceptable threats to the environmental, economic, social and physical character of the city and its citizens. The City is in full support of the Port of Houston expanding in an alternative site, such as Spillmans Island. 4-51 29-90

It must be noted that in order for the HPA to complete this project they would have to overturn municipal ordinances and condemn without consent, land within the City of Seabrook. At this time, the City of Seabrook has no intention of giving consent for condemnation and under section 62.106 of the Texas Water Code; HPA will need this consent. 22-53

Failure to address security post 9-11, in stark contrast to the USACE's own revised security measures since 9-11, is a glaring contradiction in protecting the comprehensive environmental issues clearly called for in NEPA regulations. 21-52

With the above information we respectfully request that the permit for PHA expansion at Bayport be denied and the Spillmans Island alternative be given its due consideration. We hope you find this information helpful and would be available for questions to clarify our position. 29-90

Respectfully,

Mayor ProTem Herman Burton

Councilor Mike Laible

Councilor Buddy Hammann

Councilor Dick Rogan

Councilor Pete Braccio

Councilor Rick Sammons

Attached:
DEIS E5.13 Public Safety
US Coast Guard Report - Port Security Measures
NY Times "Port of Entry Now Means Point of Anxiety"

10994

3.13 PUBLIC SAFETY

3.13.1 Introduction

This section provides a general description of the existing public safety service available within the Three-County Region. Public safety service for this study area is shown on Table 3.13-1. This section also discusses the transport of hazardous materials. A discussion of Applicant storage of hazardous materials can be found in Section 3.14. Traffic safety is discussed in Section 3.5.

Fire protection/hazardous material response, law enforcement, and emergency medical service were inventoried within the study area. In particular, the existing Applicant emergency response capabilities were researched. The services consist of a manned fire station, two fire boats, and firefighters trained in structural firefighting, marine firefighting, hazardous material spill response, and emergency medical response. In addition to the typical equipment of fire engines, aerial ladders, rescue and pump trucks, heavy rescue units, and incident command capabilities, the Applicant has its own police department, consisting of 47 sworn officers and 35 contract security officers. The primary source of information for this EIS was telephone interviews with various local public service agencies and providers. For information on hurricane evacuations, the Harris County Office of Emergency Management website (www.hcoem.org/hurricanes.htm) was accessed for evacuation route maps.

3.13.1.1 Hazardous Materials Transport

Federal Regulations

The U.S Department of Transportation (DOT) provides regulations for the transport of hazardous materials in 49 CFR 170-179. The Superfund Amendments and Reauthorization Act (SARA) Title III requires each local emergency planning committee (LEPC) to prepare comprehensive hazardous substance emergency response plans. These emergency response plans are joint efforts of local law enforcement, fire departments, emergency medical service, local industry, and the community.

The Federal Railroad Administration (FRA), a part of the DOT, regulates railroad safety and enforces these regulations at rail facilities and wherever rail operations occur. FRA also regulates the movement of hazardous materials by rail. Rail cars containing hazardous materials must have proper documentation, including identification of the material on a placard and an emergency response telephone number. Cars that carry incompatible commodities cannot be placed next to one another.

The Surface Transportation Board Manual requires railroads to identify the following information when hazardous materials are being transported:

- Materials and quantity;
- Frequency of transporting the materials;
- Identification of reactive materials;
- Safety practices;

- Applicant's safety record on derailments, accidents, and hazardous spills;
- Contingency plans for releases; and
- Likelihood of a release.

Under the auspices of the Environmental Protection Agency (EPA), the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) regulates the handling of hazardous waste. If a spill of hazardous material were to occur, the cleanup of the spill would be regulated by the Resource Conservation and Recovery Act of 1976 (RCRA).

State Regulations

Texas follows the requirements of the SARA and does not impose any additional emergency response regulations. Various Texas agencies require notification when a hazardous material release by truck occurs. The hazardous substances emergency response plan includes lists of applicable state agencies to contact.

Local Involvement

There are 18 LEPCs within Harris County that coordinate under the Emergency Response Plan for Harris County to address emergencies including a hazardous material release. In Chambers County, releases are addressed by the Chambers County Emergency Management Plan – Annex Q – Hazardous Materials, and in Galveston County, releases are addressed by the Galveston County Emergency Management Plan – Annex Q – Hazardous Materials. All of the plans address:

- Incident classification;
- Personnel roles, lines of authority, and communication;
- Safe distances and places of refuge;
- Site security and control;
- Decontamination procedures;
- Emergency medical treatment and first aid;
- Response procedures; and
- Personal protection equipment.

Resources for the plans include, but are not limited to:

- Emergency medical services, fire departments, sheriff's departments, and hazardous material response groups;
- Texas Department of Public Safety and Texas Department of Transportation;
- Various federal agencies; and

CC: MIC from Lt. Cdr Hayser @ Seabrook Rotary

10994

Marine Safety Information Bulletin 31-01
Heightened Preparedness
and
Port Security Measures
December 4, 2001

Due to continuing national security concerns, the Captain of the Port Houston-Galveston is immediately implementing additional port security measures throughout the region which may directly affect maritime schedules and operations. Although there is not amplifying threat intelligence that is specific for the regional ports and Outer Continental Shelf at this time, this action is necessary as part of a comprehensive port security regime designed to safeguard human life, vessels and waterfront facilities from sabotage or terrorist acts.

1. Security Zones. The Captain of the Port has established security zones to regulate the circumstances under which certain vessels may enter, transit or operate within these areas, and exclude all other vessels from entering these areas. The primary intention is to recognize isolated, highly industrialized, waterway segments and restrict use to vessels engaged directly or in support of those industries. As such, waterway use by recreational and fishing vessels is being impacted in the following waterway segments:

Houston, TX: The Houston Ship Channel and all associated turning basins, bounded by a line drawn between Houston Ship Channel Light 132 (LLNR-24445) and Houston Ship Channel Light 133 (LLNR-24450) west to the T & N Rail Road Swing Bridge at the entrance to Buffalo Bayou, including all waters adjacent to the ship channel from shoreline to shoreline and the first 200 yards of connecting waterways;

Bayport, TX: The Port of Bayport Ship Channel and Turning Basin containing all waters south of a line drawn from Bayport Ship Channel Light 9 (LLNR-23295) and a western point at latitude 29-36.43'N longitude 095-01.29'W;

Texas City, TX: The Port of Texas City Channel, Turning Basin and Industrial Canal containing all waters bounded by the area south and west of a line drawn between Cut B Inner Range Rear Light (LLNR-24770), and Texas City Channel Light 19 (LLNR-24810);

Freeport, TX: The Old Brazos River Cut, and the Dow Barge Canal containing all waters bounded by its junction with the Intracoastal Waterway by a line drawn between the eastern point at latitude 28-56.45'N longitude 095-18.2'W, and the western point at latitude 28-56.37'N longitude 095-18.33'W.

Security Zone Regulations:

(a) *Applicability.* All vessels and watercraft are excluded from operating on the waters described in this section *except:*

(1) Commercial vessels operating at waterfront facilities;

(2) Commercial vessels transiting directly to or from waterfront facilities, under specific approval from the appropriate port and/or facility authority;

(3) Vessels providing direct operational/logistic support to commercial vessels identified in this section;

(4) Vessels operated by, or under the direction of, the appropriate port and/or facility authority;

(5) Vessels operated under the authority of cognizant federal, state, county, or municipal agencies.

(b) *Regulations.*

(1) Entry into, transit through, fleeting, loitering or anchoring within these areas is prohibited unless authorized by the Captain of the Port Houston-Galveston or his designated on-scene representative.

(2) The designated on-scene representatives are "Houston Traffic", and the USCG Patrol Commander and may be contacted via VHF/FM Marine Channel 16.

2. Vessel Controls. The USCG will continue to evaluate each commercial vessel advance notice of arrival/departure. Operators are advised that due to heightened security concerns, transit delays can be anticipated. The COTP will require certain vessels to undergo a USCG port security boarding prior to granting in/outbound clearance, and/or require a USCG Sea Marshal team to escort vessel transits. The USCG will continue to monitor rapidly changing port dynamics, to direct resources appropriately and manage traffic queues efficiently.

3. Maritime Domain Awareness. The USCG will continue to conduct security patrols within the ports and offshore. Operators are advised to maintain enhanced security measures, and to report any suspicious activities to MSO Houston-Galveston at: (713) 671-5100; MSO Galveston at: (409) 766-5417; or VTS Houston/Galveston at: (713) 671-6103.

KEVIN S. COOK
Captain, U. S. Coast Guard
Captain of the Port

Marine Safety Information Bulletin 29-01
Reporting of Unusual Security-Related Observations

November 9, 2001

The COTP recognizes that regulated Vessel Owners, Operators, and Waterfront Facilities throughout the region have taken extensive measures to upgrade their physical security. As the nation's war on terrorism continues it is important to preserve the safety and security measures already in place while continually re-evaluating and improving the effectiveness of these measures.

This MSIB is provided for the purpose of identifying for the Maritime Industry a list of contacts where suspicious maritime activities may be reported when observed on the waterways of the Houston-Galveston COTP zone. Vigilance by the maritime community is helping to ensure that the nation's transportation system remains safe and minimizing the chance that vessel and port operations become disrupted. The following mediums may be used to contact the Coast Guard in the Ports of Houston, Galveston, Texas City and Freeport 24 hours a day:

By Phone	Houston-Galveston Comms Watch	(713) 671-5100, Ext. 0
	Air Station Comms Watch	(281) 481-0025, Ext. 0
	Group Galveston Opcen	(409) 766-5620
	FBI Hotline	(713) 693-5000
By VHF	Houston-Galveston Comms Watch	Channel 81A
	Group Galveston Opcen	Channel 16
	VTS Houston Traffic Center	(North of Baytown) Channel 11
		(South of Baytown) Channel 12

The National Response Center (NRC) remains the central point of contact for reporting releases and spills of oil and / or hazardous materials into the nation's waterways as well as radiological, biological, and disease causing releases anywhere in the United States. However, it is also the central contact point for reporting suspected and actual terrorist incidents and or suspicious activities.

The NRC can be reached at 1-800-424-8802

The following is a list of activities that may be considered suspicious in the vicinity of critical waterfront facilities and vessels as well as energy and transportation related infrastructure:

1. Unknown persons taking photographs of vessels, facilities or infrastructure
2. Unknown persons attempting to gain access to facilities, vessels, or infrastructure related areas
3. Suspicious individuals establishing businesses or roadside food stands adjacent or in proximity to facilities or infrastructure
4. Unknown persons loitering in the vicinity of facilities, vessels, and infrastructure for extended periods of time
5. Unknown persons calling facilities to ascertain security procedures
6. Vehicles with personnel in them loitering in the vicinity of facilities, vessels, and infrastructure for extended periods of time, perhaps taking pictures or making sketches or diagrams
7. Small boats with personnel on them loitering in the vicinity of facilities, vessels, and infrastructure for extended periods of time
8. Suspicious General Aviation aircraft operating in the vicinity of facilities, vessels, and infrastructure for extended periods of time
9. Any Bomb threat to a vessel, waterfront facility, or transportation related infrastructure asset
10. Unknown persons attempting to gain information about facilities, vessels or transportation related infrastructure by walking up to personnel or their families and engaging them in conversation
11. Suspicious vendors attempting to sell merchandise in the vicinity of facilities, vessels, or transportation related infrastructure
12. Theft of facility or company vehicles, vehicle passes, personnel identification cards, personnel uniforms, or documents containing Standard Operating Procedures (SOP's)
13. Unknown or suspicious workmen or repair personnel trying to gain access to a vessel or facility
14. Suspicious emails on the internet, Unknown Public Affairs personnel trying to gather information regarding a facility, vessel, or transportation related infrastructure
15. Suspicious package drop offs or attempted drop offs
16. Anti-American sentiment being expressed by employees or vendors
17. Anti-American pamphlets, or flyers distributed to employees or placed on windshields or in parking lots.

During working hours, questions and reports of prohibited or suspicious activities may be reported to MSO Houston-Galveston at (713) 671-5100, MSU Galveston at (409) 766-5400, or VTS Houston/Galveston at (713) 671-5103.

MARK A. SWANSON
Commander, U. S. Coast Guard
Alternate Captain of the Port

CC: MC
FYI

The New York Times

1C 9924

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...ntinued on Page B4

Port of Entry Now Means Point of Anxiety

By AL BAKER
and JOHN SULLIVAN

Late last month, the commandant of the United States Coast Guard met with leaders of the International Maritime Organization on the banks of the Thames in London to propose sweeping changes in the way the world conducts international shipping.

Concerned about terrorism after Sept. 11 and all too certain that United States ports and others around the world were vulnerable to sabotage, Adm. James M. Loy laid out a blunt, far-reaching plan for the organization's 162 member nations: conduct background checks on the crews of every major cargo vessel, create a reliable system of identifying exactly what is being shipped in the millions of anonymous metal boxes the size of railroad cars, and spend the necessary amounts to protect the ports.

What happens to the admiral's ambitious proposals will not be known for months, but the problems they are meant to address — the inability of the United States to safeguard its more than 100 seaports or to monitor effectively the billions of tons of cargo that pass through them — have been painfully apparent for decades, according to government officials and private industry experts.

Only about 2 percent of the cargo arriving at United States ports is thoroughly searched, chiefly because of a lack of personnel and the demands of carriers and their customers.

Uninspected cargo could provide a loophole for terrorists.

The ports, attractive targets for terrorism, are poorly protected and are patrolled by a Coast Guard whose budget has been stretched thin. Moreover, the creative attempts to eliminate the threats have produced spotty results.

Indeed, a litany of errors and shortcomings at the ports has been detailed for years in government reports and Congressional testimony and reflected in the very real experience of a failed, decades-long effort to stop drug smuggling through the ports.

The holes in the net, in fact, can be glaring. Last year, a New Jersey man pleaded guilty to criminal charges related to smuggling a 60-ton armored riot-control vehicle through a West Coast port. Five to ten million pounds of chemical chlorofluorocarbons — air-conditioning fluid that is banned from import to the United States — is smuggled into the country every year, experts estimate. And the special program set up by the Customs Service to inspect suspect ships has largely failed because it could not even get accurate information on what the ships were supposed to be carrying and did not have the high-tech equipment and personnel to conduct the searches.

"The security challenges are enormous," Admiral Loy said last week, recalling the talks about the country's and the world's ports. "Are they secure? I am afraid my answer to the question is no."

He is hardly alone in his pessimism.

"The system for the detection of contraband is inadequate," said Raymond W. Kelly, the former commissioner of the Customs Service who will be the next police commissioner in New York. "And that can include anything from drugs to the tools of terrorism."

Those tools, government officials have come to fear, can range from a small amount of chemical explosive to the makings of a radioactive bomb.

Not surprisingly, officials in government and the shipping industry say, the Sept. 11 attacks have produced yet another push by

Continued on Page B8

Keith Meyers/The New York Times

A customs agent and national guardsmen checking a container of rice in Brooklyn.

AN OVERVIEW: DEC. 22, 2001

New Leaders in Kabul, Pledges of Support and the Cleanup Operation

Hamid Karzai, an English-speaking Pashtun forced into exile when the Taliban came to power five years ago, was sworn in as head of an interim power-sharing government in Afghanistan and pledged to bring peace and unity to his shattered nation after decades of war, ethnic strife and barbaric religious oppression.

A NEW BEGINNING With pledges of support from the United States and other Western allies, Mr. Karzai and a 29-member cabinet, including 2 women, assumed office in ceremonies in Kabul before 2,000 international dignitaries and Afghan leaders, many of whom wept at the spectacle of the first peaceful transfer of power in their country in years.

The new government has a six-month mandate, after which Afghan elders will form another government to rule until elections two years later. There is much to do. With its cities in ruins and its countryside a moonscape of drought and poverty, Afghanistan faces daunting needs: jobs, health care, schools, agricultural reforms and on and on — virtually everything a nation provides for everyday life. The World Bank and the United Nations said in a recent report that Afghanistan would need $9 billion to rebuild over the next five years. It was a big day in Kabul, but only a start.

PRIDE AND SATISFACTION In Kabul and across Afghanistan, many people listened to radio broadcasts of their nation being reborn, and some later spoke with pride and satisfaction of the end of an era of terrorism and the beginning of another, promising peace if not prosperity. The inauguration was hailed in Washington, Moscow and many capitals in Europe and Asia.

In the background, American officials continued to insist that a convoy attacked by United States warplanes on Friday had been carrying Taliban and Al Qaeda leaders, not tribal elders headed to the inauguration ceremonies, as an Islamic press association contended. ban leader, Mullah Muhammad Omar. In a Pakistan hospital, 18 foreign Al Qaeda fighters, captured and wounded, told of the hell they had faced in Tora Bora — the ferocious American bombing, the lack of food and supplies, the terrible cold. Still, they voiced no regrets at having left their homelands to join Mr. bin Laden, the suspected mastermind of the Sept. 11 attacks that killed 3,000 people.

SECURITY AND EDUCATION International peacekeepers providing security for the new government will number 3,000 to 5,000 at full strength in mid-January. For now, 100 British commandos are assigned where they are needed least, in quiet Kabul. The roads to Kandahar, Jalalabad and other cities are controlled by bandits who have killed travelers and cut the flow of aid. In time, the force may be used outside Kabul. But the mission now is mostly political and symbolic — to dilute the influence of the Tajik-dominated Northern Alliance and uphold a

boys to be warriors for Islam. Rebuilding the systems will be tough. Textbooks are scarce, classrooms are a shambles. Many children will start from scratch. But teachers who met in Kandahar last week said the challenge was a joy. "We've all been praying for this day," said Hama Sofia, 58.

FOREIGN POLICY The war on terrorism has had another effect in Washington, transforming President Bush's foreign policy team into a tougher, more focused group that has sharply defined America's mission. Secretary of State Colin L. Powell, Defense Secretary Donald H. Rumsfeld and Condoleezza Rice, the national security adviser, are seen nowadays as loyal adjutants to a wartime leader.

It has been apparent for decades that America's more than 100 seaports, and the billions of tons of cargo that pass through them, are almost impossible to safeguard against terrorist attacks. Little has been done.

NATION CHALLENGED: Politics, Protection and Fair Play

ARGO

After Attack, U.S. Ports of Entry Become Points of Anxiety

Continued From Page B1

gislators to beef up security and ack down on criminals operating in d around the country's ports, any of which are near highways, il lines and airports.

Interviews with law enforcement d industry experts suggest that the ly way to envision secure ports is re-examine the entire way interna- nal shipping functions.

United States cargo trade has dou- d in the last 10 years and is ex- cted to do so again in the next cade.

Admiral Loy, a career seagoing icer who became Coast Guard mmandant in May 1998, has said only way to ensure that it is safe to take apart the transportation stem from "stem to stern" and ssemble it.

A feel for the dimensions of the oblem can be gained almost any on the docks in Red Hook, Brook- . On one recent morning, another nt ship came to rest, this one from ypt via the United Arab Emirates.

customs inspector, Michael gler, and his crew stood there, arfed by the brightly colored car- containers stretched for hundreds feet along the ship.

Beyond this ship, there are thou- ds more, maybe 10,000 a year, t come in and out of New York's rbor. Last year, more than three llion containers landed on the ooklyn docks, each weighing ghly 13 tons.

Nearby, in the shelter of an old rehouse, more customs inspectors l national guardsmen were pull- apart two container boxes, one m Pakistan bearing pudding mix l another from India filled with 40- nd bags of basmati rice. Search- for contraband or worse, they do work of laborers, lifting the bags, ding them on a skid, and carting m away to load some more. rching one box can take all after- n.

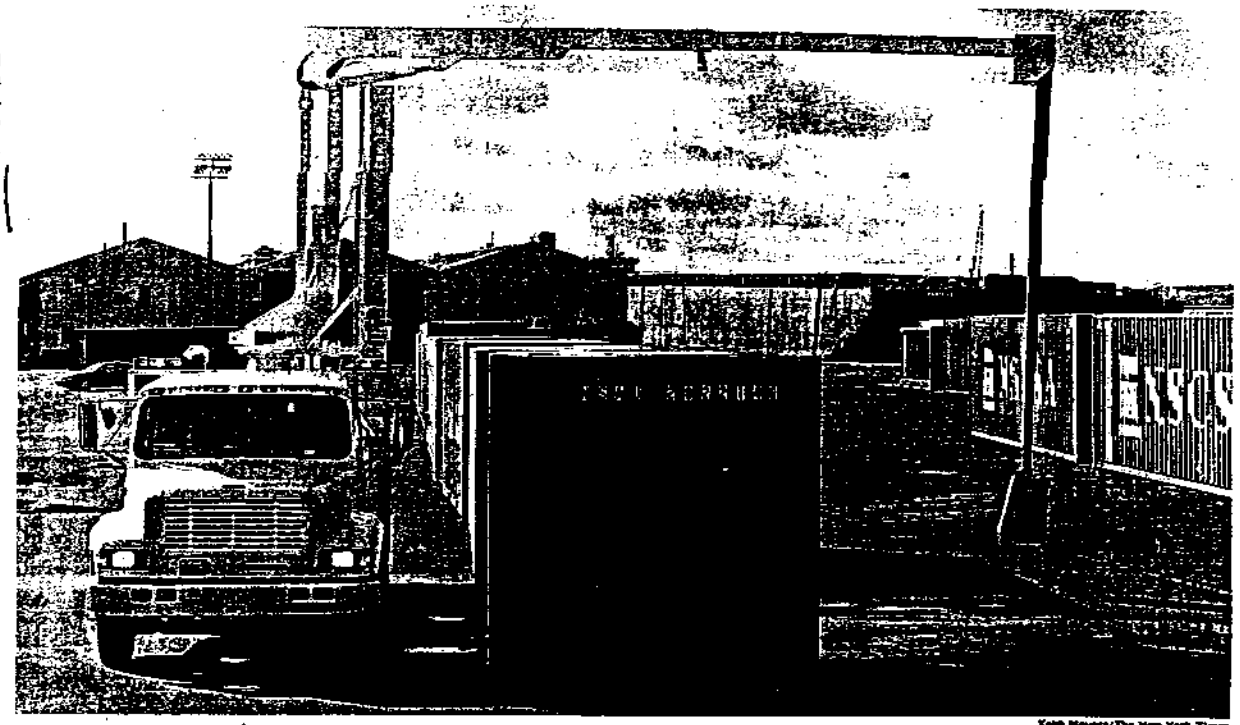
The containers were being rched because something looked ong. An electronic scan by a $1 llion machine aroused suspicion, it turned out that the rice and ding were only packed different- n one spot.

Mr. Hegler and those like him will here every day — on Christmas, , he said — "because that is the they think we probably won't be e, and they might try to put some- ng past us."

Mr. Hegler is earnest, but not opti- stic.

The metal boxes his inspectors re searching seem like simple tes, but their introduction in 1956 s a revolution in the process of pping vast amounts of goods oss the ocean. The boxes, which be easily shifted to railroad cars trucks, account for more than 90 cent of all cargo arriving from rseas.

n 1980, nearly eight million con- ners passed through United States rts, according to the American As- iation of Port Authorities. A dec- e later, the number increased to re than 16 million, of which nearly 2 million were handled in the Port of New York and New Jersey. Last year, American seaports handled more than 33 million containers.



Xosh Meyers/The New York Times

Containers from a Saudi ship being checked on the docks with an electronic scanner that can detect suspicious arrangement of the contents.

The tremendous flow of goods means that everyone, from customs inspectors and carriers to port officials themselves, is under constant pressure to move material as quickly as possible. Lost time is lost money.

"The important thing is balancing security with the ability to continue the flow of commerce," said Richard D. Steinke, executive director of the Port of Long Beach in California and head of the American Association of Port Authorities.

Some people say the speedy movement of goods through the ports has gone too far. Customs inspectors are often drowning in work and too often have little idea what is in thousands of metal containers passing through their ports each day.

Argent Acosta, a senior customs inspector, said that when he started work at the Port of New Orleans in the 1970's, the office had 103 inspectors. Today, he has 29.

"At one time, we boarded almost every vessel," Mr. Acosta said.

In fact, fighting terrorism is not a job the Customs Service ever had the staff or the budget to perform.

"They are overwhelmed," said Charles E. Schumer, New York's senior United States senator, who has made the issue a priority.

The most optimistic say the system is taxed but working, but others describe a nearly impossible task.

"The volume is tremendous," said Mr. Kelly, who headed a presidential commission on seaport crime and security last year. "And we don't have the technology and we don't have the information to adequately check substances that are coming across our borders, by land, sea and air."

Stephen E. Flynn, an expert on international shipping for the Council on Foreign Relations, said that if inspectors at busy ports were to search every container that landed on their docks, they would have to check each one in 20 seconds.

The unachievable aim of checking every ship by opening every container and visually inspecting the contents led the government to look to computer systems that would try to predict which cargo containers were likely to hold contraband. Specially trained inspectors began playing a high-tech game, using information, like the specifications of a ship's cargo and its port of origin, to decide what kind of problem it presents. It was a crude kind of profiling, but it was at least a plan.

It was hobbled from the start, though, since nearly half the information that inbound ships send customs inspectors is wrong, according to internal studies by the Customs Service.

Experts also say that what information is supplied by the carriers needs to be shared among the different federal agencies with jurisdiction over the elements of the shipping industry: people, cargo and vessels. Right now, the records are split among immigration agents, customs inspectors and the Coast Guard. Those agencies keep the information in separate databases and they do not communicate efficiently.

The lack of information also lies at the heart of changes proposed by Admiral Loy.

A step in solving the problem, Admiral Loy said, would be "gathering the players together — the brokers, the shippers, the people who work the docks — to look at the process from beginning to end."

The proposal with the best chance of success, experts say, is theoretically simple but would be difficult to arrange: take the inspection to overseas ports, before the ships ever begin their trips to America.

As Customs Commissioner Robert C. Bonner told an industry group last month, the idea is to push out America's security perimeter, a proposal that is becoming increasingly popular among many in government and private industry.

Some private groups, in fact, have already done it.

In 1997, losses from cargo theft drove a group of high-tech companies to adopt a similar plan. Dan Purtell, the chairman of the Technology Asset Protection Association, which negotiates with carriers to prevent cargo theft, said it demanded that shipping companies seal off cargo containers from the time they left overseas factories until their arrival in the United States. They used electronic locks and surveillance cameras to track the voyages.

To do business with organization members, including some of the nation's largest computer companies, carriers had to allow independent teams of auditors to spot-check their overseas operations.

"For some companies, the losses from theft are down 80 percent," said Mr. Purtell, who is the investigations manager for Intel. "What we are looking for is complete accountability for the product from start to finish."

Many experts would like to expand that type of accountability throughout the shipping industry. Their argument is that by the time a cargo container gets to its destination, it is too late to begin worrying about what is inside.

Richard M. Larrabee, director of port commerce for the Port Authority of New York and New Jersey, thinks the crucial juncture is when the cargo is packed. "Security standards have to be met where it is packed," he said.

This year in New Orleans, that need became glaringly clear. A container, labeled as empty, held oil exploration tools that became radioactive during work in Africa. When customs officials opened the container in the port, beeper-size radiation alarms on their belts screamed a warning. The inspectors backed off and summoned a decontamination team.

"Maybe the next people who open the container don't know about the danger," said Mr. Acosta, the customs inspector. "If we don't look at that ship, if we don't look at those empty containers, this is just one of those empty containers that hits the road and goes off into the United States."

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IE SENATOR

A Go-It-Alone Democrat Who's Seeking Company

By ROBIN TONER

WASHINGTON, Dec. 22 — Senator ssell D. Feingold, Democrat of

right to choose his cabinet and that a nominee should not be rejected on ideology alone.

Mr Feingold was criticized for be-

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Exiled Saudi dissident Osama bin Laden, shown in April 1998, is believed to have a fleet of 23 ships. The U.S. Navy wants to know where those vessels are. (AP Photo)

Sea Hunt

Navy Seeks Bin Laden Shipping Fleet

WASHINGTON, Dec. 6 — The U.S. Navy is searching the world's oceans and ports for some 23 merchant vessels — all on a classified list of ships identified by U.S. and Norwegian intelligence agencies as owned or controlled by Osama bin Laden's al Qaeda organization, ABCNEWS has learned.

MORE INVESTIGATIVE NEWS:
- Pakistani Pleads Guilty to Fraud
- Virginian Admits To ID Charges

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• Most Wanted Terror List

• FBI Links Names, Photos to Terror Attacks

The locations of the 23 vessels are unknown.

Hundreds of ships carrying tens of thousands of containers arrive every day at U.S. ports, where they are subjected to only minimal spot checks.

"The ease with which a terrorist could smuggle chemical, biological or even nuclear weapons in a container, without detection, is, in a word, hair-raising," said Sen. Joseph Lieberman, D-Conn.

At best, only one out of 10 of such containers is actually checked by U.S. Customs inspectors, who have no radiation detection equipment to check an entire ship.

"There is no magical shield that would let you know, beep, beep, beep — something terrible is coming in," said Graham Allison, former assistant secretary of defense. "That doesn't exist."

Another concern about the secret bin Laden fleet is that the ships could be used to transport bin Laden and his top aides away from U.S. forces.

A bulletin sent to shipping companies by U.S. authorities in the Persian Gulf, and obtained by ABCNEWS, warns the United States will use all military assets to search suspect ships and that "any perceived hostility ... will result in the destruction of the commercial vehicle."

In international waters outside of Karachi, Pakistan, about 75 U.S. Navy and Marine personnel spent eight hours searching a Panamanian-flagged vessel today for possible al Qaeda personnel aboard, officials said.

It was the second boarding of a suspicious vessel in as many weeks. The ship had more than 300 containers, the majority of which were searched. The rest were sealed

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by the search party. They reportedly found no al Qaeda among the crew or the containers.

The boarding party included Navy SEALS and explosive ordnance disposal personnel.

> Read the Bulletin

Intelligence officials tell ABCNEWS they are closing in on several of the ships and that submarines and the SEALS would be part of any action at sea.

— Brian Ross and Barbara Starr, ABCNEWS

Check back for continuous updates on the hunt for terrorists from ABCNEWS' worldwide investigative team.

Pakistani Pleads Guilty to Fraud

GREENSBORO, N.C., Dec. 6 — A Pakistani man federal officials have said is linked to Sept. 11 hijackers has done nothing against the law except make a simple mistake on a voter registration form, his lawyer said today.

Imtiaz Ahmed Siddiqui pleaded guilty today to vote fraud in a brief federal court hearing that included no mention of the allegation that he may be acquainted with terrorists.

Siddiqui, 31, answering questions in halting English, admitted he signed a voter registration form that identified him as a U.S. citizen when he got a driver's license in Durham in August. He is a citizen of Pakistan.

"Yes, I am," he said when U.S. District Judge James Beaty Jr. asked if he was guilty.

"He acknowledged he made a mistake by signing the form," defense lawyer Dan Boyce said after the hearing. "He is not a terrorist. He does not have any terrorist ties."

> Nov. 7: Terrorist Link Denied
> Nov. 5: ID Fraud Detainee Linked to Hijackers
> Nov. 2: Suspect's Unusual Mail Arrangement

Assistant U.S. Attorney Douglas Cannon declined to discuss the case.

Siddiqui was arrested Sept. 22 in Grand Rapids, Mich., by the Immigration and Naturalization Service and the FBI. He was indicted Oct. 30 by a federal grand jury in Greensboro.

— The Associated Press

Virginian Admits ID Fraud

ALEXANDRIA, Va., Dec. 6 — A man who helped two of the Sept. 11 hijackers fraudulently obtain Virginia identification cards also misled FBI agents into believing other attacks were imminent, a prosecutor said today.

Luis Martinez-Flores, 28, pleaded guilty to document fraud for signing forms falsely certifying that Hani Hanjour and Khalid Almihdhar, hijackers on the flight that crashed into the Pentagon, were state residents. The hijackers paid him $100.

At Thursday's plea hearing, a prosecutor said Martinez-Flores exaggerated his connections to the hijackers and told the FBI that Hanjour had discussed attacks on Federal Reserve banks, stadiums and other large buildings on the East Coast.

After a time-consuming investigation, authorities discovered that Martinez-Flores made up the story, prosecutor John Morton said. Morton said Martinez-Flores, an illegal immigrant from El Salvador, apparently lied "to make himself appear more important to the government."

Prosecutors have not said whether Martinez-Flores knew about the hijacking plot before Sept. 11.

Martinez-Flores said through an interpreter that his lies were "a grave mistake on my part." Asked why he lied, he said: "I was terrified and I didn't think of where this was going to end."

— The Associated Press

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2 lawmakers visiting port say security needs boost

By NELSON ANTOSH
Houston Chronicle 11/2/01

THE seaport security issue that Sen. John Breaux worries about most is a terrorist attack in a U.S. port like Houston, New Orleans or Port Everglades in Florida.

In a scenario similar to the attack on the USS Cole in Yemen, a seemingly harmless small boat slips up to a cruise ship carrying of 3,000 people or a tanker full of dangerous chemicals — and blows it up.

"The consequences would be catastrophic," said the Louisiana Democrat at a hearing in Houston of the Senate Commerce Committee's Subcommittee on Surface Transportation and Merchant Marine.

He chairs the subcommittee, along with co-chair Kay Bailey Hutchison, R-Texas, who also participated in the Friday hearing on a federal port security bill, which has already cleared the Senate.

Breaux was not as concerned about grand-scale terrorist possibilities, such as someone seizing control of a ship loaded with propane and ramming it into a channel-side petrochemical complex, as about the possible assaults by smaller craft.

"Controlled access is incredibly important," the senator said during a tour of the port that preceded the hearing.

During that trip he noted the lack of patrol vessels to keep small boats away.

The Houston Ship Channel, dredged some 52 miles long, passes through an area in Galveston Bay that is popular with pleasure boaters and fishermen.

The most industrialized section is off-limits to such small boats, said Capt. Kevin

Steve Ueckert / Chronicle

Jim Edmonds, left, chairman of the Port Authority of Houston, returns to dock with U.S. Sens. Kay Bailey Hutchison, R-Texas, and John Breaux, D-La., after a tour of the Ship Channel. The senators expressed concern about the preparedness of the country's ports against terrorist attacks.

commanding officer of the Marine Safety Office for Houston and Galveston.

The Coast Guard does random patrols and has chased some boats away from the vicinity of liquefied petroleum gas facilities, he said.

"But we're not there 24 hours a day. We don't have the personnel," Cook said.

Port Authority Chairman Jim Edmonds agreed that the Coast Guard is understaffed.

Breaux also wondered out loud why all ships don't carry transponders to show where they are and how fast they are moving, while every craft small private planes, carry them.

Hutchison said that Houston's huge refineries and petrochemical plants make this port different.

"Port security cannot just end at the dock in Houston. A terrorist attack here could topple our nation's energy industry," she said.

Houston is the world's second-largest petrochemical port, exceeded in size only by Rotterdam, Netherlands. And it is the location of the world's largest refinery, Exxon Mobil's facility on the Ship Channel.

The Port of Galveston isn't

See PORT on Page 7C

Port

Continued from Page 1C.

worry-free either. It is a hub for cruise ships, whose high passenger volumes put it at risk, said Rep. Nick Lampson, D-Beaumont.

The magnitudes involved in ocean shipping make security all the more important. One medium-size tanker can carry as much cargo as a train with tank cars stretching 70 miles, according to Breaux.

One shipping container can hold up to 60,000 pounds, which is four times the amount of explosive that Timothy McVeigh used to blow up the Murrah Federal Building in Oklahoma City, he said.

The U.S. Customs Service actually inspects about 2 percent of containers, an agency official said at the hearing.

The security bill would for the first time require that all ports in the United States have a comprehensive security plan.

The reality is that "when everybody is in charge, nobody is in charge," Breaux said.

The legislation would also provide grants of up to $703 million and loan guarantees up to $3.3 billion for port security upgrades.

The emphasis is fighting terrorism, which is a basic change from when it was introduced in the summer. That measure was concerned mainly with fighting drug smuggling and crime. Sept. 11 made the difference, the sponsors said.

Price for crude drops below $20 a barrel

DL11002 MAR 12 2002

City of Shoreacres

AN

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SHOREACRES, TEXAS 77571
PHONE (281) 471-2244
FAX (281) 471-8955

A COMMUNITY OF BEAUTIFUL HOMES ON GALVESTON BAY
HOME OF THE HOUSTON YACHT CLUB

MAYOR
Nancy R. Edmonson

CITY SECRETARY
Shari Tait

March 12, 2002

Kerry M. Stanley
Regulatory Branch, CESWG-PE-RE
U.S. Army Corps of Engineers
P.O. Box 1229
Galveston, Texas 77553-1229

Dear Mr. Stanley:

Attached are the City of Shoreacres' comments on the Port of Houston's Bayport Channel Container/Cruise Terminal DEIS and permit application (Permit Application Number 21520). As is documented in the comments, many of the analyses presented in the DEIS are biased, inaccurate, incomplete, or inadequate. Due to the serious shortcomings of this important document, the City of Shoreacres would like the Corps of Engineers to correct and complete the impact analysis with a Supplemental Draft Environmental Impact Statement. The changes are far too extensive to proceed to the Final EIS. The public deserves the right for the additional review and comment that would be afforded by a Supplemental DEIS.

5-22

23-160

Based on the information that is provided in the Bayport DEIS, the City of Shoreacres remains opposed to the Bayport site for a new container terminal. The Bayport Alternative would create unavoidable and unacceptable negative impacts to our citizens and should be rejected. Even with the incomplete analyses presented in the DEIS, it is clear that other alternatives would pose fewer negative impacts to far fewer people.

29-84

2-3

Also attached is the City of Shoreacres Resolution 2002-3 passed on March 11, 2002 which reaffirms the City of Shoreacres' opposition to the Bayport Alternative and requests that the Corps of Engineers complete a Supplemental DEIS to address the numerous, substantive omissions and problems with the DEIS.

23-160

D 11002 A1

Thank you for your consideration of the citizens of Shoreacres in this important matter.

Nancy R. Edmonson, Mayor

Stan Krauhs, Mayor Pro Tem

Dan Blanchard, Alderman

Mary Becker, Alderman

Vickie Ellis, Alderman

Jayo Washington, Alderman

DL 11002

MAR 1 2 2002

Comments on Bayport Container Terminal DEIS
City of Shoreacres
March 12, 2002

Introduction

Most of this document lists specific comments on the Bayport Channel Container/Cruise Terminal Draft Environmental Impact Statement (hereinafter referred to as the Bayport DEIS or DEIS) by section of the report. First, however, are a few general remarks that apply to most sections of the report.

1. The DEIS suffers from a clear bias toward the Bayport site. This bias is particularly pronounced in Table 2-5 and in the last chapter of the DEIS, summary sections most likely to be read by the public. This bias is documented specifically by section in the remainder of these comments.

2. The No Action Alternative is vaguely and inconsistently defined, rendering it useless as a baseline for environmental comparisons as required by the National Environmental Policy Act (NEPA).

3. Construction impacts are always considered short-term in the DEIS even though construction will stretch over 20 years. Clearly, these impacts are long-term and should be listed as such.

23 I-0

The amount of incorrect data, the number of major omissions of certain impacts, and the methodological problems identified in some sections are too significant to be addressed in the Final Environmental Impact Statement (FEIS). The public should have the opportunity to review and comment on a more complete, accurate, and unbiased DEIS. Therefore, the Corps of Engineers should conduct and issue a supplemental DEIS to address these issues.

The following comments on the Bayport DEIS are listed by section of the report.

1.0 Purpose and Need for Action

While the economics of a project are generally not a part of an environmental impact statement, the Corps of Engineers must look at whether a project is in the overall public interest. The Port of Houston's need for another container terminal, as described in the purpose and need section of the DEIS, is unsupported. Further, the DEIS does not include a differential economic analysis across the alternatives. A comprehensive cost/benefit analysis would indicate that other alternatives are superior to Bayport. Specific comments on this section include the following.

1-49

1. The assumed 5% annual growth in Gulf Coast container business through 2024 is unrealistically high for a 24-year period. The rapid growth rates in the container business over the past twenty years were driven by containerization of cargo previously handled as

1-50

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RESOLUTION NO. 2002-03
REAFFIRMATION OF OPPOSITION TO BAYPORT CONTAINER TERMINAL

A RESOLUTION REAFFIRMING THE CITY OF SHOREACRES' OPPOSITION TO THE BAYPORT CONTAINER TERMINAL AND REQUESTING THAT THE CORPS OF ENGINEERS COMPLETE A SUPPLEMENTAL DRAFT ENVIRONMENTAL IMPACT STATEMENT TO ADDRESS CONCERNS WITH THE DRAFT ENVIRONMENTAL IMPACT STATEMENT

WHEREAS, the Port of Houston has requested a permit from the U.S. Army Corps of Engineers to build a container and cruise terminal on the Bayport Channel; and,

WHEREAS, the U.S. Army Corps of Engineers has completed a Draft Environmental Impact Statement (DEIS) on the proposed container and cruise terminal which lists significant and unacceptable impacts to the City of Shoreacres; and,

WHEREAS, as detailed in the City of Shoreacres' attached comments on the DEIS, the DEIS has significant errors and omissions that must be corrected to provide a full disclosure of the impacts of this proposal; and,

WHEREAS, if these errors and omissions are not addressed until the Final Environmental Impact Statement, the public and the City of Shoreacres will not have any opportunity to review and comment on the corrected analysis; and, therefore

BE IT THEREFORE RESOLVED BY THE CITY OF SHOREACRES, STATE OF TEXAS:

THAT, based on the information in the DEIS, the City of Shoreacres remains opposed to the Bayport Container Terminal, and that the City of Shoreacres requests that the U.S. Army Corps of Engineers complete a Supplemental DEIS to address the significant concerns of the City with the DEIS. 29-84 23-160

AND IT IS SO ORDERED, PASSED AND APPROVED ON THIS 11th DAY OF MARCH, 2002.

Nancy R. Edmonson
NANCY R. EDMONSON, MAYOR

ATTEST:

SHARI TAIT
CITY SECRETARY

DL 11002

MAR 1 2 2002

Comments on Bayport Container Terminal DEIS
City of Shoreacres
March 12, 2002

Introduction

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I-49

1. The assumed 5% annual growth in Gulf Coast container business through 2024 is unrealistically high for a 24-year period. The rapid growth rates in the container business over the past twenty years were driven by containerization of cargo previously handled as

I-50

DL 11002

bulk cargo. Most of the cargo that can be containerized has been; therefore, future growth rates for the container business should be no greater than the overall growth rate of imports. 1-50

2. The need for Bayport also assumes that Barbour's Cut and other local container terminals are full. However, Barbour's Cut will not be full when Americana Ships leaves Barbour's Cut for Shoal Point. Shoal Point is likely to be built, which will add more regional container handling capacity. 2-164

3. The DEIS provides no market support for the proposed five-berth cruise terminal. Since it built its first cruise berth, the Port of Houston has had either zero or one cruise ship tenant. No tenant has ever been able to cover its marginal cost of operation. The cruise ship market on the Gulf coast is growing slowly, but because of its other tourist amenities, most cruise ship growth on the Texas coast is occurring in Galveston. There is no reason to believe that a five-berth cruise facility located in upper Galveston Bay would ever be economic or be built. 6-107

4. The Port of Houston's container facilities are inefficient. They could handle more cargo if some of the container storage and intermodal operations were moved to a remote location. And while the efficiency of the applicant may not appear to be directly relevant in a DEIS, this inefficiency is important in two areas—it helps drive the justification of need and it, coupled with the unsupported need for a cruise terminal, inflates the land area needed for alternatives (covered in more detail in Section 2.0). 1-51

An appropriate examination of the underlying economics of this proposal could reveal the entire project as an unnecessary waste of public funds. 6-108

2.0 Project Alternatives

The selection of the final alternatives for study was flawed for the following reasons.

1. The required footprint is too large, because it is based on inflated land needs for a container terminal and includes a very large cruise terminal for which there is little market support. Elimination of sites based on lack of space excludes many reasonable sites. For example, Site #10-Beltway 8 was eliminated because "proposed cruise facilities would have to be developed at another location" (DEIS, page 2-10). The fact that the Bayport project footprint is artificially inflated is further supported by the reduced land area assumption used by the applicant for the Shoal Point Container Terminal in its US Army Corps of Engineers DEIS (Shoal Point DEIS). 23-130

2. Even if there were a demonstrated need for a cruise terminal, there is no reason that the cruise terminal and container terminal must be co-located. If the two facilities were sited separately, additional smaller sites would be feasible. This cruise facility was also used to justify the conclusion that all combination sites must include Bayport "primarily because 2-142

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the other sites in combination are not large enough to accommodate the proposed cruise facilities" (DEIS, page 2-12). This conclusion clearly biases the analysis toward Bayport. 2-146

3. The Tier 2 criteria include potential social impacts as a reason to exclude a site from further study. Potential social impacts are defined as including "potential impacts on existing communities and community structure associated with terminal development at each site" (DEIS, page 2-5). If fairly applied, this criterion should have eliminated Bayport as a potential site. 5-39

4. The development of the combinations alternatives was illogical and biased. No non-Bayport combination alternatives were studied, and three of the final seven alternatives are Bayport-based. At least one combination site that was composed of two smaller sites should have been included rather than using one smaller site with a portion of Bayport or two pieces of two sites that are otherwise large enough (e.g., Bayport/Shoal Point). If Bayport and Shoal Point are each independently large enough for the facilities, using a portion of each would clearly reduce efficiency while increasing the impacts. These combination sites were merely shams, not reasonable alternatives. Similarly, if there were a reason that one portion of each combination alternative must be drawn from one of the larger sites, then one or more could have been created by combining Spilman's Island, Shoal Point, or one of the others with a smaller site to make combination sites. 2-92 2-93

5. Sites such as #12, #14, #17, and others in already industrialized areas are eliminated based on size (although no combination alternative was developed for this area) and because redevelopment of existing industrial properties "would involve additional project costs". Project cost is not, however, a defined selection criteria. If, in fact, project cost were a selection criteria, sites such as Bayport that require extensive additional public infrastructure to be feasible (such as widening of SH 146) and extensive mitigation should be eliminated as well. 2-165

The project alternatives should be redefined and the DEIS redone based on alternatives that are selected in an unbiased manner.

2.5.1 Comparison of Alternative Locations and Their Impacts—Non-Environmental Considerations

Section 2.5 summarizes the impacts of all alternatives. While environmental impacts are covered in Chapter 3 and the City of Shoreacres' comments on those topics will be addressed under those sections, Section 2.5 is the only place where non-environmental impacts (availability of alternative to applicant, operational effectiveness, and development constraints) are discussed. Specific comments include the following.

1. First and perhaps most critically, the analysis of availability of land for Bayport fails to address the issue that Port cannot acquire the land it needs in Seabrook. In fact, it fails to mention at all that land condemnation would be required for Bayport even though the analysis of displacement is a required category under the National Environmental Policy 4-44

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Act (NEPA). The Bayport site plan, as submitted in its Corps permit application, would require condemnation of industrial, residential, agricultural, and park land. This issue is not addressed at all in the DEIS. 4-44

2. The operational effectiveness analysis overstates the importance of proximity to Barbour's Cut by failing to balance the economics of the shorter ship sailing distances against longer truck driving distances. 2-166

3. The development constraint analysis overstates problems with replacement dredge disposal sites. The majority of the acreage proposed for the Bayport container terminal was purchased by the Port of Houston a few years ago for dredge disposal. If container terminals were developed at either Spilman's Island or Shoal Point, dredge disposal could be replaced at Bayport. 11-27

4. The development constraint analysis should consider public opposition as a factor. Clearly, the sites can be significantly differentiated on the basis of the level of public opposition and the delays associated with that opposition. 23-131

5. This section should have included a discussion of proximity to or permission for deeper channels as an important long-term factor. Container ships are getting larger and larger. Economics indicate that developing a site that can accommodate deeper draft ships will be required for the long-term viability of the container terminal. Again, the sites can be clearly differentiated on the availability or ease of acquiring deeper water and this factor should have been analyzed. 2-100

6. Combination sites are considered less efficient because of the need to develop support infrastructure at two separate locations. But returning to the selection of the alternatives, if a combination site that put all container operations at one site and the cruise terminal at a different site were analyzed, duplicate infrastructure would not be needed. The infrastructure needed for container and cruise terminal are different. Indeed, cruise terminal attractiveness would be improved if the two were not co-located. 2-1-2

The non-environmental analysis should be redone. In addition, Table 2-5 presents conclusions of the environmental and non-environmental analyses in a selective and biased manner and should be either redone or eliminated.

3.2 Land Use and Coastal Zone Management

Problems with this section include incorrect data, poor methodologies, and missing analyses, as follows.

1. Given the potential impact of Bayport on Shoreacres, the DEIS should at least get basic facts correct. But on page 3.2-1, the DEIS states that Shoreacres is "dominated by single-family residential development with commercial uses in several scattered locations, mainly along major roadways. In fact, the Houston Yacht Club is the only commercial property 4-58

in Shoreacres and it lays nowhere near the major roadways. Except for the Houston Yacht Club and municipal buildings, the entire city is single-family residential and all undeveloped land is zoned single-family residential. In addition, the DEIS (page 3.2-8) lists possible terminal supporting activities on land in Shoreacres; this land is, however, right-of-way owned by TxDOT and such uses are not allowed by Shoreacres' zoning ordinance. In general, this critical section of the DEIS is poorly researched. 4-58 4-23

2. The assumptions behind the No Action Alternative vary throughout sections of this report. In some sections (e.g., Air Quality), the No Action Alternative means just that—no new development on the proposed site. In this section, the No Action Alternative presumes that the Bayport site would become predominantly industrial, with private properties developing into commercial and multi-family housing. This assumption is unsupported. The Bayport Channel was dredged nearly 30 years ago, and yet today only a small portion of the land at the Bayport site has been developed for industrial uses. The master plan for the Bayport Industrial District did not plan for industrial development east of Old SH 146, except for a narrow strip along the channel. Assuming that the remaining 900 acres will be developed with heavy industry within the 20-year time horizon of this study biases the analysis and should be eliminated. 4-59 4-59

3. In Section 3.2.3.4 Spilman's Island Terminal Location, the concern about a replacement dredge disposal site is again listed. Using the same issue over and over again in different sections of the report biases the analysis against alternatives that would be developed on dredge disposal areas. While replacement dredge disposal sites may be an issue, it should be addressed once in the most appropriate section of the DEIS. In addition, if the Spilman's Island Alternative were designed more efficiently, space would remain for dredge disposal. 2-12-1

4. The basic methodology of the land use analysis is based on the assumption that no land use changes can occur on already developed land. Land use impacts on developed land are not addressed. Therefore, this section concludes that the more fully developed the area around an alternative site, the less the impact of the container terminal. Land use impacts may not be expected in more fully developed areas around a proposed site if the container terminal is consistent with existing land use patterns (i.e., industrial). However, if current land use patterns are inconsistent with such a massive proposed industrial development, land use changes will likely occur in developed areas. Land use could remain residential but degrade from desirable, higher value residential to less desirable, lower value residential or land use could change from residential to other low value supporting land uses (such as container storage) as homes are abandoned. Overall, this very important topic is treated in a very shallow manner. An analysis of potential induced land use changes should have been included. [redacted] 4-9

5. This section also addresses consistency with coastal zone management and lists impa[redacted] types (e.g., oyster reefs, mud flats) on Coastal Natural Resource Areas. The DEIS never says exactly what the significance of the impacts are, however. [redacted] 9-6

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This section treats a very important topic—land use—in a superficial manner and should be significantly revised and expanded. 3-6

3.3 Socioeconomics

In general, this section is much ado about nothing. Nothing can be concluded from the analysis other than if money is spent, jobs are created. Specific problems include the following points.

1. The analysis does not examine the comparative job growth generated by a $1 billion public investment in something other than a container terminal. Similarly, the analysis does not look at the potential socioeconomic negatives of this investment—the potential for crowding out proposed private investment for similar facilities or the alternative uses for limited public bonding capacity. 6-131

2. Approximately the same job growth would occur with each alternative, but the costs (public and private, direct and indirect) of the alternatives are very different. This analysis does not recognize the difference between gross and net job growth. 6-132

3. As with other sections of the report, the No Action Alternative is again inconsistently defined. In this section, the No Action Alternative consists of some growth in the region for container and cruise traffic, with some dampening of the growth rate caused by lack of capacity in the facilities. No jobs from industrial development at the Bayport site are included, even though that type of development was assumed for Section 3.2 (as well as others). 6-33

4. The Bayport DEIS includes no analysis of the impacts of the proposed project on local tax revenues, a topic covered in the Shoal Point DEIS. 6-134

This section needs to be revised to cover important omitted topics while reducing irrelevant filler analysis.

3.4 Social Characteristics and Environmental Justice

The demographic profiles of the populations around each site developed in this section may be interesting. However, most of the data are irrelevant and the little analysis based on these profiles is inadequate. A few comments follow.

1. The number of people (of all ethnicities and income groups) affected by each alternative is very different, but the DEIS fails to recognize this as a distinguishing impact across alternatives. According to the DEIS, the estimated 1999 population for the study areas around each site are: Bayport—22,955, Spilman's Island—4,109, Shoal Point—2,553, Cedar Point—6,176, Pelican Island—532, and Upper San Jacinto Bay—23. The population around the Bayport site is more than the total of the populations around all the rest of the sites. 5-34

2. The DEIS concludes there are no community structure impacts but does not define a methodology or rationale for this conclusion. Issues that should have been recognized in this section include:

- Impact of encircling Shoreacres and old La Porte with industry and port facilities, effectively isolating them from surrounding communities
- Impact of cutting off of Shoreacres from rest of Clear Lake area. Shoreacres belongs to the Clear Lake Council of Cities and considers itself a part of the greater Clear Lake area
- Isolation of El Jardin from all surrounding communities by encircling it with industrial development

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3. The Shoal Point DEIS includes a section called Community Values that addresses compatibility with local plans and public opposition to each site. The Bayport DEIS should include a similar analysis, which will clearly document the solid opposition to the Bayport site from all surrounding jurisdictions. The Cities of Shoreacres, La Porte, Pasadena, Seabrook, Taylor Lake Village, El Lago, League City, and Clear Lake Shores and the La Porte and Clear Creek Independent School Districts are publicly opposing the Bayport Alternative. The other alternatives have not, however, engendered any opposition, a clear and critical differentiation among the alternatives.

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This important section should be revised and expanded.

3.5 Surface Transportation

The effect of Bayport on the area's surface transportation system is a major concern to the public. Unfortunately, the transportation section of the DEIS is poorly executed, with detailed comments as follows.

1. Probably the biggest problem in a significantly flawed section of the DEIS is the assumptions about off-site roadway improvements recommended for each alternative. For Bayport, the DEIS proposes and the analysis is dependent on fly ramps at Port Road/SH 146 interchange, an additional mainlane of capacity in each direction on SH 146 from Red Bluff Road to Fairmont Parkway, elimination of the traffic lights at Shoreacres Boulevard and SH 146 and Red Bluff Road and SH 146, the realignment of Todville Road, widening of Port Road from two lanes to six lanes, and rail grade separations at SH 146, Port Road, Choate Road, Fairmont Parkway, and Red Bluff Road. While all the traffic analysis assumes that these improvements are in place, the DEIS does not address the cost or feasibility of each of these significant roadway improvements. The Port of Houston does not have jurisdiction over these roadways and, therefore, cannot determine whether these expansions will ever occur. None of these improvements except a few of the rail grade separations are in the current Houston-Galveston area Metropolitan Transportation Plan

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(MTP) or funded by the jurisdictional agencies. And finally, while the DEIS presumes the benefit of these transportation expansions, the DEIS does address the impacts from them (e.g., noise, air pollution, aesthetics). 27-9

More specifically on the proposed roadway expansions on SH 146, TxDOT is currently conducting a Major Investment Study (MIS) to determine the improvements needed on SH 146 from Fairmont Parkway to IH-45. The DEIS says on page 3.5-6 that the segment of SH 146 "from Fairmont Parkway to NASA Road is planned to be widened to six lanes". This statement is incorrect. The MIS is not complete and has not been adopted into the MTP. Further, TxDOT's proposal through the Seabrook area is controversial and may take some time and compromise before any plan can be adopted. 27-91

Given the tentative nature of these proposed transportation improvements, the analysis should be redone with only existing and committed transportation projects assumed.

2. As with other sections, the No Action Alternative is ill defined and likely inconsistent with other sections of the report. The traffic in the No Action Alternative is described as the background traffic in the Houston-Galveston Area Council's emme2 model for each study year. The DEIS does not describe the amount or type of development growth on which this background traffic is premised. 27-102

3. Just as the No Action Alternative is inconsistently defined throughout the DEIS, the assumptions about the cruise terminal are inconsistently defined as well. No traffic analysis was conducted on the cruise terminal with the assumption that all cruise terminal traffic would occur on the weekends and, therefore, would pose no traffic issues. This omission must be addressed for the following reasons. First, some cruises operating out of Texas today have Thursday departures and, therefore, could add traffic to the weekday analysis conducted for the DEIS. Second, whether the traffic occurs on weekdays or weekends, an analysis should be conducted on the traffic impacts to local roads. And finally, some of the worst traffic through the Clear Lake area currently occurs on weekends due to recreational and tourist traffic. Assuming that weekend traffic is not an issue is incorrect. 27-103

4. The DEIS traffic analysis uses predicted level of service (LOS) as the only measure of traffic impacts rather than delay time or traffic density (as is used in the Shoal Point DEIS) or other measures that could distinguish between "bad" and "really bad" traffic. Roadways are assigned a LOS from A to F, with F representing severe congestion. But implying that all LOS F roadways are the same is analogous to arguing that someone who makes a zero on a test did as well as someone who scored a fifty-nine, since both would receive an F. The Shoal Point DEIS also looks at the impact of weaving and trucks queues on traffic. 27-21

5. Much of the traffic analysis is based on an Origin/Destination Study conducted by URS for the Bayport DEIS. The documentation of this study in Volume V: Appendices does 27-105

not include the response rate and statistical reliability of the survey, which should have been provided. 27-105

6. The DEIS includes no analysis of the effects of trains on the roadway system—no delay calculations for cars stuck at train crossings. The likely reason that this analysis was omitted is again the assumption that overpasses will be built. But given that these overpasses are not there now and when and if they may be built is undetermined, this delay analysis should be conducted. 27-29

7. The DEIS underestimates the truck traffic at Bayport by reducing the total traffic count on Barbour's Cut Blvd (from which the truck estimates are derived) by about 20% to account for non-Port related traffic. Independent counts conducted by the Galveston Bay Conservation and Preservation Association (documented and submitted separately to the Corps by the GBCPA) show nearly 9,000 vehicle trips on Barbour's Cut Boulevard during a 13-hour workday. After reducing traffic for non-Port related activities, the DEIS shows 6,716 Port-related vehicle trips (Volume V: Appendices-Data Collection Summary, Trip Generation and Trip Distribution Methodology). The DEIS then applies the estimated percentage of trucks (58%) to this reduced number of total vehicle trips. While it may be appropriate to reduce the automobile trips by 20% to account for non-Port traffic, it is not appropriate to reduce the truck traffic by the same percentage. There is simply no way that 20% of the multi-axle trucks on Barbour's Cut Blvd are not Port- related—either directly or from support businesses. 27-69 27-68

8. The DEIS includes no analysis of capacity or congestion on the railroad system itself. Can the railroad system accommodate 20% of the containers? If not, will more trucks end up on the road as shippers attempt to avoid railway delays? This issue should be addressed. 27-104

9. The use of a regional transportation model as the sole tool for traffic analysis is inappropriate. A regional model, which looks at movements between fairly large traffic analysis zones, should not be used to assess impacts around a specific site, or within a specific traffic analysis zone. The DEIS does not examine impacts on area roadways such as Genoa Red Bluff, Fairmont Parkway, or Bay Area Blvd for the Bayport Alternative. But for the Shoal Point and Pelican Island alternatives, the DEIS discusses at impacts as far away as IH-45 at South Belt, only because these roadways are links in the regional model. The DEIS should have included simulations of traffic on roads and at intersections within about a five mile radius of the site. 27-97

Further, the data from the regional model show significant inconsistencies. For example, the Background 2025 Peak Hour Traffic along SH 146 listed in Table 3.5-15 for the Bayport Alternative is not the same as the Background 2025 Peak Hour Traffic along the same roadway for the Spilman's Island Alternative (Table 3.5-18) or for the Shoal Point Alternative (Table 3.5-21). The background traffic (which should be the same as the No Action Alternative traffic) should be the same for all alternatives. 27-108

The traffic volumes in the regional model were adjusted for any roadway section not showing a growth in traffic from existing to future conditions (See Volumes V: Appendices-Technical Memorandum on Post-Model Adjustments of Traffic Projections). First, not all roadways should be expected to show traffic growth, particularly of significant capacity has been added to alternative routes. Second, if traffic is added to one roadway segment, an equal amount of traffic should be taken away from an alternate roadway segment. The validity of the regional model is premised on the assumption of constant trip tables (the total regional number of trips generated in the region) across alternatives. If traffic is added to certain roads and not removed elsewhere, traffic in the region is artificially inflated. Artificially inflated traffic will tend to mask the impact of the traffic that is then added by a new facility such as Bayport. Either all of these adjustments should be removed or offsetting reductions on traffic elsewhere must be made. 27-99 27-99

In general, the regional traffic model is used inappropriately and inconsistently. Given all of the problems listed above, the traffic analysis should be redone. 27-99

3.7 Navigation

The Bayport Container Terminal presents a clear hazard to recreational boating, including boaters at the Houston Yacht Club located in Shoreacres. This section treats the issue lightly and naively, in general concluding only that the shorter the sailing distances up the Bay, the lower the risk of collisions and other accidents. More specifically, the following problems are noted. 31-15

1. In addition to distinguishing the alternatives by the differences in requiring sailing distances for ships, this analysis should have also looked more closely at the differences among the alternatives relative to their proximities to recreational boating. The Bayport Container Terminal will bring additional ships right through one of the busiest recreational boating areas of Galveston Bay. For example, within one mile of the mouth of the Bayport Channel, the following boating facilities are located: the Shoreacres Recreation Association boat ramp, the Houston Yacht Club, the Bay Colony Homeowners Association boat ramp, El Jardin boat ramp, Pine Gully Park boat ramp, and Camp Casa Mare. The number of recreational boats in the area of each alternative is clearly as significant a factor in estimating the risk of collisions as is the ship sailing distance. 31-15 31-15

2. The DEIS states that ship conflicts "may result in the voluntary displacement of recreational boaters" (page 3.7-6) in the Bayport area. But the DEIS then never addresses what the local impacts of these displacements would be on property values and the economic viability of facilities such as the Houston Yacht Club, Camp Casa Mare, and recreation-based residential areas. Again, this analysis should have been conducted because it would further differentiate among the alternatives. 31-16 31-4

3. The risks of collisions and extra traffic up the Ship Channel should be examined economically. The cost of these collisions increases the cost of siting the facility further up a bay with heavy ship and boat traffic. 31-16

4. As with other sections of the DEIS, the navigation section created its own assumptions for the No Action Alternative. The section assumes that ship activity in the Bayport Channel would increase 3.3% per year through 2030. No documentation is provided to support the assumption that future land uses would ever demand that level of ship activity. 31-17

Given the importance of acceptable navigation conditions for a Port, this analysis should be redone.

3.8 Noise

The noise analysis is poorly executed and incomplete, with specific issues as follows. 3-12

1. The No Action Alternative is so vaguely defined that it provides no baseline against which to compare the alternatives.

2. Much of the Bayport DEIS analysis is based on noise levels recorded at Barbour's Cut Container Terminal. Barbour's Cut has only about half of the capacity, and hence activity levels, as would the proposed Bayport Container Terminal. But the DEIS gives no indication that the noise levels were adjusted to account for the higher level of activity. In addition, out of six monitoring sessions, the documentation mentions that one ship was berthed for one session, no ships were at berth for one session, and whether any ships were in dock was not mentioned for the other four. While ship noise may be less important at Barbour's Cut (since the noise of the loading areas and truck queues are between the ships and residential areas), ship noise could be significant in parts of Shoreacres and La Porte. Shoreacres and La Porte lie downwind of the ship berths with nothing to mask or absorb the noise. 3-48

3. As with other sections of the DEIS, the cruise terminal is included only where convenient (generally where benefits accrue, such as job creation). The noise from the cruise terminal is completely omitted from the DEIS noise analysis. The cruise terminal would place ships and traffic very close to residences in Shoreacres, La Porte, and El Jardin and cannot be ignored. 3-47

4. The finding that no noise impacts from traffic will occur for the Bayport Alternative is derived from faulty analysis and must be redone. No adverse impacts from traffic were revealed in the DEIS analysis because: 3-7 3-30

- No sites along SH 146 were modeled. Noise from trucks would not be expected at Shoreacres City Hall, which is approximately 1-½ miles from SH 146 where most of the trucks will be traveling. The DEIS should have modeled potential noise impacts in the Bayou Forest subdivision in Shoreacres, which lies adjacent to SH 146. 3-5

- The DEIS assumes that current percentages of traffic comprised of trucks is 6% on all area roadways. The analysis assumes the same percentage on Todville Rd, a two-lane residential road, as on SH 146. The percentage of trucks on SH 146 through Shoreacres today is 10% to 15%.

- The DEIS assumes that the percentage of truck traffic on SH 146 stays the same even after Bayport is added. This assumption is absurd and renders the analysis useless. 3-7

- As mentioned in the Surface Transportation section, the traffic analysis assumes fly ramps connecting SH 146 at Port Rd, direct ramps for trucks over SH 146 to the truck entrance, and grade-separation of traffic on SH 146 at Red Bluff and at Shoreacres Boulevard, elevating the noise at all locations. Even though the traffic analysis was dependent on these roadway changes, the noise analysis did not take these significant changes into account. 3-8

5. The DEIS states that a 20-ft earthen berm on the north shore of the channel could mitigate some of the noise but this berm is not part of the plan and would require residential buy-outs to build. In addition, the berm would do little or nothing to mitigate noise at homes further than one or two structures away from the berm. 3-24

6. Noise from additional trains traveling through Shoreacres and La Porte was not addressed. The engine and whistle noise are significant. The train noise analysis only looked at the residential areas of Seabrook and Taylor Lake just west of the SH 146/Red Bluff Road intersection. 3-13 3-26 3-15

7. Noise is only considered an impact if it rises above a federal cut-off level that requires mitigation for federally funded transportation projects. If an area went from very quiet (as people living there like it) to just below this particular federal standard (which is quite loud), there is no impact assumed. The noise from Bayport should be compared to more appropriate standards, such as those in effect in surrounding cities. Shoreacres' noise ordinance forbids noise sources that raise the average noise level by 5 dba. Even without a complete analysis, the DEIS shows impacts above this level. 3-31

8. The noise analysis assumes that quieter cranes will be used than at Barbour's Cut but the Port has made no commitment to use these. 3-50

9. The noise analysis is based on daily averages, and none of the analysis of impacts looks at maximum sound levels. Dropped containers, revving engines, and other sporadic noises can be extremely disruptive to surrounding land uses, but the impacts of these noises cannot be seen in a daily average analysis. 3-29 3-39

10. The DEIS includes no analysis of vibration impacts. Areas along the north side of the channel already experience disruption from vibration causes by ships in the Bayport 20-23

Channel. Clearly, these impacts would increase as more ships and more heavy machinery are added to the area. As with many other impacts, vibration impacts for the Bayport Alternative are likely to be worse than for other alternatives because of proximity to residential areas. This impact must be analyzed. 20-46

Shoreacres is a quiet community. We like it that way and want our peace and quiet to remain. Clearly, the Bayport Alternative is the worst alternative with respect to noise because of its proximity to numerous residential communities. This analysis must be redone to accurately and fairly represent the noise impacts from Bayport. 31-12

3.9 Aesthetics and Light

While the impact of changed aesthetics and light levels is hard to measure, this issue is very important to the people living around the proposed Bayport Container Terminal. While we have some industrial views and lighting, they do not currently overwhelm the natural beauty provided by our Bay, bayous, and trees. The enormity of the industrialization brought by the Bayport Container Terminal would dominate views and diminish the quality of life enjoyed by current residents. Specific issues with the aesthetics and light analysis include: 17-19

1. No view analysis was conducted from the north (Shoreacres or La Porte), a significant omission.

2. The light analysis assumes clear nights, with no reflections from clouds. With an average of 50 inches of rain per year, clouds cannot be ignored on the Galveston Bay coast. 17-20

3. On page 3.9-8 of the DEIS, the DEIS states that the viewshed from Shoreacres is obstructed due to the proximity of houses, heavy vegetation, and large trees". It goes on to say that "deciduous vegetation on the north shore of the Bayport Ship Channel would obscure the viewshed during the spring and summer months". These conclusions are incorrect for a number of reasons. 17-19

- First, the dense deciduous vegetation on the north shore has since been ripped out by the Port of Houston while stabilizing the bank of the north shore. The newly planted vegetation will take many years before it approaches the height and thickness of the trees removed. 20 47
- Second, even mature vegetation will not likely reach over 20 feet tall. How can 20-foot trees block views of cranes, light masts, ships, and other items that will soar 120 feet above the ground? 28-8

4. A high-powered telescope is mounted as an outdoor observatory at Armand Bayou Nature Center, which is located a few miles west of the proposed Bayport site. As a part of its environmental education program, astronomers use the telescope to show the stars and planets to lecture attendees. The nightglow from the greater Houston area already 17-20

makes some sights in the sky hard to see; the added light from Bayport could render the telescope useless. This issue should be addressed. 17-20

The significant omissions and inaccuracies in this section should be corrected. 28-12

3.10 Cultural Resources

The Cultural Resources section does little to convey the history and culture of a unique part of the Houston-Galveston area. A few specific comments on this section include:

1. While the DEIS mentions the remains of the Red Bluff community (which was destroyed by the Port of Houston 30 yrs ago) as a historic site, it does not list impacts to these remains in Section 3.10.3.10 Summary. 16-6

2. Because the National Register eligibility of HYC has not been determined, the indirect impacts on HYC (discussed in this section) are also not listed in Section 3.10.3.10 Summary. 16-1

3. In Section 3.16 Cultural Resources of the Shoal Point DEIS, the DEIS presents extremely detailed histories of the communities located at or near most of the alternatives. The Bayport DEIS includes nothing, however, about the 18th, 19th, and 20th century histories of the sites. The analysis focuses almost exclusively on the archaeological histories. The Bayport DEIS should have also detailed the history of the local communities. Some of the earliest settlement in the Galveston Bay area occurred near the Bayport site, yet the DEIS ignores this fact. The Bayport site includes the historic Red Bluff community, one of the oldest settlements on Galveston Bay. The Port of Houston demolished this community in the early 1970s. The three cities that flank the Bayport site—the Cities of Shoreacres, La Porte, and Seabrook have rich histories that reveal the long history of this area as a residential and recreational resource. 16-6

This section should be expanded to account for the more recent human history of this area.

3.11 Parks and Recreation

Given the recreational environment around the Bayport site, this section should be very important. However, missing data and spurious conclusions diminish the usefulness of this section as a means of distinguishing the alternatives.

1. In listing the recreational properties in the Bayport Study area on Page 3.11-2 (as well as in the supporting tables and appendices), the DEIS omitted the Houston Yacht Club (even though other private facilities were listed), the Bay Colony Park and Pier, the Seabrook Fairgrounds, and the Shoreacres Bayfront Park, and the Shoreacres Recreation Association's Pier and Boat Ramp. Getting a mere inventory of facilities correct does not seem like too much to ask of the Army Corps of Engineers. 32-27

2. The No Action Alternative assumes that the Bayport site would be filled with petrochemical facilities. Again, this is an unsupported assumption that biases the analysis. 32-28

3. The conclusion that there would be no indirect impacts from Bayport on recreational facilities is not supported. The viability of the Houston Yacht Club would certainly be challenged by Bayport from all of the impacts documented in this DEIS. Similarly, indirect impacts would certainly occur at Case Mare, Pine Gully Park, Bay Colony Park and Pier, and Robinson Park, at a minimum. 32-29

4. The Bayport Alternative would clearly have a direct impact on the Seabrook Fairgrounds because it would be condemned and demolished. This impact is, incredibly, not discussed or even listed in the DEIS. 32-29

The omissions in this section are so serious that the entire section should be redone.

3.12 Air Quality

The air quality problem in the Houston-Galveston area is significant and well recognized. Given the importance of the issue, this section must be accurate and complete. Unfortunately, the DEIS analysis is incomplete and flawed.

1. The DEIS includes no site specific air quality modeling results, except for carbon monoxide at one location near the Bayport site. In essence, all of the analysis simply looks at whether the aggregate addition of air pollution from a container terminal significantly increases air pollution over an eight county area and fails to address the impacts to the people living near the sites. Human beings do not breathe "average air"; they breathe the air that is in front of them. The City of Shoreacres does not accept the conclusion that because the air quality in the eight county area does not change significantly with Bayport added that there are no significant air quality impacts. 7-45

2. The DEIS does not include as analysis of small particulate matter (PM 2.5), an extremely hazardous air pollutant generated primarily by diesel engines. Given the number of trains, ships, and trucks proposed for the Bayport Container Terminal, the increase in small particulate pollution is likely to be significant. 7-128

3. The DEIS does not include an analysis of Hazardous Air Pollutants (HAPs), which are also produced by burning diesel fuel, and have been linked to increased morbidity in humans. 7-128

4. The DEIS does not include an analysis of the health effects of any of the air pollutants either included or omitted from the DEIS. 7-17

5. The DEIS finds that because the estimated 2007 NOx emissions for Bayport are less than the amount budgeted for it in the Statewide Implementation Plan (SIP), the operations NOx and VOC emissions are classified as long-term, less than significant 7-138

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impacts. Restricting this analysis to 2007, when Bayport is still under construction and operating at less than 20% of its capacity is extremely misleading. While daily NOx emissions are only about 2.7 tons/day in 2007, this figure rises to 13.6 tons/day on 2025 (see Table 3.12-8). Air quality conformity begins in 2007, not ends. It would be irresponsible to issue a permit for Bayport with an assumption of 2.7 tons/day of NOx, when it is known that this figure will quadruple. 7-138

6. The description of the No Action Alternative on page 3.12-14 states that since "a majority of the containerized cargo entering Houston ports is destined for the immediate Houston area", the No Action Alternative will assume that 80% of the cargo must be brought into the area by vessel, rail, or truck if no new container terminal exists. However, the Origin and Destination Study conducted for the Surface Transportation analysis found that only 56% of the cargo originated or was destined in the study area. 1-52

7. In its description of proposed mitigation (Appendix V), the DEIS states that the Port of Houston will use alternatively fueled vehicles on site "when commercially available". The DEIS does not estimate when that might be or whether the Port would be required to use these cleaner vehicles. 7-140

8. Construction emissions are considered adverse but short-term. Given the proposed length of the construction period (20 years), these impacts should be considered long-term. 7-139

9. One of the conclusions of the DEIS is that emissions are lowest for those sites south of Bayport (Shoal Point and Pelican Island) because shorter ship distances reduce pollution more than the longer truck distances increase them. This significant conclusion, which is counter to the claims made by the Port over the past few years, is not included in Table 2-3 Summary Comparison of Environmental Consequences. 7-141

10. The air quality analysis in the Shoal Point DEIS refers to air quality data collected near the Bayport site at 3903 ½ Old Highway 146 and on Fairmont Parkway. In addition, in 2001, a new air quality monitoring station opened in Friendship Park in Seabrook. The Bayport DEIS states, however, that the nearest air quality monitoring station is in Deer Park. The analysis should include relevant data from these nearer air quality monitoring stations. 7-63

The air quality analysis must be redone.

3.13 Public Safety

This section is incomplete and the methodology is flawed.

1. The most significant flaw in this section is that it did not address differences in populations around each site when concluding that there is no public safety difference among the alternatives from hazardous spills or other threats. Simply concluding that the 21-49

potential for hazardous spills would be the same for each site since number of trucks would be the same without looking at the populations that would be exposed to these spills is irresponsible. 21-49

2. This section did not address the threat of terrorism. Again, because of the difference in number of people and the number of sensitive locations near each site, the alternatives could be distinguished on this issue. 21-54

3. This section did not examine impacts on emergency service response to Shoreacres caused by transportation impacts from the Bayport Alternative. The Clear Lake Emergency Medical Corps provides emergency medical services (EMS) to Shoreacres, dispatching ambulances when needed from either Seabrook or Clear Lake City. Trains blocking Choate Road and truck queues on SH 146 could significantly lengthen EMS response times to Shoreacres. 21-51

4. While Bayport would significantly increase the number of trucks traveling through Shoreacres, many carrying hazardous materials, the City of Shoreacres does not have authority to police trucks for safety violations. This issue should be examined across all alternatives. 21-26

This section, by failing to recognize the differences among the populations potentially affected by safety issues across the alternatives is not only incorrect but also biased.

3.14 Hazardous Materials, Hazardous Wastes, and Other Regulated Substances

The primary problem with this section is the same as with 3.13 Public Safety. The analysis fails to address the difference in risk across alternatives due to the differences in the size of the nearby populations. Again, this omission is irresponsible and results in biased conclusions. 21-49

3.15 Shoreline Erosion

Shoreline erosion from ship wakes can be a significant problem, as can be seen from the nearly 100 feet lost on the north shore of the Bayport Channel over a 13 year period (DEIS, page 3.15-3). Despite the evidence of the magnitude of this problem, the issue is dealt with lightly in the DEIS.

1. In this section, the DEIS enumerates two distinguishing criteria--erosion from ship movements from Bolivar Roads to the site and erosion from the entry of ships into the terminal-- but uses only one (erosion from entry into the terminal) to rank the sites. By doing this, the higher potential for impact to shores and wetlands (including those in the open Bay) from the longer ship distances is ignored. 15-37

2. The impact of ship wakes on the Houston Yacht Club harbor and bulkheads was not addressed. 15-2

3. The DEIS promises shoreline protection to mitigate the effect of erosion for a few of the alternatives. However, it took 30 years for the Port of Houston to protect the rapidly eroding Bayport Channel. 15-35

These omissions should be addressed.

3.16 Hydrology, Drainage, and Flooding

Flooding and drainage are always a concern in a low-lying area that is subject to a large amount of rainfall and periodic tropical systems. Intense impermeable development at Bayport will exacerbate current drainage problems in the area. Other specific comments on this section include: 33-10

1. The detention plans and other mitigation measures mentioned in the DEIS are just suggestions. The Corps did not actually model the plans to see if they work nor are they required as a part of the permit. 33-11

2. The Bayport Alternative has the second most impermeable surface (paving) of the sites due to inefficient design. The amount of impermeable surface increases the flooding potential. 33-12

3. The Bayport and Cedar Point Alternatives are the only upland sites, which means that they potentially affect adjacent and downstream properties. Other sites are basically islands, where the run-off water goes straight to the Bay. 33-4

Since flooding risks cannot be completely eliminated through design, proper siting of new development is the best way to prevent future problems.

3.17 Water Quality

The water quality in the Bay is important to area residents. Over the past 20 years, water quality has improved significantly as local industries have reduced discharges. Introducing a huge new source of pollution in upper Galveston Bay runs counter to the progress for which the communities have fought. Specific comments on this section include:

1. The biggest problem with this section is that it fails to address the impacts of a 50-foot channel. The Port of Houston anticipates the need for a 50-foot channel all the way from Bolivar Roads to whatever site is chosen for this container terminal. The permit application shows wharf depths of 56 feet in anticipation of this deepening. Given this well-publicized expectation, the impacts of the deeper channel must be considered. Given the differences among the alternatives in distance from Bolivar Roads, this factor will show significant distinction among the alternatives. Omitting this factor biases the DEIS. 20-1

2. This section lists potential mitigation strategies for each site; however, the documented impacts cannot be fully mitigated and the undocumented impacts such as the 50-foot channel cannot be mitigated at all. 9-32

3. While water quality changes may be similar across alternatives, the number of people affected by those changes would be different across alternatives. Because changes in water quality affect recreational users of the Bay, the DEIS should have examined the differential impact of water quality across alternatives based on the differences in the surrounding land uses and level of recreational use of the Bay. 9-32 9-33

The section must be redone to account for the potential impacts of a deeper channel. 9-34

3.18 Sediments and Dredged Material Placement

This section addresses two separate but related issues—the need for and impacts from dredging and the placement of dredged materials. Specific comments on this topic include:

1. The DEIS introduces yet another No Action Alternative in this section. The No Action Alternative for this section is a petroleum terminal facility that would "require dredging and expansion of the channel as a part of the construction". This assumption is inconsistent with the No Action Alternative in other parts of the report and is unsupported. 2-167

2. This section should have also addressed the anticipated 50-foot ship channel. The amount of dredging and material placement for widening and deepening 30 miles of the Houston Ship Channel would dwarf any dredging needed at any particular site. The difference in the amount of dredging and related material placement would be significant among the sites, with those sites furthest to the north requiring the most dredging, and would have provided a basis for distinguishing among the sites. 11-28

3. While the DEIS expresses concern about the loss of capacity at Spilman's Island, Shoal Point, and Pelican Island for dredge disposal if the container terminal were built at one of those sites, it does not investigate alternative dredge disposal sites. For example, a good portion of the Bayport site was originally purchased by the Port of Houston for material placement. This land could serve as a dredge disposal site if one of the other alternatives were chosen for the container terminal. Other locations for dredge disposal should be investigated as well. 11-29

4. The DEIS deals with the alternatives inconsistently for disposal plans but never explains why. For example, the Bayport Alternative assumes open water disposal, while the Shoal Point Alternative assumes some type of elevation plan. 11-30

5. The design of some of the alternatives requires more dredging than should be necessary, biasing the analysis against these alternatives. For example, in the Shoal Point DEIS, the Spilman's Island Alternative is oriented so that the berths face northward to the existing 11-31

ship channel. This layout requires significantly less dredging, and hence material placement, than does the layout in the Bayport DEIS.

This section should be redone after more efficient alternatives have been designed.

3.19 Wetlands

This section is inaccurate and biased.

1. The huge issue in this section of the DEIS is the redefinition of most of the wetlands as non-jurisdictional. While a more detailed discussion of this issue must be addressed by wetlands experts, the City of Shoreacres is concerned about the clear bias introduced into this DEIS by the blatant manipulation of the amount of jurisdictional wetlands at each site. 14-49 14-64

2. Further confirming the bias in this section of the report, the loss of similar amounts of total wetlands at other sites is called a "long-term adverse impact" but the loss of wetlands at Bayport site is not called a long-term adverse impact. 14-65

3. The differences in the type and quality of wetlands across the alternatives are not addressed. 14-66

4. The impacts on wetlands from the dredging of a 50-foot ship channel are not addressed. 14-67

5. The DEIS should treat each alternative equally to prevent bias for or against any particular alternative. Yet the DEIS lists proposed and potential mitigation strategies for the Bayport site only. 14-68

Clearly, this entire section must be redone in a scientific and unbiased manner.

3.20 Ecology

The natural environment around Shoreacres is important to its citizens, and intense development at the Bayport site compromises that environment. Specific concerns about this section include:

1. In general, this section lists losses of upland habitat, aquatic resources, wetlands, and bay bottoms for each site but does not draw any real conclusions. The Bayport site is mostly upland habitat with a wide variety of plant and animal life. The Bayport Alternative eliminates more habitat than almost any other alternative. Destroying significant habitat in a highly developed area when alternatives exist, such as former dredge disposal sites, is not desirable. Even when the Port of Houston disrupted a comparatively small amount of habitat during its armoring of the north bank of the Bayport Channel, Shoreacres residents reported an increase in displaced animals being pushed into residential areas. Reported animals included wolves, coyotes, and raccoons. 12-42

2. The DEIS fails to address the issue of the introduction of marine non-indigenous species into Galveston Bay from ballast water. 12-26

3. The DEIS also fails to address the issue of the introduction of non-marine non-indigenous species, such Formosan termites, into the environment either directly from ships or from containers. While the risk exists for all alternatives, the proximity of humans, residences, water wells, and other activities near some sites, such as Bayport, increases the potential for damage for some alternatives. 12-43

4. The DEIS states that because endangered and threatened birds are mobile and can "avoid the area during construction" (DEIS, page 3.20-80), the impacts on these species is not significant. This statement trivializes an important issue for both animals and humans. Bird watching is a popular hobby in the Bay area, and an important part of the tourist trade. As water quality has improved, so have the populations of both common and formerly uncommon birds. After many years' absence, populations of white and brown pelicans have reestablished themselves in upper Galveston Bay. Ospreys have returned to the area, and even bald eagles have been sighted. The noise, light, and loss of habitat introduced by the Bayport Container Terminal would disrupt bird populations, patterns and behaviors. As with water quality, this facility works against the progress made in recent years to improve the natural environment in the area. 13-1 12-44

These major omissions and errors must be corrected.

4.0 Unavoidable, Long-Term, and Cumulative Impacts

This section of the report suffers from some major omissions and unsupported conclusions as follows.

1. The DEIS states that construction of project would result in an irretrievable commitment of $1.017 billion of public funds for the construction of a container terminal at any of the sites but fails to mention that the Bayport site would require the commitment of additional significant public funds to pay for the needed surface transportation improvements. None of the other sites requires anywhere near that level of public spending for transportation improvements. In addition, the ultimate need for a 50-foot channel would also result in additional spending of hundreds of millions of dollars of public funds. Again, not all sites would require that investment. 19-11 19-8

2. On page 4-10, the DEIS covers the issue of impacts on property values with two sentences that say property values may go up or down and that a "more detailed discussion of impacts to property values will be included in the Final EIS". The issue of property values is critical. All of the negative impacts detailed in the DEIS will reduce property values in Shoreacres. Shoreacres is a 100% residential city whose city government is, therefore, funded primarily with property taxes. The ability of the City to continue to provide basic city services to citizens could be jeopardized by falling property values. Waiting to discuss such as important and controversial topic as property values 19-B

until the FEIS is unacceptable. The topic should have been in the DEIS so the public has the ability to review and comment on the analysis. Property value impacts must be covered in a supplemental DEIS. 1,9-13

3. On page 4-4, the DEIS states that with the proposed project "long-term economic productivity would be enhanced by increased navigation". This statement is not supported. Without the property value analysis to show the loss in residential and recreational economic productivity and with no quantification of impacts to the fishing industry, the DEIS cannot conclude that the economic benefits of the port development are sufficient to offset losses in other parts of the economy. 6-129

4. On page 4-14, the DEIS concludes that because "TxDOT and H-GAC have in place a planning mechanism that identifies future roadway needs and allocates resources to meet those needs", additional demand on roads from the Port will be accommodated. Again, this discussion fails to quantify the costs to the public of funding these improvements or identify the transportation projects in other parts of the region that must be eliminated to pay for the Port-generated traffic improvements. 19-14

5. The DEIS should have included a true cumulative impact analysis with the anticipated 50' channel and the proposed San Jacinto Rail Line. 18-27

6. The last paragraph of the DEIS concludes that impacts of the proposed facility would be positive in some ways and negative in others and the potential cumulative effects would not be substantial. This conclusion is unsupported by the data in the DEIS and should be eliminated 18-28

In addition, since this section repeats incorrect conclusions from other sections of the report, the whole section must be redone.

5.0 Consultation and Coordination

This section of the DEIS documents the public process that occurred. While the documentation may be correct, the public involvement process itself was flawed. Some of the problems include:

1. All of the issues raised during scoping were not listed in the DEIS and, of the listed and unlisted issues, not all were addressed as required by NEPA. 23-162

2. The Corps had no real process for public input during the development of the DEIS. 23-163

3. After the release of the DEIS, copies of the DEIS were difficult to get. The public availability of the document was both delayed and poor. Given the level of interest in the project, more free copies should have been readily available. Charging the public for copies of the DEIS, with the stated reason of saving taxpayer monies, at the same time that the tax-supported Port of Houston was spending millions of dollars on consultants, 23-164 23-165

DL 11302

facilitators, and public relations was absurd. The effect was to limit public scrutiny of the document.

4. The time between the release of the DEIS and the public hearing was too short, especially given the length of the DEIS and the time it took people to get a copy of the DEIS. For citizens to make informed comments at the hearing, they needed time to obtain and review the DEIS. Given the fact that even the original comment period did not close until early February, the rush to hold the public hearing was odd and appeared to be just another tactic to limit public comment. 23-166 23-167

5. Similarly, the public hearing should not have been held two weeks from Christmas. The only apparent reason for the scheduled date was to limit input from the public.

While the problems in the public process cannot be fixed after the fact, the constraints on the public input should be documented in the FEIS.

MAR 1 9 2002

DL 11250

March 12, 2002

Mr. Kerry M. Stanley
U.S. Army Corps of Engineers
Galveston District
Regulatory Branch
P.O. Box 1229
Galveston, Texas 77553-1229

Re: The Corps' Draft Environmental Impact Statement for the Proposed Bayport Marine Terminal

Dear Mr. Stanley:

I want to express my support for the U.S. Army Corps of Engineers' Draft Environmental Impact Statement for the Bayport Marine Terminal. 29-77

I believe the Bayport site is the best alternative for a container and cruise terminal. I encourage the Corps to expedite their approval of the Port of Houston Authority's application, issue the Final Environmental Impact Statement and permit the facility. One in three jobs in Houston depend on international trade, and Bayport is needed to keep Houston competitive in the global economy. 2-62, 23-83, 6-76

I believe the Port's plans on the Bayport Terminal adequately addresses - and in many cases exceeds - issues of environmental impact, socioeconomic, land use, noise, lighting and surface transportation. 18-16

The Houston-Galveston region has an economy larger than that of Hong Kong, Turkey or Austria and more jobs than Colorado, Arizona, Alabama or South Carolina. This same region grew by more than 950,000 people in the 1990s – a greater growth in population than 40 of the 50 states. The Bayport Terminal will provide jobs, consumer goods, and economic well being to this region. I urge you to allow the Port of Houston Authority to begin construction of Bayport as soon as possible. 29-79

If you have any questions on my written comments, please do not hesitate to call me.

Sincerely,

Jack Douglass
City of Pasadena

cc: Port of Houston Authority
Via Facsimile 713-670-2425

MAR 1 4 2002

City of Friendswood

910 South Friendswood Drive
Friendswood, Texas 77546-4856
(281) 996-3270
Fax: (281) 482-1634

Mayor
HAROLD L. WHITAKER

Councilmembers
KITTEN BRIZENDINE
JERRY ERICSSON
TRACY GOZA
KIM BRIZENDINE
LARRY TAYLOR
MEL MEASELES

City Manager
RONALD E. COX

City Secretary
DELORIS McKENZIE, T.R.M.C.

March 12, 2002

DL 11251

Mr. Kerry M. Stanley
U.S. Army Corps of Engineers
Galveston District
Regulatory Branch
P.O. Box 1229
Galveston, Texas 77553-1229

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If you have any questions on my written comments, please do not hesitate to call me.

Sincerely,

Harold Whitaker
Mayor, City of Friendswood

cc: Port of Houston Authority
Via Facsimile 713-670-2425

MAR 1 8 2002

JACK CATO HARRIS COUNTY TREASURER

DL 11252

March 12, 2002

Mr. Kerry M. Stanley
U.S. Army Corps of Engineers
Galveston District
Regulatory Branch
P.O. Box 1229
Galveston, Texas 77553-1229

Re: The Corps' Draft Environmental Impact Statement for the Proposed Bayport Marine Terminal

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If you have any questions on my written comments, please do not hesitate to call me.

Sincerely,

Jack Cato
Harris County Treasurer

cc: Port of Houston Authority
Via Facsimile 713-670-2425

1001 PRESTON ☆ SUITE 652 ☆ HOUSTON, TEXAS 77002-1892 ☆ (713) 755-5120 ☆ FAX: (713) 755-8842

DL - 11741

PORT OF HOUSTON AUTHORITY

EXECUTIVE OFFICES: 111 EAST LOOP NORTH • HOUSTON, TEXAS 77029-4327
MAILING ADDRESS: P.O. BOX 2562 • HOUSTON, TEXAS 77252-2562
TELEPHONE: (713) 670-2400 • FAX: (713) 670-2448

CHARLIE JENKINS
Project Manager
(713) 670-2592

March 13, 2002

Mr. Kerry M. Stanley
U.S. Army Corps of Engineers
Galveston District
Regulatory Branch
2000 Fort Point Road
Galveston, Texas 77550

Re: Draft Environmental Impact Statement for the Port of Houston Authority's Proposed Bayport Container/Cruise Terminal

Dear Mr. Stanley:

The Port of Houston Authority submits the attached comments regarding the Draft Environmental Impact Statement for the Port of Houston Authority's Proposed Bayport Container/Cruise Terminal.

Sincerely,

Charlie Jenkins
Port of Houston Authority

Enclosure

cc: H. Thomas Kornegay
Wade Battles
Laura Fiffick
Sharon Mattox

MAR 13 2002

DL- 11741
CA
WF

THE PORT OF HOUSTON AUTHORITY'S COMMENTS AND ATTACHMENTS ON THE DRAFT ENVIRONMENTAL IMPACT STATEMENT FOR THE BAYPORT CHANNEL CONTAINER/CRUISE TERMINAL

MARCH 13, 2002

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I. AIR

A. Particulate Matter 2.5 (PM 2.5)

The DEIS appropriately discusses particulate matter of 2.5 microns or less ("PM 2.5"). On February 27, 2001, the U.S. Supreme Court held that Section 109 of the Clean Air Act does not improperly delegate legislative power to the EPA and therefore that EPA did not violate the non-delegation doctrine in issuing the new PM 2.5 standard and the revised ozone standard.[1] Though the Supreme Court upheld EPA's authority, the case was remanded back to the D.C. Circuit to dispose of any other preserved challenges (such as the argument that EPA's standards were arbitrary and capricious).[2]

The litigation is still pending at the D.C. Circuit. Both EPA and American Trucking have submitted briefs to the D.C. Circuit Court regarding the remand. American Trucking argued that the Court has already ruled that the PM 2.5 standard (and the other standards) was arbitrary and capricious. EPA disagreed with this statement in its briefs. Oral arguments were heard on December 18, 2001 and a final decision is expected in late spring of 2002.

Although the PM 2.5 standard was never vacated, it was remanded back to EPA on May 14, 1999. The PM 2.5 standard has not yet been implemented due, in part, to the continuing litigation and the fact that EPA must have three years of monitoring data before it designates areas as nonattainment. Houston began collecting PM 2.5 data as early as 1997. This was before many cities had a PM 2.5 monitoring program. This was also before EPA had an approved methodology for the program. Unfortunately, the early monitoring seasons (1997, 1998, 1999, and 2000) had numerous data quality problems and other problems such as incompleteness.[3] For these reasons, the likely timeframe for the three years of PM 2.5 monitoring will be 2001 to 2003.[4] After the monitoring period, EPA will designate nonattainment areas. Finally, EPA will require the development of state implementation plans and control strategies (probably around 2005 to 2008) if an area is found to be in nonattainment. According to TNRCC, the Houston/Galveston area is currently on track to demonstrate attainment with the new standard.[5]

7-98

In addition to the fact that the PM 2.5 standard is still in litigation and that nonattainment designations have not occurred, PM 2.5 is not currently being considered by TNRCC or EPA in either agency's permitting or compliance requirements. PM 2.5 is only considered as a subset of PM 10.

We are aware of one ongoing study to evaluate PM 2.5 in a port facility with a large container terminal operation. The Port of Oakland, California, is conducting this study, which is located within the Bay Area Air Quality Management District (BAAQMD). The study is being

[1] *Whitman v. American Trucking Assocs. Inc.*, 531 U.S. 457 (2001).
[2] *Id.* at 486.
[3] Presentation to Houston/Galveston Area Council, Guy Donaldson, Texas SIP Coordinator, USEPA Region 6, January 31, 2002; Telephone Conference with Brian Lambeth, Office of Compliance & Enforcement, Monitoring Data Management Section, TNRCC, March 12, 2002.
[4] Presentation to Houston/Galveston Area Council, Guy Donaldson, Texas SIP Coordinator, USEPA Region 6, January 31, 2002.
[5] Telephone Conference with Brian Lambeth, Office of Compliance & Enforcement, Monitoring Data Management Section, TNRCC, March 12, 2002.

coordinated with a broader BAAQMD evaluation. The results of this study consist of four volumes of publicly available documents, which are attached to these comments.

One monitoring station in the Oakland study represents conditions in and immediately downwind of port facilities and activities and is also adjacent to a major intersection with heavy truck traffic. The second monitoring station is located in a residential neighborhood in west Oakland. Three years of studies indicate that regional, not local, influences appear to be the dominant influence on fine particulate levels. Moreover, localized activities within the port boundaries do not appear to affect fine particulate matter concentrations in the residential portions of west Oakland. Federal particulate air quality standards are met at both monitoring sites with a large margin of safety. Similarly, we believe the operation of the Bayport terminal will not hamper the attainment of particulate standards in the Houston area.

For all of these reasons, the DEIS correctly addresses PM 2.5 as a subset of PM 10.

7-98

B. PM 10

The DEIS states that monitor C403 (Clinton Drive) "recorded exceedances of the annual and the 24-hour standard levels, respectively" in 1998 and 1999.[6] While this is technically correct, it should be understood that only one day was actually recorded over the 24-hour standard in 1999 (none in 1998), and that only in 1998 was the annual standard exceeded.

7-99

The DEIS further states that "the (Houston-Galveston Area) exceeds the 24-hr PM-10 standard" based on three years' worth of data reported through EPA's AIRS database.[7] This implies an area-wide, continuing condition that is not supported by the monitoring data. The exceedances on which this assertion was based occurred only at the Clinton Drive monitor, and the single exceedance of the 24 hour standard measured in 1999 is responsible for elevating the three-year average over the numerical value of the 24-hr PM-10 standard. This does not prove that "the HGA exceeds the 24-hr PM-10 standard."[8] Clearly, there was one unusually dusty day. Indeed, to determine a violation of the standard, the TNRCC and EPA must look at the "3-year average of the annual 99th percentile value," as reported in Table 3.12-1 of the DEIS. Two years after the three-year period to which the DEIS refers has ended, neither the TNRCC nor EPA has moved to designate any part of the HGA as being in non-attainment of the PM-10 standard. The language in the DEIS should therefore be revised to clearly inform the public that no part of the Houston-Galveston area (including the Clinton Drive monitor) is currently violating the PM-10 standard and that exceedance is not tantamount to nonattainment.

7-100

7-101

C. Cruise Ship Emissions

The Bayport project includes the development of five cruise ship berths whereas only three berths were considered for Pelican Island, Shoal Point, and Spillman's Island. Although the narrative in the DEIS notes that these alternative locations contemplate three rather than five berths, the emissions tables do not clearly reflect this distinction. This makes a direct comparison of the ultimate emissions from all of the locations potentially misleading.

7-102

[6] Vol. III: DEIS § 3.12.2.1, p. 3.12-2.
[7] *Id.* at 3.12-3.
[8] *Id.*

D. Site Stabilization and Elevation Emissions

As discussed in the DEIS, most of the alternatives to the Bayport site would require additional stabilization work, and all of them would require additional elevation to meet minimum operational standards. Although these additional emissions are presented in the DEIS, the emissions are presented in a narrative rather than a table format. This makes it difficult to compare emissions between the alternatives and Bayport. All emissions should be presented consistently and equally. 7-103

The following table summarizes the additional emissions that would be generated at the alternative locations as compared to Bayport.

Additional Stabilization Emissions at Alternative Location (tons per year)[9]

Location	NOx	VOC	SO2	CO	PM-diesel	Fug. PM
Bayport	0.0	0.0	0.0	0.0	0.0	0.0
Spillmans Island	260.8	29.5	101.3	69.3	36.6	1,885.8
Shoal Point	186.9	21.1	72.6	69.0	26.3	1,351.4
Cedar Point	0.0	0.0	0.0	0.0	0.0	0.0
Pelican Island	35.7	4.0	13.9	13.2	5.0	258.3
Bayport/Shoal Point	186.9	21.1	72.6	69.0	26.3	1,351.4
Bayport/San Jacinto	0.0	0.0	0.0	0.0	0.0	0.0

E. Electric Dredge

The DEIS assumes that an electric dredge could be used for dredging at each of the alternatives. Although this is true for Bayport, it might not be true for other alternatives. Some alternatives might have constraints preventing the complete use of an electric dredge – such as the length of electrical umbilical chord or the availability of an adequate power supply (easements for the power-lines, close proximity to a sub-station, government approvals, etc.). For example, Texas City's DEIS states that about 43 percent of the channel deepening at Shoal Point would require a diesel generator because the distance exceeds the use of an electric umbilical.[10] Bayport would not have these additional emissions if an electric dredge were used. This difference, and any other differences between the alternatives regarding the use of an electric dredge, should be presented in the Bayport FEIS. The analysis should include the potential emission differences and any general conformity ramifications. 7-104

F. General Conformity

The DEIS properly describes how the Bayport Project will satisfy the General Conformity requirements of the Clean Air Act. If an electric dredge is not used, the Applicant has committed to the USACE that construction-associated emissions will not exceed the 25-ton 7-109

[9] Starcrest Consulting, February 2002 (the calculations are based on emissions estimates in the DEIS).
[10] *U.S. Army Corps of Engineers Draft General Conformity Determination for Texas City's Proposed Shoal Point Container Terminal*, January 2002, p. 3-2.

threshold. The Applicant will satisfy this commitment through the use of a dredging emissions budget. The dredging emissions budget is equal to the 25-ton threshold minus the land-based conformity-related emissions. The Applicant will meet this budget by using contractual, scheduling, technical, operational, mechanical, and/or other controls. For example, the Applicant might use a diesel dredge with a more advanced pollution control device or schedule the dredging in a manner that stays below the dredging emissions budget. This enforceable control mechanism will ensure that emissions from the Bayport Project will be below the General Conformity thresholds. 7-109

G. Booster Pumps for Dredged Material

The DEIS does not evaluate the need for booster pumps to transport dredge material at certain alternatives. Different terminal sites will need to transport dredge material different distances, depending on the availability of appropriate disposal/beneficial use sites. The potential difference in emissions from this pumping should be presented in the FEIS. 7-105

H. Emissions Reductions from New Control Strategies

The DEIS assumes emissions reductions from the implementation of new control technologies for trucks and trains, but does not assume the same for ships.[11] Federal and international emission standards for marine vessels have not been included in the marine vessel emissions included in the DEIS. This leads to an inaccurate comparison between alternatives. Presenting ship and truck emissions in such a manner skews the results in favor of alternatives that rely on heavier trucking. For this reason, benefits from emissions control technologies should either be included for all modes of travel in the FEIS or none. 7-106

The following table illustrates the effect that the upcoming marine vessel emission standards are going to have on emissions from Bayport and the alternative locations. These emissions include the reductions in ocean-going vessels emissions expected by the U.S. EPA to occur by 2030 as a result of international emission standards.[12]

Effect of Ocean-Going Vessel Emission Reductions (NOx, tons per year)[13]

	Pelican Island	Shoal Point	Bayport	Cedar Point	Spillmans Island	Bayport/ Shoal Point	Bayport/ San Jacinto
2004	98.0	91.8	87.1	96.5	89.7	87.1	87.1
2005	154.3	144.8	138.0	153.4	142.8	138.3	138.3
2007	266.6	250.8	242.1	268.4	250.1	242.8	242.8
2010	433.6	409.6	401.8	444.5	415.3	401.7	401.7
2015	706.8	674.9	697.0	768.2	723.9	695.1	696.6
2020	1,116.8	1,065.0	1,093.7	1,206.0	1,136.2	1,111.8	1,162.0
2025	1,588.0	1,512.8	1,546.9	1,707.4	1,607.2	1,530.5	1,715.1
2030	1,585.1	1,508.7	1,537.8	1,697.7	1,597.3	1,523.5	1,705.3

[11] *See generally* emissions tables in Vol. III: DEIS § 3.12.
[12] While these standards have not been ratified yet, they have been written to be retroactive to the year 2000, so ocean going vessels currently being produced meet the standards.
[13] *Id.*

Reference for ocean-going vessel emission reductions: U.S. EPA, Office of Air and Radiation. *Final Regulatory Impact Analysis: Control of Emissions from Marine Diesel Engines*. EPA420-R-99-026. November 1999.

II. ALTERNATIVES

A. Bayport

1. Operational Issues

The proposed 1091-acre site at Bayport includes all primary and secondary facilities for operating the terminal. This will not only maximize operational efficiency by minimizing transportation, equipment, and labor costs (reducing terminal and trucking fees, while helping to minimize air quality impacts), but it will also eliminate land use impacts away from the terminal complex. Bayport also has sufficient land to construct mitigation measures, such as first flush ponds to retain the runoff from up to one inch of rainfall.[14] Additionally, Bayport can be connected to the existing rail corridor to Barbours Cut Terminal (BCT) – rail efficiency would be significantly reduced from 2004-2012 if the cargo is not consolidated at the BCT.

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2. Dredge Material Issues

The dredge material from Bayport will be used onsite and for beneficial use marsh creation in Galveston Bay. For comparison purposes only, the estimated dredging and marsh creation expense for Bayport is $53 million.

11-18

B. Spilman Island

1. Operational Issues

The developable area for Spilman Island, 758 acres (333 acres less than Bayport),[15] is insufficient to accommodate the entire proposed terminal project. The consequences of locating the terminal at Spilman Island would cause warehousing and other facilities to be built offsite, causing large-scale secondary land use impacts to the neighboring communities. Additionally, the limited space would impede commercial co-development and prevent the construction of first flush ponds to retain runoff from up to one inch of rainfall.

2-131
2-132

2. Dredge Material Issues

The DEIS provides that the proposed facility at Spilman Island would require construction of a new channel that would extend northwest from the existing BCT. To create such a channel, approximately 22 million cubic yards (mcy) of new work material must be

[14] Although the POHA will construct several mitigation measures, wetland polishing (the use of wetlands to provide filtration of storm water) will not be included in the permit application and is not a proposed mitigation option.
[15] The useable acreage for Spilman Island after extending the existing the Barbours Cut Channel would be 758 acres. *See* Vol. I: DEIS § 2.4.4, p. 2-20.

dredged.[16] Approximately 7 mcy of the 22 mcy of material, however, would be used onsite at Spilman Island to raise the site above the 100-year flood plain.[17] Thus, approximately 15 mcy of new work material would have to be placed offsite if Spilman Island is developed.

In addition to the 15 mcy of new work material that must be placed offsite, Spilman Island is currently a placement site for the 50 year Dredged Material Management Plan (DMMP). Under the DMMP, Spilman Island is estimated to receive approximately 33.3 mcy of maintenance dredge material over the next 50 years.[18] If the terminal is placed on Spilman Island, this dredge material will need to be placed offsite. It is important to note that Spilman Island is the Congressionally authorized disposal site for the two nearby federal channels – the Houston Ship Channel (HSC) and the Barbours Cut Channel. 11-15

Under the DMMP, all authorized placement areas will be filled to maximum capacity in the 50-year plan, thus new areas would have to be constructed to replace the lost placement capacity.[19] A new placement area would also have to be constructed for the new dredge material from the development of Spilman Island. The disposal options would be limited to an upland area, a confined cell, and/or a beneficial use site.

a. Upland Disposal Area

Based on the estimated 48 mcy of dredge material that must be disposed, approximately 730 acres would be displaced solely by the material if it is stacked 45 feet high. Additionally, 234 acres of levees would be required to confine the dredge material. Thus, at a minimum, 964 acres of land is required for an upland disposal facility to be constructed. As a result of existing development in the vicinity of the Spilman Island, the only available location for an upland disposal area along this reach of the HSC appears to be Cedar Point. Using an estimated market value of $10,000 per acre, the land acquisition costs would total approximately $9.64 million.[20]

The levee system to contain the dredge material would ultimately be approximately 6.5 miles in length, 430 feet wide, and 50 feet tall. The estimated cost to build the levee will be $3 per cubic yard, which totals over $47 million (includes $1 million for spill-boxes and 15% for engineering costs and contingencies).

As provided above, Spilman Island is scheduled to receive 33 mcy of maintenance dredge material under the DMMP over the next 50 years. Based on an average of $1.50 per cubic yard to pump maintenance material from this channel section, it will cost approximately $50 million to continue to pump 33 mcy of maintenance dredge material on Spilman Island. If, however, the maintenance dredge material must be placed at Cedar Point, the dredge material will be required to be pumped four times further. This increased pumping will cause the costs to rise to approximately $2.50 per cubic yard, or an increase of $33 million dollars over the life of the 11-19

[16] Vol. IV: DEIS § 3.18.3.4, p. 3.18-18.
[17] *Id.*
[18] Vol. IV: DEIS §3.18.3.4, p. 3.18-19. *See also Id.* at Table 3.18-3: Estimated Dredge Volumes and Available Capacity.
[19] Vol. IV: DEIS §3.18.3.4, p. 3.18-19.
[20] Importantly, the Port of Houston Authority does not have powers of eminent domain to acquire land in Chambers County, Texas. Therefore, there is a possibility that unwilling sellers or holdouts will cause the Port of Houston Authority difficulties in acquiring the land.

project. Furthermore, as provided above, 15 mcy of new dredge material will be required to be removed from Spilman Island to construct the facility. The cost to dredge and pump the new dredge material to Cedar Point is estimated to cost $4.50 per cubic yard, which totals approximately $67 million.[21] Therefore, the cost to pump the dredge material to an upland site at Cedar Point instead of Spilman Island would be approximately $100 million over the next 50 years.

If a disposal area is constructed at Cedar Point, the DEIS suggests that up to 165 acres of freshwater wetlands and 14 acres of salt/brackish tidal wetlands will be impacted, which will need to be mitigated.[22] In addition, it will optimistically take 72-78 months longer to begin constructing a facility at Spilman Island than at Bayport. This additional time will be taken up with creating a new master plan (18 months), a new Environmental Impact Statement (a minimum of 24 months), and performing due diligence, acquiring land, developing engineering reports and plans, mobilization, levee construction, dredging, stabilizing sufficient area to begin construction, etc. (approximately 30 months). This estimate does not include the three years of permitting effort for Bayport that would be largely wasted if a new site is selected.[23]

The costs of constructing an upland disposal area, the additional dredging and pumping costs, and other expenses will significantly increase the cost to locate the facility at Spilman Island. Taking into consideration only the optimistic estimates provided above and no other costs, it will ultimately cost more than $157 million over the life of the project to locate the facility at Spilman Island, assuming an upland disposal site is constructed and used.

b. Confined Cell Disposal Area in Galveston Bay

Although the construction of an offshore confined cell in Galveston Bay would take up approximately the same area as an upland disposal area, some of the dredge material would be necessary to create a beneficial use area to mitigate the impact of the footprint of the cell on the shallow water bay habitat. Assuming an optimistic one-to-one ratio for mitigation, the dredge material will create, at a minimum, an 840-acre cell and an 840-acre beneficial use site.[24]

A levee similar to the one proposed at the upland area above must be constructed to contain the dredge material in a confined cell. Although the costs would be significantly increased because the levee is being built in the bay, a very optimistic estimate is $46 million. In addition to the costs to construct the confined cell disposal area, shallow water habitat mitigation would be required to offset the cell disposal area's environmental impact. Prior HSC projects for construction of similar marsh habitats have cost approximately $20,000 per acre. Because 840 acres of marsh are estimated to be created, the mitigation will cost approximately $17 million. Again, this estimate assumes that the mitigation is a one-to-one ratio.

[21] The $4.50 per cubic yard is based on actual HSC contracts involving shorter pumping distances for new material. The cost of moving the 7 mcy of material onsite is considered in the attached memorandum regarding site stabilization.

[22] Vol. IV: DEIS § 3.19.2.4, p.3.19-8.

[23] The Port of Houston Authority would not simply adopt the conceptual plan proposed for Spilman Island in the DEIS for many reasons, including the grossly inadequate rail facilities and that the useable acreage for Spilman Island after dredging would be 758 acres (Bayport is 1091 acres).

[24] Geotechnical studies will be required for disposal areas. Also, 840 acres is the minimum area required to construct a confined cell disposal area and assumes optimum consolidation.

If the offshore disposal cell is constructed to the west of the HSC in the Upper Bay, the maintenance dredging costs should be substantially similar to the upland costs above because of the similar pumping distance. Thus, over the life of the project, the additional dredging cost will be approximately $100 million. Costs would increase if the confined cell or the beneficial use habitat, or both, are located more than six miles from Spilman Island, which is likely because the available space within a six mile radius of Spilman Island is limited. If either the confined cell or the beneficial use site was moved more than six miles from Spilman Island, the dredging and pumping cost could increase $1 to $1.50 per cubic yard, or an additional $48 million to $72 million.

11-20

As calculated above, a confined disposal cell would create an 840-acre island and an 840-acre marsh on the west side of the Houston Shipping Channel. It is likely, however, that recreational boaters or nearby residents, or both, would oppose the creation of an island in this area. Additionally, the POHA believes that a confined cell disposal area would be inconsistent with the spirit and intent of the Beneficial Use Group's (BUG) long-range plan for the utilization of dredge material. (The BUG is an eight member inter-agency team that developed the HSC beneficial use plan for dredge material.) Again, construction of the offshore disposal cell would push back the start of construction of a facility at Spilman Island. The same 72-78 months provided above is an optimistic estimate, taking into consideration the additional construction time required to construct the levee in Galveston Bay rather than on dry ground.

The cost to construct an 840-acre confined cell disposal area and an 840-acre beneficial use marsh that could receive dredge material is estimated to be more than $164 million. Once again, these estimates are extremely optimistic.

c. Beneficial Use Disposal of Dredge Material in Galveston Bay

A 4,300-acre beneficial use salt marsh would be created from approximately 48 mcy of dredge material. The estimated cost to completely construct a 4,300-acre beneficial use salt marsh would include dredging and pumping costs of approximately $148 million plus construction costs of $86 million (4,300 x $20,000 per acre), which totals $234 million. Notably, this estimate does not include the cost to construct internal levees and other various expenses.

11-21

The 4,300-acre marsh is approximately the size of a square 2.6 miles on each side. The calculations above require the marsh to be located in the Mid-Bay area, west of the HSC. It is highly unlikely that recreational boaters and nearby residents would approve of the creation of a gigantic marsh off the bay coast. Furthermore, in a report to the USACE, the National Marine Fisheries Service stated that beneficial use marshes should be created on the east side of the HSC for maximum long-term functionality.[25] In addition, the BUG would likely require multiple sites, which would significantly increase the cost to pump the material. The decisions on the final site locations would be based on social, environmental, economic, and engineering decisions.

[25] *See* R.J. Zimmerman, et al., *Site Selection for Beneficial Use of Dredge Material Through Marsh Creation in Galveston Bay (Final Report to the U.S. Army Corps of Engineers Galveston District and the Port of Houston Authority)*, THE NATION MARINE FISHERIES SERVICE, SOUTHEAST FISHERIES SCIENCE CENTER, GALVESTON LABORATORY, GALVESTON TEXAS, December 15, 1992.

In addition to the conservative estimate of $234 million to construct the beneficial use marshes, the start of construction at Spilman Island would again be pushed back the same optimistic 72-78 months provided above.

3. Stabilization Issues

Spilman Island has a complex geology. Much of Spilman Island is built on old bay bottom, except for the levees, which are generally constructed of dried maintenance and clay material from dredging new facilities along the HSC. The material that has been added to Spilman Island is composed of the soft material resulting from maintenance dredging of the HSC and Barbours Cut Ship Channel.

Although we know what has been placed in Spilman Island, we do not have any formal geotechnical studies for stabilizing Spilman Island.

For benchmark purposes only, we do have a geotechnical study performed by Fugro South, Inc. for Terminal No. 7 at Barbours Cut (BCT 7).[26] Although the geology of BCT 7 is likely to be different than Spilman Island, the Fugro South study can be used to approximate the cost and identify possible options of how to stabilize Spilman Island. Thus, using the estimates in the study, stabilization of Spilman Island would cost approximately $300,000 per acre. Additionally, because there are 728 acres at Spilman Island that require stabilization, plus an additional 161 acres that will need to be stabilized for the construction of the bulkhead, which will subsequently be lost, the cost to stabilize Spilman Island would exceed $266 million if its geology were similar to BCT 7.[27]

As provided above, there are geotechnical differences between BCT 7 and Spilman Island. Spilman Island is likely to be less stable because dredge material has been deposited there for a longer period of time, causing more material to be located at Spilman Island, and dry soil has not been placed at Spilman Island, causing the deposited dredge material to not be consolidated, like what occurred at BCT 7. Therefore, the cost to stabilize Spilman Island will likely be more than BCT 7 on a per acre basis. Nevertheless, conservative estimates to stabilize the soil on Spilman Island range from $297,000 to $428,000 per acre,[28] which will cost approximately $264 million to $380 million.

Before any stabilization could occur, a geotechnical study of Spilman Island would have to be completed, which would show the best options for stabilizing. A geotechnical study is estimated to take between 12-14 months and cost approximately $300,000. It is also important

2-135

[26] *See* Fugro South, Inc., GEOTECHNICAL STUDY GROUND IMPROVEMENT ALTERNATIVES, TERMINAL-7 BARBOURS CUT, MORGANS POINT, TEXAS, Report No. 0401-4303, May 30, 2000. (This document is in the administrative record.)

[27] The site has an overall area of approximately 975 acres, with approximately 925 acres within the perimeter levee. Vol. 1: DEIS § 2.3.3.1, p. 2-9.

[28] *See* Memorandum to Steve DeWolf, P.E. of the Port of Houston Authority, from John T. Juergens, P.E. of Fugro South, Inc., SUBJECT: GROUND IMPROVEMENT COSTS FOR SPILMAN AND SHOAL POINT, March 6, 2002. *See also* CONCEPTUAL SPILMAN ISLAND DEVELOPMENT STUDY performed by Steven H. DeWolf, P.E., Chief Engineer for the Port of Houston Authority (estimates that the stabilization of Spilman Island will cost from $610,000 to $700,00 per acre). (This document is in the administrative record.)

to note that it would take up to three years to stabilize sufficient acreage for the development of Spilman Island to begin.

4. Additional Issues

Construction associated with stabilizing Spilman Island will cause additional air impacts. Also, a major HL&P power line would need to be relocated at an estimated cost of $5 million, and the seventeen pipelines crossing Spilman Island would need to be relocated at a cost of $3 million each for a total of $51 million.

C. Shoal Point

1. Operational Issues

As provided in the DEIS, without the rail connection between Texas City and LaPorte, the POHA would be unable to consolidate trains at BCT from Shoal Point – reducing rail efficiency.[29] Furthermore, the POHA does not have the right to build a rail line from Shoal Point to BCT in Union Pacific's right-of-way. Therefore, it would be Union Pacific's exclusive decision whether to reestablish rail service between Texas City and LaPorte or to grant the POHA the right to build a rail line from Shoal Point to BCT. Moreover, the additional truck trips between Shoal Point and BCT would cause increased air impacts.[30]

In addition to the above, Shoal Point is not large enough to accommodate all of the proposed development. Warehousing, intermodal yards, or other facilities would have to be built offsite, causing secondary land use impacts and decreased efficiency. The limited space would also impede commercial co-development and prevent the construction of first flush ponds to retain the runoff from up to one inch of rainfall.

2. Dredge Material Issues

Shoal Point is currently a dredged material placement area under the DMMP and is estimated to receive 21.7 mcy of dredge material over the next 50 years. Additionally, the construction of a terminal at Shoal Point would create 11 mcy of new work material.[31] Like Spilman Island, however, 15 mcy of dredge material would be used onsite to construct the terminal complex at Shoal Point.[32] Therefore, a total of 17 mcy of dredge material will have to be placed in new placement areas because all of the authorized placement areas under the DMMP will be filled to capacity in the 50-year plan. The new placement options would likely be a confined cell and beneficial use sites.

a. Confined Cell Disposal Area in Galveston Bay

Assuming an optimistic one-to-one ratio for mitigation, the dredge material will approximately create a 300-acre cell and a 300-acre beneficial use site. Because of the location

[29] To connect this line, the rail bridge parallel to Highway 146 near Kemah and Seabrook would have to be rebuilt.
[30] Vol. I: DEIS § 2.5.2.2, p. 2-26.
[31] Vol. IV: DEIS § 3.18.3.5, p. 3.18-20.
[32] *Id.*

of Shoal Point, many of the placement site problems associated with Spilman Island would not be encountered. For example, it is likely that the confined cell and beneficial use sites would be built within a three-mile radius of Shoal Point, minimizing increases in the pumping costs. Nevertheless, the levees for the confined cell would cost approximately $16 million, and the beneficial use sites would cost $20,000 per acre, which would exceed $6 million. Importantly, a confined cell disposal area would most likely be inconsistent with the spirit and intent of the BUG's long-range plan for the utilization of dredged material in Galveston Bay.

11-22

b. Beneficial Use Disposal of Dredge Material in Galveston Bay and/or Swan Lake

Approximately 1,500 acres of beneficial use marshes will be created from 17 mcy of dredge material from the site. At $20,000 per acre, construction of the beneficial use sites will cost approximately $30 million.

11-23

The timetable for the creation of confined cell disposal area or a beneficial use site should not create a delay in construction because the material would be placed directly onto the construction site at Shoal Point. Nevertheless, it would optimistically take 72-78 months longer to begin constructing a facility at Shoal Point than at Bayport because a new master plan would have to be created, the NEPA process would have to be preformed again, engineering reports and plans would have to be developed, dredging would have to occur, sufficient area of land would have to be stabilized, etc.

2-137

3. Stabilization Issues

Sections of the Shoal Point site currently consist of new work dredged material, which consists of stiff to very stiff clay.[33] This material is significantly more stable than what is at Spilman Island. The stabilization program would likely consist of the installation of wick drains, along with soil surcharge.[34] The cost to stabilize the site is estimated to be approximately $100,000 to $150,000 per acre.[35] Extrapolating these estimates, it will cost approximately $70 million to $105 million to stabilize Shoal Point.[36]

2-143

[33] Cell C at Shoal Point, the approximate location for Phase I of the proposed Texas City container terminal, consists mostly of new work dredge material. *See DEIS for Texas City's Proposed Shoal Point Container Terminal*, Vol. II, Appendix B – Geotechnical Information. Cells A and B at Shoal Point likely contain more maintenance dredge material, thus causing their geology to be similar to Spilman Island.

[34] *DEIS for Texas City's Proposed Shoal Point Container Terminal*, Vol. I § 2.4.2.3, p. 2-24.

[35] *See* Memorandum to Steve DeWolf, P.E. of the Port of Houston Authority, from John T. Juenger, P.E. of Fugro South, Inc., SUBJECT: GROUND IMPROVEMENT COSTS FOR SPILMAN AND SHOAL POINT, March 6, 2002.

[36] Shoal Point is approximately 775 acres. *See* Vol. I: DEIS § #57, p. 2-10.

D. Cedar Point

1. Operational Issues

The current infrastructure is insufficient to build or operate a container terminal complex. The nearest rail spur is approximately 2.5 miles from the project site, and there are no utilities in the area. A new high-voltage transmission substation would be required at the project site, and road and rail construction would be required prior to beginning construction.

2-145

Similar to Shoal Point and Pelican Island, rail could not connect Cedar Point to BCT, and thus the POHA could not consolidate trains at BCT. Furthermore, the trucks transporting the containers from Cedar Point would have to travel an increased distances, causing increased air impacts.[37]

2-146

2. Dredge Material Issues

A major difficulty with the Cedar Point alternative is that a channel would have to be cut through a current DMMP placement site in Galveston Bay. This would cause the loss of an area that is scheduled to contain approximately 26 mcy of dredge material, which must be replaced.[38] In addition, 29 mcy of dredge material could be produced from cutting a new channel for the terminal.[39] Therefore, because all authorized placement areas under the DMMP will be filled to capacity, a new placement area must be constructed that could contain approximately 55 mcy of dredge material. As above, the possible options would be an upland disposal area, a confined cell, and/or beneficial use marshes.

a. Upland Disposal Area

The 55 mcy of dredge material would displace approximately 835 acres of land, assuming the material is stacked 45 feet high. Over 265 acres of levees would be required to confine the dredge material. Therefore, approximately 1100 acres of land would be required to build an upland facility to contain the dredge material. Because the only available upland site is in the area of Cedar Point, the land acquisition costs would total approximately $11 million, assuming an estimated market value of $10,000 per acre. Additionally, the estimated cost to build the levee would be approximately $53 million. Therefore, the conservative estimated cost to build an upland dredge material placement area would be approximately $54 million, which does not include any additional dredging or pumping costs.

11-24

Also, as provided above, the upland facility on Cedar Point will impact wetlands, which will need to be mitigated, and cause delays to construct the placement site.

b. Confined Cell Disposal Area in Galveston Bay

Assuming an optimistic one-to-one ratio for mitigation, 55 mcy of dredge material will create a 980-acre cell and a 980-acre beneficial use site. Similar to Shoal Point, it is likely that

11-25

[37] Vol. I: DEIS § 2.5.2.2, p. 2-26.
[38] *See* Vol IV: DEIS § 3.18.3.6, p. 3.18-21.
[39] *Id.*

the confined cell and beneficial use sites would be built within a six-mile radius of Cedar Point, minimizing increases in the pumping costs. The levees for the confined cell, however, would cost approximately $53 million, and the beneficial use sites would cost $20,000 per acre, which would exceed $19 million. Thus, the total would be over $72 million. Again, the POHA believes that the creation of a confined cell disposal area would be inconsistent with the spirit and intent of the BUG's long-range plan for the utilization of dredged material in Galveston Bay.

11-25

Again, it will optimistically take 72-78 months longer to begin constructing a facility at Cedar Point than at Bayport. This additional time will be taken up with creating a new master plan, performing a new Environmental Impact Statement, performing due diligence, acquiring land, developing engineering reports and plans, mobilization, levee construction, dredging, etc.

2-137

c. Beneficial Use Disposal of Dredge Material in Galveston Bay and/or Swan Lake

Approximately 5000 acres of beneficial use marshes will be created from 55 mcy of dredge material. At $20,000 per acre, construction of the beneficial use sites will cost approximately $100 million.

11-26

E. Pelican Island

Similar to Shoal Point, without the rail connection between Texas City and LaPorte, the POHA would be unable to consolidate trains at BCT from Pelican Island. Again, it would be Union Pacific's exclusive decision whether to reestablish rail service between Texas City and LaPorte. Additionally, to get from Pelican Island to Galveston, rail traffic (and likely truck traffic) would be impeded by a drawbridge or lift bridge. This will cause delays not only for the traffic from the terminal over the bridge, but also marine traffic in Galveston Channel.

2-147

Trucks from Pelican Island would again have to travel farther to get to the BCT, thus causing increased air impacts.[40]

7-117

Other infrastructure requirements would also be needed to locate a facility at Pelican Island, including a new high-voltage substation and transmission lines across the Galveston Channel.

2-148

F. Split Sites: Upper San Jacinto Bay/Bayport and Shoal Point/Bayport

Importantly, the container volume handled at the split sites will potentially be insufficient to justify direct rail service. Therefore, the rail cargo would likely be trucked from the split sites to BCT or other destinations, causing additional traffic and air impacts. Effectively, the development of split sites would increase costs and decrease efficiency.

2-14

[40] Vol. I: DEIS § 2.5.2.2, p. 2-27.

III. CUMULATIVE IMPACTS

The Houston Ship Channel

The HSC is currently undergoing a deepening and widening project from 40 feet to 45 feet. This project has been in the planning and implementation stages for well over ten years and the initial costs are expected to be approximately $360 million, which includes initial construction costs to bring the channel to 45 feet and costs to develop twenty to twenty five years of dredge material placement capacity. The POHA has no current intention (and there are no reasonably foreseeable projects) to increase the depth of the HSC to 50 feet. Such a project would not be economically feasible so soon after the deepening and widening of the HSC to 45 feet because the HSC would have to be lowered to 50 feet from the Galveston Sea Buoy (entrance of the HSC in the Gulf of Mexico) to a terminal. To dredge only the Barbours Cut Channel or the Bayport Channel to 50 feet would not be sufficient to allow a vessel with a draft greater than 45 feet to travel up the HSC from the Gulf of Mexico. Nevertheless, if a deepening and widening project of the HSC to 50 feet ever rose beyond mere speculation and was actually considered by the POHA, NEPA would require the project to have its own environmental assessment (and likely an environmental impact statement) prepared.

20-41

As proposed, the Bayport facility will be dredged to allow only vessels with a 40-foot draft to call upon it (Panamax class ships). At the BCT, however, there are current proposals to increase the Barbours Cut Channel to 45 feet. Thus, if any vessels with a draft greater than 40 feet begin to call on the POHA, the BCT would be available to discharge the cargo.

31-14

IV. COASTAL ZONE MANAGEMENT

The DEIS assumes, without discussion, that the alternative sites would each conform with the Texas Coastal Zone Management Plan in the same manner as the proposed project.[41] While the Coastal Management Plan does provide flexibility to allow for the use of resources, the substantially increased amounts of dredging and dredged material disposal that are associated with several of the alternative sites do raise some concerns. The specific policies for dredging and dredged material disposal and placement are found at 31 T.A.C. § 501.14(j). The requirements are lengthy and detailed, and have as their goal to avoid and minimize adverse effects to coastal resources to the greatest extent practicable. One specific technique to minimize adverse effects that is specified is to use "existing or natural channels and basins instead of dredging new channels or basins, and discharging materials in areas that have been previously disturbed or used for disposal or placement of dredged material." 31 T.A.C. § 501.14(j)(2)(A)(iii). As explained in our comments to the alternatives above, most of the other sites do not use this readily available technique to minimize impacts.

30-5

V. PROPERTY VALUES

The DEIS mentions that additional evaluation of the potential impact on property values should be included in the FEIS. While we recognize the concerns of property owners, there will be no impacts to property values meriting disclosure in the FEIS.

6-117

[41] *See generally* Vol. II: DEIS § 3.2 Land Use and Coastal Zone Management.

The only direct evidence of the impact of a container terminal on property values in the Houston area is to be found by evaluating the impact of the Barbours Cut Terminal on property values in the areas surrounding that terminal. Recognizing this fact, the Citizens Advisory Group (CAG)[42] requested American Metro/Study to evaluate trends in property values in the area surrounding the Barbours Cut Terminal, which opened for business in 1974. The evaluation proceeded in three stages, and copies of all reports generated by American Metro/Study are attached to these comments. The first stage was completed March 14, 2000, and covered the period 1970 through 1980. This study found that in terms of assessed property valuation, the value of the majority of the residential developments in the City of LaPorte appear to have grown at a rate that compares favorably to the growth rates of both Harris County and the City of Houston. The second stage evaluated a more recent time period, 1988-2000, and was completed on February 1, 2001. For this later period, the average values of single-family homes in the area grew at rates that compare favorably to both Harris County and the cities in Harris County. The third stage of the evaluation presented contains breakdowns for Morgan's Point, Shoreacres, Bay Colony, and El Jardin for the 1988-2000 period. Taken as a whole, the data presented shows that the Barbours Cut Terminal did not result in a depression of property values when those areas were compared to the broader Harris County area.

6-117 (cont'd)

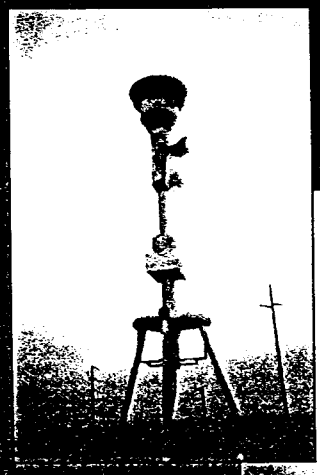
[42] The CAG is composed of a wide range of public and private interests. It has been working for two years to analyze the Bayport project and to suggest modifications. All studies done by the CAG were held in confidence until the Bayport DEIS was released.

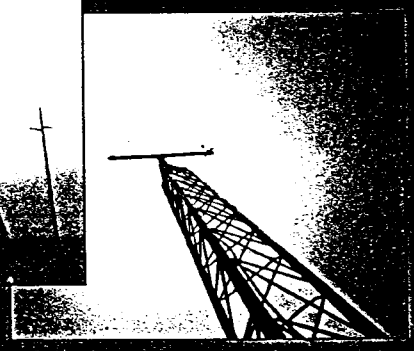
West Oakland Particulate Air Quality Monitoring Program

FINAL REPORT

May 1999 - November 2000

November 2000

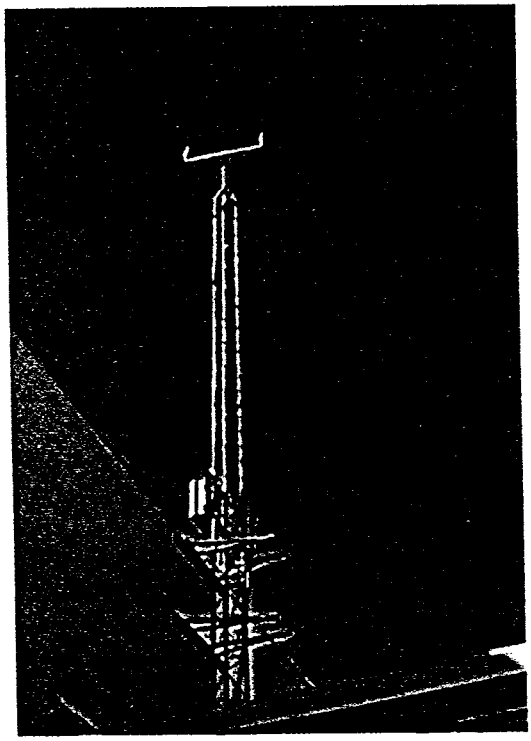


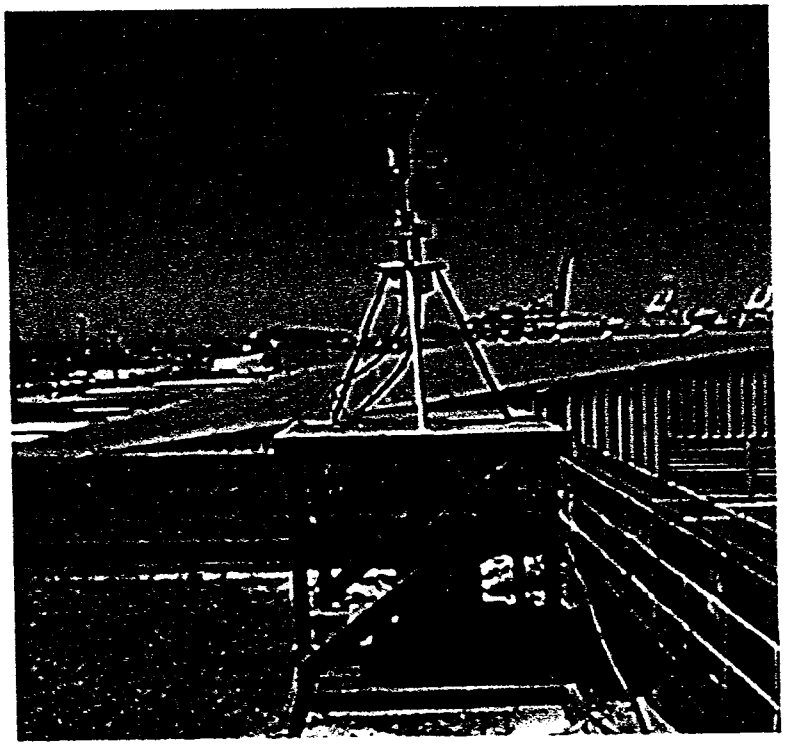


Fourth Quarter Year 2000 Progress Report

11741

West Oakland
Particulate Air Quality Monitoring Program





Prepared for:

PORT OF OAKLAND

Prepared by:

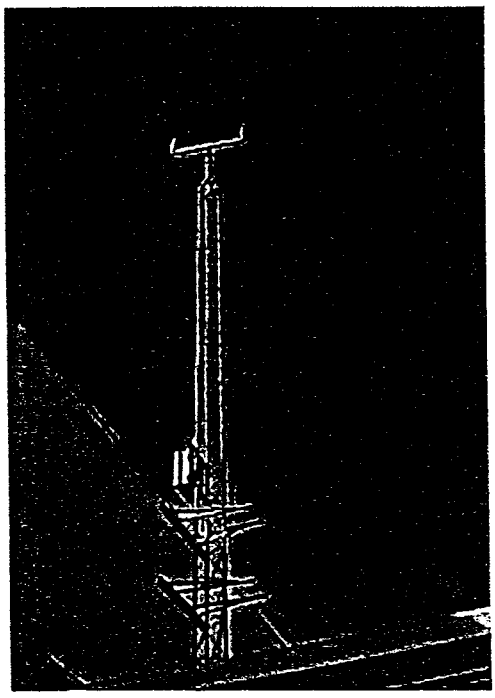
GAIA
consulting, inc.

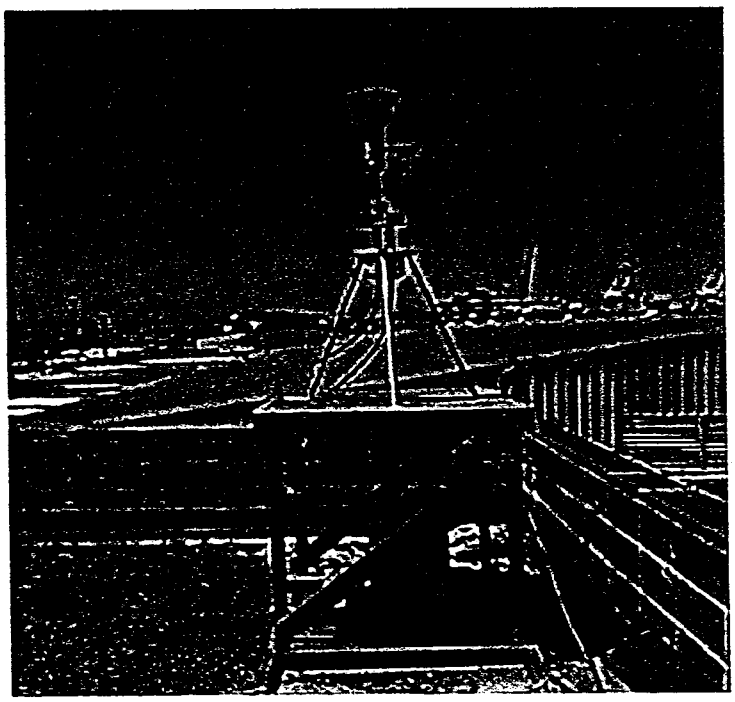
June 2001

First Quarter Year 2001 Progress Report

11741

West Oakland
Particulate Air Quality Monitoring Program





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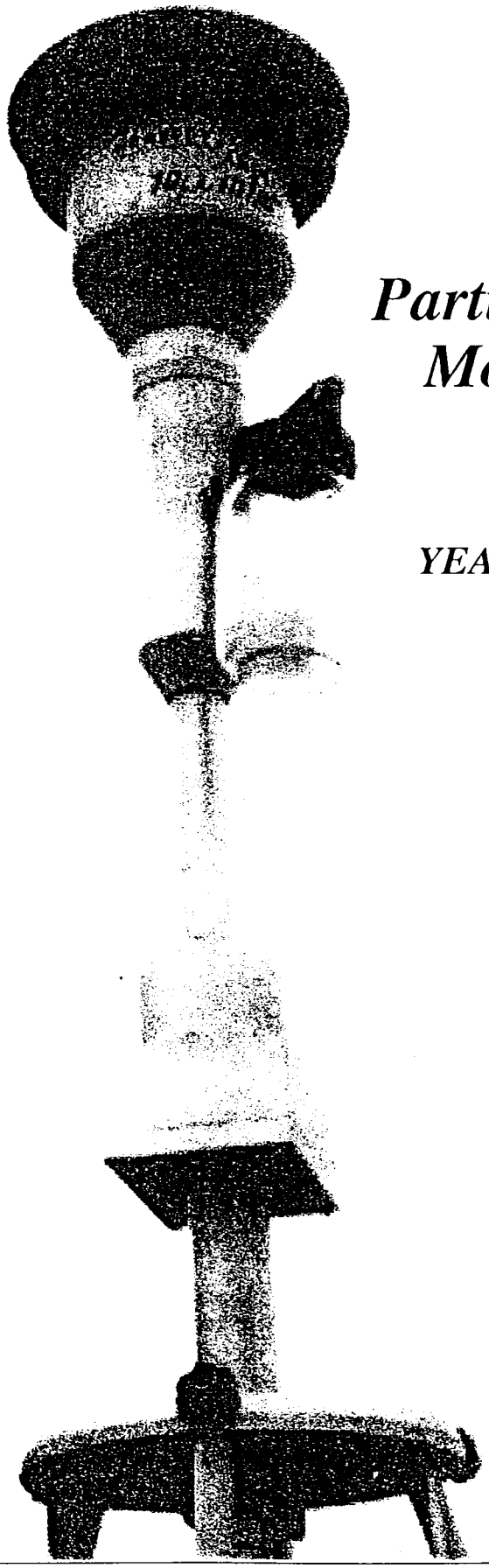

West Oakland Particulate Air Quality Monitoring Program

YEAR TWO ANNUAL REPORT

May 1998 - April 1999

September 1999

Prepared for the Port of Oakland

Prepared by Orion Environmental Associates

TRENDS IN ASSESSED VALUES OF PROPERTY IN THE CITY OF LA PORTE 1970 - 1980

Prepared for:

Port of Houston Authority
March 14, 2000

14744

TRENDS IN ASSESSED VALUES OF PROPERTY IN THE LA PORTE AREA 1988 - 2000

Prepared for:

Port of Houston Authority
February 1, 2001

11711

City of Morgans Point Excluding Bayridge Road Properties

Year	Average Value	Average Land	Average Improvements	# of Properties	Total Value	Total Land	Total Improvements
1988	33,501	10,630	22,871	57	1,909,570	605,900	1,303,670
1989	34,317	10,160	24,157	57	1,956,050	579,100	1,376,950
1990	35,066	10,421	24,646	58	2,033,850	604,400	1,429,450
1991	35,634	10,426	25,208	58	2,066,760	604,700	1,462,060
1992	40,074	11,349	28,725	59	2,364,380	669,600	1,694,780
1993	50,044	18,224	31,821	59	2,952,610	1,075,200	1,877,410
1994	49,812	17,987	31,825	60	2,988,710	1,079,200	1,909,510
1995	51,734	15,495	36,239	60	3,104,010	929,700	2,174,310
1996	60,115	16,023	44,092	62	3,727,110	993,400	2,733,710
1997	61,804	16,338	45,466	63	3,893,670	1,029,300	2,864,370
1998	61,333	16,642	44,692	65	3,986,650	1,081,700	2,904,950
1999	64,566	16,962	47,604	68	4,390,490	1,153,400	3,237,090
2000	78,980	16,573	62,407	66	5,212,690	1,093,800	4,118,890
Total Change	136%	56%	173%	16%	173%	81%	216%
Average Annual Change	7.4%	3.8%	8.7%	1.2%	8.7%	5.0%	10.1%
Total Change *(all Morgans Point)*	137%	91%	168%	10%	161%	111%	195%
Average Annual Change *(all Morgans Point)*	7.4%	5.6%	8.6%	0.7%	8.3%	6.4%	9.4%

Source: Harris County Appraisal District

City of Shoreacres

APPRAISAL DISTRICT DATA (Single-Family Residential Properties)							
Year	Average Value	Average Land	Average Improvements	# of Properties	Total Value	Total Land	Total Improvements
1988	57,575	10,101	47,474	476	27,405,710	4,808,260	22,597,450
1989	59,233	11,401	47,831	482	28,550,150	5,495,490	23,054,660
1990	59,400	11,350	48,050	486	28,868,320	5,516,040	23,352,280
1991	62,523	11,448	51,074	489	30,573,600	5,598,290	24,975,310
1992	62,733	11,394	51,339	491	30,801,840	5,594,590	25,207,250
1993	73,162	14,944	58,218	490	35,849,370	7,322,400	28,526,970
1994	73,504	14,501	59,003	500	36,751,790	7,250,300	29,501,490
1995	78,155	12,865	65,290	525	41,031,520	6,754,200	34,277,320
1996	80,196	12,931	67,265	532	42,664,440	6,879,500	35,784,940
1997	84,312	13,828	70,484	565	47,636,540	7,812,900	39,823,640
1998	88,967	13,766	75,201	575	51,156,312	7,915,540	43,240,772
1999	93,406	13,889	79,516	591	55,202,670	8,208,500	46,994,170
2000	103,194	13,911	89,283	604	62,329,220	8,402,400	53,926,820
Total % Change	79%	38%	88%	27%	127%	75%	139%
Average Annual Change	5.0%	2.7%	5.4%	2.0%	7.1%	4.8%	7.5%

MLS DATA for Shoreacres Area*							
Year	Average Price List	Average Price Sales	Median Sales Price	Sales/List Ratio	Number of Sales	Days on Market Average	Days on Market Median
1996	98,854	92,854	85,950	94%	24	129	101
1997	98,756	97,828	82,900	99%	43	98	81
1998	127,126	119,363	93,900	94%	59	100	61
1999	118,271	113,290	98,750	96%	50	102	83
2000	120,212	114,816	116,475	96%	58	127	89

** The "Shoreacres Area" is defined by KeyMap grids 580N through 580V*

Source: Harris County Appraisal District, Houston Association of Realtors

Bay Colony Subdivision

APPRAISAL DISTRICT DATA (Single-Family Residential Properties)							
	Average Value	Average Land	Average Improvements	# of Properties	Total Value	Total Land	Total Improvements
1988	57,218	11,225	45,992	114	6,522,820	1,279,700	5,243,120
1989	55,619	11,225	44,393	114	6,340,520	1,279,700	5,060,820
1990	55,691	11,225	44,465	114	6,348,720	1,279,700	5,069,020
1991	55,814	11,225	44,589	114	6,362,800	1,279,700	5,083,100
1992	55,714	11,225	44,489	114	6,351,400	1,279,700	5,071,700
1993	62,212	11,198	51,014	115	7,154,390	1,287,800	5,866,590
1994	62,151	11,198	50,953	115	7,147,390	1,287,800	5,859,590
1995	62,729	11,348	51,381	116	7,276,590	1,316,400	5,960,190
1996	63,918	11,514	52,404	117	7,478,390	1,347,100	6,131,290
1997	67,206	14,777	52,429	117	7,863,090	1,728,900	6,134,190
1998	76,121	14,738	61,383	119	9,058,360	1,753,800	7,304,560
1999	81,704	14,802	66,903	119	9,722,820	1,761,400	7,961,420
2000	84,693	19,384	65,309	120	10,163,120	2,326,100	7,837,020
Total % Change	48%	73%	42%	5%	56%	82%	49%
Average Annual Change	3.3%	4.7%	3.0%	0.4%	3.8%	5.1%	3.4%

MLS DATA for Bay Colony							
	Average Price		Median	Sales/List	Number	Days on Market	
Year	List	Sales	Sales Price	Ratio	of Sales	Average	Median
1996	51,250	51,250	51,250	100%	2	30	30
1997	71,200	70,200	70,200	99%	2	48	48
1998	76,656	74,989	70,855	98%	9	73	59
1999	92,943	89,214	80,000	96%	7	96	50
2000	127,940	119,100	138,000	93%	5	52	35

Source: Harris County Appraisal District, Houston Association of Realtors

Fugro South, Inc.
P.O. Box 740010
6100 Hillcroft
Houston, TX 77274

Phone: 713-778-5500
Telefax: 713-778-5644
Telex: 762447

Original To Central Records

Date: March 6, 2002
Page: 1 of 2

To: Mr. Steve DeWolf, P.E. Fax No. (713) 670-2448
Company Name: Port of Houston Authority
From: John T. Juenger, P.E. Copy: File
Subject:

Steve :

The following are rough cost estimates for ground improvement at the Spillmann island dredge containment areas. I have included cost estimates assuming the material will be brought on site as well as reusing the dredge spoils from the dock area. Please note that I have made numerous assumptions without knowing actual site conditions. However, you should be able to use the numbers at least for comparison to what you have already worked up.

Project Details:

- Assume wick length of 40 ft
- Assume wick spacing of 4 ft (triangular pattern)
- Assume surcharge height of about 12 ft.
- Assume no bridge lift other than drainage blanket is required.
- Assume both lateral drains as well as a drainage blanket will be used due to lateral extent.
- Assume that existing grade is at final proposed grade.

Cost Estimates – Assuming all surcharge material is hauled in from off site

Mob and initial site prep		$10,000/acre
Placement of drainage blanket		$75,000/acre
Installation of drains		$110,000/acre
Placement of lateral drains		$10,000/acre
Placement of surcharge		$223,000/acre
	Subtotal	**$428,000/acre**

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Cost Estimates – Assuming all surcharge material is derived from dredge material from dock area

Mob and initial site prep		$10,000/acre
Placement of drainage blanket		$75,000/acre
Installation of drains		$110,000/acre
Placement of lateral drains		$10,000/acre
Placement of surcharge		$92,000/acre
	Subtotal	**$297,000/acre**

I have tried to be a little conservative on the quantities but not so on rates since I expect you can competitively bid out the construction. The surcharge cost has a 20 % waste factor added. Fill heights typically are less than 10 ft, so I would not expect that you would need to go higher. There is a trade off between height and time. The same is true for wick spacing, however I would not expect we would go much tighter than the 4 ft noted above. Your main cost is in the surcharge and depending on site conditions this may be able to be reduced, (again if you have enough time to wait for the wicks to do their job). There would be a cost savings for the next phase of improvements which would receive the surcharge. You would only have to pay for moving the material on site instead of importing

The numbers are real rough, but should give you some idea of where you stand. If you want us to take a more detailed look, please call and we can discuss what existing soils info you have at the site.

Fugro South, Inc.
P.O. Box 740010
6100 Hillcroft
Houston, TX 77274

Phone: 713-778-5500
Telefax: 713-778-5544
Telex: 762447

Date: March 6, 2002
Page: 1 of 2

To: Mr. Steve DeWolf, P.E. Fax No. (713) 670-2448
Company Name: Port of Houston Authority
From: John T. Juenger, P.E. Copy: File
Subject: Ground Improvement Costs for Spillman and Shoal Point

Steve :

Following our discussion from yszesterday evening, you asked me to comment on the costs of ground improvement at the Shoal Point project relative to the proposed Spillman Island site. As you are aware we are working with the private developer on the Shoal Point site to convert the property into a new container terminal. The project will require the need for ground improvement prior to constructing the proposed container terminal, and the likely ground improvement technique will include the use of wick drains and a surcharge program.

I understand the rough costs estimates for ground improvement at the Spillman Island site are on the order of about $300,000 to $400,000 per acre. This estimate assumes the site conditions are reasonably soft soils which would be present due to the placement of maintenance material from along the Houston Ship Channel. I would expect this assumption to be correct based on prior work we have performed in the area and the history of Spillman Island. There is likely some new-work material in the Island, however the majority is likely all maintenance material. I also understand that reportedly the cost estimates for the Shoal Point site are on the order of $100,000 to $150,000/ acre. Your main concern was why the difference in cost/ acre between the two sites.

We have performed numerous site investigations at the Shoal Point site, and the results of the investigations indicate that the majority of the material contained in the dredge spoil areas for the proposed improvements consists of new-work dredge material and not maintenance material. The new-work material is stiff to very stiff clay which was placed during the initial construction of the Texas City Ship Channel. The material is considerabl, more stable and will require less ground improvement to construct the proposed terminal. As such, the spacing, depth, and overall costs of the wick drains will be less than

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what would be required for maintenance dredge materials. In addition, the overall time to reach final ground improvement is less than would be expected for maintenance dredge material. In short, the ground conditions at Shoal Point are significantly better than the ground conditions expected at Spillman Island.

I hope this brief summary denotes the difference in expected costs for ground improvements at the two sites. If we can provide additional information or comments, please call or Email.

DL 11750 MAR

MAR 15 2002

City of La Porte

Established 1892

January 10, 2002

Certified Mail
7000 1670 0002 2104 0259

Mr. Kerry M. Stanley
U.S. Army Corps of Engineers
Galveston District
Regulatory Branch
P.O. Box 1229
Galveston, Texas 77553-1229

Dear Mr. Stanley:

On behalf of the City of La Porte, please accept, record, and file this letter as the City of La Porte's comments regarding the Draft Environmental Impact Statement (DEIS) for the proposed Bayport Marine Terminal.

The City of La Porte appreciates the time and effort the U.S. Army Corps of Engineers has given to study the permit application received from the Port of Houston. We recognize that the review was complex and voluminous. We also believe that the Port of Houston has made a genuine effort to understand some of the concerns raised by residents of East Harris County and the communities they reside in.

Our City has participated with the work group developed by the Port Authority (Community Advisory Group) and has attended several public hearings and scoping meetings. The Port Authority continues to work in good faith with the Community Advisory Group in addressing elements of the DEIS and other issues raised during this process. However, it is the view of the Council, who represent the community, that concerns raised in the August 1999 position paper have been heard but not acted upon or resolved. Consequently, **the City is opposed to the Bayport site**, or any combination including Bayport, because we firmly believe the DEIS reinforces our concerns that this site would have substantial long term negative environmental impacts for our community.

We would hope that before you consider issuing a permit for this location, you will follow all adopted procedures to insure the public's due process and interests are held at the highest degree of accountability. In addition, we would request that all issues raised during the scoping process, that may not have been analyzed in the current DEIS, be looked at diligently and reported in the final EIS along with all comments received on the circumstances we have no control over. We further believe that the applicant has a duty

23-144

P.O. Box 1115 • La Porte, Texas 77572-1115 • (281) 471-5020

and stewardship responsibilities to the community that is not yet evident in their permit application.

The DEIS Executive Summary established two categories, non-environmental and environmental, for comparison of alternate sites. In general, our review finds that the proposed Bayport site ranked either favorably or equal to other sites in the non-environmental categories of availability, operational effectiveness and site constraints. However, within the environmental category, the Bayport site displayed many negative environmental impacts that were more significant than alternate sites. We sincerely hope that convenience, ease of construction and infrastructure costs for the PHA does not prevail over real environmental impacts to adjacent and nearby homes and communities. 2-126

Another great concern is the comment on air quality. Except for the No Action Alternative, the comments on Airshed Atmosphere Loading are the same for all alternative sites. Especially disturbing is the statement that,

> "2007 NO_x and VOC emissions generated by terminal construction and operations are included in the HGA ozone attainment plan. Therefore, the impact on the region's plan to attain the ozone standard is a long term, less than significant adverse impact." 7-85

In effect, this is saying that the increased emissions from Bayport can be spread out or balanced over an eight county region while in reality the impacts will be a loading to be borne by the adjacent communities. Please explain why other environmental impacts were site specific while this impact was assumed to be spread out over a region?

In La Porte we remember the traffic problems which resulted when Barbours Cut was being built. We remember the discussions and compromises by both sides, which resulted in a grudging acceptance of Barbours Cut by its neighbors. Today, we continue to live with those environmental impacts and lack of planning and public/community involvement in the development of Barbours Cut. 27-81

We are familiar with the much stricter environmental regulations that exist today and trust that the Corps of Engineers will recognize that Bayport is not the appropriate site. 2-187

ADDITIONAL CONCERNS WE REQUEST BE ADDRESSED BY YOUR AGENCY ARE LISTED BELOW

NOISE POLLUTION

- Homes to the north side of the Channel will experience disruptive amounts of noise. The DEIS notes that construction noise alone during the nighttime would exceed 55 dBA (decibels, A-weighted sound level) at the nearest residences for dredging, and the nighttime pile construction would exceed 55 dBA at the nearest residences. Operation sound levels at the residences north of the Channel would increase 16 to 22 dBA and exceed 65 Dba Ldn. Two of the alternate sites listed would not increase noise pollution or disturb area residents. 3-34

AIR POLLUTION

DEIS Statement

- The DEIS states "emissions of NO_x [Nitrogen Oxides ($NO + NO_2$) + the nitrate radical (NO_3)], SO_2 (Sulfur Dioxides), and PM_{10} (Particulate Matter less than 10 microns in diameter) will be generated by construction equipment engines as well as fugitive dust emissions. This is a short-term adverse impact.

Comment

- ➢ The EIS lacks discussion of fine particulate matter that will be discharged. Although this area currently is in compliance at 10 microns, a small increase from the port may cause it to be non compliant. 7-4

DEIS Statement

- Fugitive dust PM_{10} emissions would be mitigated by use of dust control measures. Emissions of NO_x, SO_2 and PM_{10} will be generated both offsite and onsite due to container and cruise terminal operations. These emissions represent a long-term adverse impact.

Comment

- ➢ The EPA is lowering the standard from 10.0 to 2.5, which mandates that the EIS address this issue. 7-4

DEIS Statement

- The impact on the Ozone Attainment Plan is stated as "2007 NO_x and VOC (Volatile Organic Compounds) emissions generated by terminal construction and operations are included in the HGA (Houston-Galveston Non-attainment Area) ozone attainment plan. Therefore, the impact on the region's plans to attain the ozone standard is a long-term, less than significant adverse impact.

- Less than significant impact is represented by an increase in pollutant loading that is incorporated into the HGA ozone attainment plan modeling and is not expected to jeopardize the ability of the area to reach attainment by 2007.

- Significant impact is represented by an increase in pollutant loading that has not been incorporated into the HGA ozone attainment plan modeling and may risk the ability of the area to come into attainment.

- Emissions incorporated into the HGA ozone attainment plan modeling for the terminal development in 2007 are:

    - Vessels – 3 tons per day (tpd) of NO_x and 0.076 tpd of VOC;
    - Non-road – 0.51 tpd of NO_x and 0.26 tpd of VOC;
    - Construction – 0.07 tpd of NO_x and 0.008 tpd of VOC;
    - Dredging – 0.24 tpd of NO_x and 0.003 tpd of VOC; and
    - On-road – not identified specifically but accommodated for as growth to the area.

- Emissions loading estimates past 2007 have not been evaluated.

Comment

- What about impacts after 2007 (Less than 5 Years) when increased operations and future expansions occur?
- Vessels emissions – does the modeling include both trips to and from port and while vessels are in port?
- Emissions from railroad activity is not included (and currently not subject to state regulations)

7-107

- Emissions from on-road activity is not identified specifically but accommodated for as growth to the area. Did the future growth include estimates for Bayport construction and future expansions – for the 2007 State Implementation Plan? After 2007? Again, currently commercial truck activity (and heavy equipment) is federally regulated and falls outside the TNRCC's Pollution Control Plan. 7-108

- The less than significant impact definition avoids the true impact to the communities adjacent to and near the Bayport site. It assumes it's not significant because a number has been plugged into an attainment plan that covers an eight county area. Airshed Impacts should be site specific and not assumed to be less than significant because it was spread out or balanced over an eight county area. There are alternative sites where the Airshed Impacts would not affect such a large population. 7-110

- The entire eight county region is being subjected to rules related to heavy construction limitations, landscape and lawn mowing limitations and new speed limits. Even though small in their total effect, we've all been asked to share the load while this proposed activity is a point source and a real impact borne by a few people, not fully projected for year 2007 and not projected at all beyond 2007. 7-111

- All of these concerns are amplified by the fact that the 2007 State Implementation Plan still falls short of needed NO_x reductions. Therefore, any increase in NO_x is unjustified and unreasonable. 7-112
  - Harris County officials have recently indicated they may take action on the proposed 55 mph speed limit. If this occurs and the 55 mph restriction is removed then the projected NO_x 2007 shortfall would be even greater.
  - Furthermore, five petitions filed with the 5th U.S. Circuit Court of Appeals cite different flaws in the plan as reasons the court should review and set aside the EPA's approval. The petition argues that the 2007 SIP Plan did not account for the future growth of emissions expected for entities like the Port of Houston. Please advise what the petition claims was not accounted for.

LIGHT POLLUTION

- Homes to the north side of the channel will experience disruptive amounts of light pollution. The DEIS states "Development of the Terminal complexes would change the visual character at any of the terminal location alternatives from a low level undeveloped area to a well-lighted, 24-hour transportation facility with high-mast lighting." 7-3

- The DEIS indicates the residential areas north of Bayport Terminal would not experience an increase in nighttime ambient light due to the distance from the light sources. However, operational lighting at Bayport could lead to nightglow that would be visible by virtually all the residential areas adjacent to Bayport. There are several alternative sites where there are no residential areas in the vicinity of the site. 17-13

EROSION

- The information on shoreline erosion at the Bayport Channel is documented in the DEIS. It was noted that, on the average, each bank has been retreating at a rate of 4.3 feet per year. This would be expected to increase because of increased traffic. 15-3

- The DEIS summary states that there is no short-term or long-term impact relating to shoreline erosion. We assume this is attributed to another statement that "unprotected shoreline to be protected as part of the project construction." 15-32

- Please confirm that plans for shoreline protection were part of the application and that they include protection of the private property at and around the northeast corner of the channel entrance to Bayport. 15-31

TRANSPORTATION ISSUES

- Delays will be caused at rail crossings and major thoroughfares due to increased vehicular and rail traffic. The DEIS presents references to roadways that will need to be improved upon but does little to discuss the actual additional traffic and the burden it would place on area residents. No consideration has apparently been given to conflicts with existing vehicular traffic. The only suggestions made are the widening of Port Road from the project site to SH 146 and "proposed interchange and ramp improvements in the vicinity of the Port Road and SH 146 interchange." The DEIS acknowledges that Red Bluff Road, Port Road, and SH 146 will need improvements in future years based on projected growth with or without the Bayport Terminal. As for rail traffic, the DEIS is even more vague, stating only that "The site is located so that trains from the site could easily be consolidated with those from the Barbours Cut Terminal" and suggests "road/rail grade separation at new rail crossings at SH 146." 27-83 27-84

- The DEIS addressed the impact to the transportation system on an area basis but does not address localized impacts. Local communities, which are already subject

to the worst environmental impacts, will thus realize immediate impact on their surface transportation and this must be discussed. 27-05

- An overpass must be constructed where Fairmont Parkway, a major thoroughfare, crosses the new inter port railway. This overpass and the highway modifications at the entrance to the port must be in place by the date the port begins operation. 22-4

- The DEIS erroneously implies that the Fairmont Parkway grade separation is fully funded by the Transportation Implementation Plan and Port of Houston Authority commitments. Harris County, also a party to this improvement, only recently agreed to the funding arrangements. The Texas Department of Transportation Agreements have yet to be signed.

SHIPPING

- The distance between ships moving into position at the docks may be inadequate to prevent collision and erosion. 31-13

- Ships entering the Bayport Terminal do not have to comply with the State air emissions reduction efforts and will bring their emissions into close proximity to a highly urbanized, residential area. 7-113

- The DEIS does not speak to reducing or mitigating the increased levels of pollution from marine vessel coatings and materials, which will come from the additional increase of foreign flagged vessels entering Galveston Bay. Use of antifouling coatings to reduce the organic growth of marine life by foreign vessels do not fall under and are immune to U.S. laws and regulations against the deposition of trace amounts of anti-fouling coating products in the U.S. waters. 12-30

  These coatings, designed deliberately to kill or slow marine growths on hulls, are leaked into the surrounding environment.

  Certain pollutants contained in these products have long been recognized as destructive to natural reefs and entire ecosystems.

- The permit application continues to be silent on the impact of deepening the channel from 45 feet to 50 feet even though the Bayport wharves are being designed for a 56-foot depth. We believe it is better to understand the incremental change from 45 feet to 50 feet today rather than hear the Port has decided to seek a permit for a 50-foot channel within the next five years. 20-38

- A potential exists for conflicts between commercial vessels and recreational boats between Bayport and the Houston Ship Channel. The DEIS does not develop any actions to mitigate this potential conflict except to suggest that recreational boaters will voluntarily relocate to less congested areas. 21-47

- The sailing distance from the Galveston sea buoy to the Bayport Terminal is approximately 36 miles. Two alternative terminal locations, Pelican Island and Shoal Point, have significantly less sailing distances. The DEIS indicates there would be less risk of ship collisions and groundings associated with development of the sites with shorter sailing distances. 2-33

SEWAGE

- Sewage from the ships and the port must be handled in a manner whereby there is no chance that it will enter Galveston Bay. A system approved by the TNRCC should be in place by the time operations begin. 20-22

WATER QUALITY

- The DEIS lacks discussion of current water quality for the portion of the bay that would be affected by the construction of this project and subsequent increase in shipping. It noted a few stations with data collected in 1997-1998 but the majority is from Galveston Bay Estuary Program reports dated 1992 and 1994. 9-27

- The DEIS lacks reference to ongoing projects and water quality results from current studies that address dioxin and bacteria, which could help, determine whether or not the Bayport Ship Channel will be added to the state list of impaired waters. 9-28

- The DEIS lacks discussion on the impact of dredging on water quality for the short or long term. If dredging causes re-suspension of contaminants, the Channel would be placed on a list that would require Total Maximum Daily Load studies. 9-29

- The DEIS lacks discussion on the potential impact of increased shipping activity and storm water runoff on water quality. 9-30

- The DEIS lacks discussion on the effects of ballast water on the Galveston Bay System. 20-4

WETLANDS/HABITAT

- Wetlands in the Galveston Bay watershed provide treatment of storm water runoff and buffer floods to reduce storm surges and additionally serve as habitat for wildlife and commercially valuable species.

- The DEIS describes 2.5 acres of wetlands under the jurisdiction of the Corps that will be destroyed and require mitigation and 103.5 acres of non-jurisdictional wetlands. The DEIS lacks adequate discussion on the impact of losing these wetlands. 14-2

- The DEIS lacks adequate discussion on the value of wetlands, specific mitigation requirements, or the location of mitigation. 14-57

BAYFRONT DEVELOPMENT/RECREATION

- The permit is silent in addressing the impact that Bayport development will have on future recreation and bayfront developments in La Porte. In 1993, the City adopted a Bayfront Master Plan. The primary aims of this study are to stimulate economic development within the City, to diversify the City's economic base through the stimulation of its tourist industry, and to create a more desirable physical environment through the enhancement of its waterfront assets. A copy of this report was given to the Port of Houston Authority consultants. They indicated that it was good we had plans for waterfront development and that they would study what impact the Bayport development would have on our vision and respond to us. No response has been afforded to us. The Corps should look at all plans which were adopted before Bayport was conceived to determine how the proposed development will hinder growth, redevelopment, and the ability for beautification and visual enhancement of the waterfront as well as of the waterfront district itself. 20-40

Approximately 2 ½ years ago we issued a position paper on the expansion. For the purpose of record keeping, we are resubmitting it to you as it was written and **delivered to your agency on August 17, 1999** at a scoping meeting held in Pasadena, Texas.

Bremond Subdivision

WE BELIEVE THAT OUR ORIGINAL CONCERNS REMAIN VALID AND REQUEST THE CORPS RESPOND TO THESE OBSERVATIONS AS WELL.

1) The development will bring about changes in our community which are disruptive and more than just a nuisance. Homes on the north side of the Channel to Bayport will experience noise, air pollution, lighting, and shoreline erosion problems. These issues, if not addressed, will cause the property owners' land values to be lowered, and their ability to sell their homes would be very difficult without taking a loss. If the Port Authority cannot correct these real estate concerns, then consideration from the Port Authority should be given to buy out the homes at fair market value, which abut the development.

2) The proposed development will bring with it major rail and vehicle transportation issues which will impact the City of La Porte and will affect neighboring communities. The proposed development will cause delays at rail crossings of major thoroughfares such as Fairmont Parkway, Shoreacres Boulevard, and Red Bluff Drive. Consideration from the Port of Houston must be given to working with local jurisdictions to resolve traffic concerns. In addition, the Port Authority should petition the State of Texas Highway Department to insure that State Highway 146 and State Highway 225 roadways are designed and constructed in advance to provide for the growth of the area and this development. It is recommended the Port Authority approach the State Highway Department to create a specialized truck lane on State Highway 146 to isolate the truck traffic to and from port facilities. The Port Authority should actively take a lead role in insuring rail crossings have overpasses and should also seek ways to fund these overpasses and their construction before the proposed development occurs.

3) The proposed development will add significant air pollution issues that cannot be ignored. The Bayport facility will generate additional air pollution from its use of diesel trucks, diesel ships, diesel cranes, and diesel vehicles that will operate at this location. The Port Authority should study the impact of this air pollution to the surrounding communities and to Harris County. Consideration should be given to using equipment that uses a cleaner burning fuel alternative. In addition, consideration should be given to the placement of air monitoring devices along the site boundaries to measure the air quality leaving the site. East Harris County is under orders of the EPA that our region must reduce nitrogen oxides (Nox) emissions by as much as 85 percent to come into compliance with the national ozone standard by the year 2007. Adding this facility at this location contradicts any state goal adopted to reduce Nox emissions in our region.

MAR 15 2002

FEB 21 20

City of Shoreacres DL11751

601 SHOREACRES BOULEVARD
SHOREACRES, TEXAS 77571
PHONE (281) 471-2244
FAX (281) 471-8955

A COMMUNITY OF BEAUTIFUL HOMES ON GALVESTON BAY
HOME OF THE HOUSTON YACHT CLUB

MAYOR
Nancy R. Edmonson

CITY SECRETARY
Shari Tait

February 19, 2002

The Honorable Tom DeLay
10701 Corporate Drive, Suite 118
Stafford, Texas 77477-4013

Dear Representative DeLay:

I just wanted to say thank you for taking the time to meet with the southeast Harris County mayors on February 8. I appreciate your interest in our fight against the Port of Houston's proposed Bayport Container Terminal. As we discussed during the meeting, there are alternative locations at which the Port can develop its terminal. Developing a container port at one of the alternative locations could still contribute to the region's economic growth without sacrificing quality of life, property values, and other forms of economic growth—such as recreation-based businesses—in our communities. 2-3 2-89 29-37

While we talked about a few areas where you could help us in this fight, we did not get the chance to discuss the Environmental Impact Statement (EIS) process. As you know, the Corps of Engineers has released a Draft EIS on the Bayport Container Terminal. Comments on this draft are due to the Corps on March 13. Unfortunately, the Draft EIS failed to assess the impacts of the container facility in a number of areas. Omitted analyses include the impacts on small particle air pollution, on property values, of the deepened ship channel, on traffic caused by additional train crossings, and many others. Many area cities and citizens are asking the Corps of Engineers to prepare a Supplemental Draft EIS to address these omissions. Since the Corps is a federal agency and it is conducting an EIS under the direction of federal law (the National Environmental Policy Act), I thought that you might be able to help us convince the Corps that conducting these additional analyses is not only required by law but would be the prudent path to ensure that significant impacts are not overlooked in the EIS process. 23-55

If you would like any more information on Bayport or the Draft EIS, please let me know. Again, I thank you for concern and assistance.

Sincerely,

Nancy R. Edmonson

11751

Bayport DEIS
Summary of Significant Problems

The following is a sampling of the problems in the Corps of Engineers Draft Environmental Impact Statement on the Bayport Container Terminal. These points are listed in no particular order.

- Failed to address impact on property values
- Failed to address small particulate and hazardous air pollution
- Failed to address the impact of foreseeable deepening of ship channel to allow larger ships
- Failed to address the impact on area traffic from additional train crossings
- Failed to conduct delay analysis for area roadways
- Failed to address traffic or noise impacts from cruise terminal
- Failed to assess impacts from proposed roadway expansions (e.g., assumes benefit of direct ramps into truck gate but does not include cost, noise, or visual affect of ramps on nearby communities)
- Failed to address impact of truck queuing on area traffic
- Failed to address impact on recreational sailing, racing, and Olympic venue
- Failed to include at least four significant public and private facilities in its inventory of recreational resources in Bayport area
- Failed to address the intention, legality, and impact of necessary condemnations of public (park) and private (industrial and residential) land
- Failed to address the risk of terrorism
- Failed to address the impact of ships' wakes on area harbors
- Failed to consider the cumulative impact of Bayport and San Jacinto Rail on same geographic areas
- Failed to address the noise impacts from additional train traffic
- Biased the selection of alternative sites
- Incorrectly estimated the number of acres of jurisdictional wetlands affected
- Used incorrect assumptions about the truck volumes in the noise analysis
- Used daily averages rather than maximums in noise analysis
- Incorrectly concluded that Bayport would have no effect on area recreational resources
- Failed to address the impact of Bayport at full build-out on regional ozone pollution attainment
- Incorrectly concluded that the risks from hazardous materials transport is the same across alternative sites rather than recognizing differences in size of population around alternative sites
- Inadequately assessed the risk of introduction of non-indigenous species from bilge water
- Failed to recognize significant residential, fishing, and recreational history of Bayport site and its surrounding communities
- Fails to address most construction impacts, even though construction would stretch over nearly twenty years

23-152

MAR 1 5 2002

DL 11752

MP

City of La Porte

Established 1892

March 1, 2002

The Honorable Tom DeLay
U.S. Congressman
10701 Corporate Drive, Suite 118
Stafford, Texas 77477

Dear Congressman DeLay:

I am enclosing a copy of a letter the City of La Porte submitted to the U.S. Army Corps of Engineers regarding the proposed Bayport Terminal.

The City of La Porte is opposed to the Bayport site because we believe that the Draft Environmental Impact Statement (DEIS) does not address the many concerns we have with this site. 2-120

We appreciate you taking the time to read our position paper and would welcome any support you would be willing to provide on our behalf.

Sincerely,

Robert T. Herrera

Robert T. Herrera
City Manager

Enclosure
cc: Mayor and City Council
John Joerns, Assistant City Manager

RTH:su

[redacted] [redacted]

March 4, 2002

Mr. Kerry M. Stanley
U.S. Army Corps of Engineers
Galveston District/Regulatory Branch
P.O. Box 1229
Galveston TX 77553-1229

[redacted]

DL 11753

RE: Port of Houston Bayport Container and Cruise Terminal DEIS

Dear Mr. Stanley:

In addition to comments made at the December 12, 2001 Bayport Public Hearing (copy attached), I have more to say. Three minutes is not enough.

What about the introduction of non-native species of termites and mosquitoes, or hazardous materials from ships or train derailments into Armand and Taylor Bayous? No study was made to assess the probability and impact of pollutants and invasive species into Taylor Lake from breeches at the headwaters of Taylor Bayou. Our bayou is separated by a mere 9 feet from the Bayport Channel, "protected" by a gate that is unlikely to withstand storm surges and erosion from increased ships' wakes. 12-27

The Bayport master plan includes property not yet owned. The Port of Houston would require many more acres be purchased to complete their master plan, especially for the Cruise Terminal. To date, property owners have been reluctant to sell and condemnation in the cities of Pasadena and Seabrook appears remote. 4-44 Plans are not specific as to location of detention pond(s) and first flush area(s) because American Acryl has refused to sell their mitigation site to the PHA. 23-16 And, can a mitigation site be acquired as mitigation? If the project can't be completed as envisioned, the permit application is flawed.

Take a hard look at Spilmans Island. If dewatered, filled and compacted, the property should be useable. 2-24 There is an island under there. Excavation for a turning basin in the Barbours Cut Channel could be a source of fill. The cruise terminal should be decoupled from the container port and promoted in Galveston. 1-46 Shoal Point will take the pressure off the "need" for another container terminal in Galveston Bay while the Port of Houston prepares Spilmans Island.

11573

Let's talk security. Spilmans Island is surrounded by water and connected to the mainland by a narrow land span, easily fenced and secured to control ingress and egress. Bayport plans a 3-mile long berm to separate the port from residential neighborhoods. Will that be adequate? When will the berm and trees be in place? And what about maintenance? Will that keep noise from becoming a nuisance? Does it keep vermin, contraband, drugs and people from being introduced into our community? D1-46

What of the combined impacts of Bayport and the San Jacinto Rail/ BNSF? If approved, the San Jacinto Rail will serve Port customers and is designed to create an alternate route out of the Bayport Industrial District in anticipation of increased Port container traffic on the existing Union Pacific/PTRA track. The impacts reach directly into Clear Lake City and southeast Harris County with many more affected if there is the Bayport Container Port envisioned. The cumulative impact of the two proposed projects needs to be assessed. A8-25

Will CAG recommendations have weight? I had been a member of the Port of Houston's Community Advisory Group until March 2001 and am well aware of, and participated in, attempts to minimize and mitigate impacts of a Bayport Container Port and Cruise Terminal. When it became apparent the same process was not being given to alternate sites and that CAG recommendations would be used to influence your decision to grant the Bayport permit, the cities of El Lago, Taylor Lake Village, Shoreacres, and Seabrook resigned. (Earlier withdrawals from the CAG included GBCPA, El Jardin Community Association, the Oyster Growers Association and the Houston Yacht Club.) Since then, the Galveston Bay Foundation and the Cities of LaPorte and Pasadena, who remained on the CAG, have spoken out against the Bayport site.

The mission statement of the Community Advisory Group read:

The mission of the Port of Houston Authority Community Advisory Group is to build a shared understanding among stakeholder interests, including those of the Port of Houston Authority, about the community, environmental, recreational, and maritime trade issues associated with expansion of terminal facilities in Galveston Bay, and to develop recommendations to the Port of Houston Authority that eliminates or minimizes adverse community, environmental, recreational and human health impacts.

[redacted]

11573

Recognizing that a diversity of viewpoints exists within the Community Advisory Group, any recommendations developed in this process are in no way to be interpreted as an endorsement of any proposed terminal facility.

This was not a Bayport CAG as the mission statement makes clear. Be mindful that the CAG no longer represents any "Community" stakeholders who favor the Bayport site. What's left are groups that see Bayport as the ideal site — groups representing maritime interests, groups that receive financial support from the Port of Houston, and groups that espouse economic development as their charter. Some groups are all of the above.

Bottom line: The detrimental impacts of a Bayport facility too near our residential communities cannot be overcome, and an alternate site should be preferred. **The best way to avoid, minimize or mitigate our concerns at Bayport is to deny the permit. The welfare of the people should be more important than any investment the Port has made in real estate.** 2-125 29-87

You will have reams of paper pointing out flaws and omissions in the DEIS, much of it repetitive. I don't envy your task, Kerry, and appreciate that you are trying to be impartial. But, the DEIS is NOT complete, and I add my hopes that a Supplemental DEIS will be forthcoming before you consider any permit. 23-143

Respectfully,

K. Natalie Ong

K. Natalie Ong
Mayor Pro Tem
City of El Lago

03/02/02

DEC 12

SENATOR MIKE JACKSON: Thank you, Colonel Waterworth, for putting on this hearing. I notice that this is a public interest review, and I think you're going to get a lot of public interest reviewed here, starting right now.

(Applause.)

Now, there is a great cross-section of people from our community that are here tonight, and that's what really this is all about, this kind of meeting is all about, to let people get out and speak their mind and what their -- let their wishes be expressed for everyone to hear. The reason that a whole lot of people are here is for economic reasons, for jobs, for a healthy economy, and I don't think anybody in this room is against that type of activity. We're

all for a healthy economy and more jobs, more growth.

(Applause.)

And the Port of Houston has done some great things in Houston and for this area over all of the years that they have been here, and they have really made a lot of jobs available to people and been

responsible for economic growth and we're certainly not knocking them for that.

And we know that we are growing, container business is growing and it will keep growing, but I do have to disagree with one thing that Mr. Edmonds said. We -- I don't think anybody here doesn't want to see us do more economic growth for containers, but the place for it to take place is not in Bayport. 2-3

(Crowd noise.)

I looked through the Draft EIS, the summary that I have here, and have done a lot of work with a lot of sites that are out there, and the one thing that strikes me most about the pros and the cons for all of these sites is Bayport is the one that says, 5-8

"Significant residential disturbances associated with this project."

(Crowd noise.)

We can -- we can analyze the effects on the environment, the different costs associated with

projects of where they go, but how do you value thousands and thousands of people being totally irate and upset about a project going on in a location right here, when you have all these other places to put it? So I think --

(Crowd noise.)

The City of Seabrook, the City of Shoreacres, the City of La Porte, the City of Taylor Lake Village, El Jardin, Clear Lake City, Pasadena, are all affected here, major population areas, major traffic additions to the areas, where you have alternative sites that are on the channel right on major arteries such as Beltway 8, such as I-10, that you can put these facilities without all of the adverse reaction. So what is it worth having 10,000 people mad at you and going to fight you all the way?

(Applause.)

And, Colonel Waterworth, I certainly don't envy your job in this -- in this -- in these whole proceedings, but it was stated a moment ago that it took two years to prepare the Draft EIS, and I think you've already extended the comment period a certain amount,

but I want to ask you tonight to extend that for 90 more days if you would, please. 23-13

(Crowd noise.)

This hearing is for public interest review, and from looking out at the crowd here tonight, there's a whole lot of public interest, and I think it's going to get a whole lot of review, so as we go into the holidays, let's have a little room on the back end to work on this.

And thank you for having me and allowing me to speak.

(Crowd noise.)

COL. LEONARD WATERWORTH: At this point I'd like to have State Representative John Davis from

District 129 step forward, make his comments, please.

(Applause.)

REPRESENTATIVE JOHN DAVIS: I'm John Davis, State Representative for House District 129. The proposed Bayport container facility will be located in the heart of my district. I want to --

(Applause.)

-- go on record asking Colonel Waterworth and the U.S. Corps of engineers not to issue the Port of Houston Authority a permit to construct the Bayport container facility.

19-5

(Crowd noise.)

Colonel, please find a better site.

(Applause.)

We could do better. My constituents and taxpayers demand it.

(Applause.)

Other sites are available in our region that can accomplish the same goals as Bayport, but not

1 3

at the expense of the taxpayers, Galveston Bay and private industry.

(Crowd noise.)

The proposed Bayport container dramatically changes the landscape of the type of economic growth we want to encourage for southeast Harris County.

6-24
4-7

(Crowd noise.)

The Port Authority is laying the groundwork to crowd out future aerospace industry growth. We will handicap --

(Crowd noise.)

6-72

--our ability -- well, (inaudible) the Port Authority -- we will handicap our ability to attract the best and brightest minds that America has to

offer. People are attracted to NASA, to Johnson Space Center --

(Crowd noise.)

COL. LEONARD WATERWORTH: Representative Davis. Excuse me. Ladies and gentlemen. Ladies and gentlemen. Ladies and gentlemen. Let the representative finish his comments, please. Sir.

REPRESENTATIVE JOHN DAVIS: Do I get three more minutes?

We will handicap our ability to attract the best and brightest minds that America has to offer. People are attracted to NASA and the Johnson Space Center, not only for the current and future challenges for conquering space, but when back on Earth, our astronauts want to enjoy a clean and beautiful Galveston Bay.

(Crowd noise.)

Additionally, the proposed container facility will overcrowd the current rail system which supports our chemical plants. Current steps are being taken by BNSF to construct a new San Jacinto rail which

118

will run through the heart of Clear Lake City.

(Crowd noise.)

This is a major sign that industry fears they will not be able to get their products to the marketplace in a timely fashion as they, too, will be crowded out by the Port of Houston Authority.

(Crowd noise.)

If the Port Authority gets its permit, we will have negative economic growth. Containers, pothole, windshield repair companies will be our future growth industries. 6-75

(Crowd noise.)

In conclusion, one last comment on personal privilege. As a Texas state legislator, I have been extremely disappointed in the Port of Houston Authority, in how the authority has handled its use of power. As a newcomer to the political process, I have been watching and observing how those with power use it. The Port of Houston Authority has used -- has used their

power to be arrogant, deceitful and manipulative.

(Crowd noise.)

They are truly accountable to no one and it shows.

(Applause.)

On top of that, they have an annual $5 million taxpayer-subsidized spending allowance to spend on how it, the Authority, sees fit without any accountability to the taxer. This authority needs to be seriously curtailed and monitored by your Texas legislature in 2003.

(Crowd noise.)

COL. LEONARD WATERWORTH: Representative Davis, can I have your concluding remarks, please?

REPRESENTATIVE JOHN DAVIS: Three more sentences and I'm done.

COL. LEONARD WATERWORTH: Okay. Thank you.

REPRESENTATIVE JOHN DAVIS: The real

issue here is political, and it's about $1.2 billion in taxpayer-paid-for bonds --

REPRESENTATIVE
JOHN E. DAVIS

CAPITOL OFFICE
P.O. BOX 2910
AUSTIN, TEXAS 78768-2910
(512) 463-0734

DISTRICT 129 OFFICE
1350 NASA RD. 1, SUITE 212
HOUSTON, TEXAS 77058
(281) 333-1350
FAX: (281) 335-9101

TEXAS HOUSE OF REPRESENTATIVES

DS 10172

November 15, 2001

VIA FAX: 409.766.3951 and Regular Mail
Colonel Leonard D. Waterworth
District Engineer and Commanding Officer
U.S. Army Corps of Engineers, Galveston District, CESWG-DE
P.O. Box 1229
Galveston, Texas 77551

Re: Port of Houston Authority's proposed Bayport Container Terminal and Cruise Ship Facilities, Department of the Army Application Number 21520

Dear Col. Waterworth:

On November 9, 2001, the Galveston District released a Public Notice regarding Permit Application Number 21520- the Port of Houston's proposed Bayport Container Facility. That Public Notice stated, "all comments pertaining to this Public Notice must reach this office on or before December 11, 2001. All comments pertaining specifically to the DEIS must reach this office on or before February 11, 2002."

My constituents have informed me that the Public Notice comment deadline pertains to comments relevant to the Corps' decision to grant or deny several permits in accordance with t he public interest. That decision will likely include man of the same issues relevant to determining the adequacy of the EIS and the severity of any impacts to this area of Southeast Harris County.

It seems clear to me that commenting adequately on the Public Notice and the Corps' discharge of public interest responsibilities will require reviewing the entire 6-volume DEIS as well as other information. This is a huge document that took over 3 years to produce, and my constituents should be given ample opportunity to review it and address the issues that arise. I do not think that the Corps' public interest mandate can be so easily separated from the process that it took to study the Bayport proposal to date.

23-13

EMAIL: JOHN.DAVIS@HOUSE.STATE.TX.US

DS 10172

Therefore, I request that you extend the overall comment period for at least 90 days beyond February 11, 2002. My constituents will not have had time to fully respond to the issues raised by then. I also request that the deadline for comment pertaining to the Public Notice match the deadline for the DEIS comments. 23-13

Many citizens plan on submitting their comments at the public hearing on December 12, 2001. The present Public Notice comment deadline precludes participation by those citizens and the rest of the public. I hope that you will agree with me that more time is necessary to incorporate public involvement into the process. 23-13

Sincerely,

John E. Davis
State Representative
District 129

Cc: Mr. Kerry Stanley, CESWG-PE-R, Galveston
(via fax and regular mail)

DS 10183

The State of Texas
House of Representatives

P.O. Box 2910
Austin, Texas 78768-2910
(512) 463-0732
(512) 463-5896 Fax
E-mail: rick.noriega@house.state.tx.us

RICK NORIEGA
DISTRICT 145

District:
P.O. Box 230324
Houston, Texas 77223
(713) 649-6563
(713) 649-6454 Fax

November 19, 2001

Colonel Leonard D. Waterworth
District Engineer Commanding Officer
U.S. Army Corps of Engineers, Galveston District, CESWG-DE
P.O. Box 1229
Galveston, TX 77551

Dear Col. Waterworth:

On November 9, 2001, the Galveston District released a Public Notice regarding Permit Application Number 21520 - the Port of Houston's proposed Bayport Container Facility. That Public Notice stated, "all comments pertaining to this Public Notice must reach this office on or before December 11, 2001. All comments pertaining specifically to the DEIS must reach this office on or before February 11, 2002."

My constituents have informed me that the Public Notice comment deadline pertains to comments relevant to the Corps' decision to grant or deny several permits in accordance with the public interest. That decision will likely include many of the same issues relevant to determining the adequacy of the FIS and the severity of any impacts to this area of Southeast Harris County.

It seems clear to me that commenting adequately on the Public Notice and the Corps' discharge of public interest responsibilities will require reviewing the entire 6 volume DEIS as well as other information. This Is a huge document that took over 3 years to produce, and my constituents should be given ample opportunity to review it and address the issues that arise. I do not think that the Corps public interest mandate can be so easily separated from the process that it took to study the Bayport proposal to date. 23-5

Therefore, I respectfully request that you extend the overall comment period for at least 90 days beyond February 11, 2002. My constituents will not have had time to fully respond to the issues raised by then. I also request that the deadline for comments pertaining to the Public Notice match the deadline for DFIS comments. 23-5

Committees: Human Services • Transportation

Many citizens plan on submitting their comments at the public hearing on December 12, 2001. The present Public Notice comment deadline precludes participation by those citizens and the rest of the public. I hope that you will agree with me that more time is necessary to incorporate public involvement into this process. 25-5

For Texas

Rick Noriega

Rick Noriega
State Representative

JON LINDSAY
District 7

The Senate of The State of Texas

DS 10252
MP

COMMITTEES
INTERGOVERNMENTAL RELATIONS
VICE-CHAIR
FINANCE
NOMINATIONS

December 12, 2001

Mr. Kerry M. Stanley
U.S. Army Corps of Engineers
Galveston District
Regulatory Branch
P.O. Box 1229
Galveston, Texas 77553-1229

Re: The USACE Draft Environmental Impact Statement for the Proposed Bayport Marine Terminal

Dear Mr. Stanley:

After reviewing the executive summary, I want to express my support for the U.S. Army Corps of Engineers' Draft Environmental Impact Statement for the Proposed Bayport Marine Terminal. The merits of locating the facility on the Bayport Ship Channel are apparent in the Draft Environmental Impact Statement (DEIS) and I believe all issues of concern have been addressed in the document. 29-13 2-27

The DEIS accurately reflects that the Bayport Project will not have significant impact on air quality in the Houston region. Additional study in this area is not needed. The fact that the Bayport project is already included in the federally mandated state Implementation Plan on air quality has allowed the Houston-Galveston area to include Bayport in its plans for addressing air quality issues. 7-20

The Port of Houston Authority has mitigated environmental, storm water run off, water quality, ecological, aesthetic, noise and lighting concerns of the Bayport Terminal with several measures including a three-mile berm constructed without having a significant environmental impact on the area. 23-53

The DEIS accurately shows traffic from Bayport not to be a concern to the Clear Lake and Kemah areas. Further, roadway improvements on State Highway 146 north of Bayport would be needed whether Bayport is built or not. The Port of Houston Authority will be the local sponsor for some of the improvements on State Highway 146. 27-15

Capitol Office
P.O. Box 12068
Austin, Texas 78711
(512) 463-0107
(512) 463-8810 Fax
TDD 1-800-735-2989

District Office
15531 Kuykendahl
Suite 251
Houston, Texas 77090
(281) 583-1011
(281) 444-0189 Fax

DS10252

December 12, 2001
Mr. Kerry Stanley

Rail crossings would not cross major roads in the State Highway 146 corridor in the Port's plans for the Bayport Terminal. Grade separations for the rail would reduce traffic congestion and increase safety. Additionally, it is unnecessary for the USACE to study the BNSF San Jacinto Rail to the Bayport Chemical Loop in relation to the Bayport Terminal. The Port of Houston Authority's customers will not use this rail service to move containers, so the railroad is unrelated to Bayport Terminal. 27-22

The Bayport area is home to one of the largest petrochemical complexes in the world. More than 50 separate companies have facilities in the Bayport area. The Bayport Terminal will be consistent with the commercial/industrial land use of the area. No residential areas would have to be moved or bought out and effects on residential areas have been mitigated with measures that include the three-mile berm and buffer zones. 4-10

It is clear to draw the conclusion from the DEIS that the alternative sites to Bayport are inferior in deep water access, space to build a terminal, intermodal infrastructure, and traffic congestion concerns. That is not to mention the reality that many of the sites are unfeasible due to costs or environmental concerns. The only site that would make economic and logistic sense for the Port of Houston Authority to build a seven-berth container terminal and a five-berth cruise terminal is at the Bayport site. 2-44

Finally, I would like to request that the USACE not extend their deadline for comments from the current 90 days. I believe any extension of the comment period would simply result in an unnecessary delay for the Bayport project, without any beneficial comments or recommendations resulting from the delay. 23-57

I encourage the USACE to quickly complete its Final Environmental Impact Statement and permit the Port of Houston Authority to construct the container and cruise terminal on the Bayport property. The Houston-Galveston region has grown through the 1990s by more than 950,000 people - a greater growth in population than 40 of the 50 states. A new cruise and container terminal will attract jobs for these new residents and will also allow for a lower cost quality of life. If you have any questions on my written comments for the Bayport DEIS, please call me. 29-13

Sincerely,

Jon Lindsay

JON LINDSAY
STATE SENATOR

cc: Port of Houston Authority

DEC 14

JOHN WHITMIRE
District 15
P.O. Box 12068
Austin, Texas 78711
(512) 463-0115
TDD: 1-800-735-2989
FAX: (512) 475-3737

803 Yale Street
Houston, Texas 77007
(713) 864-8701
FAX: (713) 864-5287

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DS 10254
MJ

December 12, 2001

Mr. Kerry M. Stanley
U.S. Army Corps of Engineers
Galveston District
Regulatory Branch
P.O. Box 1229
Galveston, Texas 77553-1229

Re: The USACE Draft Environmental Impact Statement for the Proposed Bayport Marine Terminal

Dear Mr. Stanley:

After reviewing the executive summary, I want to express my support for the U.S. Army Corps of Engineers' Draft Environmental Impact Statement for the Proposed Bayport Marine Terminal. The merits of locating the facility on the Bayport Ship Channel are apparent in the Draft Environmental Impact Statement (DEIS) and I believe all issues of concern have been addressed in the document. 29-13 2-27

Also, I would like to request that the USACE not extend their deadlines for comments from the current 90 days. I believe an extension of the comment period would simply result in an unnecessary delay for the Bayport project, without any beneficial comments or recommendations resulting from the delay. 23-57

I encourage the USACE to quickly complete its Final Environmental Impact Statement and permit the Port of Houston Authority to construct the container and cruise terminal on the Bayport property. If you have any questions concerning my position, please do not hesitate to contact me at office. 29-13

Sincerely,

JOHN WHITMIRE

cc: Port of Houston Authority

JW: eg

DS 10736

Stanley, Kerry M SWG

From: John Jacob [jjacob@tamu.edu]
Sent: Thursday, January 03, 2002 11:07 AM
To: Stanley, Kerry M SWG
Subject: Bayport Wetlands

Kerry:
Where are the jurisdictional wetlands on the Bayport site located? Are they in the 100 year floodplain?
The DEIS only shows the aerial photo estimate of wetlands. In which report are the verfified wetlands found?

Thanks very much!

John Jacob

-----Original Message-----
From: Stanley, Kerry M SWG [mailto:kerry.m.stanley@swg02.usace.army.mil]
Sent: Friday, December 14, 2001 1:29 PM
To: 'John Jacob'
Subject: RE: Monday field trip

John,

I've checked into your coming along Monday. The point of the site visit Monday is to familiarize the resource agency personnel with the proposed project site and mitigation area. I don't believe it's appropriate to have you attend as a consultant for the surrounding cities during that site visit. I'm not going to be available, myself, on Monday and will probably be setting up a second site visit after the first of the year. Contact me after the first and I'll see if we can include you in that visit. Thanks, Kerry

-----Original Message-----
From: John Jacob [mailto:jjacob@tamu.edu]
Sent: Friday, December 14, 2001 1:19 PM
To: Stanley, Kerry M
Subject: Monday field trip

Kerry:
what is the possibility of coming along for the Monday wetland tour of the Bayport site? I would be coming as a consultant for the adjacent cities.
Thanks

John

John S. Jacob, Ph.D.
Environmental Quality Specialist
Texas Sea Grant and Texas Cooperative Extension
1322 Space Park, Suite A256
Houston, TX 77058

(281) 333-9216 Fax (281) 333-4947

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February 5, 2002

Mr. Kerry M. Stanley
Regulatory Branch, CESWG-PE-RS
U.S. Army Corps of Engineers
PO Box 1229
Galveston TX 77553

Dear Mr. Stanley:

We have reviewed a copy of Public Notice, Permit Application No. 21520(revised), Applicant – Port of Houston Authority. We offer no comments at this time.

Sincerely,

Lee Munz
Planner

FEB 1 1 2002

TEXAS SENATE

DS 10792
nhc

STATE CAPITOL, ROOM E1.806
P.O. BOX 12068
AUSTIN, TEXAS 78711
(512) 463-0106
FAX (512) 463-0346
TDD 1-800-735-2989

2205 CLINTON DRIVE
P.O. BOX 41
GALENA PARK, TEXAS 77547
(713) 678-8600
FAX (713) 678-7080

MARIO GALLEGOS, JR.

January 30, 2002

Mr. Kerry M. Stanley
U.S. Army Corps of Engineers
Galveston District, Regulatory Branch
P.O. Box 1229
Galveston, Texas 77553-1229

Dear Mr. Stanley:

Upon review of the executive summary, I would like to express my wholehearted support for the U.S. Army Corps of Engineers' Draft Environmental Impact Statement (DEIS) for the Proposed Bayport Marine Terminal. The advantages of the Bayport facility being located on the Bayport Ship Channel are evident in the DEIS and I strongly believe that all issues of concern have been properly addressed. 29-56 29-68

The DEIS accurately reflects that the Bayport Project will not have significant impact on air quality in the Houston region, therefore additional study in this area is not warranted. Due to the aforementioned project being inclusive in the federally mandated State Implementation Plan on air quality, the Houston-Galveston area has been able to include it in plans when addressing air quality issues. 7-44

The Port of Houston Authority has already taken steps to alleviate other concerns such as environmental, storm water run off, water quality, ecological, aesthetic, noise and lighting. A three-mile berm has been constructed around the south and east sides of the Bayport facility, 121 acres of buffer zone, retention/detention ponds, high tech lighting, a 163-acre conservation easement containing over 12 acres of new jurisdictional wetlands- a 5:1 ratio over the affected jurisdictional wetlands on the Bayport site and 200 acres of estuarine marsh habitat in Galveston Bay. These measures will certainly protect and in some instances improve the surroundings and allow construction of the terminal to move forward without significantly impacting the environment in the area. 18-16

DS 10792

Another area of concern that the DEIS accurately reflects will not be a problem is traffic in the areas of Clear Lake and Kemah. Roadway improvements on State Highway 146 north of Bayport would be necessary regardless of whether Bayport becomes a reality. The Port of Houston Authority is proud to be the local sponsor for some of the improvements on Highway 146.

I understand that rail crossings cutting through major roads along the State Highway 146 corridor are not included in the Port's plans for the Bayport Terminal. As a result of grade separations for the rail, traffic congestion will be reduced and safety increased. In addition, it would be irrelevant for the USACE to study the BNSF San Jacinto Rail to the Bayport Chemical Loop as it relates to the Bayport Terminal since Port Authority's customers will not use this rail service to move containers.

One of the largest petrochemical complexes in the world which is made up of over 50 separate companies call Bayport home. The Bayport Terminal will be consistent with the commercial/industrial land use of the area. Residential areas will be unaffected since they have been mitigated with measures that include the three-mile berm and buffer zones.

It is clear to conclude from the DEIS that the alternative sites to Bayport are infeasible due to lack of deep water access, insufficient space for building, intermodal infrastructure and traffic congestion problems, not to mention cost or environmental concerns. Bayport is the only site that would make economic and logistic sense for the Port of Houston authority to build a seven-berth container terminal and a five berth cruise terminal. 2-27

I strongly believe that any extension from the current 90 day deadline for comments would simply result in an unnecessary delay of the Bayport project. The DEIS has covered any and all issues and concerns relating to the plan with positive feedback. 23-57

[It is imperative that the USACE complete its Final Environmental Impact Statement and allow the Port of Houston Authority to move forward with the construction of the container and cruise terminal on the Bayport property.] The Bayport Container/Cruise Terminal will not only provide new jobs but will allow for a lower cost quality of life for the residents of the surrounding areas. Should you have any questions or require additional information, please do not hesitate to call upon me. 23-83

Sincerely,

Mario Gallegos Jr.

Mario Gallegos, Jr.
District 6

MAR 18 2002

March 8, 2002

DS 10992
SCC

TEXAS PARKS & WILDLIFE

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EXECUTIVE DIRECTOR

Mr. Kerry Stanley
Regulatory Branch
U.S. Army Corps of Engineers
P.O. Box 1229
Galveston, Texas 77553-1229

Mr. Mark Fisher, 401 Coordinator
Mail Code 150
TNRCC
P.O. Box 13087
Austin, Texas 73711-3087

Re: Bayport Draft Environmental Impact Statement

Texas Parks and Wildlife Staff have reviewed the Bayport Draft Environmental Impact Statement. The following comments concern the project's impacts to fish and wildlife resources and the EIS document's compliance with the National Environment Policy Act (NEPA) requirements.

No Action Alternative

The Draft Environmental Impact Statement should be a complete document that clearly analyzes the environmental concerns that arose from the scoping process. The analysis should be clear, complete, and be consistently performed for each of the evaluated alternatives, including the No Action Alternative. The document reviewed does not provide or present available information in a manner that enables the reader to make a fair and complete comparison of the environmental impacts between the preferred (Bayport) alternative and other alternative actions, especially with regard to the applicant's No Action Alternative. 2-97 2-2 2-65

Under the NEPA review process there are two common meanings of the No Action Alternative; 1) continued present management activities but do not do the proposed project, 2) do not do anything, i.e. quit all current management activities and do not do the project.

In this DEIS, there is a stated assumption under the No Action Alternative:

> "...site would be developed for other types of port facilities similar to those located along the western portion of the Bayport Channel, consistently with current land use designation. Likely facilities include liquid bulk terminals, petrochemical facilities, and similar industrial facilities requiring direct waterfront locations. Future unrelated developments on the remainder on the Bayport Site and at the alternative terminal location sites, with their associated impacts, could also occur."

2-12

This assumption is not consistent with No Action Alternatives under NEPA requirements. The assumption that any development would occur at this site is not the intended purpose and is an inaccurate and misleading use of the No Action Alternative. As currently stated in the DEIS, pursuant to NEPA, it could be

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determined that the no action alternative presented would constitute a major federal action that may significantly affect the quality of the environment resulting in the preparation of a separate Environmental Impact Statement (EIS). In which case, the project would be required to go through an alternative analysis of its own and would be required to have a No Action Alternative.

In essence, the applicant is using as their No Action alternative, an action that may require an EIS of its own. The "No Action" Alternative is intended by the Council on Environmental Quality (CEQ) Regulations to describe the status quo or baseline of the environmental impacts without any project. The No Action Alternative provided does not allow a meaningful comparison with any of the other alternatives. 2-118

Section 3 Figures

The figures provided in the DEIS are unclear and misleading. Figure 3.2-1 Bayport Study Area does not label all existing land uses that are part of the Bayport study area, in particular, the City of Seabrook. The Bayport study area has been described by certain parameters, Galveston Bay to the east, Clear Lake to the south, Red Bluff to the west, and Fairmont parkway to the north but these boundaries are not label on their referenced figure, Figure 3.2-1. 4-45

Figures 3.2-2, 3.2-3, 3.2-4, 3.2-5, and 3.2-6 do not depict the study area boundaries. These same figures also misleadingly label areas as "nonforested wetlands" (labeled in light purple color). The applicant is absolutely correct that these areas are not forested wetlands but this label misleads the public to think that these areas are a different kind of wetland other than forested. It also gives the appearance that all the light purple highlighted area are wetlands when in fact both Hog and Atkinson Islands have a substantial amount of upland components associated with them. Spilmans Island, an active disposal area, is also labeled misleadingly as "nonforested wetlands". The wetlands within this area are non-jurisdictional wetlands. 4-46

These misleading scenarios also exist in Figures 3.2-3, 3.2-4, 3.2-5, and 3.2-6. In particular, Figure 3.2-3 of the Shoal Point Study Area depicts all of Shoal Point as "nonforested wetlands". Again the applicant is correct that this area is not a forested wetland but much of this area is not a wetland at all and the areas that are wetlands are non-jurisdictional and thus should not be included as wetlands or made to appear as though they are wetlands. The applicant does not depict any area within the Bayport Study area as "non-forested wetlands" nor do they label/depict any wetlands in Figure 3.2-1, of the Bayport Study Area. These figures, as presented, give the perception that the Bayport Study Area has far less wetlands than the other study areas. A more descriptive "land use" designation for many of these figures would be active or inactive dredged material placement 4-46

area. If the applicant is going to depict non-jurisdictional wetlands in the alternative study areas, the applicant should also depict the non-jurisdictional wetlands within their preferred alternative, the Bayport study area.

The figures in the Final EIS should be clear and concise without any misleading or incorrect depictions of habitat types that do or do not exist within the individual study areas. The applicant should describe and label the wetland habitats on all alternatives sites as what they are instead of what they are not, regardless if they are jurisdictional under Section 404 of the Clean Water Act. 4-46

Table E-5
The comparison of Surface Transportation for the No Action Alternative and the Bayport Alternative are as Follows:

> **"No Action Alternative**, 195 lane-miles of regional roadway improvements identified in absence of any container and cruise terminal development."
>
> **"Bayport Alternative**, Widen Port Road, Modify the Port Road and State Highway 146 interchange, Road/rail grade separation at new rail crossing at SH146, 35 lane-miles of offsite roadway improvements needed."

As presented, the 195 lane-miles of regional roadway improvements are the projected need for background traffic. In other words, if the project is not built, the improvements will still be needed. If the Bayport alternative is built and the summary of road improvements associated with the project are also built, will this negate the need for the regional improvements listed in the No Action Alternative? The presentation of the Surface Transportation information makes the No Action Alternative appear to be the worst alternative because it will require the most amount of road improvements of all the alternatives. If the 195 lane-miles of regional improvements are identified as a requirement in the No Action Alternative then similar project improvements should be listed for all the alternatives. 27-82

The lack of a true No Action Alternative presents several problems during the review of this DEIS. Without a No Action Alternative there is no baseline or status quo with which to compare possible environmental impacts of the alternative sites or the preferred site, leading to biases. By inaccurately defining the No Action Alternative, a major portion of the subsequent information provided by the applicant is incorrect. This gives the misleading perception that the alternative and preferred sites impact the environment less than the No Action Alternative.

Section 3.19.3

Other biases in the DEIS appear in Section 3.19.3. The applicant concludes that all of the non-preferred alternative sites would have long-term and adverse impacts (due to the placement of fill into wetlands/aquatic sites including non-jurisdictional wetlands) in addition to short-term adverse impacts to estuarine offsite wetlands and open water habitat due to temporary increases in turbidity. The preferred alternative site analysis, however, concludes that the only impacts would be short-term adverse impacts to estuarine offsite wetlands and open water habitat in the general area due to temporary increases in turbidity. The DEIS makes an invalid comparison by not pointing out that the same types of long-term impacts to non-jurisdictional isolated wetlands (aquatic sites) would occur at the preferred Bayport site. The DEIS gives the false impression that the impacts at the preferred site are not as great as the impacts at the alternative sites. Even the combined alternative sites (Shoal Point/Bayport and Upper San Jacinto /Bayport) acknowledge that the impacts would be long-term and adverse but the applicant reminds the reader that the USACE has ruled that most of the freshwater wetlands on the Bayport terminal location alternative are non-jurisdictional and refers the reader to the Bayport terminal location alternative. If the DEIS is going to acknowledge long-term adverse impacts at the alternative sites due to impacts to non-jurisdictional wetlands then the applicant should also acknowledge long-term adverse impacts at their preferred alternative site (Bayport) due to impacts to non-jurisdictional wetlands.

14-55

Noise

Additional misleading information is found on page ES-17, NOISE. This section discusses the affect on ambient noise level on the project site and the vicinity due to construction noise. It states,

> "Nighttime (10:00 p.m. to 7:00 a.m.) dredging would result in a significant noise impact because sound levels would exceed 55dBA at the closest residential receptors."

Additionally, it states,

> "Nighttime (10:00 p.m. to 7:00 a.m.) drilling would result in a significant noise impact because sound levels would exceed 55dBA at the closest residential receptors. Project construction would also involve the use of bulldozers, graders, loaders, generators, cranes, concrete trucks, pavers, and miscellaneous trucks and equipment. Noise from construction may be audible at the closest residence; however, since this activity would be limited to daytime hours (7:00 a.m. to 7:00 p.m.), no significant impacts would occur."

3-42

However, in a meeting on January 15, 2002, the applicant stated that their intention is to work 24 hours a day. Discrepancies and inaccuracies such as this make it difficult for the reader to accurately evaluate potential and/or actually environmental consequences. 3-42

Fish and Wildlife Resource Impacts

NEPA is a law of disclosure. Agencies (the applicant) must disclose to decision-makers and the public what society gains or loses with each decision. Therefore, the DEIS should consider impacts to all natural resources whether they are regulated or not. This consideration should be consistent with all alternatives.

Development of the terminal complex at the Bayport location alternative would result in the loss of approximately 1,038 acres of upland habitat and 106 acres of wetland habitat. The uplands consist of 315 acres of *Sapium* shrub with small areas of co-mingled deciduous forest and *Sapium* shrub, 698 acres of pasture/grassland habitat, and 25 acres of existing industrial land. Upland plant communities/wetland communities currently present on the Bayport terminal location alternative function as a unit and provides habitat for a variety of animal species listed in Tables 3.20-3, 3.20-4, 3.20-5. These species lists are not inclusive or comprehensive. Construction and operation of the terminal complex would result in the displacement of the majority of individual animal species currently found there. Existing habitat for existing species and habitat for recruitment of new species would be lost and incidental taking of non-mobile species would be expected. The disruption of wildlife movement patterns would be expected both on the Bayport terminal location alternative itself and adjacent properties as a result of barriers created by transportation corridors. Noise and light associated with the terminal complex would be expected to affect wildlife behavior, as would the general increase in human activity. While the terminal complex would not be expected to extirpate or imperil any upland animal species or reduce species diversity within the upland animal community within the region, cumulative effects would include a general reduction in local population sizes of some upland animal species currently existing in the area. 12-4 17-6 12-4

Approximately 460 acres of open bay bottom would be included within the Bayport terminal location alternative footprint, 150 acres of open bay bottom would be dredged and 23.5 acres of intertidal-flats would be filled. The Bayport Channel is considered high quality habitat for aquatic life. Fish, shellfish, estuarine reptiles and birds that currently use the open bay waters and open bay bottoms in the channel and areas adjacent to the Bayport terminal location alternative would be displaced during project construction. Increased turbidity during the construction period could temporarily affect foraging capability of some species. Additionally, if not removed by dredging activities, increased turbidity could smother adjacent oyster reefs. Deepening and maintenance 12-22 9-21 12-28 12-2

dredging of the existing channel would impact the benthic community occupying the open bay bottom and increased suspended solids would lower phytoplankton productivity in the vicinity during these activities. Fish would be displaced and estuarine reptiles in the area would be expected to avoid the area during dredging activities. 12-2

Additional potential effects resulting from operation of the terminal complex may include decreased water quality due to stormwater runoff and high-suspended solids resulting from ship maneuvering. This could result in an overall decline in abundance and diversity of estuarine animals in the vicinity of the terminal complex. While the terminal complex would not be expected to extirpate or imperil any aquatic animal species or reduce species diversity within the aquatic animal community in Galveston Bay, cumulative effects may include a general reduction in local population sizes of some aquatic animal species currently existing in the area. 12-14

No federal or state-listed plant species are known to occur on the Bayport terminal location alternative. Two plants categorized as Texas species of concern are known to occur near the Bayport terminal location alternative but not within the footprint of the project. 13-2 The federal and state-listed Kemp's Ridley and loggerhead sea turtles are known to feed in numerous areas within Galveston Bay but neither species has been recorded near the Bayport terminal location alternative. 13-3 Two reptiles listed as Texas species of concern, Texas diamondback terrapin and the Gulf saltmarsh snake, could potentially be found in the waters surrounding the Bayport terminal location alternative. However, the salt marsh habitat that is typically occupied by these two reptiles does not occur directly on the Bayport terminal location alternative. 13-4 Several protected bird species occur as "transient" visitors to the Bayport terminal location alternative, as listed by the applicant in Table 3.20-1. None of these species are known to nest on the terminal location alternative, so reduction in habitat required for breeding is not expected. Reduction in foraging habitat would occur as a result of the terminal complex development. 13-5

The DEIS does not address the use of the Bayport terminal location alternative site and its importance to or use by Neotropical migratory birds. Dr. Sidney Gauthreaux's radar studies of Neotropical migrant songbirds has identified the area between Matagorda Bay and east of Sabine Lake into Louisiana as one of the most important migration corridors in North America. The Migratory Bird Treaty Act (MBTA) implicitly prohibits intentional and unintentional take of migratory birds, including their nests and eggs, except where permitted. Measures should be taken to ensure that migratory bird species within and near the project area are not adversely impacted by construction or land clearing activities. The U.S. Fish and 12-21

Wildlife Service should be consulted if project activities could result in the take of any migratory bird species. 12-31

The DEIS does not adequately address the potential introduction of nonindigenous species through ballast water. The document should list and address specific actions the applicant plans to implement in order to avoid/ minimize the introduction of nonindigenous species through ballast water? 12-26

Section 3.20.3.10
The DEIS has separated mitigation efforts into "proposed" and "potential" mitigation. Proposed mitigation measures are defined as mitigation elements that have been included in the Applicant's permit application. Potential mitigation is circularly defined as potential mitigation measures that apply to all alternatives that support the types of habitats or biotic resources described. Defining (or the lack of definition) of "potential mitigation" could imply that the applicant has discretion on whether to implement any of the potential mitigation measures, most of which are required. Mitigation measures for protected species are also defined as potential mitigation measures.

Section 3.20.2.5
The proposed "potential mitigation" to prevent adverse impacts to Texas windmill grass and Houston machaeranthera includes avoidance of **recorded** populations of the plants on offsite locations and near alternative sites. Section 3.20.2.5 implies that each study area was surveyed; however, timing and methodology of the surveys are not reported in the DEIS. The mere fact that an area does not contain a recorded occurrence of a species does not imply the area has been surveyed and nothing was found. We would recommend conducting a site survey to determine if any on-site populations exist. In addition, six other plant Species of Concern could potentially occur (coastal gayfeather, Correl's false dragonhead, corkwood, Grand Prairie evening primrose, Texas meadow rue, and threeflower broomweed). We would recommend surveying for these species as well and mitigating (avoidance, minimization, recovery, compensation), if applicable, for these species. 12-32

The DEIS addresses the possible occurrence of Texas prairie dawn (federally and state listed) at each alternate study area but does not address the its possible occurrence at the preferred site study area even though Texas prairie dawn is known to occur within Harris County. In the DEIS's discussion of protected plants species, the applicant lists only two species of concern known to occur in Harris County for the Bayport site but lists four species of concern known to occur in Harris County for Spilmans Island site. When addressing the occurrence of federally and state listed plant species at the Bayport site the DEIS narrows the focus or scope and does not address the potential occurrence of protected species 12-33

DS 10992

that occur in Harris County. The DEIS does not adequately address protected plants species at the Bayport site.

Proposed Mitigation

As mitigation for proposed impacts at the Bayport terminal location alternative the applicant proposes to: implement stormwater management and treatment, use alternative fuel for vehicles and equipment, acquire a 164-acre tract of land adjacent to Armand Bayou Nature Center and Taylor Bayou, create 12.38 acres of wetlands, place a conservation easement on the 164-acre tract, beneficially use dredge material that would create a minimum of 200 acres of estuarine marsh habitat.

When reviewing impacts to natural resources, particularly an upland/wetland complex, impacts cannot be evaluated separately. The entire complex has functions and values that are dependent on one another. This project is not just impacting 2.5 acres of jurisdictional wetlands, or 106 acres of isolated wetlands, or 23.5 acres of intertidal-flats, or 150 acres of open bay bottom, or 1,038 acres of *Sapium* shrub and pasture/grassland habitat. This project is directly impacting 1,320 acres of habitat with even more un-measurable secondary and indirect impacts. Texas Parks and Wildlife and is adamant that the proposed mitigation does not adequately compensate for the proposed direct or cumulative impacts at the Bayport terminal location alternative. 12-34

Overall, the information provided in this document does not appear to be in compliance with the requirements of NEPA. Please find the attached list of additional comments regarding inconsistencies found in our review of the DEIS. 23-32

Questions can be directed to Cherie O'Brien in Clear Lake (281-335-0798 ext. 26), or to Tom Heger in Austin (512-389-4592).

Sincerely,

Robin MacRae

for Robert W. (Bob) Spain
Assistant Director, Resource Protection Division

RWS:COB:JRM:msf

Page ES-2 and Figure E-1 The DEIS is not consistent when referring to project size. On page ES-2 the project is described to be 1,079-acre project site plus an additional 95 acres of road and rail ROW; totally 1,174 aces. Figure E-1 labels the project to be 1,091 acres with the additional 95 acres for road and rail ROW; totaling 1,186 acres. 2-144

Discrepancies and inconsistencies regarding the amount of wetlands (aquatic resources, freshwater wetlands, and estuarine wetlands) at the Bayport project site as presented in the DEIS.

Section E5.19 page ES-22 and Section 3.19.3.9 page 3.19-11

> "...approximately 103.5 acres of non-jurisdictional freshwater wetlands, which are considered "aquatic resources"."
>
> "...2.5 acres of jurisdictional wetlands are present on the Bayport site."

Section E5.20 page ES-22, Table E-5, Section 3.20.3.3 page 3.20-47 and Section 4.3 page 4-3

> "...2.5 acres of the 106 acres of wetlands are jurisdictional."

Section 3.19.3.2 page 3.19-9 and Section 3.19.3.10 page 3.19-12

> "... 104 acres of freshwater wetlands within the facility footprint." "Of these wetlands, only 2.5 acres are jurisdictional..."
>
> "...Bayport site would result in the loss of approximately 104 acres of wetlands." "However, only 2.5 acres of these wetlands are jurisdictional (King, 2001)."

Section 3.20.2.5 page 3.20-28 14-58

> "Freshwater wetlands delineated on the site cover 104 acres. There are 2.5 acres of estuarine wetlands..."

Section 4.2 page 4-2

> "...permanent loss of approximately 104 acres of aquatic resources, of which approximately 2.5 acres are jurisdictional..."

Acronyms that are wrongly listed; TEU and DAMP or that are not listed at all; NRHP, LAN, and TSWQS. 22-145

Section 3.19.2.2 National Wetlands Inventory and Figures 3.19-8 –3.19-12 do not disclose what year NWI maps were used in the evaluation process. 14-59

Section 3.19.3 Environmental Consequences does not define the use of the terms no impact, less than substantial impact, substantial impact, short-term impact, long-term impact, adverse impact and beneficial impact. They are defined later in the document, Section 3.20.3 Environmental Consequences page 3.20-45, but in order to be useful to the reader these terms should be defined in each section they are used, not arbitrarily placed within the DEIS. 22-149

Section 3.20.3.3 Bayport Terminal Location Alternative, Aquatic Vegetation and Wildlife, page 3.20-47 does not fully discuss the environmental consequences of dredging 150.3 acres of bay bottom and filling 23.5 of bay bottom. The DEIS does not disclose whether these impacts are considered to be substantial or less than substantial impacts. Likewise on page 3.20-48, when discussing the initial dredging and deepening of the bay bottom, the DEIS does not disclose whether this impact is considered substantial or less than substantial and again with regards to filling 23.5 acres of intertidal flats on that same page. 11-39

Section 3.20.3.3 Bayport Terminal Location Alternative, Aquatic Vegetation and Wildlife, page 3.20-48 states,

> "Oyster reefs are located near the mouth of the Bayport Channel. If they are not avoided, dredging may result in the loss of these reefs."

If not avoided, dredging will certainly result in the loss of these reefs. Additionally, oyster reefs are vulnerable to impacts other than physical removal, such as sedimentation. The DEIS does not fully discuss direct, indirect or potential impacts to oyster reefs. 12-28

Occurrence of threatened and endangered sea turtles at the preferred, Bayport, and alternate project sites.

TPW questions the inconsistent descriptions in the DEIS regarding the "potential to occur" between the alternates sites and the preferred site, Bayport, with reference to sea turtles.

Page 3.20-29 Protected Species-Bayport Terminal Study Area

> "Kemp's Ridley sea turtle and juvenile loggerhead sea turtles are likely to feed in Galveston Bay in general" 13-6

Page 3.20-32 Protected Species-Spilmans Island Study Area

"Two listed sea turtles, the Kemp's Ridley sea turtle and juvenile loggerhead sea turtles, are known to use the Galveston Bay system for foraging. Therefore, these species could potentially occur near Spilman's Island Study Area."

Page 3.20-35 Protected Species-Shoal Point Study Area

"Two listed sea turtles, the Kemp's Ridley sea turtle and juvenile loggerhead sea turtles, are known to use the Galveston Bay system for foraging. Therefore, these species could potentially occur near Shoal Point site. In addition, the Atlantic hawksbill sea turtles could potentially found on te bay side of the Texas City dike near the Shoal Point site"

Page 3.20-38 Protected Species-Cedar Point Study Area

"Kemp's Ridley sea turtle and juvenile loggerhead sea turtles, both federally and state-listed species are known to feed in numerous areas within Galveston Bay. Neither species has been recorded near the Cedar Point site."

13-6

Page 3.20-40 Protected Species-Pelican Island Study Area

"Two listed sea turtles, the Kemp's Ridley sea turtle and juvenile loggerhead sea turtles, are known to use the Galveston Bay system for foraging. Therefore, these species could potentially occur near Pelican Island. In addition, the Atlantic hawksbill sea turtle and green sea turtle could potentially be found near Pelican Island."

Section 3.20.3.3 Bayport Terminal Location Alternative, Protected Species, Page 3.20-50

"Transportation corridors associated with the terminal complex, including roadways, railways, and channels, may impact off-terminal location alternative saltmarsh habitat utilized by the Texas diamondback terrapin and the Gulf saltmarsh snake, as well as wading birds."

13-7

The above statement appears to allude to indirect, off-site impacts, but no clarification or discussion is provided.

Shoreline Erosion

E5.15 Shoreline Erosion, page ES-20 states,

"The proposed facilities would not have a significant adverse effect on shoreline erosion because short-term

15-34

> effects are not anticipated, and it is not expected to result long-term shoreline erosion in either the bay or the channel." "The most sensitive and significantly exposed areas are presently protected, being protected by on going actions, or would be protected as part of future project construction."

While Section 3.20.3.3 Bayport Terminal Location Alternative, Essential Fish Habitat, page 3.20-51 states,

> "The effects of vessel induced wave damage or disturbance would be difficult to quantify, but may be of concern to EFH. In some areas, high-energy wave trains from large vessels may be responsible for erosion of shorelines and intertidal wetlands."

Section 3.15.2.1 Bayport Study Area, page 3.15-3 states,

> "The Bayport Channel grew approximately 100 feet in width between 1979 and 1992. On the average, each bank has been retreating at a rate of 4.3 feet per year (Table 3.15-1)."

15-34

> "Currently, the northern shoreline of the land cut is being armored."

The DEIS inconsistently addresses erosion problems both in the Bayport Channel and on adjacent shorelines. The DEIS does not address short or long term commitment from the applicant to prevent or repair erosive shorelines particularly outside of the project area (outside the Bayport Channel). The Bayport Channel has had a significant erosion problem (100 feet in 13 years) since 1979 but the applicant has only recently (1999) begun to address it and take preventative actions. The applicant has addressed half of the problem by armoring the northern shoreline.

Essential Fish Habitat

Section 3.20.3.3 Bayport Terminal Location Alternative, Essential Fish Habitat, page 3.20-50 states,

> "Approximately 460 acres of open-bay waters and open-bay bottoms exist within the footprint of the terminal complex (Figure 2-3). This EFH is not expected to be directly lost as a result of construction and operation but would be altered by activities, including conversion of approximately 150.3 acres of shallow bay habitat to deepwater channels and turning basins."

12-22

> "Filling 23.5 acres of intertidal flats and shallow bay bottom;"

Filling 23.5 acres of intertidal flats and shallow bay bottom is a direct loss of Essential Fish Habitat, likewise converting 150.3 acres of shallow bay bottom to deep water is also a direct loss of 150.3 acres shallow bay Essential Fish Habitat. 12-22

Section 3.20.3.4 Spilmans Island Terminal Location Alternative, Aquatic Vegetation and Wildlife, page 3.20-53 states,

> "No oysters are known to exist near the Spilmans Island terminal location alternative." 12-40

In Table E-5 Summary Comparison of Environmental Consequences, oysters are listed under affected CNRA's.

3.20.3.11 Summary, No Action Alternative, page 3.20-79 states,

> "Under the No Action Alternatives, any type of development likely to occur on the Bayport site, such as other types of industrial and commercial facilities or multi-family dwellings, would result in the same or similar effects to biotic communities as construction and operation of the terminal complex."

The above No Action Alternative is inconsistent with the No Action Alternative as described in the Executive Summary, Page ES-9,

> "It has been assumed that under the No Action Alternative, the Applicant-owned portion of the Bayport site would be developed for other types of port facilities similar to those located along the western portion of the Bayport Channel, consistently with current land use designation. Likely facilities include liquid bulk terminals, petrochemical facilities, and similar industrial facilities requiring direct waterfront locations. Future unrelated developments on the remainder on the Bayport Site and at the alternative terminal location sites, with their associated impacts, could also occur" 2-118

While development mat occur at the site, it is presumptuous to state that the impacts would be the same as the proposed terminal.

MAR 2 0 2002

DS-10996

CAC

Robert J. Huston, *Chairman*
R. B. "Ralph" Marquez, *Commissioner*
Kathleen Hartnett White, *Commissioner*
Jeffrey A. Saitas, *Executive Director*

TEXAS NATURAL RESOURCE CONSERVATION COMMISSION

Protecting Texas by Reducing and Preventing Pollution

March 15, 2002

U.S. Army Corps of Engineers
Galveston District CESWG-PE-RE
P.O. Box 1229
Galveston, Texas 77553-1229

Attn: Mr. Kerry Stanley

Re: USACE Permit Application No. 21520

Dear Sir:

The applicant, Port of Houston Authority, proposes to develop a major marine terminal complex on approximately 1,901 acres, along the south side of the Bayport Ship Channel. This development would include facilities for docking, loading and unloading container and cruise ships, container storage areas, and intermodal yard, warehousing facilities, and properties available for light industrial development. This project would be constructed in phases and would require the dredging of approximately 9 million cubic yards of material over the life of the construction project. The dredged material from the initial phase of construction would be placed onsite, while dredged material from future phases would be placed into offsite dredged material placement areas or utilized in a beneficial uses of dredged material project. In addition, this project would require the placement of fill material into approximately 2.5 acres of jurisdictional wetlands. As mitigation for the project impacts, the applicant proposes to purchase a 163-acre tract of land located adjacent to Armand Bayou Nature Center and Taylor Lake. The applicant, proposes to create 12.38 acres of adjacent wetlands within this tract and place a conservation easement on the entire tract. In addition, the applicant expects that at least 200 acres of intertidal wetlands would be created as a result of the beneficial use of the dredged material.

The project is located along the Bayport Ship Channel, approximately thirty miles southeast of downtown Houston, in the City of Pasadena, between the cities of Shoreacres and Seabrook, in Harris County, Texas.

The Corps of Engineers has determined that this project is a major Federal action that may have significant impacts to the human environment and that an Environmental Impact Statement is required for the project. The Draft Environmental Impact Statement (DEIS) was published on November 12, 2001. The Texas Natural Resource Conservation Commission (TNRCC) is providing the following comment, consistent with the requirements of 30 TAC Chapter 279, in response to the DEIS and to address the potential impacts to water in the state.

1) In the Public Notice dated November 9, 2001, the description of jurisdictional waters to be impacted at the Bayport alternative omitted 23.5 acres of intertidal flats that are described in the DEIS for

11-13

proposed installation of a bulkhead at the location of the cruise terminal. There should be consistency between the public notice and the DEIS. Please provide accurate details and acreage of each type of potential impact to all waters in the state.

2) The DEIS identifies 2.5 acres of hydrologically connected wetlands to be impacted by the construction of the container yard. During a site visit on December 17, 2001, staff from various resource agencies visited the proposed container yard site. Water was observed flowing from several of the wetlands that had been identified as hydrologically isolated. The flow from these wetlands continued toward a gully that empties into the Bayport Channel. Portions of this gulley are included in the 2.5 acres of hydrologically connected wetlands. It is TNRCC's understanding that because of the questions raised on this site visit and questions raised by others for sites not visited on the December 17 site visit, the Corps is redelineating the project site. If this redelineation results in impacts to hydrologically connected wetlands greater than three acres the project must be reviewed by TNRCC under a Tier II 401 Water Quality Certification in accordance with the MOA between the Corps and TNRCC. If the project is reviewed as a Tier II project it will require renotice to inform the public of the change in the area impacted and to allow for public comment on the 401 certification decision.

14-40

3) Please provide specific details of mitigation for all potential impacts to waters in the state. Each area of impact should be linked to the specific mitigation measures intended to compensate for the impact. It is recommended that impacts be compensated with in-kind replacement. The DEIS identifies 12.04 acres of existing wetlands at the proposed 164-acre mitigation site with 6.14 acres hydrologically connected. The applicant proposes to create an additional 12.38 acres of hydrologically connected wetlands to compensate for impacts to the 2.5 acres of hydrologically connected wetlands. This proposed ratio of 7.4:1 for the 2.5 acres of hydrologically connected wetlands will ensure no net loss of wetlands function for those wetlands. The 103.5 acres of isolated wetlands at the project site are water in the state. As described in 30 TAC 307.3(a)(70), attributes of wetlands such as storm water storage and retention, moderation of extreme water level fluctuations, shoreline protection against erosion through the dissipation of wave energy and water velocity, anchoring of sediments, habitat for aquatic life, and removal, transformation, and retention of nutrients and toxic substances protect and maintain the quality of water in the state. Texas Surface Water Quality Standards also provide that the vegetative and physical components of the aquatic environment will be maintained or mitigated to protect aquatic life uses. Additional mitigation such as acquisition of offsite wetlands for conservation easements, restoration of degraded wetlands in the general study area, creation of offsite wetlands for conservation easements, and creation of wetlands within detention basins and other flood detention as regional water quality enhancement are discussed in the DEIS and should be explored to provide replacement of wetland functions lost from the construction of this project.

14-41

14-42

4) Please provide an accurate map depicting the location and types of all potentially impacted waters including hydrologically and non-hydrologically connected freshwater wetlands, intertidal flats, estuarine marsh, oyster reefs, ponds, and drainages.

14-43

5) The DEIS describes plans to create wetlands within detention basins. According to a conversation with Mr. Charlie Jenkins of the Port of Houston Authority (PHA) on February 26, 2002, this is in error. Mr. Jenkins indicates that all compensation will be located at the offsite mitigation site adjacent to Taylor Bayou and no wetlands will be used to filter stormwater onsite. Please correct the DEIS to reflect the current proposal. The TNRCC encourages the use of wetlands as part of stormwater management when feasible. Please explain the reasons for eliminating wetlands from the detention basins.

14-44

6) The DEIS indicates oyster beds may be impacted as a consequence of dredging. No mitigation has been provided to compensate for these impacts to Critical Areas. Avoidance of oyster beds is recommended as mentioned in the DEIS as potential mitigation. If impacts to oyster beds are unavoidable a mitigation plan to replace that loss is needed to prevent degradation of a water quality use designated in the Texas Surface Water Quality Standards.

9-16

7) The DEIS stated that dredge material from the proposed project will be used to create at least 200 acres of estuarine marsh at the Mid Bay Marsh site in Galveston Bay. Please clarify if the created estuarine marsh will be included in the applicant's proposed mitigation plan to compensate for estuarine impacts and identify the associated success criteria and monitoring requirements. Also identify how dredged material from future maintenance of the Bayport Channel will be chemically evaluated for placement in the beneficial use sites.

11-14

8) In the DEIS (Table 3.18-18), elutriate analyses of the dredged material from the Bayport site indicated all constituents of concern were below water quality standards with the exception of copper. The TNRCC disagrees with the DEIS statement that since copper only violated acute toxic criteria and the discharge of decant would be a temporary impact due to temporary dredging events, no significant water quality impacts were anticipated. The presence of copper in the sediment raises some important concerns. In 2001 copper in the elutriate at the Bayport site (Table 3.18-5) averaged 4.8 mg/L with a maximum of 8.2 mg/L. The proposed placement areas are located in Upper Galveston Bay (segment 2421), which is designated as oyster waters in the Texas Surface Water Quality Standards. The acute toxic criterion for saltwater of 3.6 mg/L applies to designated oyster waters outside the mixing zone of a permitted discharge. Therefore, the proposed project must employ hydraulic dredging techniques with direct disposal of spoil material in an approved upland containment area. In the DEIS, the applicant proposes to use some of the same dredged material beneficially in marsh creation. Table 3.18-1 did not show bulk sediment analyses for copper. Bioassay tests for dredged material intended for beneficial use may be required. The source of dredge material for beneficial use may have to be limited to specific sample locations not contaminated with copper to prevent toxic impacts on aquatic life.

9-17

9-18

9) Tables 3.18-1 and 3.18-5 have omissions in the constituents listed and/or analyzed in the bulk sediment and elutriate, respectively. In Table 3.18-1, a row of values is displayed in the Sediment Quality data table, but the constituent is not listed in the row between Chromium and Lead in the metals section. In Table 3.18-5, a row of values is displayed in the Elutriate data table, but no constituent is listed between copper and mercury in the metals section.

10) Please provide details of the installation of shoreline stabilization structures. Please specify if all anticipated impacts are identified and describe the mitigation for those impacts.

11) In Section 3.2 of the DEIS, *Land Use & Coastal Zone Management*, the descriptions of the Coastal Natural Resource Areas (CNRAs) are not consistent with impacts described in the *Ecology* section which describes impacts to 23.5 acres of intertidal flats not in Table 3.2-2. Please provide a map detailing impacts to Critical Areas in CNRAs.

12) In Section 3.16 of the DEIS, *Hydrology, Drainage & Flooding*, the applicant indicates that "Grading and paving in a larger portion of the site would include filling existing depressions and some small ditches draining into the Bayport Ship Channel and Pine Gully." These depressions and ditches may be additional impacts. Please provide clarification of these potential impacts and if the areas are waters in the state, describe the mitigation for these impacts.

13) The impacts to hydrologically connected and isolated wetlands described in the chapter on *Environmental Consequences* (3.20) under the subheadings of *Aquatic Vegetation and Wildlife* should be specific and comprehensive. For example, the fill of 2.5 acres of hydrologically connected wetlands and 103.5 acres of hydrologically isolated, depressional freshwater wetlands would result in decreased water quality functions such as storm water storage and retention, moderation of extreme water level fluctuations, shoreline protection against erosion through the dissipation of wave energy and water velocity, and anchoring of sediments, habitat for aquatic life, and removal, transformation, and retention of nutrients and toxic substances. These impacts are permanent, adverse, and a substantial loss. The permanent, adverse impacts of the dredging of 150.3 acres of bay bottom and fill of 23.5 acres of intertidal flats would include the loss of essential fishery habitat and Critical Areas of CNRAs. Impacts to the bay bottom and intertidal flats is further described under *Aquatic Animal Communities* and *Essential Fish Habitat*. Please include these detailed descriptions of impacts to bay bottom and intertidal flats in the subheading *Aquatic Plant Communities* as well.

14) The DEIS has identified all the segments at the alternative sites as being on the 303d List of Critically Impaired Waterbodies. Bayport Ship Channel (segment 2438) and Upper Galveston Bay (segment 2421) have been listed at the applicant's preferred alternative site of Bayport. Upper Galveston Bay has been listed as medium priority for a Total Maximum Daily Load (TMDL) for non-support of its designated oyster use for pathogens and a " no consumption" advisory for dioxin in the tissues of blue crab and catfish. The Bayport Ship Channel has been listed as a medium priority for a TMDL for a "no consumption" advisory due to dioxin found in the tissues of blue crab and catfish. TNRCC

recommends the applicant take measures to prevent further impacts to critically listed waterbodies. Incorporation of wetlands into the development of the Bayport site could assist in removal, transformation, and retention of nutrients and toxic substances to facilitate the TMDL process achieving its water quality goals.

15) In a conference call on February 26, 2002, the PHA indicated that In a conference call with Mr. Jenkins and Ms. Laura Fifick, also of the PHA, on February 26, 2002, the sound berm has been relocated from its original location to just north of El Jardin. Please provide any details of impacts to waters in the state as a result of the relocation of the berm, and proposed compensation for those impacts. 14-47

16) In order to ensure the long term conservation of the proposed mitigation site the property should be placed into a conservation easement with the a responsible designee identified. 14-48

17) Effluent from confined disposal of dredged material should not exceed 300 mg/L Total Suspended Solids. 9-20

If you wish to provide additional information or discuss your application, please contact Ms. Lili Lytle, Water Quality Assessment Section, Water Quality Permits Division, P.O. Box 13087, Austin, Texas 78711-3087 MC-150, (512) 239-4596, or email *llytle@tnrcc.state.tx.us*.

Sincerely,

Jeffrey A. Saitas, P.E.
Executive Director
Texas Natural Resource Conservation Commission

JAS/LLL/emh

cc: Mr. Ted G. Walters, Port of Houston Authority, P.O. Box 2562, Galveston, Texas 77252-2562

Robert J. Huston, *Chairman*
R. B. "Ralph" Marquez, *Commissioner*
Kathleen Hartnett White, *Commissioner*
Jeffrey A. Saitas, *Executive Director*

MAR 18 2002

TEXAS NATURAL RESOURCE CONSERVATION COMMISSION

Protecting Texas by Reducing and Preventing Pollution

March 13, 2002

[redacted]

U.S. Army Corps of Engineers
Galveston District CESWG-PE-RE
P.O. Box 1229
Galveston, Texas 77553-1229

DS-1[illegible]997
Chb

Attn: Mr. Kerry Stanley

Re: USACE Permit Application No. 21520

Dear Sir:

The Texas Natural Resource Conservation Commission (TNRCC) appreciates the opportunity to comment on the Draft Environmental Impact Statement (DEIS) for the Port of Houston Authority's proposed container/cruise terminal on the Bayport Channel, Harris County, Texas. The TNRCC requests a 7-day extension to submit comments on the DEIS. 23-140

If you wish to provide additional information or discuss your application, please contact Ms. Lili Lytle, Water Quality Assessment Section, Water Permits and Resource Management Division, P.O. Box 13087, Austin, Texas 78711-3087 MC-150, (512) 239-4596, or email *llytle@tnrcc.state.tx.us*.

Sincerely,

Mark Fisher, Manager
Water Quality Assessment Section
Water Quality Division

MF/LLL/emh

cc: Mr. Ted G. Walters, Port of Houston Authority, P.O. Box 2562, Galveston, Texas 77252-2562

Coastal Coordination Council

P.O. Box 12873 ♦ Austin, Texas 78711-2873 ♦ (512) 463-5385 ♦ FAX (512) 475-0680

March 13, 2002

Chairman

David Dewhurst
Texas Land Commissioner

♦

Members

Michael L. Williams
Railroad Commission of Texas

Dr. William H. Clayton
Coastal Government Representative

John Barrett
Agriculture Representative

Bob Dunkin
Coastal Business Representative

Jack Hunt
Texas Water Development Board

Robert J. Huston
Texas Natural Resource Conservation Commission

John W. Johnson
Texas Transportation Commission

Elizabeth A. Nisbet
Coastal Resident Representative

Robert R. Stickney
Sea Grant College Program

Donald Swann
Texas State Soil & Water Conservation Board

Mark E. Watson, Jr.
Parks & Wildlife Commission of Texas

♦

Diane P. Garcia
Council Secretary

Pat Alba, Jr.
Permitting Assistance Coordinator
1-866-894-3578

DS 10998

Kerry M. Stanley
Regulatory Branch, CESWG-PE-RE
U.S. Army Corps of Engineers
P.O. Box 1229
Galveston, Texas 77553-1229

RE: Comments on the proposed Bayport Draft Environmental Impact Statement (DEIS)

Dear Mr. Stanley:

The Coastal Coordination Council (Council) appreciates the opportunity to comment on the DEIS for the Port of Houston Authority's Proposed Bayport Channel/Cruise Terminal, Bayport Ship Channel project. However, without knowing the complete extent of jurisdictional and isolated wetlands, as redelineated by the Corps of Engineers (Corps), and the proposed compensatory mitigation for unavoidable adverse impacts, it is difficult to comment on this DEIS. 14-53

It is our understanding that a new Corps public notice on the proposed project will soon be issued that will identify significant additional jurisdictional wetland acres at the project site than those identified in the DEIS. The Council would prefer to handle any wetland concerns through comments on the DEIS rather than through consistency review of a revised permit application that conflicts with the information in the DEIS. We were surprised that the comment period for the DEIS was not extended, since the Corps is currently reviewing new wetland information relevant to the DEIS and could significantly change the level of impact of and mitigation needed for the proposed action. In order for the Council to provide the Corps with adequate comments on the DEIS, the Council requests an extension of time until we can evaluate the results of the redelineation of wetlands at the project site. The time for the extension should coincide with the comment period of the new public notice. 14-52 23-142

In addition, as stated in the Council's letter of November 30, 2001 to the Corps on the proposed Bayport project, the Council's policy for major actions, 31 TAC §501.15, requires that the agencies and local governments having jurisdiction over the proposed activity must meet and coordinate their permitting reviews relating to the proposed activity. This coordination must take place prior to taking an action for which a federal environmental impact 22-144

statement is required, such as the proposed action referenced above. The agencies and local governments must, also, to the greatest extent practicable, consider the cumulative and secondary adverse effects of each permitting approval relating to the proposed activity. The consistency determination for the project should document the coordination for the cumulative and secondary adverse effects. 22-141

Please note that a preliminary comment on the DEIS is that all wetlands at the project site are not only waters in the state (Texas Water Code §26.001(5)) but are coastal wetlands (31 TAC §501.3(b)(5)), and require compensation consistent with the policies in 31 TAC §501.14(h). Other preliminary concerns include, but are not limited to, inconsistencies in the amount of fill included in the original public notice versus that found in the DEIS, a mitigation plan for potential oyster reef impacts, a monitoring and management plan for any proposed beneficial use sites, the need for detail in describing and providing mitigation for all shoreline stabilization structures, and inconsistencies in describing impacts to Coastal Natural Resource Areas in the DEIS. 22-143

Please contact me at 512-463-5100 or at thomas.calnan@glo.state.tx.us if you have any questions or concerns.

Sincerely,

Thomas R. Calnan

Thomas R. Calnan
Coastal Biologist

cc: Mark Fisher, TNRCC
Ted G. Walters, Port of Houston Authority

MAR 1 9 2002

The State of Texas
House of Representatives

DS11249

Kyle Janek
DISTRICT 134

CAPITOL OFFICE:
P.O. BOX 2910
AUSTIN, TEXAS 78768-2910
512-463-0748
FAX: 512-463-5896

DISTRICT OFFICE:
7777 SOUTHWEST FRWY., SUITE 102
HOUSTON, TEXAS 77074
713-272-8929
FAX: 713-272-8956

March 12, 2002

Kerry M. Stanley
U.S. Army Corps of Engineers
Galveston District
Regulatory Branch
P.O. Box 1229
Galveston, Texas 77553-1229

Dear Mr. Stanley,

I want to express my support for the U.S. Army Corps of Engineers' Draft Environmental Impact Statement for the Proposed Bayport Marine Terminal. 29-77

I believe the Bayport site is the best alternative for a container and cruise terminal. I encourage the Corps to expedite their approval of the Port of Houston Authority's application, issue the Final Environmental Impact Statement and permit the facility. One in three jobs in Houston depend on international trade, and Bayport is needed to keep Houston competitive in the global economy. 2-62, 23-83, 6-76

The Port's plans on the Bayport Terminal adequately address - and in many cases exceed - issues of environmental impact, socioeconomic, land use, noise, lighting and surface transportation. 18-16

The Houston-Galveston region has an economy larger than that of Hong Kong, Turkey or Austria and more jobs than Colorado, Arizona, Alabama or South Carolina. The Bayport Terminal will provide jobs, consumer goods, and economic well being to this region. I urge you to allow the port of Houston Authority to begin construction of Bayport as soon as possible. 29-79

Sincerely,

Kyle Janek

COMMITTEES:
VICE CHAIR, CIVIL PRACTICES
APPROPRIATIONS

DISTRICT 149
HARRIS COUNTY

COMMITTEES
APPROPRIATIONS
WAYS AND MEANS

MAR 14 2002

TALMADGE HEFLIN

TEXAS HOUSE OF REPRESENTATIVES

DS 11271

March 12, 2002

Mr. Kerry M. Stanley
U.S. Army Corps of Engineers
Galveston District
Regulatory Branch
P. O. Box 1229
Galveston, Texas 77553-1229

RE: The Corps' Draft Environmental Impact Statement for the Proposed Bayport Marine Terminal

Dear Mr. Stanley:

I want to express my support for the U.S. Army Corps of Engineers' Draft Environmental Impact Statement for the Bayport Marine Terminal.] 29-77

I believe the Bayport site is the best alternative for a container and cruise terminal. I encourage the Corps to expedite their approval of the Port of Houston Authority's application, issue the Final Environmental Impact Statement and permit the facility. One in three jobs in Houston depend on international trade, and Bayport is needed to keep Houston competitive in the global economy.] 2-62] 23-83] 6-76

I believe the Port's plans on the Bayport Terminal adequately addresses - and in many cases exceeds - issues of environmental impact, socioeconomic, land use, noise, lighting and surface transportation.] 18-16

The Houston-Galveston region has an economy larger than that of Hong Kong, Turkey or Austria and more jobs than Colorado, Arizona, Alabama or South Carolina. This same region grew by more than 950,000 people in the 1990s - a greater growth in population than 40 of the 50 states. The Bayport Terminal will provide jobs, consumer goods, and economic well being to this region. I urge you to allow the Port of Houston Authority to begin construction of Bayport as soon as possible.] 29-79

DISTRICT OFFICE:
7474 S. KIRKWOOD, SUITE 205
HOUSTON, TEXAS 77072
(281) 498-6343
FAX (281) 498-6344

AUSTIN OFFICE:
P.O. BOX 2910
AUSTIN, TEXAS 78768-2910
(512) 463-0568
FAX: (512) 463-8095

If you have any questions on my written comments, please do not hesitate to call me.

Sincerely,

Talmadge Heflin

TH/jh

cc: Port of Houston Authority
Via facsimile 713-670-2425

MAR 1 4 2002

BEVERLY WOOLLEY
TEXAS HOUSE OF REPRESENTATIVES
HOUSTON · DISTRICT 136

DS 11304

March 13, 2002

Mr. Kerry M. Stanley
U. S. Army Corps of Engineers
Galveston District
Regulatory Branch
P. O. Box 1229
Galveston, Texas 77553-1229

Re: The Corp's Draft Environmental Impact Statement for the Proposed Bayport Marine Terminal

Dear Mr. Stanley,

I would like to express my support for the U. S. Army Corps of Engineers' Draft Environmental Impact Statement for the Bayport Marine Terminal. 29-56

I believe the Bayport site is the best alternative for a container and cruise terminal. I encourage the Corps to expedite their approval of the Port of Houston Authority's application, issue the Final Environmental Impact Statement and permit the facility. One in three jobs in Houston depend on international trade, and Bayport is needed to keep Houston competitive in the global economy. 2-85 29-86 2-45

I believe the Port's plans on the Bayport Terminal adequately addresses - and in many cases exceeds - issues of environmental impact, socioeconomic, land use, noise, lighting, and surface transportation. 23-141

The Houston-Galveston region has an economy larger than that of Hong Kong, Turkey or Austria and more jobs that Colorado, Arizona, Alabama or South Carolina. This same region grew by more than 950,000 people in the 1990s - a greater growth in population than 40 of the 50 states. The Bayport Terminal will provide jobs, consumer goods, and economic well being to this region. I urge you to allow the Port of Houston Authority to begin construction of Bayport as soon as possible. 6-116 29-86

Thank you for your consideration. Please feel free to contact me if I can be of any further assistance.

Sincerely,

Beverly Woolley

Beverly Woolley
State Representative District 136

cc: Port of Houston Authority

COMMITTEES: VICE CHAIR, PENSIONS & INVESTMENTS · BUSINESS & INDUSTRY
P.O. BOX 2910, AUSTIN, TEXAS 78768-2910
512-463-0696 · 713-629-6313
E-MAIL: BEVERLY.WOOLLEY@HOUSE.STATE.TX.US

Robert J. Huston, *Chairman*
R. B. "Ralph" Marquez, *Commissioner*
Kathleen Hartnett White, *Commissioner*
Jeffrey A. Saitas, *Executive Director*

DS- 11742
APR 10 2002

TEXAS NATURAL RESOURCE CONSERVATION COMMISSION

Protecting Texas by Reducing and Preventing Pollution

Mr. Kerry M. Stanley
Regulatory Branch, CESWG-PE-RE
U.S. Army Corps of Engineers
P.O. Box 1229
Galveston, Texas 77553-1229

Dear Mr. Stanley:

Please find our comments to the Draft Environmental Impact Statement (DEIS) for the Marine Terminal Complex - Bayport Ship Channel Draft Environmental Impact Statement. We appreciate your careful consideration of our comments and look forward to reviewing the final EIS.

We are familiar with the Bayport Project and have been working diligently with the interested parties, including the local governments, the U.S. Environmental Protection Agency, your agency, the Port of Houston and various consulting firms. This process is very important from a planning perspective and has allowed our agency to provide these comments on the DEIS.

We would first like to acknowledge the Port of Houston's efforts at helping to improve air quality in Texas. The Port of Houston has been one of the most aggressive pursuers and users of advanced cleaner fuels and technologies. The recognition by the Port of their contributions to both the challenges and solutions to clean air in the Houston/Galveston area should be commended. 7-93

It is our understanding from the DEIS that construction emissions are expected to stay below the 25 tons per year de minimus threshold. It is important from the air quality perspective to limit the construction emission below this level. It is our understanding this will be accomplished through contractual obligations on the part of parties performing the dredging and construction of wharfs. We would like to see this commitment preserved in the final EIS. 7-94

The Texas Legislature has provided funds for incentives to pay for the increased cost of cleaner equipment through Senate Bill 5 (SB5). The Port of Houston has been very active in applying for the Texas Emissions Reduction Program (TERP) grants and we appreciate these efforts. The Texas Natural Resource Conservation Commission (TNRCC) encourages the sponsors to add contract requirements requesting all construction contractors to make an attempt at securing a SB5 grant to further lessen the air quality impact of this project. 7-95

11742

Lastly, although our agency has limited legal authority under the general conformity rules over long term operational emissions associated with a project such as this, our obligation to ensure compliance with the National Ambient Air Quality Standards is not diminished. Therefore, we request that the sponsors of this project commit to require all future tenants and users of the Bayport facilities to utilize Best Management Practices and implement the latest and cleanest technology practicable for all sources of air contaminants. Absent such a commitment, the TNRCC is unable to concur that the facility will not have an impact on the environment. 7-96

Sincerely,

Jeffrey A. Saitas, P.E., Executive Director
Texas Natural Resource Conservation Commission

STATE of TEXAS
HOUSE of REPRESENTATIVES

MAR 1 9 2002

Harold V. Dutton, Jr.
District 142

DS 11749

Committees:
Public Education, Vice-Chairman
Calendars
Civil Practices
Select Committee on
Constitutional Revision
Select Committee on
Teacher Health Insurance

March 15, 2002

Mr. Kerry M. Stanley
U.S. Army Corps of Engineers
Galveston District
Regulatory Branch
P.O. Box 1229
Galveston, Texas 77553-1229

Re: The Corps' Draft Environmental Impact Statement for the Proposed Bayport Marine Terminal

Dear Mr. Stanley:

I would like to express my support for the U.S. Army Corps of Engineers' Draft Environmental Impact Statement for the Bayport Marine Terminal. 29-56

I believe the Bayport site is the best alternative for a container and cruise terminal. I encourage the Corps to expedite their approval of the Port of Houston Authority's application, issue the Final Environmental Impact Statement and permit the facility. One in three jobs in Houston depend on international trade, and Bayport is needed to keep Houston competitive in the global economy. 2-95 29-66 1-45

I believe the Port's plans on the Bayport Terminal adequately addresses - and in many cases exceeds - issues of environmental impact, socioeconomic, land use, noise, lighting and surface transportation. 23-141

The Houston-Galveston region has an economy larger than that of Hong Kong, Turkey or Austria and more jobs than Colorado, Arizona, Alabama or South Carolina. This same region grew by more than 950,000 people in the 1990s - a greater growth in population than 40 of the 50 states. The Bayport Terminal will provide jobs, consumer goods, and economic well being to this region. I urge you to allow the Port of Houston Authority to begin construction of Bayport as soon as possible. 6-116 29-86

If you have any questions or comments, please do not hesitate to call me.

Best regards,

Harold V. Dutton, Jr.

HAROLD V. DUTTON, JR.
/nb

cc: Port of Houston Authority
Via Facsimile: (713)670-2425

☐ AUSTIN OFFICE: State Capitol Room 1N.9
Post Office Box 2910 • Austin, Texas 78768-2910 • 512/463-0510 • FAX: 512/463-3333
☐ DISTRICT OFFICE: 9111 Eastex Frwy., Suite 336 • Houston, Texas 77093 • 713/692-9192 • FAX: 713-692-6791

TOM DeLAY
22D DISTRICT, TEXAS
MAJORITY WHIP
COMMITTEE ON APPROPRIATIONS
SUBCOMMITTEES:
TRANSPORTATION
VA/HUD/INDEPENDENT AGENCIES

2370 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-4322
(202) 225-5951

10701 CORPORATE DRIVE, SUITE 118
STAFFORD, TX 77477
(281) 240-3700
(800) 759-5748

One Hundred and Seventh
Congress of the United States
House of Representatives
Washington, DC 20515-4322

MAY 0 7 2002

VF 11834

May 3, 2002

Mr. Kerry M. Stanley
U.S. Army Corps of Engineers
Regulatory Branch, CESWG-PE-RB
P.O. Box 1229
Galveston, Texas 77553

Dear Mr. Stanley:

I have attached a copy of a letter written to you from Mayor Nancy Edmonson, from the City of Shoreacres. The letter details their continued concerns with the Port of Houston's Bayport Channel Container/Cruise Terminal revised permit application (Permit Application Number 21521-revised).

Additionally, the letter requests a 60 day extension for the comment period that is scheduled to end on May 4, 2002.

I trust that you will take into consideratioin the City of Shoreacres' concerns when reviewing the Port of Houston Authority's permit application.

23-198

Sincerely,

Tom DeLay

Tom DeLay
Member of Congress

TD:td

PRINTED ON RECYCLED PAPER

APR 3 0 2002

United States Department of the Interior
FISH AND WILDLIFE SERVICE
Division of Ecological Services
17629 El Camino Real, Suite #211
Houston, Texas 77058-3051
281/286-8282 / (FAX) 281/488-5882

April 25, 2002

XF 11835
6

Colonel Leonard D. Waterworth
Galveston District, Corps of Engineers
Attn: Regulatory Branch, Kerry M. Stanley
P.O. Box 1229
Galveston, Texas 77553

Dear Colonel Waterworth:

Reference is made to the Public Notice for **Department of the Army Permit 21520 (revised)** dated April 4, 2002. The applicant, Port of Houston Authority, proposes to develop a major marine terminal complex on approximately 1,081 acres along the south side of the Bayport Ship Channel. This development would include facilities for docking, loading and unloading container and cruise ships, container storage areas, an intermodal yard, warehousing facilities, and properties available for light-industrial development. This development would be constructed in phases and would require the dredging of approximately 9 million cubic yards of material over the life of the construction project. The dredged material from the initial phase of construction would be placed onsite, while dredged material from future phases would be placed into offsite dredged material placement areas or utilized in a beneficial uses of dredged material project. In addition, this project would require the placement of fill material into 132.8 acres of wetlands scattered within approximately 1,000 acres of wildlife habitat. The project is located along the Bayport Ship Channel, approximately thirty miles southeast of downtown Houston, in the City of Pasadena, between the cities of Shoreacres and Seabrook, in Harris County, Texas.

As compensatory mitigation for the loss of 132.8 acres of wetlands and associated habitat, the applicant proposes to purchase a 163-acre tract of land located adjacent to Armand Bayou Nature Center and Taylor Lake. The applicant proposed to create 12.38 acres of wetlands within this tract and place a conservation easement on the entire tract. The applicant also proposes to plant a 50-acre berm with native shrubs and trees. In addition, the applicant expects that at least 200 acres of intertidal marsh would be created as a result of the beneficial use of the dredged material.

The revised Department of the Interior Manual Instructions (503 DM 1), dated August 3, 1973, assign responsibility for Department of the Interior coordination and review of Department of the Army permit applications to the U.S. Fish and Wildlife Service. Our comments are provided in accordance with these instructions and with the Fish and Wildlife Coordination Act (48 Stat. 401, as amended; 16 U.S.C. 661, et seq.).

The Service attended early scoping meetings to discuss proposed impacts caused by the construction of the Bayport terminal. We recommended avoidance of the forested areas, in particularly a large tract of forested wetlands located within the south portion of the property. A large tract of this forest,

approximately 41 acres, is located on PHA property but is not within the project footprint. Although it appears to be avoided, no reference to this area is mentioned in the public notice or within the draft EIS. These 41 acres will be subject to future development if not protected. The Service recommends avoidance of this forest and all areas proposed to be avoided should be clearly demonstrated as such within the draft EIS and the D.A. Permit and placed in a conservation easement with a certified land trust. 14-96

In addition there are high quality forested areas within the project footprint, some of which are forested wetlands. Approximately 18 acres of forest located in the southern portion of the project footprint and north of Pine Gully will be impacted by the construction of the levee and by the construction of detention basins. We recommend the applicant avoid this area by further minimizing project impacts. 14-97

The Service participated in interagency field investigations to the proposed project site on December 17, 2001 and January 15, 2002. The proposed project site is one of the last large native tracts of land in the area. Habitat consists of predominately coastal prairie, fresh water prairie potholes, and prairie pimple mound complexes. Contemporary literature and Service studies document an alarming decline of these habitat types due to urban expansion and conversion to agriculture. Less than 1 percent of the original acreage remains. This prairie-pothole complex provides habitat for many species of mammals, reptiles, amphibians, and invertebrates, in addition to providing nesting, foraging, and resting habitat for a variety of resident and migratory birds. One of the most important values of these pothole complexes are that they provide a rare source freshwater to animals living in a coastal environment. Native prairie potholes are valuable and provide habitat the cannot be easily replaced.

In addition, the site contains scattered areas of upland mixed hardwood forests with some areas consisting of forested wetlands. Hardwood forest located along the upper Galveston Bay provide stopover habitat for vast numbers of neotropical migrant songbirds during spring and fall migrations. Common to these sites are white-tailed deer, racoon, opossum, fox squirrel, bobcat, American kestrel, pileated woodpecker, red-bellied woodpecker, Caroline chickadee, tufted titmouse, yellow-rumped warbler, rat snake, eastern cottonmouths, gulf coast toad, green tree frog, five lined skink, crawfish and many other species. These species utilize both the forested and prairie complexes. This tract of land not only provides high quality wildlife habitat but serves to provide other important functions related to flood runoff control and water purification. 14-97

The applicant indicates that storm water management will provide a regional water quality benefit that would indirectly benefit both freshwater and estuarine vegetation and wildlife in the Galveston Bay area. We believe that the proposed storm water discharge areas entering Pine Gully, could have the opposite effect, and if fact, adversely effect the existing wetlands and associated habitat. Specifically, the volume and periods of discharge could cause salinity changes and severe erosion along Pine Gully. 9-39

The Service would like to review a detailed analysis of the effects of stormwater discharge into Pine Gully which addresses these concerns. Impacts caused by the placement of rip rap into Pine Gully should be compensated for by enhancing and restoring wetlands within Pine Gully. 14-98

The Service is concerned with impacts to fish and wildlife and their habitat caused by this project. We believe this project will contribute to cumulative loss of native coastal prairie-pothole wetlands in the area. Significant increases in development within the surrounding area are removing freshwater native prairie wetlands at an alarming rate. As this issue was not addressed in the draft EIS cumulative losses are not being accurately analyzed.

18-29

The Service believes that the wetland complex involved is of national significance. Passage of the Water Quality Act of 1987 signaled recognition by congress that the nation's wetlands had to be protected. Also, the emergency Wetlands Resources Act of 1986 recognized that wetlands such as these play an integral role in maintaining the quality of life through contributions to our national economy, food supply, water supply and quality, flood control, and fish, wildlife, and plant resources, and thus to the health, safety, recreation, and economic well-being of all our citizens of the nation. For these reasons and others, the Service believes it imperative that these wetlands values and functions are maintained.

As proposed, we recommend denial of this permit because of the significant cumulative loss to native coastal prairie pothole wetland complexes and because the mitigation offered will not adequately compensate for the loss of fish and wildlife habitat. Created wetlands have substantially less value and do not function as well as natural wetlands. Previous mitigation efforts by creating prairie wetlands have failed to reproduce the hydrology, vegetation, and hydric soil conditions found in natural prairie wetlands.

29-104

It is the opinion of the Department on Interior that the proposed project may result in substantial and unacceptable impacts to aquatic resources of national importance; therefore, we believe it is necessary to accommodate our recommendation. If for any reason you believe our recommendation is unreasonable or that it is not in the best public interest, we will be glad to discuss them with you and other commenting state or federal agencies.

Thank you for the opportunity to comment on this application. If you need any additional information, please contact me or Moni DeVora at 281/286-8282.

Sincerely,

Frederick T. Werner
Assistant Project Leader, Clear Lake ES Field Office

cc:
Environmental Protection Agency, Marine & Wetlands Section 6WQ-EM, Dallas, TX
Texas General Land Office, La Porte, TX
Coastal Permitting Assistance Office, Pat Alba, NRC, Corpus Christi, TX
National Marine Fisheries Service, Habitat Conservation Division, Galveston, TX
National Park Service, Southwest Region, Santa Fe, NM
Texas Natural Resource Conservation Commission, Watershed Management Div., Austin, TX
Texas Parks and Wildlife Department, Austin, TX
Texas Parks and Wildlife Department, Resource Protection Branch, Dickinson, TX

UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Southeast Region
Habitat Conservation Division
4700 Avenue U
Galveston, Texas 77551

MAY 0 8 2002

May 2, 2002

XF 11836

Mr. Kerry M. Stanley
Regulatory Branch, CESWG-PE-RB
U.S. Army Corp of Engineers
P.O. Box 1229
Galveston, Texas 77553-1229

Dear Mr. Stanley:

The National Marine Fisheries Service requests an extension to May 8, 2002, for submission of agency comments for Public Notice (PN) Permit Application No. 21520 (Revised). The PN was dated April 4, 2002, and requested comments by May 4, 2002. We did not receive the PN until April 12, 2002, a loss of eight days of review time.

23-211

Thank you for your consideration of this request and if there are any questions, please call me at 409-766-3699.

Sincerely,

William B. Jackson
Fishery Management Specialist

National Marine Fisheries Service

Habitat Conservation Division

Galveston Facility (F/SER42)
4700 Avenue U, Galveston, TX 77551-5997
(409) 766-3699
Fax No. (409) 766-3575
Rusty.Swafford@noaa.gov
William.Jackson@noaa.gov
Heather.Young@noaa.gov
Debbie.Sparks@noaa.gov

9:40

Date: 5/~~2~~3/02 Time: ~~4:00~~

No. Of Pages Including Cover: 2

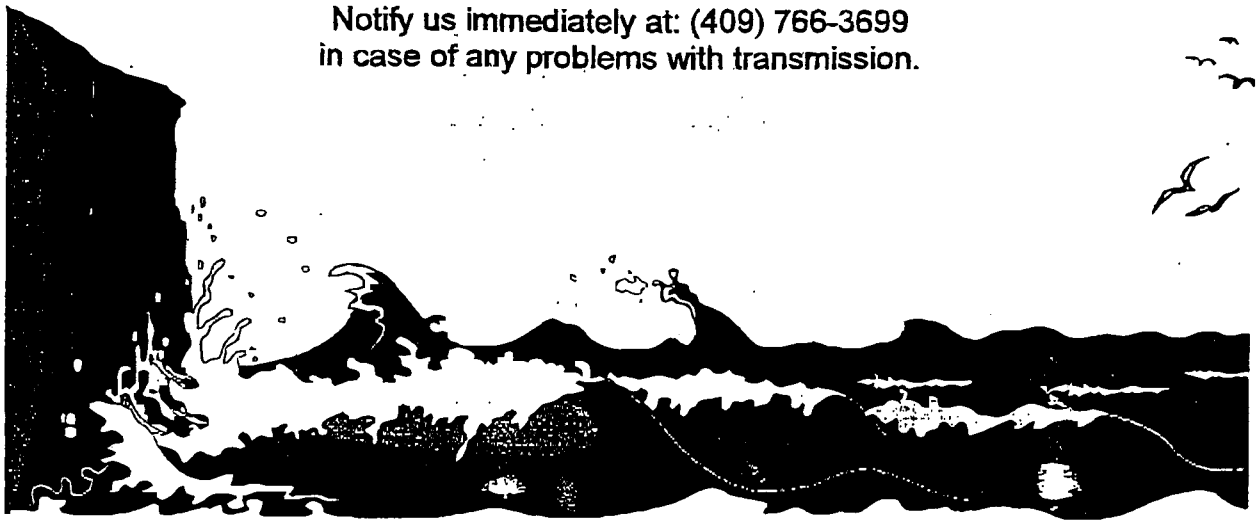
To: Kerry Stanley

From: Ofilia

Message: I tried to fax yesterday but your phone lines were down.

OP

Notify us immediately at: (409) 766-3699
in case of any problems with transmission.



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE

Southeast Regional Office
9721 Executive Center Drive N.
St. Petersburg, Florida 33702

MAY 10 2002

May 8, 2002

XF 11837

Colonel Leonard D. Waterworth
District Engineer, Galveston District
Department of the Army, Corps of Engineers
P.O. Box 1229
Galveston, Texas 77553-1229

Dear Colonel Waterworth:

The National Marine Fisheries Service (NMFS) has reviewed Permit Application 21520 (Revised) dated April 4, 2002, for the Port of Houston Authority's Proposed Bayport Channel Container/Cruise Terminal Project. The proposed project is located on a primarily upland area adjacent to the Bayport Ship Channel in the City of Pasadena with access to Galveston Bay. The purpose of this public notice is to provide additional information regarding the jurisdictional impacts of the proposed project and present some project revisions that are proposed by the applicant.

On page 2 of the revised permit, first paragraph, third sentence, it states: "Twenty-three and a half acres of the open water area would be impacted by the construction of the bulkhead/wharves for the cruise terminal." The revised public notice does not address practicable alternatives to the proposed fill as required by the Environmental Protection Agency's 404(b)(1) Guidelines. NMFS provided information on the impacts of the project to Essential Fish Habitat (EFH) and provided Conservation Recommendations concerning the proposed 23.5-acre fill area in ~~our~~ letter to you dated March 13, 2002, for the December 5, 2001, Draft Environmental Impact Statement, which also was devoid of any discussion, alternative analysis or proposed mitigation concerning this proposed 23.5 acres of fill. 20-49 12-58

Section 305(b)(4)(A) of the MSFCMA requires that NMFS provide EFH Conservation Recommendations for any Federal agency action or permit that may result in adverse impacts to EFH. The NMFS has also determined, in accordance with Part IV3(a) of the Memorandum of Agreement between the Departments of Commerce and Army regarding Section 404(q) of the Clean Water Act, that the proposed project impacts to EFH will result in substantial and unacceptable impacts to species managed under the MSFCMA and other aquatic resources of national importance. Accordingly, NMFS recommends that a Department of the Army permit not be granted as currently proposed. To ensure the conservation of EFH and associated fishery resources, final action on the proposed permit should require the following: 29-103

EFH Conservation Recommendation

No fill shall be placed in EFH for the cruise ship terminal. Alternatively, we recommend that the existing shoreline be stabilized with either a sheet pile bulkhead or rip-rap. A wharf on pilings should then be constructed for access to the cruise ships.

Consistent with Section 305(b)(4)(B) of the MSFCMA and NMFS's implementing regulation at 50 CFR 600.920(k), your office is required to provide a written response to our EFH recommendations within 30 days of receipt. Your response must include a description of measures to be required to avoid, mitigate, or offset the adverse impacts of the proposed activity. If your response is inconsistent with our EFH Conservation Recommendations, you must provide a substantive discussion justifying the reasons for not implementing those recommendations. If it is not possible to provide a substantive response within 30 days, the Corps of Engineers should provide an interim response to the NMFS, to be followed by the detailed response. The detailed response should be provided in a manner to ensure that it is received by the NMFS at least 10 days prior to final approval of the action.

23-212

Thank you for your consideration of our recommendations. If we may be of further assistance, please contact Mr. William Jackson of our Galveston Facility at (409) 766-3699.

Sincerely,

Andreas Mager, Jr.
Assistant Regional Administrator
Habitat Conservation Division

XF[illegible]15

AW

MAY 2 [illegible] 2002

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS, TX 75202-2733

MAY 15 2002

Mr. Don Nanninga
Evaluation Section Chief
U.S. Army Corps of Engineers
Galveston District
Attn: Regulatory Branch, Kerry M. Stanley
P.O. Box 1229
Galveston, Texas 77553-1229

Dear Mr. Nanninga:

The Environmental Protection Agency (EPA) has reviewed the revised public notice for the Section 10/404 permit application number 21520, dated April 04, 2002. The applicant, Port of Houston Authority, has requested to develop a major marine terminal complex on approximately 1,081 acres along the south side of the Bayport Ship Channel. The project would fill 18.3 acres of jurisdictional wetlands, and 23.5 acres of open water habitat would be impacted by the construction of the bulkhead/wharves for the cruise terminal. In addition, approximately 114.5 acres of isolated wetlands exist within the proposed project site. Thus about 133 acres of wetlands would be impacted. The project site is located along the south side of the Bayport Ship Channel, between the cities of Shoreacres and Seabrook, in Harris County, Texas.

The proposed compensatory mitigation site is a 163.5-acre tract of land located next to Armand Bayou Nature Center, on the Taylor Bayou watershed. Based on the applicant's "Proposed Mitigation Project Summary" dated April 24, 2002 (Mitigation Summary), the applicant proposes two alternative wetland designs for the mitigation site. The first design would create a 47-acre wetland while the second design would create a 70-acre wetland which includes two freshwater wetlands divided by a narrow strip of coastal prairie.

We have the following comments and recommendations:

1) In order for the applicant to comply with the 404(b)(1) Guidelines, the applicant must first document how it has avoided and minimized impacts to aquatic resources to the fullest extent practicable. So far the applicant has failed to do so.] 14-102

2) The jurisdictional determination on sheet 25 of 28 is not updated to match page 2 of the public notice.] 22-109

3) Although the Corp's re-evaluation area has resulted in additional jurisdictional wetlands, that would be affected by the proposed project, impacts to "isolated" wetlands should also be minimized and compensated. These wetlands provide many functions including water quality enhancement, erosion control, and wildlife habitat.] 14-103

06/05/02 09:55 7 [illegible]/05
EAMES & MOORE HOUSTON
[illegible]3555770 8

XF 11845
PV

4) The loss of wetlands on the site and conversion to pavement will have negative impacts on water quality and possibly increase peak flood flows in adjacent streams, such as Pine Gully. The applicant plans to install several retention/detention ponds on site to treat stormwater runoff and reduce peak floodflows in Pine Gully. While these are positive features, we would like more information concerning their design and operation. Which ponds will treat water quality and which are floodwater detention basins? What will be the retention time? What treatment will there be other than settling? Will there be monitoring of the discharge into Pine Gully? What frequency rainfall event are the ponds designed to hold? Will discharge velocities cause erosion in Pine Gully? 14-104

5) In the compensatory mitigation plan is presented in the Mitigation Summary, plans, we prefer the 70 acre design, although we believe that the proposed mitigation plan will not adequately compensate for the loss of freshwater wetlands. We recommend a 2:1 replacement ratio for all wetlands. Thus, 266 acres will be needed to replace 133 acres of wetland impacts. The prairie restoration of 64.5 acres could, if successful, serve as a buffer to the wetlands and could count towards meeting the mitigation ratio. But there would still be a shortfall. Therefore other mitigation options should be explored, such as those mentioned in the January, 2002 Draft Mitigation Plan by Benchmark Ecological Services, Inc. 14-105

6) Unless a natural seed source is assured at the mitigation site, desirable native wetland plants should be planted. Desirable means native sedges, rushes, smartweeds and other Fac-wet or Obligate native wetland plants with known wildlife value (food or cover). If 80% coverage of desirable species is not reached in two years, replanting should be required. Undesirable species includes (but is not limited to) Chinese tallow-tree, cattails, sumpweeds (*Iva* spp.), cocklebur (*Xanthium*), and spiny aster. 14-106

7) Monitoring should continue for five years regardless of initial success. This is needed to evaluate the response of the wetland to wet and dry years and because of the inconsistent record of success of wetland creation. Monitoring reports should also include seasonal hydrology monitoring to verify the predictions from the calculated water budget. This should include rainfall, depth of water, and duration of saturation. We request that EPA be sent copies of the annual monitoring reports. 14-107

8) The mitigation site should be incorporated in a conservation easement held by a certified land trust. 14-108

9) The applicant plans to construct a berm between the City of El Jardin and the proposed terminal to provide additional buffering for noise, light aesthetics impacts. The applicant should indicate any potential impacts to wetlands and jurisdictional waters as a result of the berm relocation. The plantings on the berm should not count towards compensation for wetland impacts. 14-109

XF 11[illegible]5
AV

We recommend that the permit not be approved until our comments have been satisfactorily addressed. Thank you for the opportunity to comment on this public notice. If you have any questions regarding these comments, please contact Norm Sears at (214) 665-8336 or Elizabeth Reyes at (214) 665-3163 of my staff. 23-215

Sincerely yours,

Troy C. Hill, P.E.,
Chief
Marine and Wetlands Section.

cc: U.S. Fish and Wildlife Service, Houston, TX
Texas Parks and Wildlife Dept, Houston, TX
Texas Parks and Wildlife Dept, Austin, TX
Texas Natural Resource Conservation Commission, Austin, TX
National Marine Fisheries Service, Galveston, TX.
Texas General Land Office, Austin, TX.

06/05/02 09:56 P.004/006 DAMES & MOORE HOUSTON 0713995657[illegible]

XL 11772 APR 2 9 2002

1700 First Street, Seabrook, Texas 77586
Telephone (281) 291-5600 Fax (281) 291-5690

April 30, 2002 Revised 4/25/02

Kerry M. Stanley
Regulatory Branch, CESWG-PE-RB
U. S. Army Corps of Engineers
P. O. Box 1229
Galveston, Texas 77553-1229

Certified Mail

Re: Public Notice per Permit Application No. 21520 (Revised) 04 April 2002

Dear Mr. Stanley:

On behalf of the City of Seabrook, we respectfully tender our comments related to the above public notice and comment opportunity:

1) Our interpretation of the above referenced notice, indicates that the *estimated acreage of the jurisdictional wetlands has been substantively revised.* Other sites considered by the USACE, including Spillman's Island and Shoal Point involve fewer acres of jurisdictional wetlands. EPA's 404(b)(1) guidelines call for the denial of the requested permit when an alternate site requires less filling of jurisdictional wetlands. Since these guidelines are consistent with the spirit and intent of NEPA policy, ***we recommend denial of the permit application for the Bayport location.*** At a minimum, a detailed analysis of the Spillman's Island alternative should be reconsidered in light of this change in wetland jurisdictional acreage. 14-74 29-95

2) As the total acreage of the wetlands on the preferred site, i.e., Bayport, has changed from the original DEIS, and that this data should have been provided for analysis to comment appropriately, ***the DEIS should be reopened for six weeks to allow time to amend our comments on the original DEIS.*** 14-73

3) Since the noise barrier has been changed in this public notice, ***the period for submitting comments on the DEIS should be reopened to receive comments on the noise barrier change and related impacts.*** 3-59

4) Representations made by the Houston Port Authority regarding ownership and control of the land needed for the Bayport project are false and a misrepresentation of the HPA's ability to obtain the required property. The HPA's, 23-16 · 8 23-23

11772

APR 2 9 2002

does not, according to our understanding have control, by purchase, contract or option nor by condemnation authority without the affected municipalities' (i.e., Seabrook) consent. Private property owners (American Acryl) have reported that their property is not for sale and will have to be taken by condemnation. The City of Seabrook, at no time, has waived by action, omission or inference, its approval of the HPA to acquire property via condemnation within the City limits of the City of Seabrook. ***The City of Seabrook strongly objects to the USACE considering further this DEIS until the property representations are valid and binding on behalf of the HPA.*** 29-96

5) Recognizing that 33 CFR 320.4 cites as a condition of permit issuance a public interest review, and that post 9/11 realities clearly expose the public safety concerns of intermodal containerized shipping that actually only inspects 2% of all containers, and whereas President Bush declared that *"A national emergency exists by reason of the terrorist attacks. . ."* as of September 11, 2001; and the President subsequently issued Executive Orders No. 13224 and No. 13260 addressing terrorist response measures, including the creation of the Homeland Security Advisory Council; and that the attached summary of the *CBS 60 Minutes* program on the security vulnerability of containerized shipping entitled *Unsafe Ports* (excerpt attached) as well as a *Economist.com* article of April 4, 2002 entitled "When Trade and Security Clash" clearly demonstrate the security and related safety issues impacting containerized shipping; and that the Bayport Terminal location, of all sites considered has the nearest and highest concentration of residential population and where there can be no greater public interest than the public safety of the general population as well as the protection of the region's economic base, ***this matter should be subjected to public interest review as called for in 33 CFR 320.4., including a call for review and comment by the Homeland Security Advisory Council.*** 23-187

6) Considering the substantive changes prompting this opportunity to comment, ***we request another public hearing, at least before the TNRCC.*** 23-171

7) Substantive changes referred to above ***warrant the reopening of the DEIS comment period.*** 23-185

Respectfully tendered, for and on behalf of the Mayor & City Council of the City of Seabrook,

Bo McDaniel
City Manager

Cc: Honorable Mayor & City Councilmembers
Honorable Kay Bailey Hutchinson, U. S. Senate, Texas
Honorable Phil Gram, U. S. Senate, Texas

11772

Honorable Tom DeLay, U. S. Congress, Texas
Honorable Nick Lampson, U. S. Congress, Texas
Honorable John Breaux, U. S. Senate, Louisiana
Homeland Security Advisory Council
Jim Blackburn, Blackburn Carter, PC

Attachments:

CBS NEWS "60 Minutes" Unsafe Ports
Economist.com, "When Trade and Security Clash"
Declaration of National Emergency by Reason of Certain Terrorist Attacks
Executive Order No. 13224 Blocking Property and Prohibiting Transaction With Persons Who Commit, Threaten to Commit, or Support Terrorism
Executive Order No. 13260 Establishing the President's Homeland Security Advisory Council and Senior Advisory Committee for Homeland Security

11772

DISTRIBUTED TO: Seattle
MAYOR, COUNCIL & City Mgr. City Atty
DATE: 4/16/02 FROM THE OFFICE OF City Sec

Public Notice

APR 2 9 2002

U.S. Army Corps Of Engineers
Galveston District

Permit Application No: 21520(Revised)
Date Issued: 04 April 2002
Comments Due: 04 May 2002

U.S. ARMY CORPS OF ENGINEERS, GALVESTON DISTRICT
AND
TEXAS NATURAL RESOURCE CONSERVATION COMMISSION

PURPOSE OF PUBLIC NOTICE: To inform you of a proposal for work in which you might be interested. It is also to solicit your comments and information to better enable us to make a reasonable decision on factors affecting the public interest. We hope you will participate in this process.

AUTHORITY: This application will be reviewed pursuant to Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act.

RECEIVED
CITY SECRETARY
SEABROOK TEXAS
02 APR -9 PM 4:17

APPLICANT:
Port of Houston Authority
P.O. Box 2562
Houston, Texas 77252-2562
Telephone 713/670-2592
POC: Charles D. Jenkins

LOCATION: The project is located along the Bayport Ship Channel, approximately 30 miles southeast of downtown Houston, in the City of Pasadena, between the cities of Shoreacres and Seabrook, in Harris County, Texas. The project can be located on the U.S.G.S. quadrangle maps entitled: League City, Texas and Bacliff, Texas. Approximate UTM Coordinates: Zone 15; Easting: 305000; Northing: 3277000.

PROJECT DESCRIPTION: The applicant proposes to develop a major marine terminal complex on approximately 1,081 acres, along the south side of the Bayport Ship Channel. This development would include facilities for docking, loading and unloading container and cruise ships, container storage areas, an intermodal yard, warehousing facilities, and properties available for light-industrial development. The purpose of this public notice is to provide additional information regarding the jurisdictional impacts of the proposed project and present some project revisions that are proposed by the applicant. This public notice addresses the application for a Department of the Army permit and does not extend the comment period on the Draft Environmental Impact Statement (DEIS) that was published on 12 November 2001. The comment period on the DEIS ended on 13 March 2002.

In response to comments received during the Public Workshops and Hearing held in November and December 2001, The Corps has re-evaluated the proposed project site, based on new information, and determined that additional jurisdictional areas exist. The total jurisdictional area that exists within the project site consists of 18.3 acres of jurisdictional wetlands and approximately 310 acres of open water habitat. Twenty-three and a half acres of the open water area would be impacted by the construction of the bulkhead/wharves for the cruise terminal. All of the jurisdictional wetlands are proposed to be filled during the construction of the project. In addition, approximately 114.5 acres of non-jurisdictional wetlands exist within the proposed project site.

The applicant has revised their original application to relocate a proposed berm to a location between the City of El Jardin and the proposed cruise terminal to provide additional buffering for noise, light and aesthetic impacts (Sheet 2).

The applicant has also revised the application to include information on the vegetation proposed to be planted on the entire berm along the southern edge of the project site (Sheets 16 and 17). A 75-foot wide area between the southern berm and Pine Gully is also proposed, as a buffer area.

In addition, the applicant has revised the application to include the construction/ maintenance of three outfall structures into Pine Gully on the southern edge of the project site (Sheets 5 – 8). Outfall one already exists and will require the placement of additional riprap to prevent erosion of the gully. Outfall two already exists and will not require any additional erosion protection. Outfall three would be a new outfall and would require riprap to prevent erosion within the gully.

The application has also been revised to include the construction of a 20-foot pre-cast concrete wall along the northern edge of the Bayport Channel between the channel and the North Shore Communities to buffer the potential noise impacts of the project (Sheets 18 and 19). Loblolly pine trees would be planted along the north side of the wall as a noise buffer and aesthetic amenity.

Finally, the applicant has revised the proposed project to include the utilization of impact noise reduction systems on all wharf crane spreader bars proposed to be utilized on the project site to reduce the potential noise impacts during loading, offloading, and maneuvering of the containers.

NOTES: This public notice is being issued based on information furnished by the applicant. This information has not been verified.

Our evaluation will also follow the guidelines published by the U.S. Environmental Protection Agency pursuant to Section 404 (b)(1) of the Clean Water Act (CWA).

OTHER AGENCY AUTHORIZATIONS: Texas Coastal Zone consistency certification is required. The applicant has stated that the project is consistent with the Texas Coastal Management Program goals and policies and will be conducted in a manner consistent with said Program.

STATE WATER QUALITY CERTIFICATION: This project would now result in a direct impact of greater than three acres of waters of the state or 1500 linear feet of streams (or a combination of the two is above the threshold), and as such would not fulfill Tier I criteria for the project. Therefore, Texas Natural Resource Conservation Commission (TNRCC) certification is required. Concurrent with U.S. Army Corps of Engineers (Corps) processing of this application, the TNRCC is reviewing this application under Section 401 of the CWA and in accordance with Title 30, Texas Administrative Code Section 279.1-13 to determine if the work would comply with State water quality standards. By virtue of an agreement between the Corps and the TNRCC, this public notice is also issued for the purpose of advising all known interested persons that there is pending before the TNRCC a decision on water quality certification under such act. Any comments concerning this application may be submitted to the Texas Natural Resource Conservation Commission, 401 Coordinator, MSC-150, P.O. Box 13087, Austin, Texas 78711-3087. The public comment period extends 30 days from the date of publication of this notice. A copy of the public notice with a description of work is made available for review in the TNRCC's Austin office. The complete application may be reviewed in the Corps office. The TNRCC may conduct a public hearing to consider all comments concerning water quality if requested in writing. A request for a public hearing must contain the following information: the name, mailing address, application number, or other recognizable reference to the application; a brief description of the interest of the requester, or of persons represented by the requester; and a brief description of how the application, if granted, would adversely affect such interest.

NATIONAL REGISTER OF HISTORIC PLACES: The staff archeologist has reviewed the latest published version of the National Register of Historic Places, lists of properties determined eligible, and other sources of information. The following is current knowledge of the presence or absence of historic properties and the effects of the undertaking upon these properties:

The proposed project has been initially reviewed for potential impacts to historic properties. To date, a cultural resources investigations (Prewitt & Associates Report No. 45, January 2000) has been conducted for the existing facility and including the proposed expansion property area. The results of the investigation indicate that certain portions of the facility project area contain the potential for having prehistoric and historic sites - with at least three historic sites, 41HR831-833 having been identified for the project area. However, the proposed mitigation site has not been fully investigated for potential impacts to both recorded and potential archaeological sites - and will have to be fully considered in the review process for this project. In addition, our records indicate that the likelihood is not

high for the proposed project to encounter significant historic shipwreck sites given the previous dredging and development in the area; however, the proposed permit action does include work within Galveston Bay state tracts that are listed sensitive for potential historic shipwrecks. Therefore, all project plans under this permit will have to be fully addressed and resolved for potential impacts to both terrestrial and underwater cultural resources in consultation with the COE and SHPO archaeological staff.

THREATENED AND ENDANGERED SPECIES: Preliminary indications are that no known threatened and/or endangered species or their critical habitat will be affected by the proposed work.

ESSENTIAL FISH HABITAT: This notice initiates the Essential Fish Habitat consultation requirements of the Magnuson-Stevens Fishery Conservation and Management Act. Our initial determination is that the proposed action would not have a substantial adverse impact on Essential Fish Habitat or Federally managed fisheries in the Gulf of Mexico. Our final determination relative to project impacts and the need for mitigation measures is subject to review by and coordination with the National Marine Fisheries Service.

PUBLIC INTEREST REVIEW FACTORS: This application will be reviewed in accordance with 33 CFR 320-330, the Regulatory Programs of the Corps of Engineers, and other pertinent laws, regulations and executive orders. The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits, which reasonably may be expected to accrue from the proposal, must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, consideration of property ownership, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs and, in general, the needs and welfare of the people.

SOLICITATION OF COMMENTS: The Corps of Engineers is soliciting comments from the public, Federal, State, and local agencies and officials, Indian tribes, and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Impact Assessment and/or an

Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

This public notice is being distributed to all known interested persons in order to assist in developing facts upon which a decision by the Corps of Engineers may be based. For accuracy and completeness of the record, all data in support of or in opposition to the proposed work should be submitted in writing setting forth sufficient detail to furnish a clear understanding of the reasons for support or opposition.

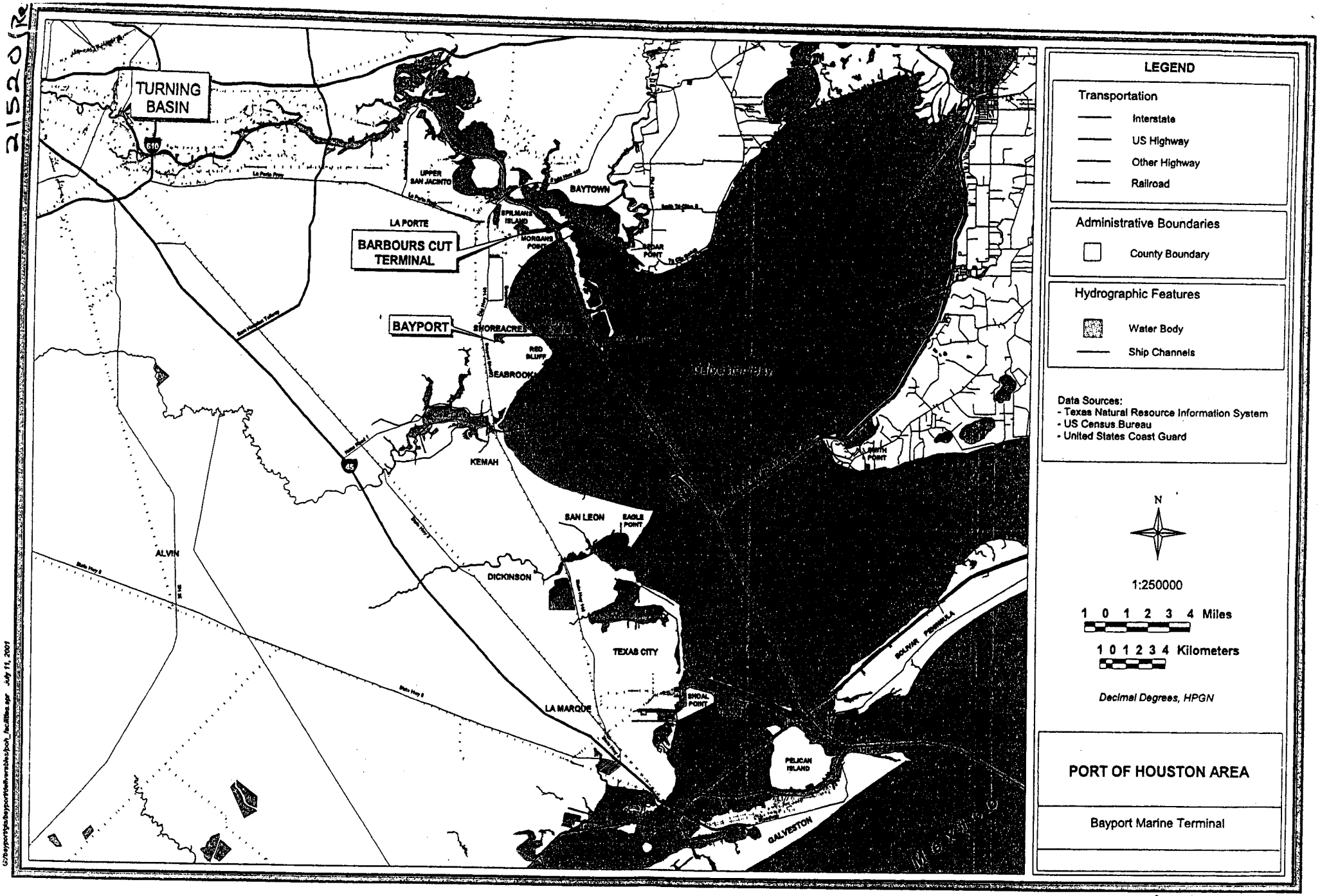
PUBLIC HEARING: The Corps held a public hearing regarding the proposed project and the DEIS on 12 December 2001. The public hearing was held at the George R. Brown Convention Center, at 1001 Avenida de las Americas, in Houston, Harris County, Texas. Prior to the close of the comment period any person may make a written request for an additional public hearing setting forth the particular reasons for the request. The District Engineer will determine whether the issues are substantial and should be considered in the permit decision. If an additional public hearing is warranted, all known interested persons will be notified of the time, date, and location.

CLOSE OF COMMENT PERIOD: All comments pertaining to this Public Notice must reach this office on or before **04 May 2002**. Extensions of the comment period may be granted for valid reasons provided a written request is received by the limiting date. **If no comments are received by that date, it will be considered that there are no objections**. Comments and requests for additional information should be submitted to:

Kerry M. Stanley
Regulatory Branch, CESWG-PE-RB
U.S. Army Corps of Engineers
P.O. Box 1229
Galveston, Texas 77553-1229
409-766-6345 Phone
409-766-6301 Fax

DISTRICT ENGINEER
GALVESTON DISTRICT
CORPS OF ENGINEERS

21520 Re



G:\bayport\gis\bayport\deliverables\poh_facilities.apr July 11, 2001

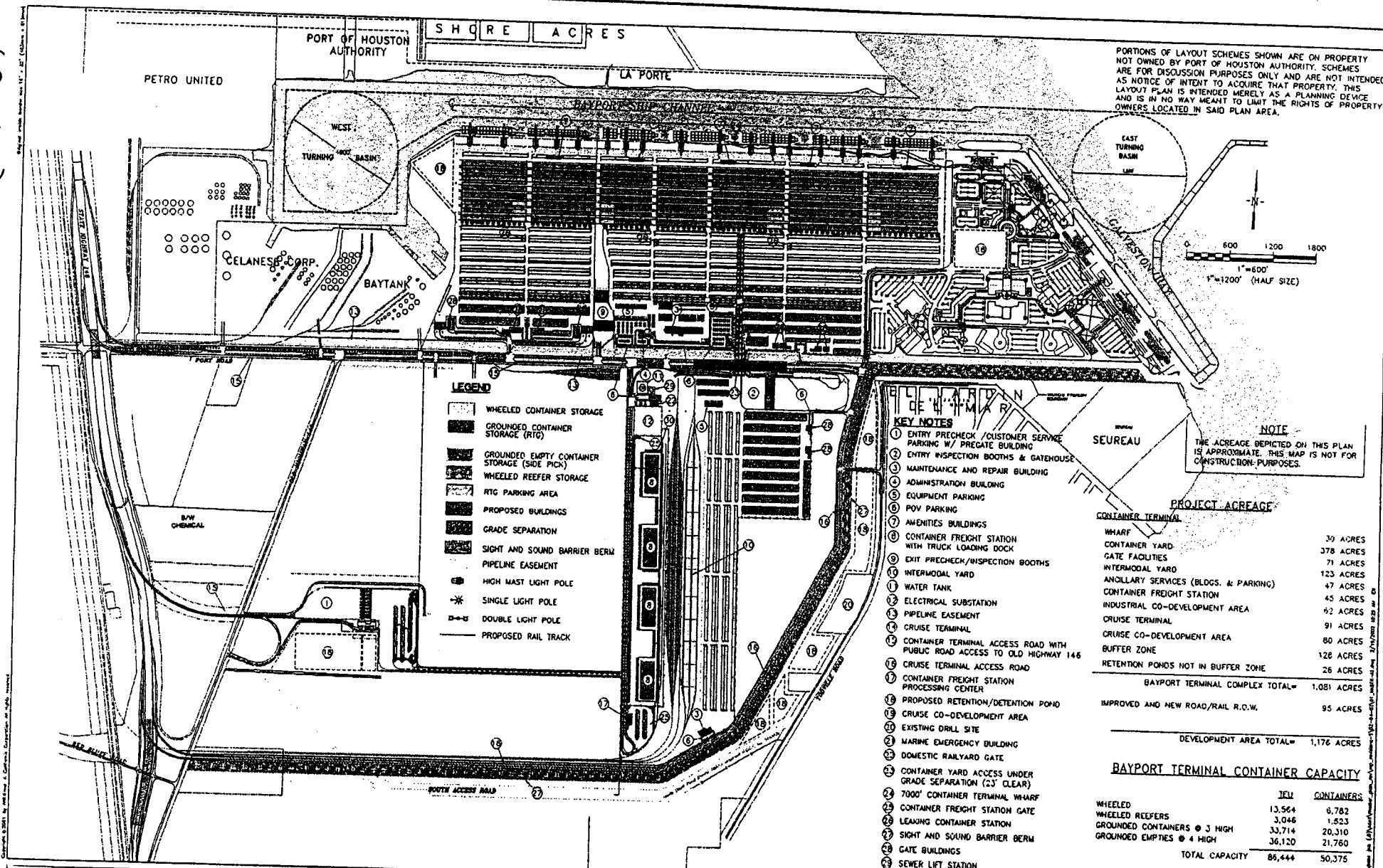
Sheet 1 of 28

21772

USGS Quad:
League City

11772

21520 (Revised)



PORTIONS OF LAYOUT SCHEMES SHOWN ARE ON PROPERTY NOT OWNED BY PORT OF HOUSTON AUTHORITY. SCHEMES ARE FOR DISCUSSION PURPOSES ONLY AND ARE NOT INTENDED AS NOTICE OF INTENT TO ACQUIRE THAT PROPERTY. THIS LAYOUT PLAN IS INTENDED MERELY AS A PLANNING DEVICE AND IS IN NO WAY MEANT TO LIMIT THE RIGHTS OF PROPERTY OWNERS LOCATED IN SAID PLAN AREA.

NOTE
THE ACREAGE DEPICTED ON THIS PLAN IS APPROXIMATE. THIS MAP IS NOT FOR CONSTRUCTION PURPOSES.

PROJECT ACREAGE

CONTAINER TERMINAL	
WHARF	30 ACRES
CONTAINER YARD	378 ACRES
GATE FACILITIES	71 ACRES
INTERMODAL YARD	123 ACRES
ANCILLARY SERVICES (BLDGS. & PARKING)	47 ACRES
CONTAINER FREIGHT STATION	45 ACRES
INDUSTRIAL CO-DEVELOPMENT AREA	62 ACRES
CRUISE TERMINAL	91 ACRES
CRUISE CO-DEVELOPMENT AREA	80 ACRES
BUFFER ZONE	126 ACRES
RETENTION PONDS NOT IN BUFFER ZONE	26 ACRES
BAYPORT TERMINAL COMPLEX TOTAL=	1,081 ACRES
IMPROVED AND NEW ROAD/RAIL R.O.W.	95 ACRES
DEVELOPMENT AREA TOTAL=	1,176 ACRES

BAYPORT TERMINAL CONTAINER CAPACITY

	TEU	CONTAINERS
WHEELED	13,564	6,782
WHEELED REEFERS	3,046	1,523
GROUNDED CONTAINERS @ 3 HIGH	33,714	20,310
GROUNDED EMPTIES @ 4 HIGH	36,120	21,760
TOTAL CAPACITY	86,444	50,375

PRELIMINARY

Revision	By	Approved	Date
1	JRE	PRV	03-05-01
2	JRE	PRV	05-14-01
3	JRE	PRV	08-24-01
4	JRE		10-09-01
5	JRE	PRV	11-07-01
6	JRE	PRV	11-15-01

ENVIRONMENTAL
Lockwood, Andrews & Newnam, Inc.
ACCESS
Nathelyne A. Kennedy & Associates
GEOTECHNICAL
Ayres Engineering Corp.
CRUISE TERMINAL
Gee & Jenson, Prime Interests
STRUCTURAL
Liftech Consultants Inc.

JWD Group
A California Corporation
300 Lakeside Dr. 14th Floor
Oakland, CA 94612
510-832-5466
510-836-3464 fax
www.jwdgroup.com
JWD architecture engineering planning & analysis graphics
MOFFATT & NICHOL ENGINEERS

Drawn By PVDH
Approved By
Issue Date
Date 11/02/01

PORT OF HOUSTON AUTHORITY HOUSTON, TEXAS

BAYPORT TERMINAL COMPLEX
PLANNING AND ANALYSIS
PORT OF HOUSTON AUTHORITY
HOUSTON, TEXAS

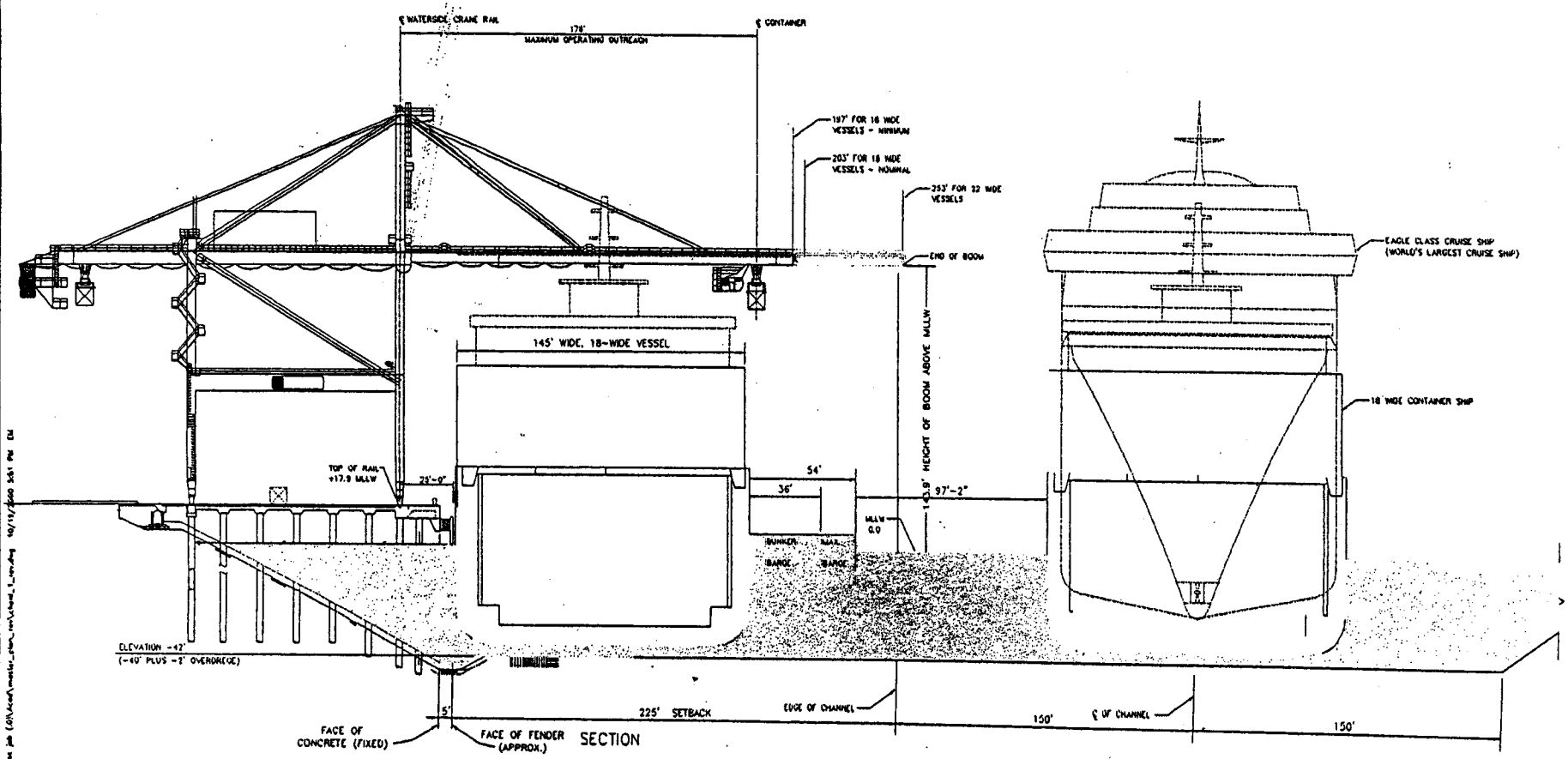
Sheet Title
CONCEPTUAL MASTER PLAN

Project Number W97070
Sheet Number of

Sheet 2 of 28

2152C (Revised)

11772



CRANE/SHIP DRAWING
N.T.S.

PRELIMINARY

Revision	By	App'd	Date

Jordan Woodman Dobson
Architecture Engineering & California Corporation
3004 Grand Ave
Oakland, CA
94610
516 832-5400

BAYPORT TERMINAL COMPLEX
PROGRAM MANAGEMENT ASSISTANCE
PORT OF HOUSTON AUTHORITY
HOUSTON, TEXAS

Jordan Woodman Dobson
By

Sheet Title

BAYPORT
CHANNEL
CLEARANCE

Date	Approved
10/00	
By	Project Number
PRV/EM	W97070

Sheet Number

21520 (Rev

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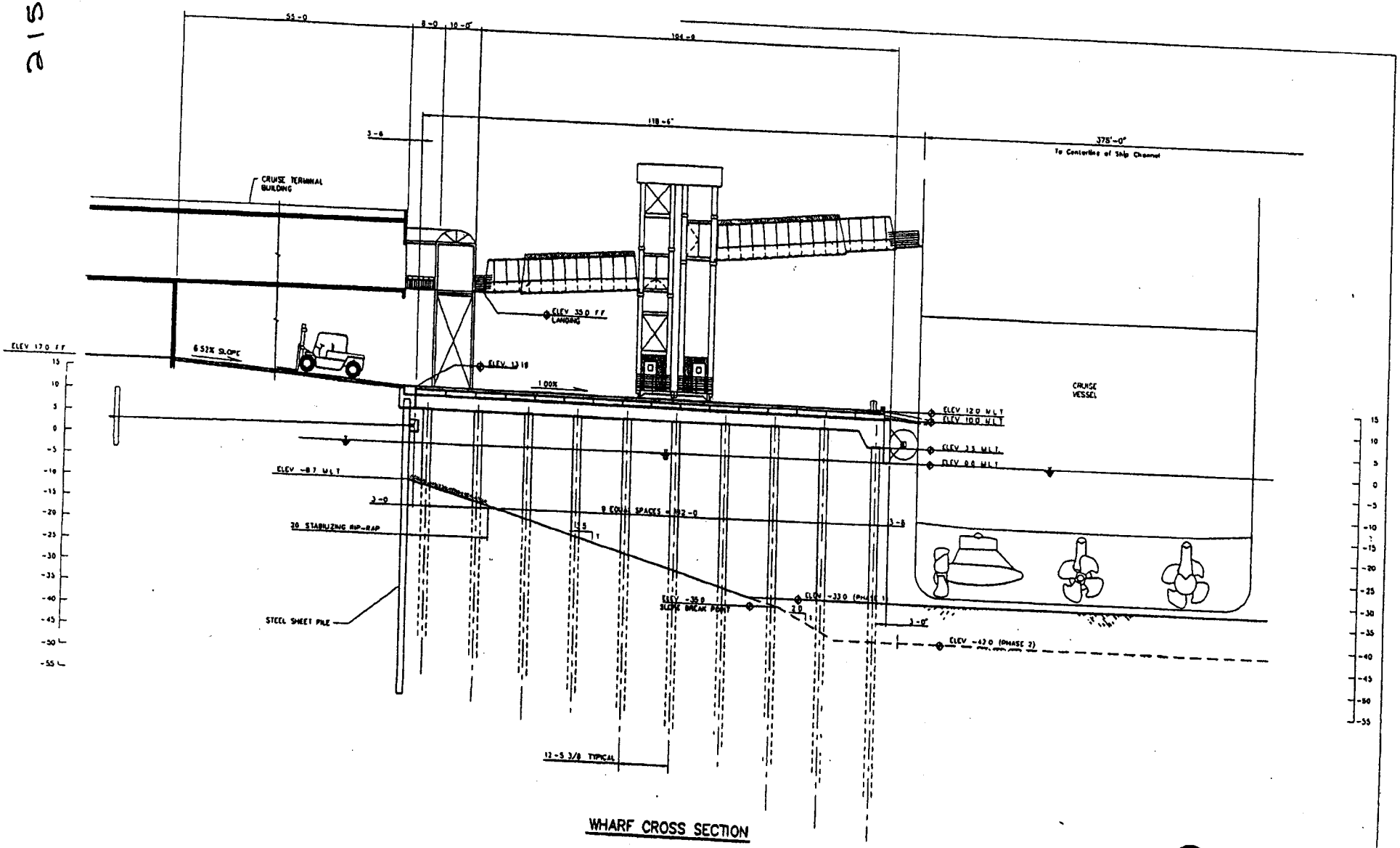


WHARF CROSS SECTION

GEE & JENSON
Engineers Architects Planners, Inc.

3/32 = 1'-0"

By	Appd	Date

ENVIRONMENTAL
Lockwood Andrews & Newnam Inc
ACCESS
Nathelyne A Kennedy & Associates
GEOTECHNICAL
Aviles Engineering Corp
CRUISE TERMINAL
Gee & Jenson
STRUCTURAL
L Itech Consultants

JWD
Architecture Engineering & California Corporation
Jordan Woodman Dobson
3604 Grand Ave
Oakland CA
94610
510 832 3440

MOFFATT & NICHOL ENGINEERS

PORT OF HOUSTON AUTHORITY HOUSTON TEXAS

BAYPORT TERMINAL COMPLEX
PLANNING AND ANALYSIS
PORT OF HOUSTON AUTHORITY
HOUSTON TEXAS

Jordan Woodman Dobson
By

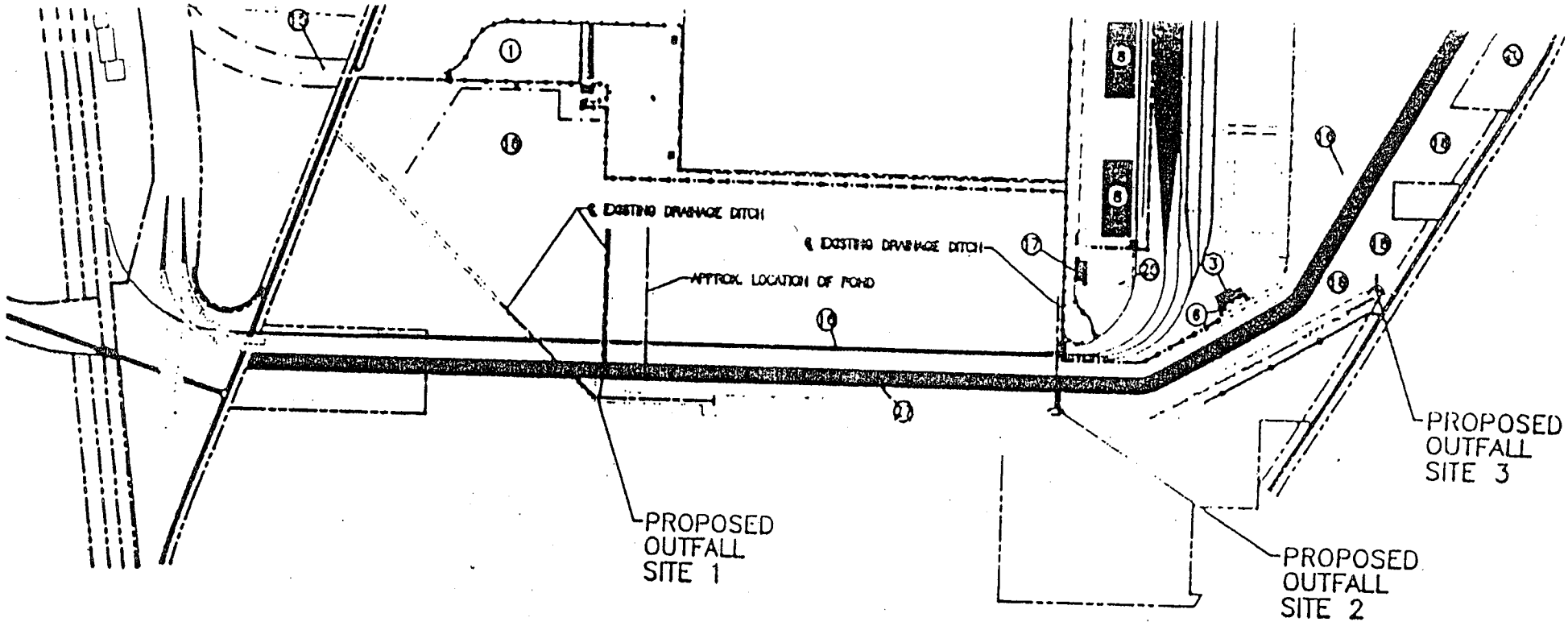
Sheet Title
BAYPORT CRUISE TERMINAL
WHARF CROSS-SECTION

Date	Approved
5/20/1990	
By	Project Number
1 REVISED	97688 00

Sheet Number

21520 (Revised)

11772

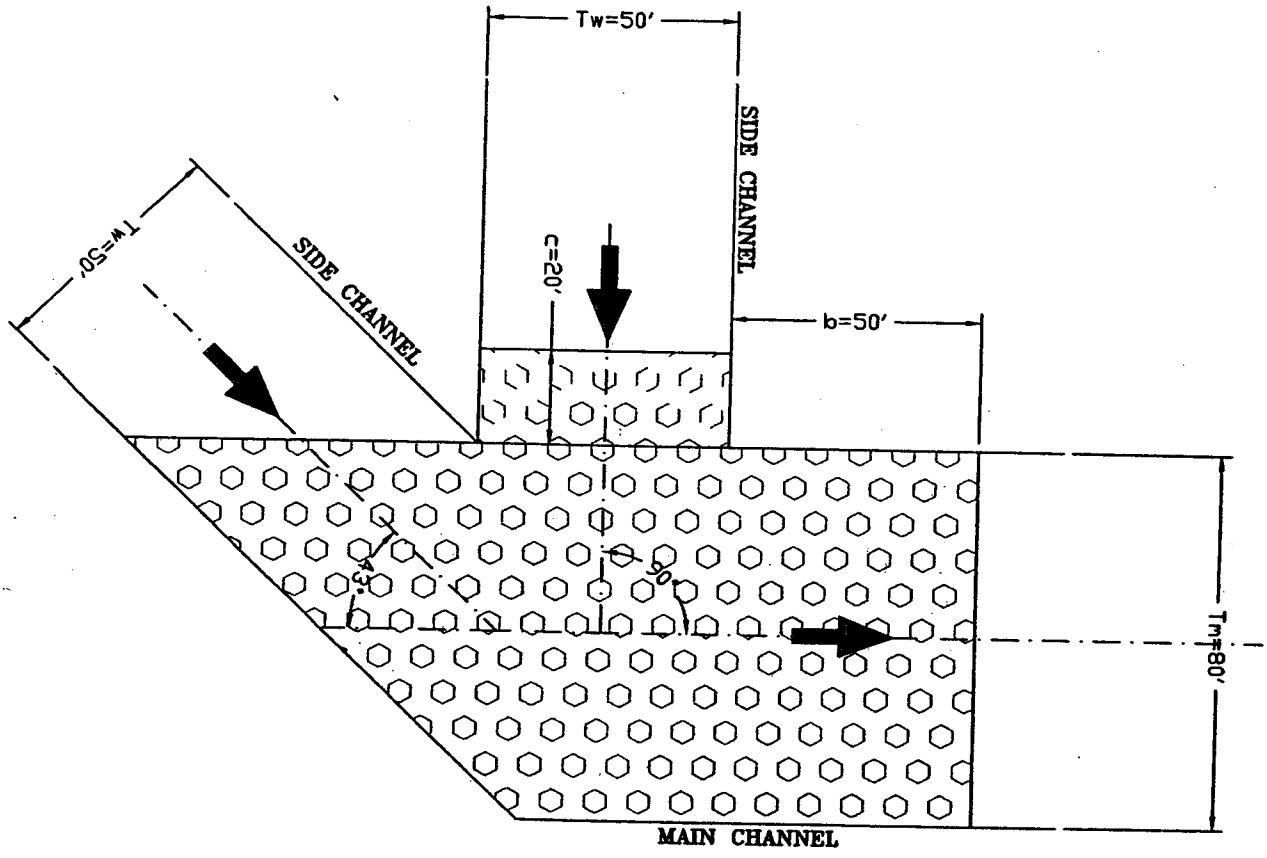


Port of Houston Authority

Sheet 5 of 28

21520 (Revised)

APR 2 9 2002



AREA IMPACTED

12,158 SQ.FT.= 0.28 AC.

LEGEND

FLOW DIRECTION

EXTENT OF EROSION PROTECTION (RIPRAP)

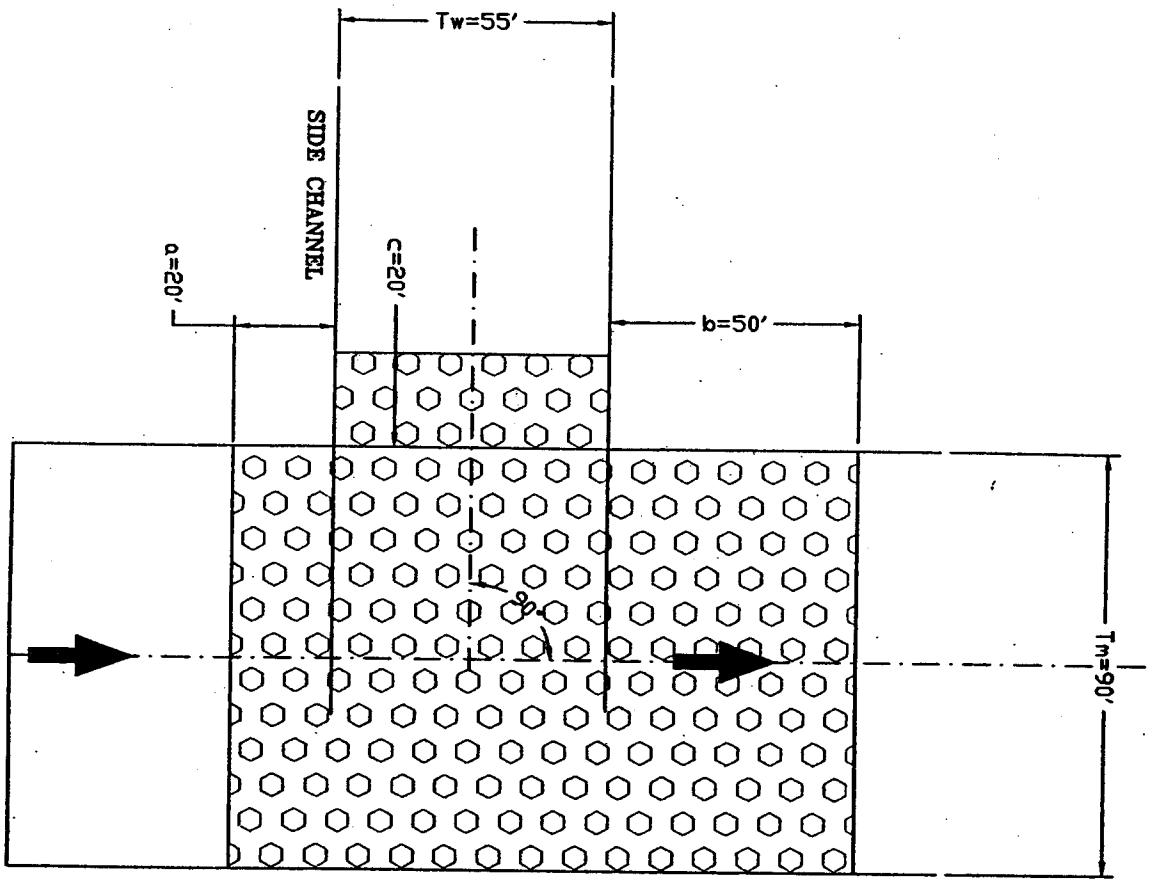
11772

C70-MP-D02	BAYPORT TERMINAL COMPLEX	PORT OF HOUSTON AUTHORITY	
C-001 A	EROSION PROTECTION PLAN SITE 1		

PRELIMINARY

Sheet 6 of 28

21520 (Revised)



AREA IMPACTED
11,700 SQ.FT. = 0.3 AC.

LEGEND
FLOW DIRECTION
EXTENT OF EROSION PROTECTION (RIPRAP)

11772

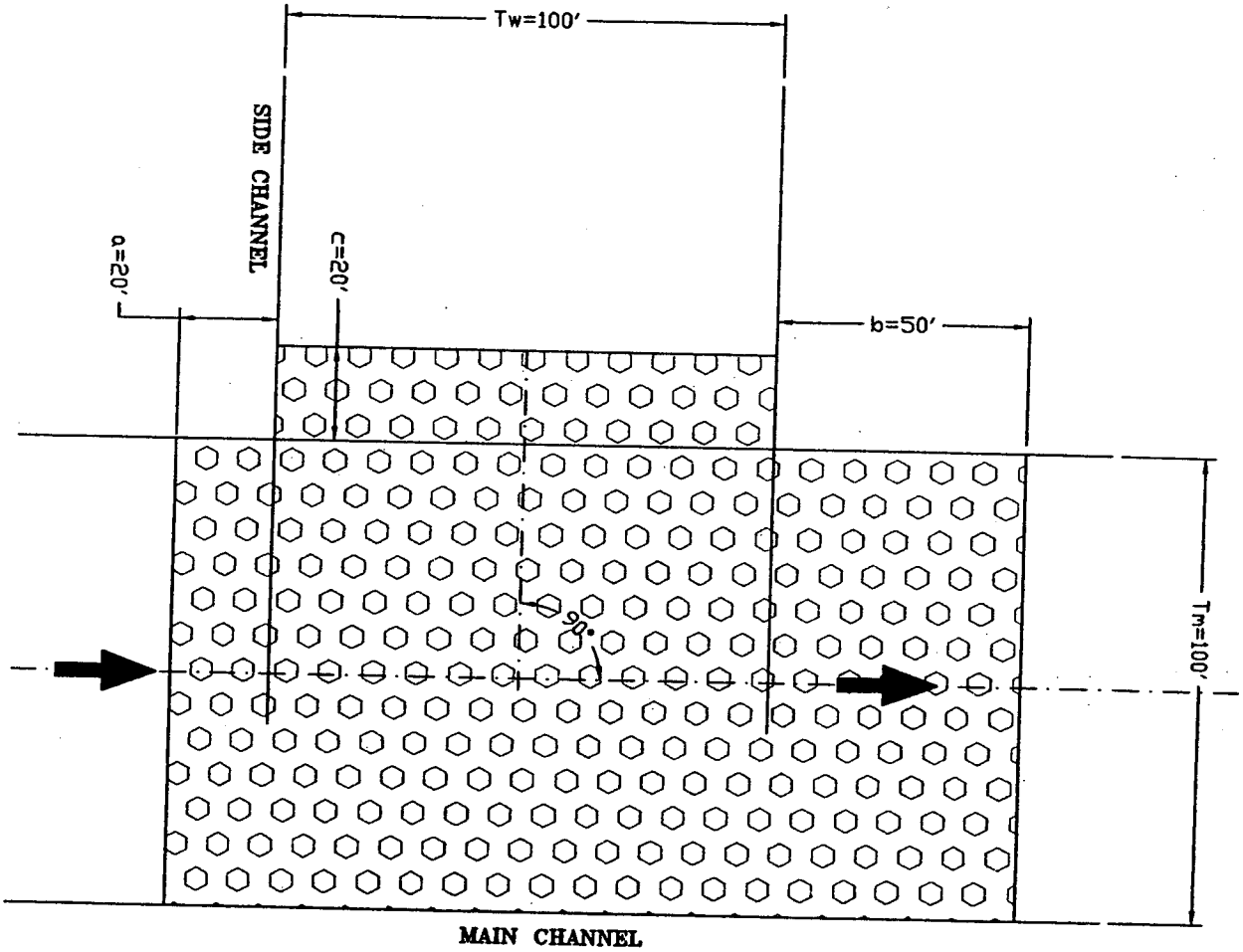
C70-MP-D02	BAYPORT TERMINAL COMPLEX	PORT OF HOUSTON AUTHORITY	
C-002 A	EROSION PROTECTION PLAN SITE 2		

PRELIMINARY

Sheet 7 of 28

21520 (Revised)

11772



AREA IMPACTED
18,100 SQ.FT. = 0.4 AC.

LEGEND
FLOW DIRECTION
EXTENT OF EROSION PROTECTION (RIPRAP)

BAYPORT TERMINAL COMPLEX

EROSION PROTECTION PLAN
SITE 3

C-003 | C70-MP-D02 | A

PORT OF HOUSTON AUTHORITY

PRELIMINARY

Sheet 8 of 28

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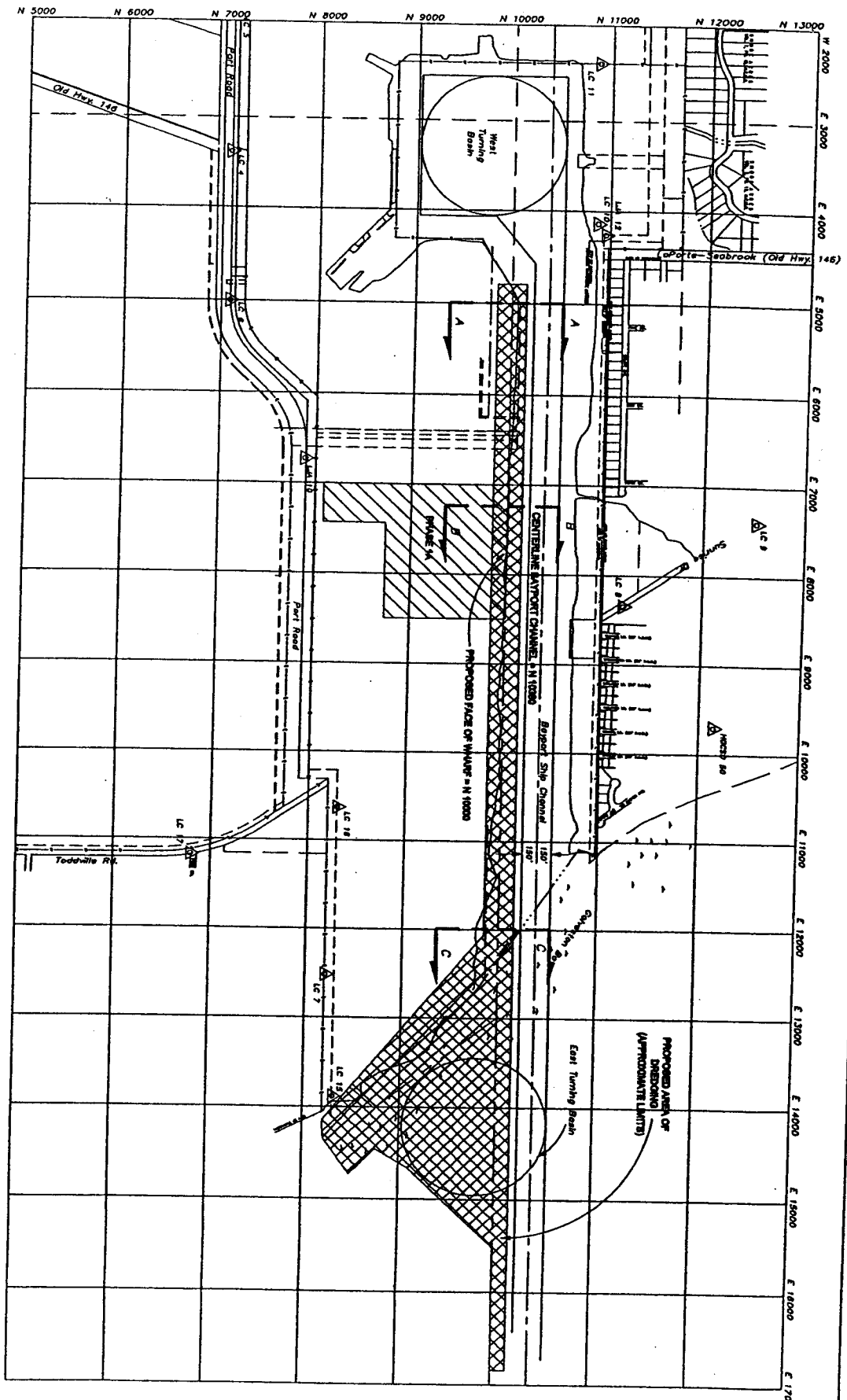
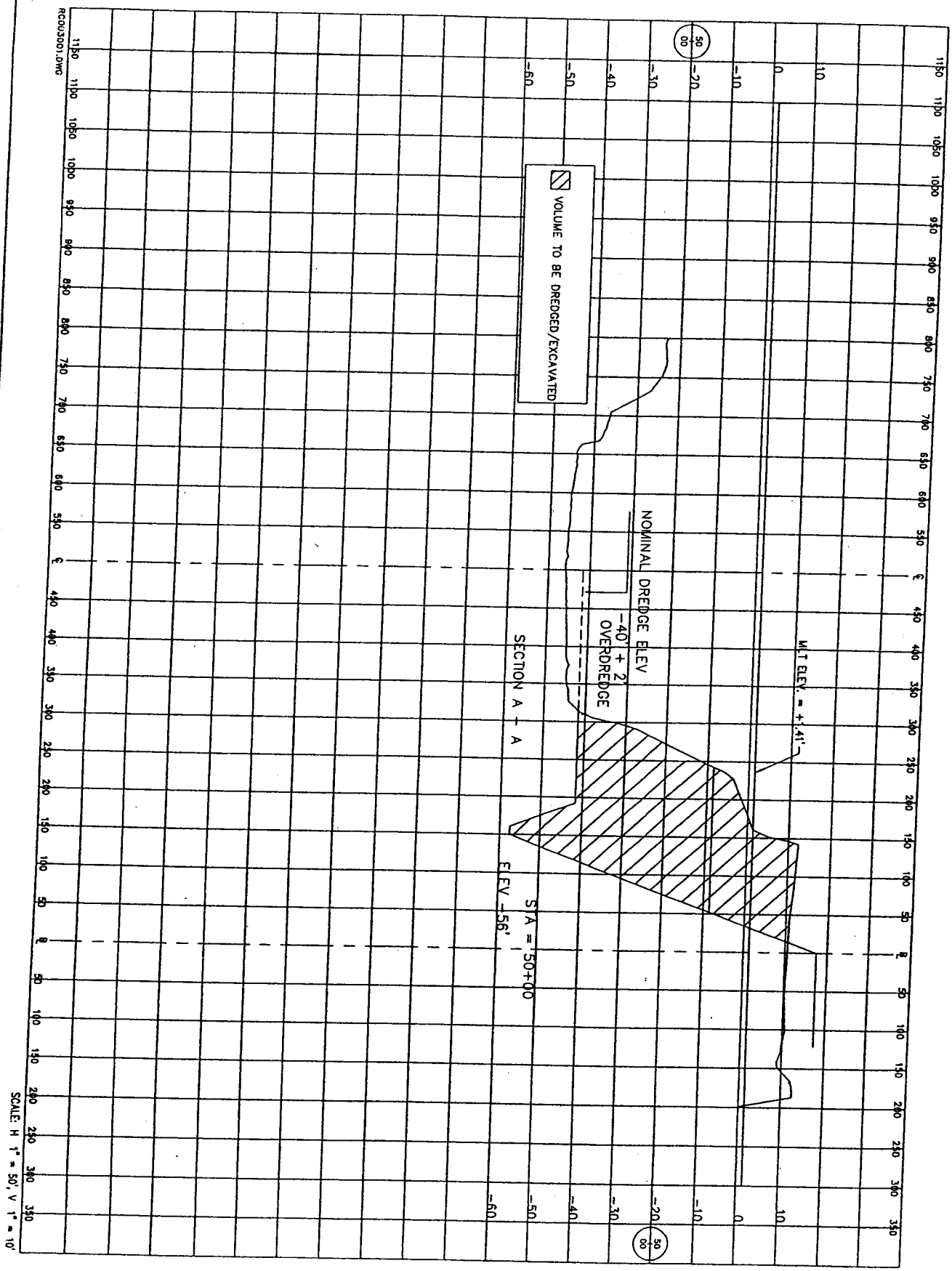


SHEET NO. / REV.	BAYPORT TERMINAL COMPLEX	PORT OF HOUSTON AUTHORITY	
	PROPOSED DREDGING PLAN	CH2MHILL	

PRELIMINARY

21520 (Rev.)



BAYPORT TERMINAL COMPLEX
PHASE 1A - BERTH 3
STA. 70+00 TO 80+00

DREDGING
CROSS SECTIONS

DRAWING NO. C70-1A-000
SHEET NO. REV. A

PORT OF HOUSTON AUTHORITY

A/E FIRM/CONTRACTOR
3 LINES
PROVIDED

DESIGNED BY:
DRAWN BY:
CHECKED BY:
DATE:
SCALE:
RECOMMENDED: DATE
APPROVED: DATE
DIRECTOR

STATE OF TEXAS REGISTERED PROFESSIONAL ENGINEER

REV REVISION DATE

T:\PROJ\PORT OF HOUSTON AUTHORITY\CADD STANDARD\FINAL\

PRELIMINARY

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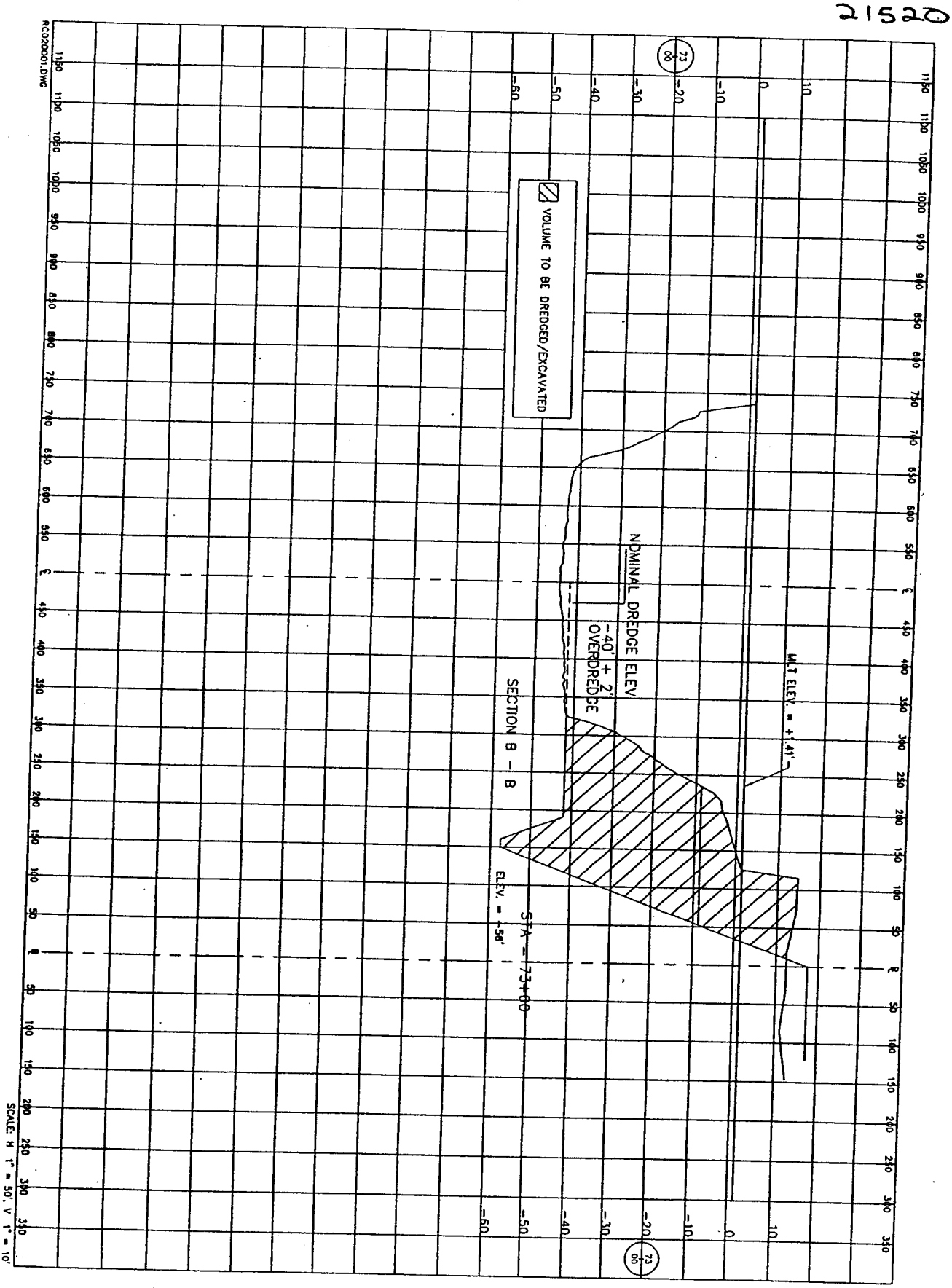
21520 (Rev.)



BAYPORT TERMINAL COMPLEX PHASE 1A - BERTH 3 STA. 70+00 TO 80+00	PORT OF HOUSTON AUTHORITY		
DREGING CROSS SECTION	A/E FIRM/CONTRACTOR 3 LINES PROVIDED	DESIGNED BY: DRAWN BY: CHECKED BY: DATE: SCALE:	RECOMMENDED: DATE APPROVED: DATE CHIEF ENGINEER
DRAWING NO. C70-1A-D00 SHEET NO. REV. A			REV. REVISIONS DATE

T:\PROJ\PORT OF HOUSTON AUTHORITY\CADD STANDARD\FINAL\

PRELIMINARY

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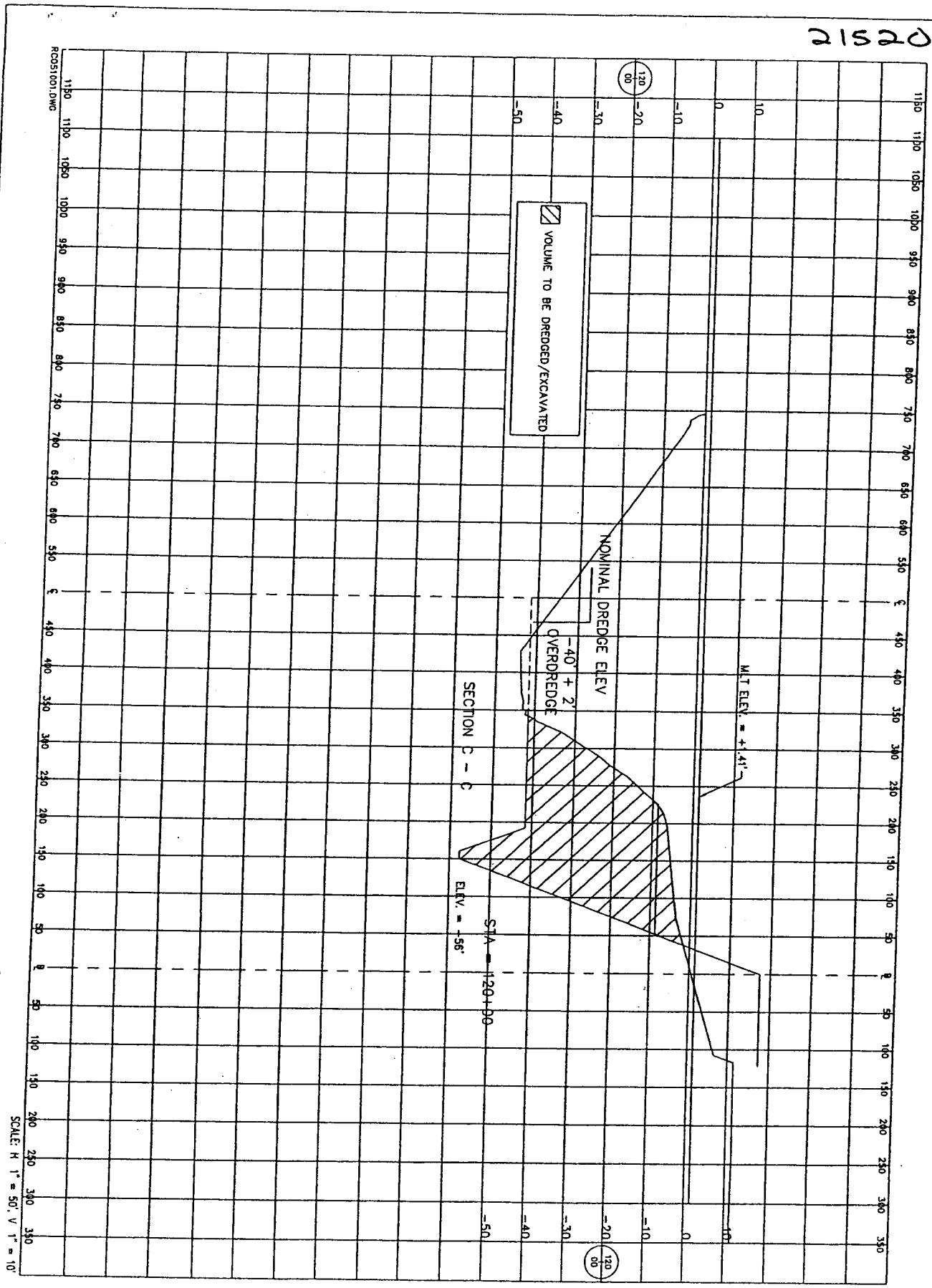
21520 (Rev.)



BAYPORT TERMINAL COMPLEX
PHASE 1A - BERTH 3
STA. 70+00 TO 80+00

DREDGING
CROSS SECTIONS

DRAWING NO. C70-1A-D00
SHEET NO. A REV.

PORT OF HOUSTON AUTHORITY

A/E FIRM/CONTRACTOR
3 LINES
PROVIDED

DESIGNED BY:
DRAWN BY:
CHECKED BY:
DATE:
SCALE:

RECOMMENDED: DATE
APPROVED: DATE
CHIEF ENGINEER

REV. REVISIONS DATE

T:\PROJ\PORT OF HOUSTON AUTHORITY\D&B STANDARD\FINAL\

PRELIMINARY

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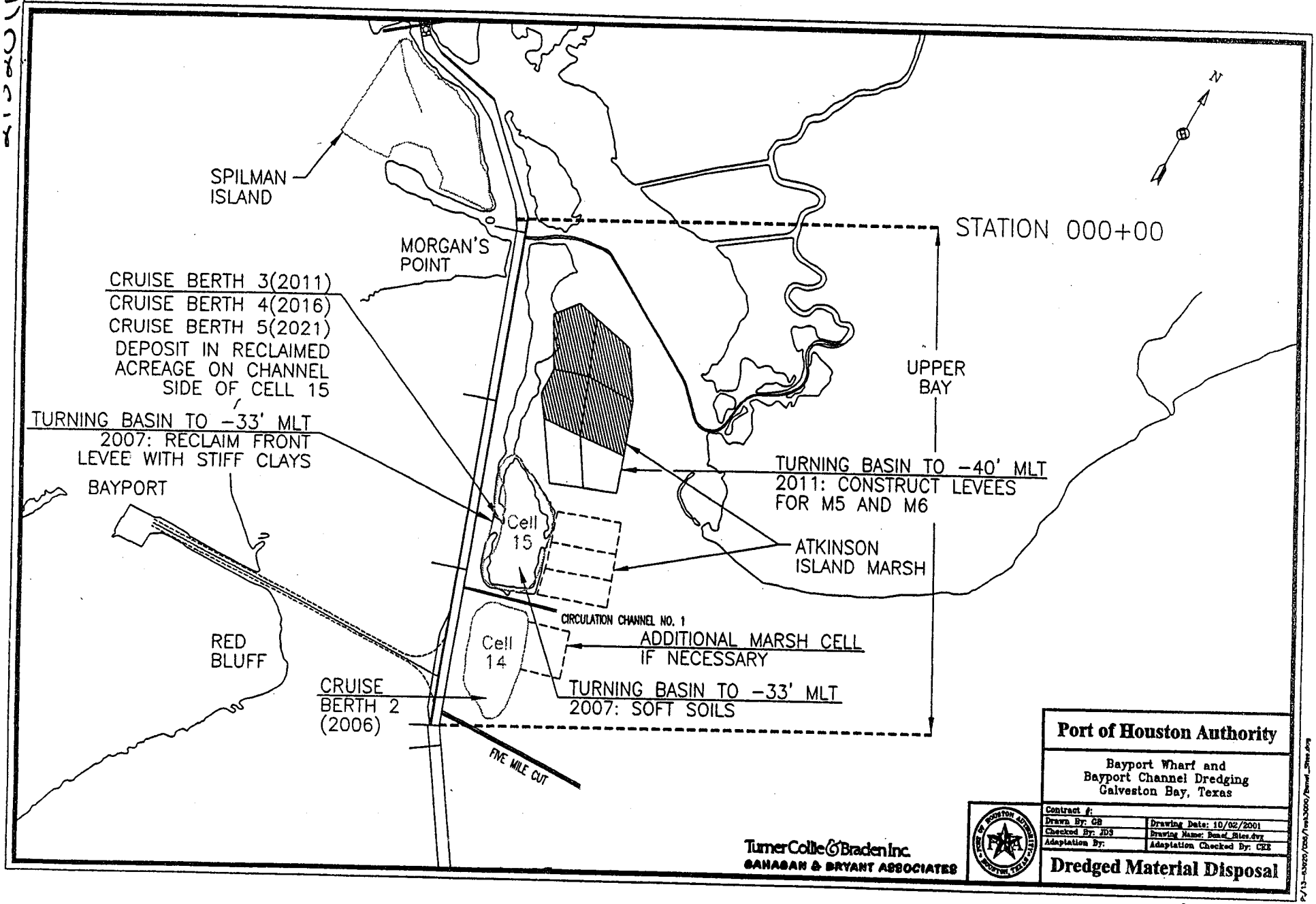


Port of Houston Authority

Bayport Wharf and
Bayport Channel Dredging
Galveston Bay, Texas

Contract #:	
Drawn By: CB	Drawing Date: 10/02/2001
Checked By: JDS	Drawing Name: Bsmnt_Sites.dwg
Adaptation By:	Adaptation Checked By: CEE

Dredged Material Disposal

Turner Collie & Braden Inc.
GANAGAN & BRYANT ASSOCIATES

P:\13-03029\DGN\03000\Bsmnt_Sites.dwg

Sheet 13 of 28

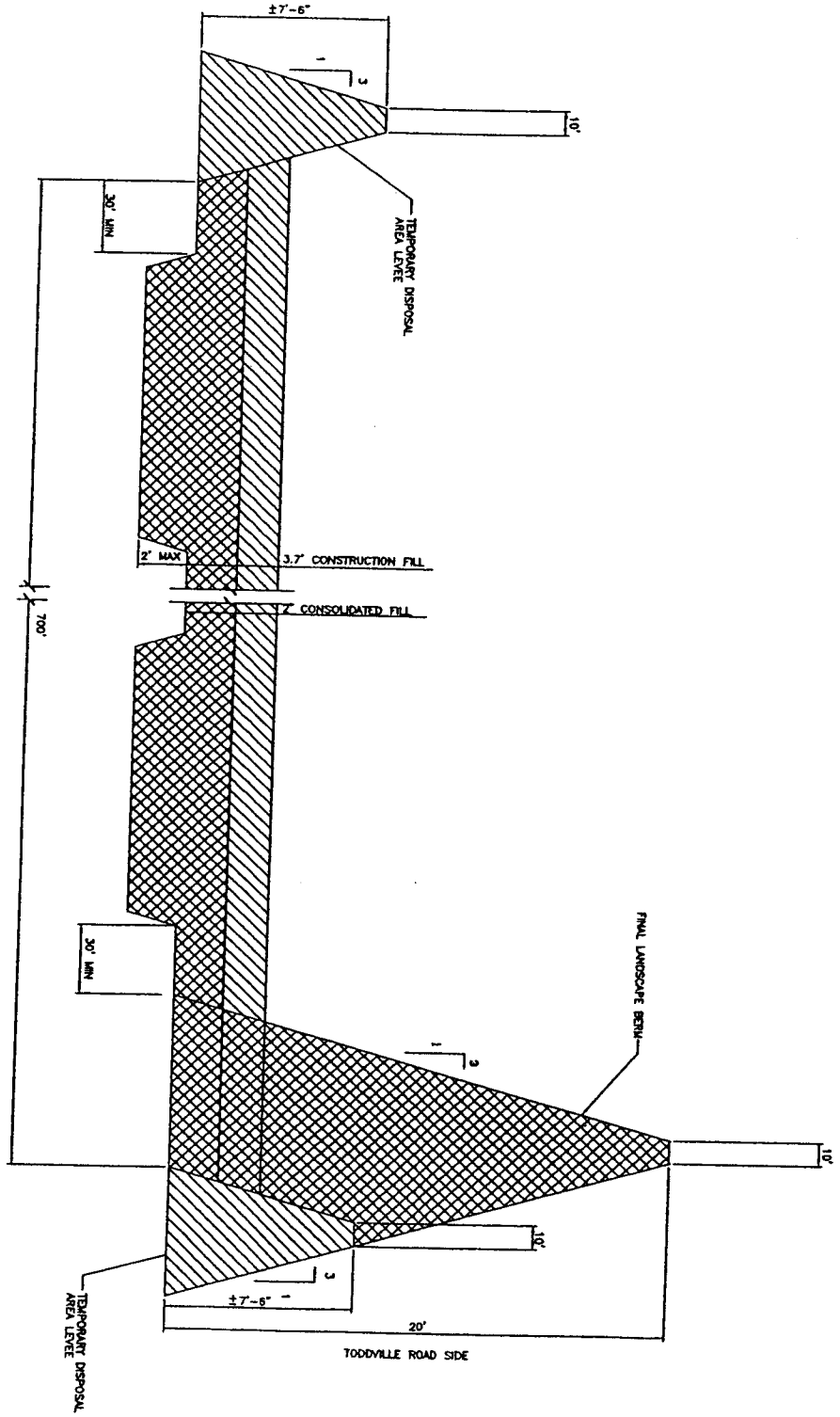
21520 (Rev.)

NOTES

AVERAGE VOLUME OF BERM: 52 cy/ft
TOTAL VOLUME OF BERM: 787,300 cy
CONTAINMENT LEVEE LENGTH: 18,380 ft

BERM PLACEMENT AREA PROFILE

HORZ SCALE: 1"=40'-0"
VERT SCALE: 1"=4'-0"



C-509	C70-1A-D02	BAYPORT TERMINAL COMPLEX PHASE 1A	PORT OF HOUSTON AUTHORITY
A		DREDGING AND PLACEMENT TYPICAL SECTION - BERM	

PRELIMINARY

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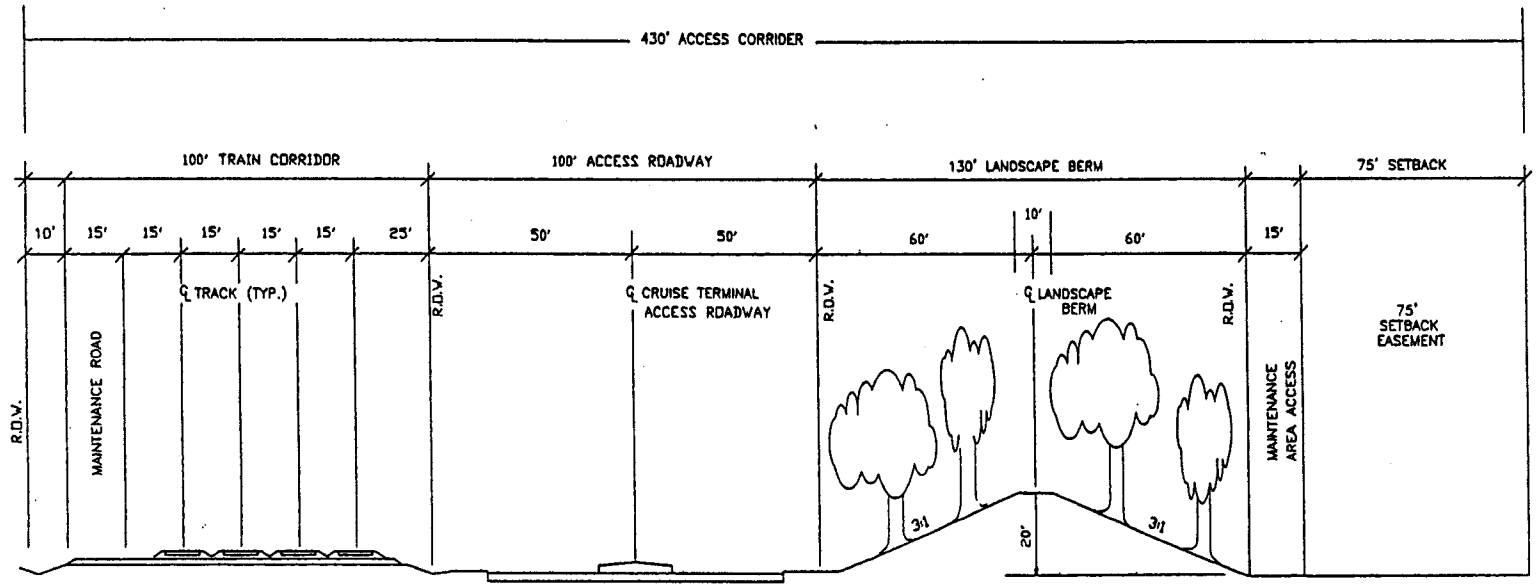

4 TRACK – ROADWAY SECTION – BERM

PORT OF HOUSTON AUTHORITY

BAYPORT TERMINAL COMPLEX
PHASE 1A - BERTH 3
STA. 79+00 TO 89+00

SOUTHERN ACCESS
ROAD, RAIL, AND BERM
CROSS SECTIONS

DRAWING NO. C70-1A-D00

SHEET NO.

REV. A

PRELIMINARY

Sheet 15 of 28

21520 (Revised)

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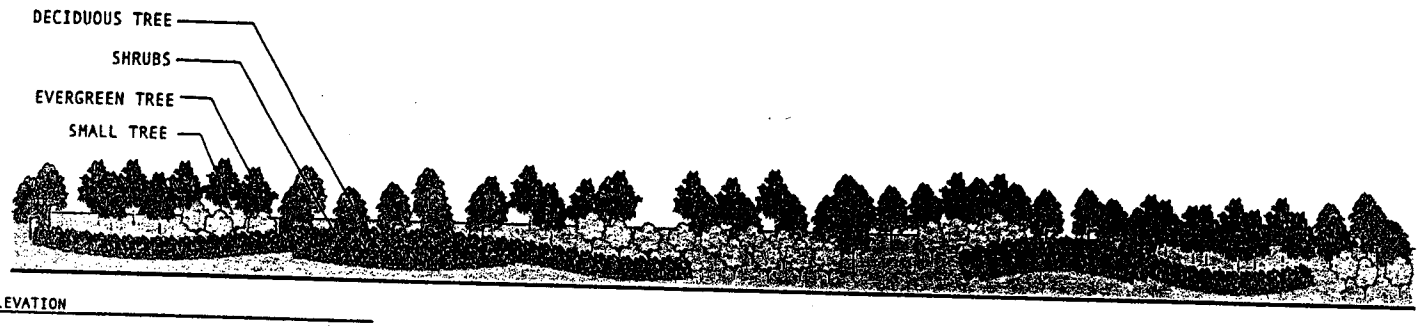

B ELEVATION
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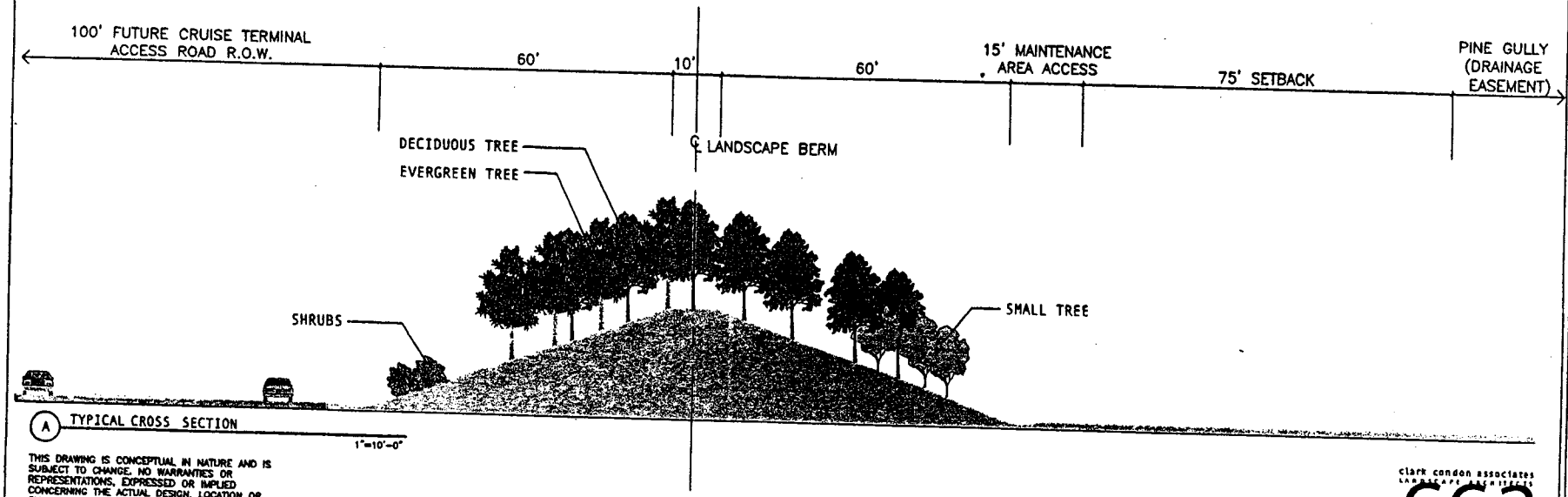

A TYPICAL CROSS SECTION
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clark condon associates
LANDSCAPE ARCHITECTS
cca
3377 RICHMOND AVENUE
Suite 1075 HOUSTON TEXAS 77098
PHONE: 713.871.1616 FAX: 713.871.9188

PORT OF HOUSTON AUTHORITY

Lockwood, Andrews & Newnam, Inc.
A SUBSIDIARY OF LAN & BALT

BAYPORT TERMINAL COMPLEX

BERM PLANTING

SHEET NO. L-2

PRELIMINARY

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2152a (Revised)

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PLANT PALETTE

EVERGREEN TREES

CHERRY LAUREL - PRUNUS CAROLINIANA
LIVE OAK - QUERCUS VIRGINIANA
LOBLOLLY PINE - PINUS TAEDA
SAVANNAH HOLLY - ILEX X ATTENUATA 'SAVANNAH'

DECIDUOUS TREES

BALD CYPRESS - TAXODIUM DISTICHUM
BUR OAK - QUERCUS MACROCARPA
CEDAR ELM - ULMUS PUMILA
MEXICAN PLUM - PRUNUS MEXICANA
SHUMARD OAK - QUERCUS SCHUMARDII
WATER OAK - QUERCUS NIGRA
WILLOW OAK - QUERCUS PHELLOS

EVERGREEN SHRUBS

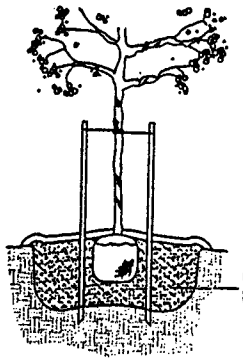
DWARF BURFORD HOLLY - ILEX CORNUTA 'BURFORDII'
DAHOON HOLLY - ILEX CASSINE 'DAHOON'
ELEAGNUS - ELEAGNUS PUNGENS
FOSTER'S HOLLY - ILEX X ATTENUATA 'FOSTERI'
TEXAS SAGE - LEUCOPHYLLUM FRUTESCENS
WAX MYRTLE - MYRICA CERIFERA
YAUPON - ILEX VOMITORIA

DECIDUOUS SHRUBS

AMERICAN BEAUTYBERRY - CALLICARPA AMERICANA VAR. AMERICANA
CHASTE TREE - VITEX AGNUS CASTUS
DECIDUOUS HOLLY - ILEX DECIDUA
PINK PEPPERBUSH - CLETHRA ALNIFOLIA
SWEETSPIRE - ITEA VIRGINICA

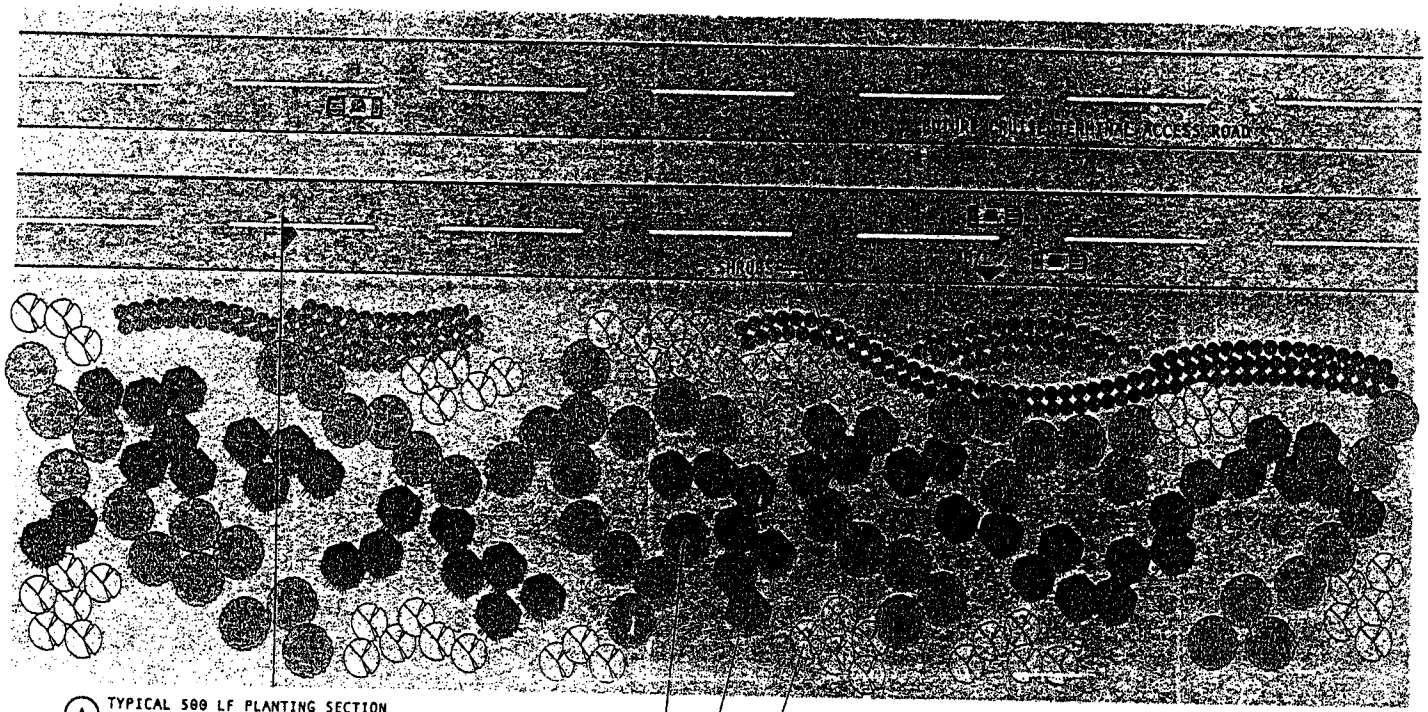
HERBACEOUS LAYER

BAMBOO MUHLY - MUHLENBERGIA DUMOSA
BIG BLUESTEM - ANDROPOGON GERARDII
CORALBEAN - ERYTHRINA HERBACEA
GULF COAST MUHLY - MUHLENBERGIA CAPILLARIS
INLAND SEA OATS - CHASMANTHIUM LATIFOLIUM
MAIDEN GRASS - MISCANTHUS SINENSIS 'GRACILLIMUS'
MEXICAN FEATHER GRASS - STIPA TINUISSIMA
TEXAS WAX MALLOW - MALVAVISCUS ARBOREUS



OVERSIZED PLANTING PIT FOR BACKFILL MIX

C TYPICAL TREE PLANTING
NTS



A TYPICAL 500 LF PLANTING SECTION
PLAN VIEW
1"=20'-0"

DECIDUOUS TREE
EVERGREEN TREE
SMALL TREE

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LANDSCAPE ARCHITECTS
cca
811 RICHMOND AVENUE
SUITE 105 HOUSTON, TEXAS 77006
PHONE: 713.871.1414 FAX: 713.871.0808

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BAYPORT TERMINAL COMPLEX

BERM PLANTING

SHEET NO. L-1

DATE PRELIMINARY

Sheet 17 of 28

21520 (Rec'd 2002)

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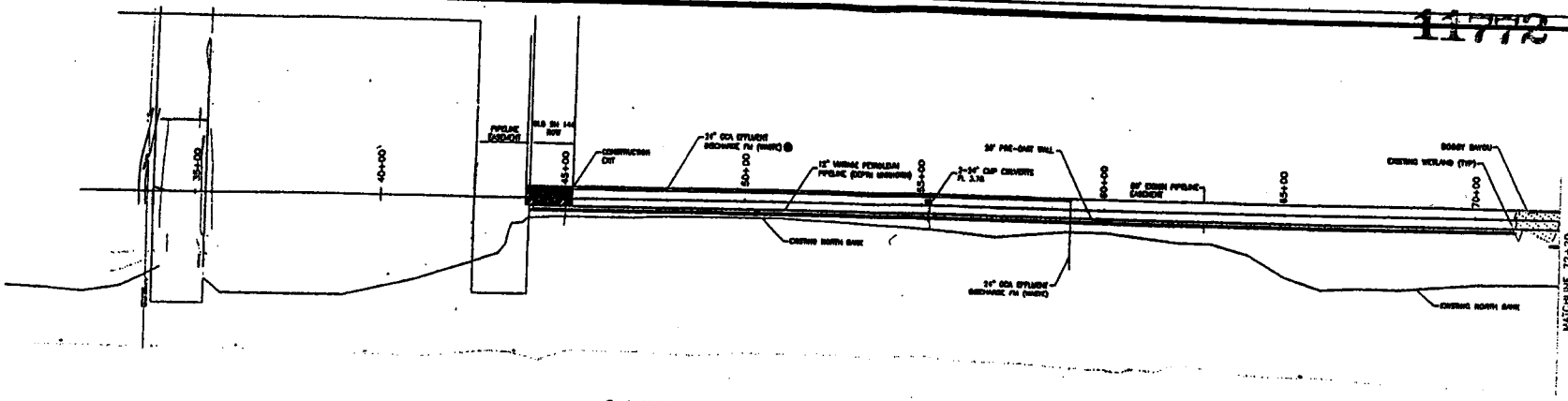
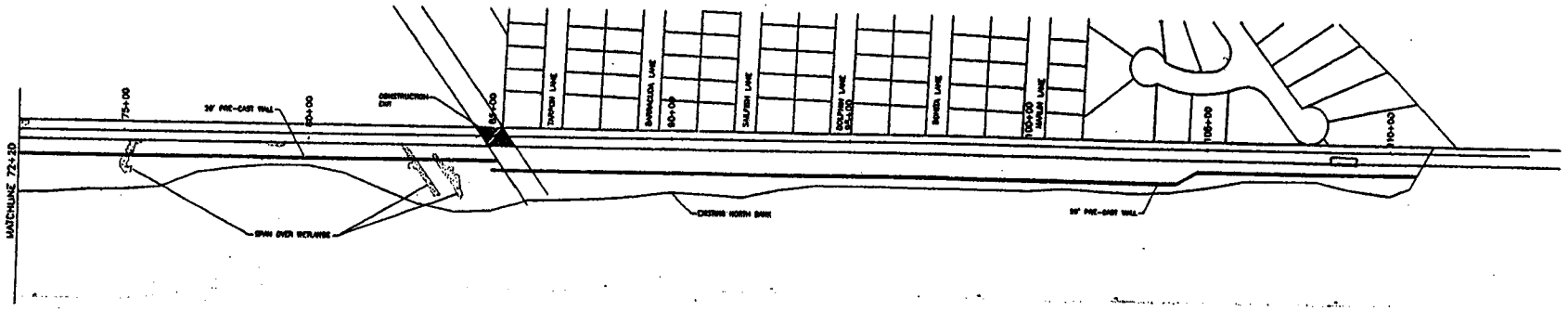


BAYPORT SHIP CHANNEL



BAYPORT SHIP CHANNEL

Turner Collie & Braden Inc.

Bayport North Shore
20' Sound Wall
Plan View

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21520(Revised)

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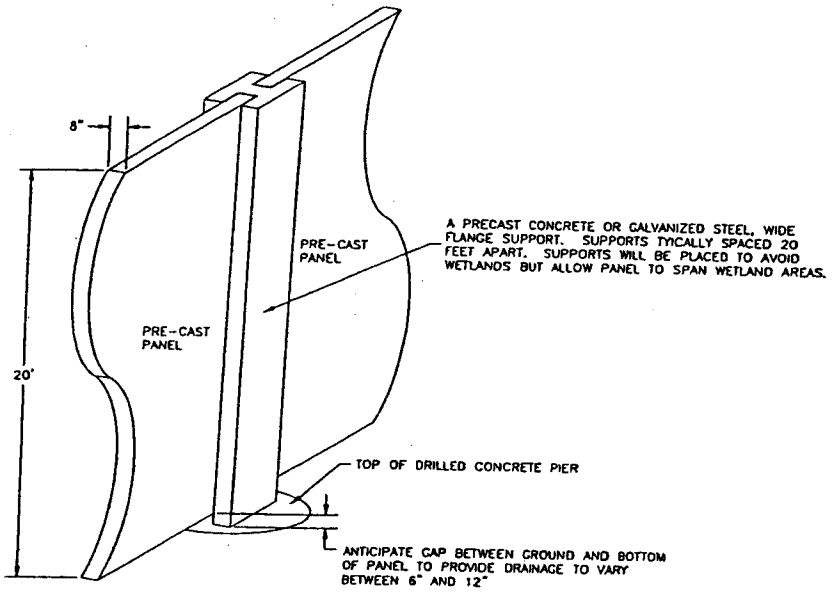

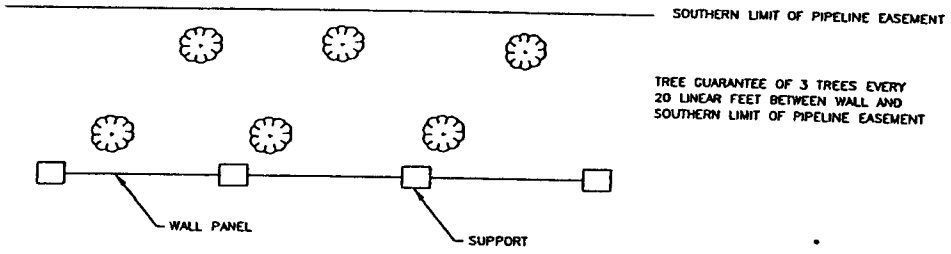

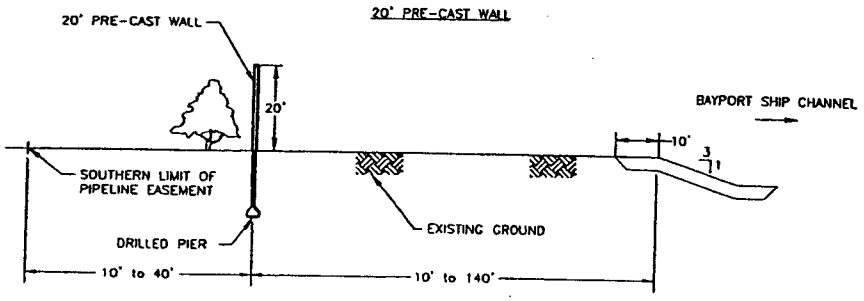

CROSS SECTION

NOT FOR CONSTRUCTION

Turner Collie & Braden Inc.

Bayport North Shore
Typical Details

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Sheet 19 of 28

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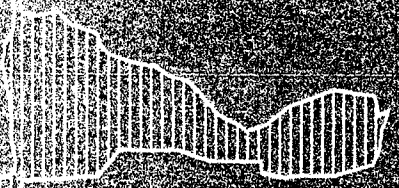
Bayport Ship Channel



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Port of Houston Authority
Proposed Bayport Project
Jurisdictional Wetlands
Sheet 20 of 28

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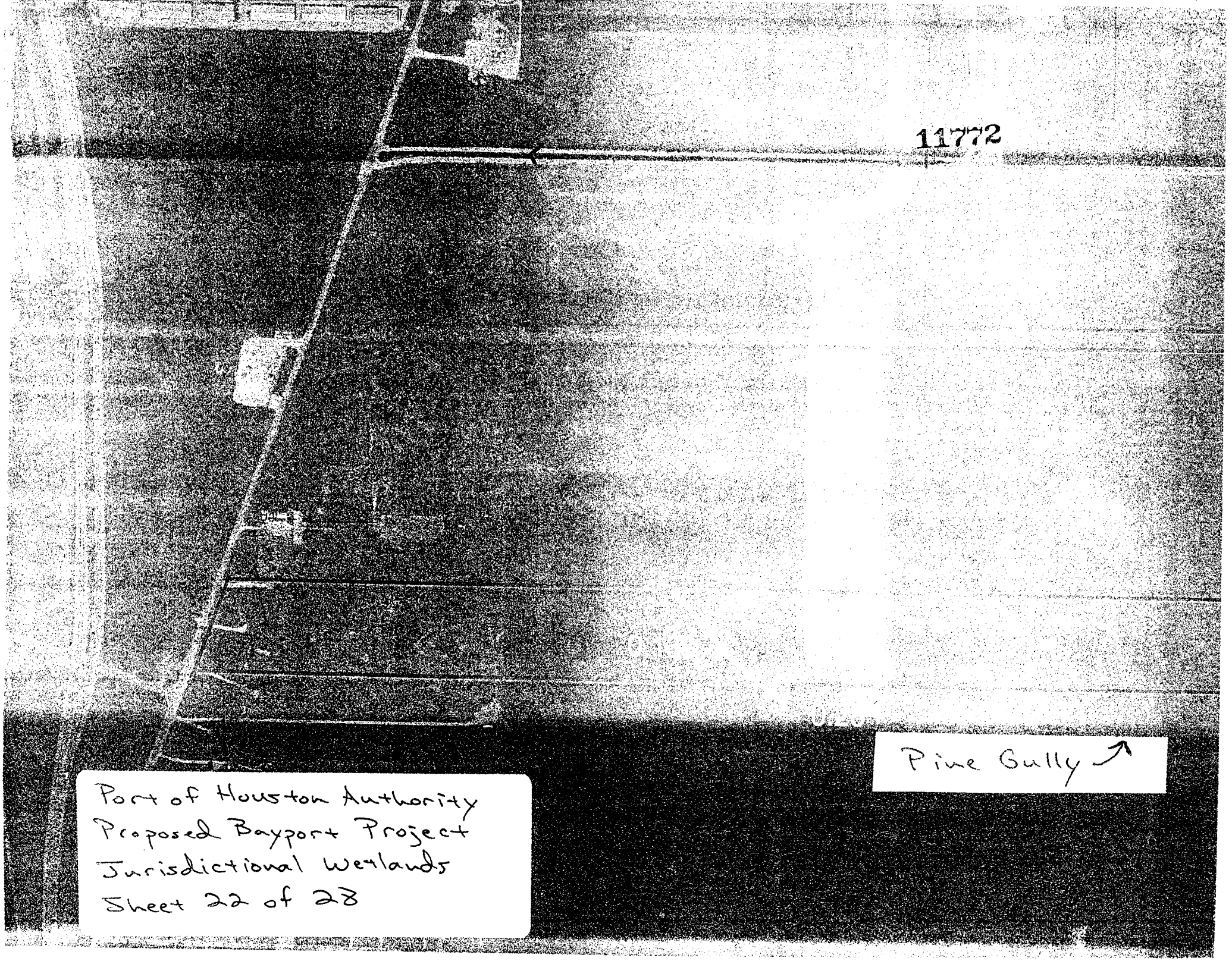
Port of Houston Authority
Proposed Bayport Project
Jurisdictional Wetlands
Sheet 21 of 28



Port of Houston Authority
Proposed Bayport Project
Jurisdictional Wetlands
Sheet 22 of 28

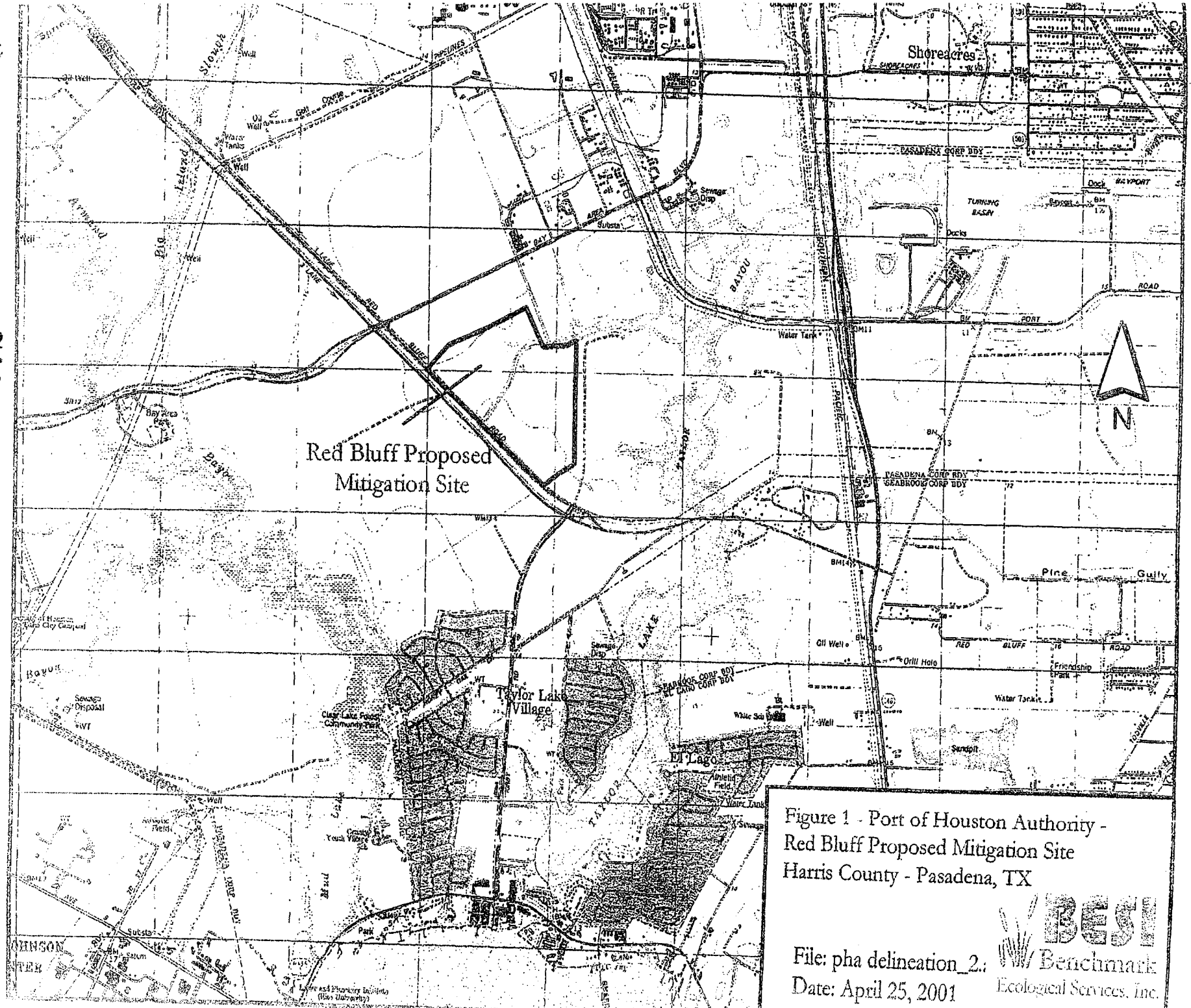


Figure 1 - Port of Houston Authority -
Red Bluff Proposed Mitigation Site
Harris County - Pasadena, TX

File: pha delineation_2.
Date: April 25, 2001

Benchmark
Ecological Services, Inc.

21520 (Rev.)
11772

Bayport Terminal Mitigation Features
October 11, 2001
Permit Application Number 21520

The Bayport Terminal plan has undergone considerable modification since the concept for the terminal was approved by the Port Commission nearly four years ago. The vast majority of these modifications have been the result of input from citizens and agencies that was provided with a goal of reducing or mitigating the impact of the project on the human environment. As the preparation of a DEIS nears completion, the POHA is updating the materials that comprise the permit application to ensure that the reviewing agencies and public have the most accurate information possible about the proposed terminal. This discussion describes those elements of the POHA application that have been included to reduce or mitigate impacts.

Buffer Zone and 20 Foot Berm

As shown on the enclosed facility drawings, the terminal will have a buffer zone separating the terminal from surrounding land uses. The width of the buffer zone ranges from approximately 120 to 600 feet. Along the southern boundary the buffer zone ranges from 120 to 195 feet. Along Todville Road, the buffer zone is 600 feet wide, narrowing to 300 feet as it approaches Port Road. 121 acres of the project site, or approximately 10% of the total acreage involved in the project will be buffer.

Within the buffer zone, a 20 foot tall earthen berm will be constructed as shown. In addition, POHA will plant the berm to ensure rapid revegetation of the berm with a mixture of herbaceous and woody vegetation. The berm will be vegetated with an aesthetic tree line planting, which will be continuous along the top of slope. The tree line planting will be composed of native deciduous and evergreen species that are typically found within the Galveston Bay area. Approximately nine different species will be located to create a natural appearance and view from nearby residential areas.

These changes will reduce noise, light, aesthetic and biotic impacts of terminal operation.

Channel Setback

Areas shoreward of the existing channel boundary will be excavated to a width of 225 feet, as shown on the facility drawings included with this document. This effectively widens the channel and enhances navigation safety. In addition, this increases the distance of the berths from the residential areas north of the channel, which results in a reduction of light and noise impacts.

North Shore Slope Protection

Construction is complete on a slope protection and planting program for the north shoreline of the Bayport channel. While the rip-rap portion of the project addresses past, current, and future erosion, the permitted project was expanded to include tree and shrub planting designed to minimize the impacts of the terminal project on nearby residential areas.

Beneficial Use of Dredged Material

Dredged material excess to that needed for site development will be placed offsite. The material will be put to beneficial use, resulting in the creation of estuarine marsh habitat. The specifics are included in the enclosed offsite dredged material placement plan. At least 200 acres of marsh will ultimately be constructed.

This use of dredged material will prevent the material from being disposed of a s a waste and conserve valuable space in confined disposal areas. It will also provide improvements in water quality in Galveston Bay and replace wetland habitat lost to subsidence or erosion.

Pre-Entry Gate Relocation

The optimal operational location of the pre-entry gate is very near the El Jardin subdivision. In response to the concerns of residents, the pre-entry gate has been relocated approximately 5,000 feet west of its original location, as shown on the enclosed drawings.

Wetland Property Acquisition and Mitigation

The verified wetland delineation of the project site by the Corps provides that there are 2.475 acres of jurisdictional wetlands on the site. To mitigate these and other biotic impacts, the POHA is acquiring a tract of land located at Highway 146 and Red Bluff, immediately adjacent to Armand Bayou Nature Center and Taylor Lake. Tributary drainage that crosses the track makes the area suitable for the creation of adjacent, brackish wetlands. Approximately 163 acres are available at this location. The tract, and an additional 40 acres, is described in the enclosed report by Benchmark Consulting.

Within this property, the applicant proposes to create 12.38 acres of jurisdictional wetlands, a ratio of 5:1 compensation for impacted, jurisdictional wetlands. In addition, a conservation easement will be imposed on the entire 164-acre tract. This will preserve a sizeable block of diverse habitat that is upstream of Armand Bayou Nature Center, and within its water shed. The applicant believes that this permanent protection of 163 acres offsets the impacts to aquatic resources located at the Bayport Terminal site. An evaluation of the Bayport site prior to the decision of the U.S. Supreme Court in *Solid Waste Authority of Northern Cook County* indicated that, using the 1987 wetland delineation manual, there were 104.557 acres of these aquatic resources. The 163 acres in compensation for these resources at a ratio of 1.5:1.

Storm Water Management and Treatment

The applicant proposes a variety of mitigative features to improve water quality. These include first flush capture a south terminal retention pond, inlet treatment units, and high impact area treatment. These are described below.

First Flush - POHA is currently regulated for storm water discharges under the Multi-Sector Stormwater General Permit (MSGP) for Industrial Discharges and the Municipal Separate Storm Sewer System (MS4). The primary areas of concern under the MSGP for SIC 4491 (Water Transportation) are four metals (aluminum, zinc, lead and uranium). Experience at the

existing Barbors Cut Container Terminal has revealed that these metals are primarily attached to Total Suspended Solids (TSS).

To facilitate the capture of TSS, the applicant proposes to capture the first inch of rainfall into a holding pond, as shown in the master plan drawing. This will allow the TSS to be retained in the pond, decreasing the discharge of sediments into the Bayport Ship Channel and Pine Gulley.

South Terminal Retention Pond - The loss of infiltration resulting from the concrete surfacing of the site would result in an increased rate of stormwater discharge to Pine Gulley. To maintain the undeveloped discharge rate after project construction, the applicant proposes to install a retention pond after the first flush pond. The delayed release of stormwater will prevent increased flooding or disruption of the Pine Gulley ecosystem.

Inlet Treatment Units and High Area Impact Treatment - The areas with the highest likelihood of contributing contaminants to stormwater are the Maintenance Facility, RTG Maintenance Areas, and the Equipment Parking Areas. These areas will have isolated drainage basins, which have inlet treatment units that remove TSS and oil and grease, with the discharged water then proceeding to the first flush basin.

Alternate Fuel for Vehicles and Equipment

The applicant has been extensively involved in the development and application of alternative fuels at its existing facilities and will continue this commitment. This will include propane powered POHA-owned on-road vehicles and small forklifts, when commercially available. It may also include diesel-emulsion fuel for RTG's and yard tractors owned by the applicant. Diesel-emulsion fuel is expected to reduce NO_x emissions by 25% and particulate emissions by 30%.

On-site Fire/Hazmat and Police

The applicant will have an on-site Fire Department, with a Hazmat team, and an on-site Police Department.

Lighting

The Design elements have been developed to minimize glare, light spill, light trespass, and light pollution to surrounding areas, especially residential areas. These elements are:

- All lighting fixtures would be of the "dark sky" type developed by major manufacturers.
- The first two rows along the wharfside would utilize light shields to avoid changes to lighting conditions to LaPorte and Shoreacres on the northern and opposite side of the Bayport channel.
- One or two rows of shielded fixtures would be used along the rest of the property boundaries to avoid changes to lighting conditions at adjacent residential communities and businesses.

- During the lighting design, an effort would be made to control light rays to avoid unacceptable light trespass or pollution while adhering to these general lighting criteria.

Cruise Road

The original Master Plan routed cruise terminal traffic along an improved Todville Road. To address the concerns about increased traffic on Todville Road, the plan has been modified to include a new road—Cruise Road—which is located interior to the berm within the terminal facility.

Todville/Port Road Intersection

To address neighborhood concerns about container truck traffic on Todville Road, the applicant has redesigned the intersection. This plan will eliminate the existing intersection and replace it with new intersections between (1) Port Road and Cruise Road, and (2) Cruise Road and Todville Road. This change is reflected on the facility drawings.

Environmental Management System

The applicant will develop and implement an Environmental Management System that meets the requirements for ISO 14001 certification.

Stormwater Pollution Prevention Plan/Construction BMP's

The POHA will implement a stormwater pollution prevention plan that will identify best management practices and monitor their effectiveness by sampling stormwater at outfalls at least once per quarter. The plan will also include construction BMP's.

Waste Minimization

The POHA will implement a waste minimization program at Bayport to reduce the amount of wastes generated and disposed of by the POHA as well as increase the recycling opportunities. The types of wastes include used oil, absorbents, oily rags, etc.

Leaking Container Station

At their present facilities, the applicant has an occasional leaking container that is hazardous. Therefore, it was decided that an area within the Bayport Container Terminal would be set aside in an attempt to manage this issue. The designated area will provide a means of safely capturing leaking materials from containers that are assumed to be hazardous material, until appropriate corrective actions can be undertaken.

The location of the designated Leaking Container Stations (LCS) area is in the chassis parking area, as shown on the facility drawing. The designated 80-ft x 20-ft containment area is sloped from the four sides towards a sump located in the center. The sump will be sized to capture three 55 gallon drums of hazardous materials with a remote shut off valve between the sump and the access to storm drain.

The containment area is intended to capture the leaking material until the materials can be pumped out and properly disposed of. The shut off valve will prevent the hazardous materials from entering the stormwater system. When the sump has been thoroughly cleaned and all the hazardous contaminants removed, the valve will be opened and the area will function as a typical catch basin for rainwater. The designated area will be marked by stripping and appropriate bollards linked by chain to limit the parking to containers only with leaking materials.

Drilled Shaft vs. Piles

The great weights that must be supported by the wharf at the container terminal require a substantial foundation. The usual construction technique involves pile-driven supports. In order to eliminate this long term noise source, the applicant will use drilled shafts for the container facility as an alternative.

Tangent Pier vs. Sheetpile Construction

The standard construction technique at water's edge involves sheetpiles that are driven into the earth. The applicant will use the Tangent Pier construction technique for the 7,000 foot container wharf. This will reduce both water quality and noise impacts.

US Army Engineer District, Galveston
PO Box 1229
Galveston, Texas 77553-1229

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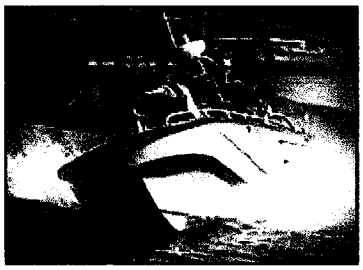
11772

Unsafe Ports?

March 21, 2002



(CBS/AP)

(CBS) Sept. 11 or not, U.S. Customs can still inspect just 2 percent of the 6 million cargo containers entering the U.S. annually, making seaports and the final destinations of the containers all across America vulnerable to terror. **Steve Kroft's** report, in which the U.S. Customs commissioner and other officials admit the danger, will be broadcast on ***60 Minutes*** Sunday, March 24, at 7 p.m. ET/PT.

"The system is vulnerable," says Robert Bonner, commissioner of Customs. "I mean the movement and the potential for concealing a terrorist weapon inside a cargo container," he tells Kroft But Bonner is confident that the 2 percent of containers inspected are the right ones. "We're pretty good at determining those containers that might pose a risk [in which] a terrorist or a terrorist weapon might be smuggled," Bonner says.

Bonner admits there has been some "specific tactical intelligence" indicating that threatening materials or persons have been concealed in containers. "I'm happy to say that it proved to be a false alarm," he tells Kroft.

The possibilities of containers being used to smuggle weapons or terrorists was made clear last October, when Italian authorities discovered a suspected terrorist trying to smuggle himself from Egypt to Canada in a cargo container. The incident is still under investigation.

The vulnerability is no secret, says Stephen Flynn, a former Coast Guard commander who has studied port security as a senior fellow of the Council on Foreign Relations.

"Criminals have been operating in seaports for a long time. The bad guys know how open the system is," says Flynn. "It's physically impossible to check every container without essentially stopping global commerce," he tells Kroft. While billions of dollars are being spent for security at airports and border crossings, seaports, according to Flynn, "are the only part of an international boundary that the federal government invests no money in terms of security," he says.

Some new technologies are in use, such as radiation detectors to search for nuclear material and VACIS machines that see through a container's steel walls. The Seaport Security Act, providing $750 million for improvements, is making its way through Congress.

lynn believes the expensive proposition of tagging, tracking and tamper-proofing every container as it moves across the world is the only real and cost-efficient solution. "I think it's imminently do-able, particularly in light of the costs...if the terrorists do, in fact, target the system," he tells Kroft, "That cost is shutting down global commerce – now that's a heavy cost."

- **Program Facts**
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INTERACTIVE

America On Guard

ENTER

The war on terror has forced the nation to toughen its national security. Find out what actions are being taken in the air, water and on land.

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ORACLE **Oracle Database Clusters.**
Can't break it

Container trade

When trade and security clash

Apr 4th 2002
From The Economist print edition

AP

The shipping container has revolutionised world trade. Now it is a potential carrier of terrorists and their weapons

LAST October, a discovery at the southern Italian port of Gioia Tauro shook the foundations on which world trade has grown so rapidly in the past half century. A suspected al-Qaeda terrorist was found inside a container. The Egyptian suspect, who later disappeared while on bail, was equipped in comfort for the duration of the container's intended sea voyage from Italy to Halifax in Canada. He carried plans of airports, an aviation mechanic's certificate and security passes. Intelligence sources say other containers similarly fitted out were found at the Italian port.

This alarming discovery underlined the tension between the needs of international security and those of global trade. The Egyptian stowaway horrified America's security establishment. When officials looked at studies carried out before September 11th on the possibilities of using a container to smuggle nuclear-bomb components into the United States, their fears only grew. For the technology that has transformed trade in legitimate goods can also easily be used for illicit transport of people and materials.

Terrorists, American officials have come to believe, are aiming not just to cause death and destruction within the United States, but also to cripple the country economically by targeting or seeming to target its trade. If the al-Qaeda network is as sophisticated as some people argue, it may have noticed the vulnerability of the American economy to disruption of its industries' supply chains.

Most industries—whether Ford and General Motors, with their just-in-time manufacturing, or computer companies such as Cisco and Compaq, which ship parts in from Asia—have come to depend on global supply chains in which the humble container box is an important link. Every day, over 15m containers are moving around at sea or on land, or standing in yards waiting to be delivered. They account for about 90% of the world's traded cargo by value.

11772 APR 2 9 2002

Invented during the second world war as an efficient way of moving military equipment up to the front line without tying down too many soldiers for loading and unloading ships, the container has become indispensable to world commerce. Today, containers have helped to make the distribution of goods so efficient that manufacturers have been able to reduce inventories to a bare minimum. Since 1980, according to Bob Delaney of Cass Information, a logistics company based in Bridgeton, Missouri, the ratio of inventory to GDP in the United States has declined from 25% to 15%. The total value of America's business inventory in 2000 was $1.5 trillion; without the logistics policies and programmes implemented in the past 20 years, it would have been $2.5 trillion.

All that would change if containers were screened, as airline passengers are. At the moment, inspectors examine only 2% of containers, and often only after the containers have already travelled hundreds of miles from a port to a big city like Chicago or Detroit. The potential damage that routine screening might cause was clear from the two-day wait at the American-Canadian border after September 11th: it nearly caused chaos at Detroit's car factories, which rely on flows of parts from Canada. The burden and disruption of extra security would weigh heavily on a shipping industry that is already suffering from the economic slowdown.

High crime wave

The standardised container initially cut small-time cargo pilfering, long a plague in ports. But that proved short-lived. Thieves soon learned that, by stealing a full container (usually in transit), they could increase their own productivity, especially if they knew in advance what the contents were. The average value of cargo theft increased fivefold (to $500,000) between the 1970s and 1990s. Containers also turned out to be handy ways to smuggle drugs, contraband and illegal immigrants. A victim of its own success, the container offered criminals the same benefits as those enjoyed by ocean carriers and shippers: efficiency and security.

Government and industry have come up with some ways to combat this crime. Container seals have been made tougher. (Thieves have been known to empty an in-transit container with no outward sign of entry.) Shipping lines that take part in anti-smuggling programmes get faster clearance for their boxes. But more needs to be done.

So far, federal agencies and the container-transport industry have recognised the threat but done little of substance. Stephen Flynn, an influential security adviser at the Council on Foreign Relations, a think-tank based in New York, has been sharply critical of the government's approach to security. The two front-line services, the US Customs and the US Coast Guard, were seriously under-funded, argues Mr Flynn (himself a former Coast Guard commander), while the overall federal effort was undermined by feuding among agencies. Mr Flynn believes things may have improved since September 11th, but not enough to inspire confidence.

The experience of the carriers suggests that he is right. Despite a big security presence around ports immediately after September 11th, carriers say they have not yet suffered any serious disruption to containers entering or leaving the United States. The US Customs Service has increased border inspectors and equipped them with mobile radiation detectors; the US Coast Guard has boarded ships with armed sea marshalls; they have also demanded earlier notice of ship arrivals; and the government has provided some emergency funding to improve port security.

But containers are still rolling along much as before. This worries the industry's representatives. Chris Koch, chief executive of the World Shipping Council, a trade body based in Washington, DC, believes a further terrorist incident could lead to a bungled government response, jamming up the system. Even worse, he thinks, could be a failure to do anything coherent, followed by a complete shutdown of ports after an attack.

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Trojan box

The American government is only just beginning to realise how vast and complex the container-transport industry is. Last year, the world's total movement in containers amounted to 72m TEU ("20-foot equivalent units", the industry standard, even though containers are increasingly 40 feet, or 13 metres, long). H.P. Drewry, a shipping consultancy, uses a much larger figure, of 244m TEU, to express the number of containers handled in 2001 by all ports; this includes empty containers being repositioned and trans-shipped containers (usually dropped off by large container ships at large hubs for onward shipment by smaller feeder ships). Such numbers give some idea of the scale of the problem: how can 72m containers be monitored, let alone 244m?

In addition, the movement of each container is part of a transaction that can involve up to 25 different parties: buyers, sellers, inland freighters and shipping lines, middlemen (customs and cargo brokers, for example), financiers and governments. A single trade can generate 30-40 documents, and each container can carry cargo for several customers, thus multiplying the number of documents still further.

A typical large container ship can carry up to 6,000 TEU and generate 40,000 documents. In 2001, around 9m TEU arrived in America's container ports by sea, which translates into around 17,000 actual boxes a day. Many more arrive in America from Canada, mainly by train or truck.

The fact that containers are "intermodal"—ie, they can travel by sea and on land, by road or rail—means the system is difficult to regulate as it crosses jurisdictional boundaries. On a ship at sea, the container comes under the aegis of the International Maritime Organisation (IMO), a United Nations body based in London. On land—in a port, or on road or rail—it passes into the hands of national governments, which may have separate legislation for the different transport modes.

This creates a problem for the United States when it seeks to enact container security regulations internationally through the IMO. The IMO's writ ends at the shoreline. Whereas it can establish international rules for the identification of ships and their crews, it cannot force ports to adopt new security rules. In olden times, colonial powers solved that problem by seizing ports (such as Gibraltar or Singapore) over which they wished to exercise control. That is hardly a possible solution today. The need now is for international co-operation on port security.

The problem is exacerbated because governments have tended to see port security as a poor relation of airport security. In Britain, for example, the Aviation and Maritime Security Act was passed in 1990 after a bomb exploded in a Pan Am plane over Lockerbie, but the "maritime" bit was an afterthought. It was added only to reflect concerns over two terrorist attacks on cruise ships in the Mediterranean (on *Achille Lauro* in 1985 and *City of Poros* in 1988).

To overcome this jurisdictional divide between land and sea, America may seek bilateral agreements with those countries from whose ports most of its containers arrive. The main thrust of thinking is that America should push its borders out and pre-screen containers in specially created security zones before they are loaded on to ships in foreign ports. This would be done with the co-operation of the foreign authorities, and with American inspectors present to help local officials. An arsenal of security measures would be deployed—from x-ray machines in container terminals to transponders inside containers that would detect whether they had been opened in transit. These devices would broadcast a signal via satellite.

Robert Bonner, the head of the US Customs Service, has proposed that, to begin with, America should focus on the top ten container ports that trade with it, and should seek to funnel as many containers as possible through approved gateways. The top ten—

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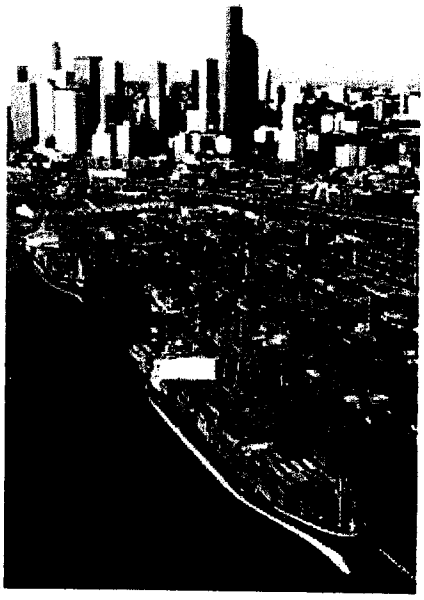
which include Hong Kong, Rotterdam and Shanghai—handle around half of all America-bound containers; Hong Kong alone accounts for 10%. Under Mr Bonner's plan, they might increase that share markedly at the expense of smaller and higher-risk ports. But the United States is also considering proposals to help finance the extra security that would allow smaller ports to attain the necessary standards. This would help avoid any distortion of trade patterns that could add to the cost of running global supply chains.



America inspecting

Others, however, think that America should go further and extend its border controls to the point of origin: the factory or warehouse where the container is first filled and sealed. Containers arriving at a port for loading on to an America-bound ship would not be accepted unless they met strict security criteria.

Rob Quartel, a former federal maritime commissioner, is among those who are in favour of such point-of-origin controls. He also wants the new border to be "electronic" rather than physical, creating a profile of the container's contents by sophisticated use of databanks, which capture and combine existing electronic documents from both government and commercial sources. To this could be added data from financial sources (for example, letters of credit held by banks) and documentation covering the inland leg of the container's journey.

Mr Quartel, now the chairman of Freightdesk Technologies, a freight-management technology specialist based in Vienna, Virginia, believes that America will be unable to impose security requirements on foreign shippers. But he thinks it could ensure that the receivers of containers in America realise they will face delays unless they know their customers and can validate cargo security. The idea fits into the generally accepted concept of fast and slow lanes, graded by security rating.

Not surprisingly, the private-security industry is eyeing such ideas with relish. Charles Upchurch, president of SGS Global Trade Solutions of New York, an inspection company, argues that government should use only accredited private firms for security audits and container inspections. Shipping-industry representatives have been advancing their ideas in a seemingly endless round of hearings at the Senate and House of Representatives in Washington, DC, accompanying them with what must be a veritable container-load of papers.

Whatever scheme the United States finally adopts, government and industry agree that the aim should be to achieve the maximum security with the minimum disruption to trade. Security barriers can easily become trade barriers. The head of the Coast Guard, Admiral James Loy, explains: "To sustain prosperity, we open the gates. To ensure security, we close the gates. We clearly need to get beyond the metaphor of an opened or closed gate."

Some logistics experts, such as Mr Delaney, argue that American industry could absorb the inevitable increase in inventory and logistics costs. A 5% increase in inventory would cost American companies an extra $20 billion, but that must be set in the context of the $1 trillion spent annually by American business on logistics. "Just-in-time will bend, but it will not break," Mr Delaney confidently predicts.

He is, however, talking only about inland transport. Mr Koch of the World Shipping Council says that America cannot solve the container problem alone; it needs more help from the rest of the world than it cares to admit. The issue is not merely about boxes on ships, he argues, but about how the basic mechanisms of world trade can operate so that they maintain efficiency while at the

same time enhancing security.

Trade flows depend on trust to flourish. But total trust is clearly impossible in a world where death can arrive hidden in a metal box. Only with clever use of technology and international co-operation are the world's big trading countries likely to avoid disruption and expense. Even then, it will be a question of minimising the threat rather than eliminating it.

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For Immediate Release
Office of the Press Secretary
September 14, 2001

Declaration of National Emergency by Reason Of Certain Terrorist Attacks

By the President of the United States of America
A Proclamation

A national emergency exists by reason of the terrorist attacks at the World Trade Center, New York, New York, and the Pentagon, and the continuing and immediate threat of further attacks on the United States.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me as President by the Constitution and the laws of the United States, I hereby declare that the national emergency has existed since September 11, 2001, and, pursuant to the National Emergencies Act (50 U.S.C. 1601 et seq.), I intend to utilize the following statutes: sections 123, 123a, 527, 2201(c), 12006, and 12302 of title 10, United States Code, and sections 331, 359, and 367 of title 14, United States Code.

This proclamation immediately shall be published in the Federal Register or disseminated through the Emergency Federal Register, and transmitted to the Congress.

This proclamation is not intended to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or any person.

IN WITNESS WHEREOF, I have hereunto set my hand this fourteenth day of September, in the year of our Lord two thousand one, and of the Independence of the United States of America the two hundred and twenty-sixth.

GEORGE W. BUSH

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Federal Register
Vol. 66, No. 186
Tuesday, September 25, 2001

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Title 3—

The President

Executive Order 13224 of September 23, 2001

Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten To Commit, or Support Terrorism

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*)(IEEPA), the National Emergencies Act (50 U.S.C. 1601 *et seq.*), section 5 of the United Nations Participation Act of 1945, as amended (22 U.S.C. 287c) (UNPA), and section 301 of title 3, United States Code, and in view of United Nations Security Council Resolution (UNSCR) 1214 of December 8, 1998, UNSCR 1267 of October 15, 1999, UNSCR 1333 of December 19, 2000, and the multilateral sanctions contained therein, and UNSCR 1363 of July 30, 2001, establishing a mechanism to monitor the implementation of UNSCR 1333,

I, GEORGE W. BUSH, President of the United States of America, find that grave acts of terrorism and threats of terrorism committed by foreign terrorists, including the terrorist attacks in New York, Pennsylvania, and the Pentagon committed on September 11, 2001, acts recognized and condemned in UNSCR 1368 of September 12, 2001, and UNSCR 1269 of October 19, 1999, and the continuing and immediate threat of further attacks on United States nationals or the United States constitute an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States, and in furtherance of my proclamation of September 14, 2001, Declaration of National Emergency by Reason of Certain Terrorist Attacks, hereby declare a national emergency to deal with that threat. I also find that because of the pervasiveness and expansiveness of the financial foundation of foreign terrorists, financial sanctions may be appropriate for those foreign persons that support or otherwise associate with these foreign terrorists. I also find that a need exists for further consultation and cooperation with, and sharing of information by, United States and foreign financial institutions as an additional tool to enable the United States to combat the financing of terrorism.

I hereby order:

Section 1. Except to the extent required by section 203(b) of IEEPA (50 U.S.C. 1702(b)), or provided in regulations, orders, directives, or licenses that may be issued pursuant to this order, and notwithstanding any contract entered into or any license or permit granted prior to the effective date of this order, all property and interests in property of the following persons that are in the United States or that hereafter come within the United States, or that hereafter come within the possession or control of United States persons are blocked:

(a) foreign persons listed in the Annex to this order;

(b) foreign persons determined by the Secretary of State, in consultation with the Secretary of the Treasury and the Attorney General, to have committed, or to pose a significant risk of committing, acts of terrorism that threaten the security of U.S. nationals or the national security, foreign policy, or economy of the United States;

(c) persons determined by the Secretary of the Treasury, in consultation with the Secretary of State and the Attorney General, to be owned or controlled by, or to act for or on behalf of those persons listed in the Annex to this order or those persons determined to be subject to subsection 1(b), 1(c), or 1(d)(i) of this order;

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(d) except as provided in section 5 of this order and after such consultation, if any, with foreign authorities as the Secretary of State, in consultation with the Secretary of the Treasury and the Attorney General, deems appropriate in the exercise of his discretion, persons determined by the Secretary of the Treasury, in consultation with the Secretary of State and the Attorney General;

(i) to assist in, sponsor, or provide financial, material, or technological support for, or financial or other services to or in support of, such acts of terrorism or those persons listed in the Annex to this order or determined to be subject to this order; or

(ii) to be otherwise associated with those persons listed in the Annex to this order or those persons determined to be subject to subsection 1(b), 1(c), or 1(d)(i) of this order.

Sec. 2. Except to the extent required by section 203(b) of IEEPA (50 U.S.C. 1702(b)), or provided in regulations, orders, directives, or licenses that may be issued pursuant to this order, and notwithstanding any contract entered into or any license or permit granted prior to the effective date:

(a) any transaction or dealing by United States persons or within the United States in property or interests in property blocked pursuant to this order is prohibited, including but not limited to the making or receiving of any contribution of funds, goods, or services to or for the benefit of those persons listed in the Annex to this order or determined to be subject to this order;

(b) any transaction by any United States person or within the United States that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in this order is prohibited; and

(c) any conspiracy formed to violate any of the prohibitions set forth in this order is prohibited.

Sec. 3. For purposes of this order:

(a) the term "person" means an individual or entity;

(b) the term "entity" means a partnership, association, corporation, or other organization, group, or subgroup;

(c) the term "United States person" means any United States citizen, permanent resident alien, entity organized under the laws of the United States (including foreign branches), or any person in the United States; and

(d) the term "terrorism" means an activity that—

(i) involves a violent act or an act dangerous to human life, property, or infrastructure; and

(ii) appears to be intended—

(A) to intimidate or coerce a civilian population;

(B) to influence the policy of a government by intimidation or coercion; or

(C) to affect the conduct of a government by mass destruction, assassination, kidnapping, or hostage-taking.

Sec. 4. I hereby determine that the making of donations of the type specified in section 203(b)(2) of IEEPA (50 U.S.C. 1702(b)(2)) by United States persons to persons determined to be subject to this order would seriously impair my ability to deal with the national emergency declared in this order, and would endanger Armed Forces of the United States that are in a situation where imminent involvement in hostilities is clearly indicated by the circumstances, and hereby prohibit such donations as provided by section 1 of this order. Furthermore, I hereby determine that the Trade Sanctions Reform and Export Enhancement Act of 2000 (title IX, Public Law 106–387) shall not affect the imposition or the continuation of the imposition of any unilateral agricultural sanction or unilateral medical sanction on

any person determined to be subject to this order because imminent involvement of the Armed Forces of the United States in hostilities is clearly indicated by the circumstances.

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Sec. 5. With respect to those persons designated pursuant to subsection 1(d) of this order, the Secretary of the Treasury, in the exercise of his discretion and in consultation with the Secretary of State and the Attorney General, may take such other actions than the complete blocking of property or interests in property as the President is authorized to take under IEEPA and UNPA if the Secretary of the Treasury, in consultation with the Secretary of State and the Attorney General, deems such other actions to be consistent with the national interests of the United States, considering such factors as he deems appropriate.

Sec. 6. The Secretary of State, the Secretary of the Treasury, and other appropriate agencies shall make all relevant efforts to cooperate and coordinate with other countries, including through technical assistance, as well as bilateral and multilateral agreements and arrangements, to achieve the objectives of this order, including the prevention and suppression of acts of terrorism, the denial of financing and financial services to terrorists and terrorist organizations, and the sharing of intelligence about funding activities in support of terrorism.

Sec. 7. The Secretary of the Treasury, in consultation with the Secretary of State and the Attorney General, is hereby authorized to take such actions, including the promulgation of rules and regulations, and to employ all powers granted to the President by IEEPA and UNPA as may be necessary to carry out the purposes of this order. The Secretary of the Treasury may redelegate any of these functions to other officers and agencies of the United States Government. All agencies of the United States Government are hereby directed to take all appropriate measures within their authority to carry out the provisions of this order.

Sec. 8. Nothing in this order is intended to affect the continued effectiveness of any rules, regulations, orders, licenses, or other forms of administrative action issued, taken, or continued in effect heretofore or hereafter under 31 C.F.R. chapter V, except as expressly terminated, modified, or suspended by or pursuant to this order.

Sec. 9. Nothing contained in this order is intended to create, nor does it create, any right, benefit, or privilege, substantive or procedural, enforceable at law by a party against the United States, its agencies, officers, employees or any other person.

Sec. 10. For those persons listed in the Annex to this order or determined to be subject to this order who might have a constitutional presence in the United States, I find that because of the ability to transfer funds or assets instantaneously, prior notice to such persons of measures to be taken pursuant to this order would render these measures ineffectual. I therefore determine that for these measures to be effective in addressing the national emergency declared in this order, there need be no prior notice of a listing or determination made pursuant to this order.

Sec. 11. (a) This order is effective at 12:01 a.m. eastern daylight time on September 24, 2001.

(b) This order shall be transmitted to the Congress and published in the **Federal Register**.

11772

THE WHITE HOUSE,
September 23, 2001.

Billing code 3195–01–P

ANNEX

Al Qaida/Islamic Army 11772

Abu Sayyaf Group

Armed Islamic Group (GIA)

Harakat ul-Mujahidin (HUM)

Al-Jihad (Egyptian Islamic Jihad)

Islamic Movement of Uzbekistan (IMU)

Asbat al-Ansar

Salafist Group for Call and Combat (GSPC)

Libyan Islamic Fighting Group

Al-Itihaad al-Islamiya (AIAI)

Islamic Army of Aden

Usama bin Laden

Muhammad Atif (aka, Subhi Abu Sitta, Abu Hafs Al Masri)

Sayf al-Adl

Shaykh Sai'id (aka, Mustafa Muhammad Ahmad)

Abu Hafs the Mauritanian (aka, Mahfouz Ould al-Walid, Khalid Al-Shanqiti)

Ibn Al-Shaykh al-Libi

Abu Zubaydah (aka, Zayn al-Abidin Muhammad Husayn, Tariq)

Abd al-Hadi al-Iraqi (aka, Abu Abdallah)

Ayman al-Zawahiri

Thirwat Salah Shihata

Tariq Anwar al-Sayyid Ahmad (aka, Fathi, Amr al-Fatih)

Muhammad Salah (aka, Nasr Fahmi Nasr Hasanayn)

Makhtab Al-Khidamat/Al Kifah

Wafa Humanitarian Organization

Al Rashid Trust

Mamoun Darkazanli Import-Export Company

[FR Doc. 01-24205

Filed 9-24-01; 1:05 pm]

Billing code 4810-25-C

Presidential Documents

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Executive Order 13260 of March 19, 2002

Establishing the President's Homeland Security Advisory Council and Senior Advisory Committees for Homeland Security

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

Section 1. *President's Homeland Security Advisory Council.*

(a) *Establishment and Membership.* I hereby establish the President's Homeland Security Advisory Council (PHSAC). The PHSAC shall be composed of not more than 21 members appointed by the President. In addition, the Chair and the Vice Chair of the National Infrastructure Advisory Council; the Chairman of the President's National Security Telecommunications Advisory Committee; and the Chair of the Panel on the Science and Technology of Combating Terrorism, President's Council of Advisors on Science and Technology, shall serve as ex officio members of the PHSAC. The appointed members of the PHSAC shall be selected from the private sector, academia, professional service associations, federally funded research and development centers, nongovernmental organizations, State and local governments, and other appropriate professions and communities.

(b) *Chair and Vice Chair.* The President shall designate a Chair and Vice Chair from among the appointed members of the PHSAC.

(c) *Senior Advisory Committees.* (i) *Establishment and Membership.* The following four Senior Advisory Committees for Homeland Security (SACs) are hereby established to advise the PHSAC: (1) State and Local Officials; (2) Academia and Policy Research; (3) Private Sector; and (4) Emergency Services, Law Enforcement, and Public Health and Hospitals. Each SAC shall generally be composed of not more than 17 members selected by the Assistant to the President for Homeland Security (Assistant). The President may establish additional SACs as appropriate, consistent with this order.

(ii) *Chairs and Vice Chairs.* The Assistant shall from time to time designate a Chair and Vice Chair for each of the SACs from among the PHSAC's members.

(iii) *Subcommittees.* The Chair of each SAC, in consultation with the PHSAC, may as appropriate establish subcommittees to advise the SAC.

Sec. 2. *Functions.* The PHSAC shall meet periodically at the Assistant's request to:

(a) provide advice to the President through the Assistant on developing and coordinating the implementation of a comprehensive national strategy to secure the United States from terrorist threats or attacks;

(b) recommend to the President through the Assistant ways to improve coordination, cooperation, and communication among Federal, State, and local officials and private and other entities, and provide a means to collect scholarly research, technological advice, and information concerning processes and organizational management practices both inside and outside of the Federal Government;

(c) provide advice to the President through the Assistant regarding the feasibility of implementing specific measures to detect, prepare for, prevent, protect against, respond to, and recover from terrorist threats or attacks within the United States;

(d) examine, and advise the President through the Assistant on, the effectiveness of the implementation of specific strategies to detect, prepare for, prevent, protect against, respond to, and recover from terrorist threats or attacks within the United States; and

(e) report periodically, as appropriate, to the President through the Assistant on matters within the scope of the PHSAC's functions as described in paragraphs (a) through (d) of this section.

Sec. 3. *Administration.* (a) Upon the request of the Chair of the PHSAC, through the Assistant, and to the extent permitted by law, the heads of executive departments and agencies shall provide the PHSAC with such information relating to homeland security matters as the PHSAC may need for the purpose of carrying out its functions.

(b) The PHSAC shall have an Executive Director selected by the Assistant.

(c) Members shall serve without compensation for their work on the PHSAC, the SACs, and any subcommittees thereof. However, members shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law for persons serving intermittently in Federal Government service (5 U.S.C. 5701–5707).

(d) To the extent permitted by law, and subject to the availability of appropriations, the Office of Administration shall provide the PHSAC with administrative support and with such funds as may be necessary for the performance of the PHSAC's functions.

Sec. 4. *General Provisions.* (a) Insofar as the Federal Advisory Committee Act, as amended (5 U.S.C. App.) (Act), may apply to the administration of any portion of this order, any functions of the President under that Act, except that of reporting to the Congress, shall be performed by the Administrator of General Services in accordance with the guidelines that have been issued by the Administrator.

(b) The PHSAC, any SACs, and any SAC subcommittees shall terminate 2 years from the date of this order unless extended by the President.

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THE WHITE HOUSE,
March 19, 2002.

[FR Doc. 02–07086
Filed 03–20–02; 12:11 pm]
Billing code 3195–01–P

City of El Lago

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XL 11838

May 1, 2002

Mr. Kerry M. Stanley
Regulatory Branch, CESWG-PE-RB
U.S. Army Corps of Engineers
P.O. Box 1229
Galveston, TX 77553-1229

RE: USACE PORT OF HOUSTON AUTHORITY BAYPORT CONTAINER and CRUISE TERMINAL PERMIT APPLICATION 21520 (REVISED)

Dear Mr. Stanley:

The City of El Lago offers these comments concerning the Port of Houston Authority's Application 21520 (revised). Any revision in the permit application has not changed concerns set forth in the City of El Lago's letter and attachments of comments on the DEIS, dated March 4, 2002. **Those comments also apply to this revised application.** Moreover, the revised application has changed to a degree that the DEIS comment period should be reopened to amend our comments and a Supplemental EIS be required before proceeding. 29-100 23-198

The Port of Houston Authority was given more time and several opportunities to revise their application. The public should have no less consideration.

Wetlands: The revised application acknowledges 7 times the jurisdictional wetlands identified in the DEIS. Filling all of the jurisdictional wetlands on site and offering mitigation in another watershed is not equivalent. Your first charge is to avoid destruction of these ancient and unique wetlands and aquatic resources. With the revised wetlands determinations, Spilmans Island should EVEN MORE be the preferred alternative since it requires filling fewer acres of jurisdictional wetlands with less impact on open water habitat. 14-95 14-74

Berm & Habitat: Revision to the berm and location doesn't state when the berm will be in place. Noise during construction will not be "buffered" if berm and plantings are not in place early on. Planting 9 different species of native herbaceous and woody vegetation on the top of the berm is not a substitute for the older growth, native trees that will be bull dozed and covered over with concrete. What will happen to the wildlife when their habitat is destroyed? There is little or no wildlife habitat to displace on Spilmans Island. 3-66 12-57

98 Lakeshore Drive El Lago, Texas 77586-6136 (281) 326-1951

Water Detention: Outfalls and water retention ponds should also be in place early on. With detention ponds at the base of the berm, the efficacy of the detention plan will be reduced over time by erosion of dredged fill into the ponds. Of more importance, no hydraulic or hydrological data was presented to verify the capacity of Pine Gully to accept run off from not only the 1,081 acres of proposed Port operations, but also the entire Pine Gully watershed at full development. How will Pine Gully and homeowners be affected by filling wetlands and taking on drainage from a 1,081 acre industrial project? This impact and the current capacity and health of the Pine Gully watershed must be studied. 33-18

Channel Dredging: The Bayport Channel dredging and proposed cruise turning basin is not only an obstruction to navigation from current users, but also negatively impacts racing, cruising and fishing in the area, and disrupts nearby oyster beds. Bayport is the only site being considered with both a nationally-recognized yacht club and oyster beds nearby. 31-18

Storm Water Management: First Flush proposes to capture the first inch of rainfall into a holding pond to decrease the discharge of sediments and heavy metals into the Bay and Pine Gully. Only one inch?? Three to 4 inches of rain in an hour is not uncommon here. Tropical storms have dumped as much as 14 inches on us. First Flush needs to capture (and a filter system be in place) for at least 2 inches of rain. What data is cited to assure the South Terminal Retention Pond is adequately sized for a delayed release of stormwater to prevent increased flooding or disruption of the Pine Gully watershed and ecosystem? 35-18

Alternate Fuel for Vehicles and Equipment: No mention was made of the efficiency lost by using alternate fuels. More fuel will be required for the same diesel/gasoline powered output, negating much of the emissions "savings" cited. Also, no plan is in place to require cleaner fuels and pollution controls from ships, contractors and truckers calling on the port. Health impacts on nearby residents from air pollutants, including PM2.5, during construction and once operational must be thoroughly weighed. 22-165

Stormwater Pollution Prevention Plan: Testing of stormwater runoffs should be done dockside as well as at the outfalls, quarterly and after any consequential incident or weather related event. 9-37

Leaking Container Station: Will the designated 80-ft x 20-ft containment area only accommodate four leaking containers? This is not adequate for the volume of containers offloading 24 hours a day, 7 days a week. A plan to handle rain water intrusion and sump overload in ALL catch basins must be in place. 9-38

The Port needs and wants to expand container operations. I support the Port and recognize it has pressures to compete. Let the expansion be at Spilmans Island or Shoal Point away from residential communities. The Port wants more of a presence in the cruise business. Let that be in concert with an expanded cruise facility in Galveston. There is no public necessity to take by eminent domain land, needed and not yet owned, by the Port Authority to make this mega project "work" if the cruise terminal was decoupled from the plan and Spilmans Island was the preferred alternative. 2-184

Let the Bayport permitting process be guided by the new tone and direction outlined by Lt. General Robert Flowers on March 26, 2002 announcing the U.S. Army Corps of Engineers Environmental Operating Principles to guide the Corps in all of its works. He specifically mentioned: 1) Proactively consider environmental consequences of Corps programs and act accordingly in all appropriate circumstances. 2) Accept responsibility and accountability under the law for activities and decisions that impact human health and welfare and the continued viability of natural systems. 3) Assess and mitigate cumulative impacts to the environment. And, 4) Respect the views of individuals and groups interested in Corps activities, listen to them actively, and learn from their perspective in the search to find innovative win-win solutions to the problems that also protect and enhance the environment.

Jobs and economic development are achievable without the unacceptable, detrimental impacts on the environment unique to the Bayport site. El Lago remains opposed to Application 21520, revised or otherwise, and hopes the USACE, charged with stewardship of our air, water and land resources, will find the needs and welfare of our community more important than a showcase for the Port of Houston. 29-102

Respectfully,

K. Natalie Ong

K. Natalie Ong,
Council/ Mayor Pro Tem
City of El Lago

copy to: Col. Leonard Waterworth
TNRCC 401 Coordinator
Mayor and Council Members

** TX STATUS REPORT ** AS OF MAY 02 '02 10:23 PAGE.01

CITY OF EL LAGO

**** INCOMPLETE DESTINATIONS HIGHLIGHTED BELOW ****

DATE	TIME	TO/FROM	MODE	MIN/SEC	PGS	CMD#	STATUS
[illegible]							

City of El Lago

FAX TRANSMITTAL FORM

PLEASE DELIVER THE FOLLOWING PAGES

TO: Kerry M. Stanley,

BUSINESS: U.S. Army Corps of Engineers

REGARDING: Bayport Terminal Application 21520(rev.)

FAX NO: (1) 409-766-6301

TOTAL NO. OF PAGES (INCLUDING THIS PAGE): 4

FROM: Natalie Ong, City of El Lago

DATE: May 2, 2002 TIME: 9:50 a.m.

IF YOU DO NOT RECEIVE ALL PAGES OR HAVE ANY PROBLEMS WITH RECEIVING, PLEASE CALL AT (281) 326-1951.

Hard copy to follow....

Thanks, Natalie

98 Lakeshore Drive El Lago, Texas 77586-6136 (281) 326-1951

***** FACSIMILE COVER SHEET *****

MAY 03 '02 09:08

Message To:

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Message From:

CITY OF EL LAGO

04
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MAY 0 9 2002

City of El Lago

XL 11839

May 1, 2002

Texas Natural Resource Conservation Commission
401 Coordinator, MSC-150
P.O. Box 13087
Austin, TX 78711-3087

RE: U.S. Army Corps of Engineers Permit Application 21520 (revised), Port of Houston Authority Container and Cruise Terminal Facility at Bayport, Harris County.

Greetings:

The City of El Lago respectfully requests that a public hearing be scheduled for the above USACE application 21520 (revised) in accordance with Title 30, Texas Administrative Code Section 279.1-13 to determine if the project would comply with State water quality standards. No Water Quality Certification for the project should be issued until the TNRCC has given all interested persons an opportunity to speak about the harm this project will have on Texas waters. 23-208

The Port of Houston Authority's application was revised to acknowledge 7 times the jurisdictional wetlands identified in the Draft Environmental Impact Statement. The applicant proposes to fill all of the jurisdictional wetlands on site and offer mitigation in another watershed. The existing wetlands at Bayport are ancient and unique and should not be destroyed. Hundreds of acres of concrete will take its place. Pollution and damaging runoff into the Bayport Channel, open Bay waters and Pine Gully will result. 11-95

Of more importance, no hydraulic or hydrological data was presented to verify the capacity of Pine Gully to accept run off from not only the 1,081 acres of proposed Port operations, but also the entire Pine Gully watershed at full development. 33-18

The City of El Lago's letter (copy attached) to the Corps of Engineers reviewing this revised application addresses our water quality concerns to the applicant's proposed Channel Dredging, Storm Water Management, Storm Water Pollution Prevention and Leaking Container Station plans. Another concern is the intrusion of silt, non-native species and Bay water into Taylor Bayou from breeches and ships wakes washing over the protective gate on the North Shore of a greatly enlarged Bayport Channel. 10-6

98 Lakeshore Drive El Lago, Texas 77586-6136 (281) 326-1951

The impact on the water quality of Galveston Bay, the impact to the ecosystem of the Pine Gully watershed and potential harm to Taylor Bayou and Taylor Lake are reason enough to evaluate this site against its alternatives in a thorough Tier II certification process.

I am formally requesting that TNRCC hold a public hearing on the 401 certification for the Bayport project. I also strongly object to your notice being buried within a Corps document and mailed to a select few as totally inadequate as a "public notice." The comment period must be extended until mid-June, so that ALL residents are made aware of and can have more time to review and respond to this new Tier II requirement.

23-208
23-198

Respectfully,

K. Natalie Ong

K. Natalie Ong
Council Member/Mayor Pro Tem

copy: Rep. John Davis, District 129
Mr. Kerry Stanley, USACE

MAY 0 2 2002

City of Shoreacres

601 SHOREACRES BOULEVARD
SHOREACRES, TEXAS 77571
PHONE (281) 471-2244
FAX (281) 471-8955

XL 11810

A COMMUNITY OF BEAUTIFUL HOMES ON GALVESTON BAY
HOME OF THE HOUSTON YACHT CLUB

MAYOR
Nancy R. Edmonson

CITY SECRETARY
Shari Tait

May 1, 2002

Kerry M. Stanley
Regulatory Branch, CESWG-PE-RE
U.S. Army Corps of Engineers
P.O. Box 1229
Galveston, Texas 77553-1229

Dear Mr. Stanley:

This letter presents the City of Shoreacres' comments on the Port of Houston's Bayport Channel Container/Cruise Terminal revised permit application (Permit Application Number 21520-revised).

The City of Shoreacres requests the following actions from the Corps of Engineers:

- The revisions in the permit application do not change any of the concerns documented in the City of Shoreacres' comments on the Port of Houston's Bayport Channel/Cruise Terminal Draft Environmental Impact Statement (DEIS) conveyed with the letter to you dated March 12, 2002. The City of Shoreacres remains opposed to the project. By this letter, please incorporate the City's comments on the DEIS into these comments on the revised permit application. 29.91

- The revised permit application requests changes in the project that were not included in the DEIS, such as the north side sound wall and the additional outfall into Pine Gully. Therefore, the DEIS should be revised to be consistent with the revised permit application and reopened for public comment. 23-186

- The comment period for the revised permit application must be extended at least 60 days. The citizens of Shoreacres have not had adequate time to understand the changes to the permit application and, more importantly, have not had adequate time to understand the implications of those changes. 23-198

- In the revised permit application, the Port of Houston continues to misrepresent its ownership of the land needed for the facility. The Port does not own all of the land included in the facility design represented in the revised permit application, the owners of these properties do not intend to willingly sell, and the Port does not have the authority to condemn the properties. The Corps should require that the Port of Houston withdraw its permit application and not be allowed to refile until they have complied with all applicable rules and laws. 23-196 23-23

Specific comments on the revised permit application are as follows:

- The Corps of Engineers should not issue a permit for Bayport. The Environmental Protection Agency's 401(b)(1) guidelines require that the Corps deny the permit if there are practicable alternatives that require filling fewer acres of jurisdictional wetlands. The DEIS includes alternatives, including Shoal Point and Spilman's Island, that require filling fewer acres of wetlands. These alternatives are clearly practicable, or they would not have been included in the DEIS as final, feasible alternatives. 23-193

- The total number of acres of wetlands and the total number of jurisdictional wetlands were changed from the DEIS to the revised permit application. Since impact on wetlands is also an important issue in the DEIS, the DEIS should be reopened for comments to allow the public to amend its comments on the DEIS. 10-75

- The total number of acres of open bay water and the total number of jurisdictional open bay water were changed from the DEIS to the revised permit application. Again, since an understanding of these impacts should be provided in the DEIS, the DEIS should be reopened for comments. 22-159

- The proposed noise mitigation for the project was changed from the DEIS to the revised permit application. Noise impacts are a particular concern to adjacent communities and we must be afforded the opportunity to update our comments on the DEIS to reflect these changes. In particular: 3-64

  - We expect that the proposed noise wall on the north side of the channel will do nothing to mitigate noise impacts in Shoreacres. In fact, based on my professional knowledge of the effectiveness of noise walls along freeways, concrete noise walls can actually increase noise impacts in areas more than a few blocks from the walls as the noise profile is altered and concentrated. The City of Shoreacres would like to see the noise analysis in the DEIS revised for comment.

  - The addition of the noise wall changes the aesthetics analysis in the DEIS. The impacts on a concrete wall on aesthetics must be examined in an updated DEIS, on which the City would then have the opportunity to comment. 28-23

  - Some of Shoreacres and south La Porte drain into the Bayport Channel via Boggy Bayou and numerous outflows along the north bank. The impacts of a 25-13

concrete barrier on drainage and flooding in the area must be examined in an updated DEIS, on which the City would then have the opportunity to comment.

- The impacts of a 20 foot concrete wall on area wildlife must be examined in an updated DEIS, on which the City would then have the opportunity to comment. 12-49

In March, the City of Shoreacres asked the Corps of Engineers to correct and complete the DEIS impact analysis with a Supplemental Draft Environmental Impact Statement. Now, combining the flaws and omissions of the DEIS with the changes made in the revised permit application, the changes are clearly far too extensive to proceed to the Final EIS. The public deserves the right for the additional review and comment that would be afforded first by reopening tne comment period on the DEIS, followed by a Supplemental DEIS. 25-216

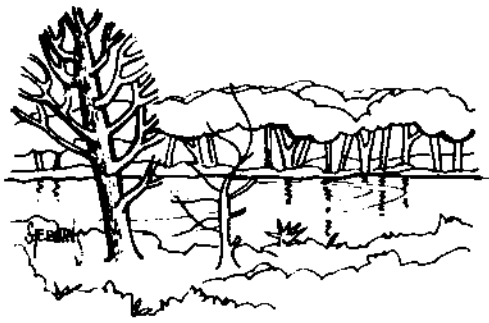
In summary, the City of Shoreacres remains opposed to the Bayport site for a new container terminal. The Bayport Alternative would create unavoidable and unacceptable negative impacts to our citizens and should be rejected. It is clear that other alternatives would pose fewer negative impacts to far fewer people. 29-99

Thank you for your consideration of the citizens of Shoreacres in this important matter.

Sincerely,

Nancy R. Edmonson

Nancy R. Edmonson
Mayor



TAYLOR LAKE VILLAGE

—a residential community on the lakes—

XL 11811
6

May 1, 2002

Kerry M. Stanley
Regulatory Branch, CESWG-PE-RE
U.S. Army Corps of Engineers
P.O. Box 1229
Galveston, Texas 77553-1229

Dear Mr. Stanley:

The City of Taylor Lake Village asks that you consider these comments on the Port of Houston's Bayport Channel Container/Cruise Terminal revised permit application (Permit Application Number 21520-revised).

- The revisions in the permit application do not change any of the concerns documented in the City of Taylor Lake Villages' comments on the Port of Houston's Bayport Channel/Cruise Terminal Draft Environmental Impact Statement (DEIS). The City of Taylor Lake Village remains opposed to the project. By this letter, please incorporate the City's comments on the DEIS into these comments on the revised permit application. 29-91

- The revised permit application requests changes in the project that were not included in the DEIS, such as the north side sound wall and the additional outfall into Pine Gully. Therefore, the DEIS should be revised to be consistent with the revised permit application and reopened for public comment. 23-186

- The comment period for the revised permit application must be extended at least 60 days. The citizens of Taylor Lake Village have not had adequate time to understand the changes to the permit application and, more importantly, have not had adequate time to understand the implications of those changes. 23-198

- In the revised permit application, the Port of Houston continues to misrepresent its ownership of the land needed for the facility. The Port does not own all of the land included in the facility design represented in the revised permit application, the owners of these properties do not intend to willingly sell, and the Port does not have the authority to condemn the properties. The Corps should not only require that the Port of Houston withdraw its permit application and not be allowed to refile until they have 23-186 23-23

complied with all applicable rules and laws but if they do not, the appropriate legal authority should prosecute to the fullest extent of that law..

Specific comments on the revised permit application are as follows:

- The Corps of Engineers should not issue a permit for Bayport. It is our understanding that the 401(b)(1) guidelines require that if there are lesser impacts to wetlands in a practicable alternative site that the original site must be avoided. Then, **only** if the original site could not be avoided, would minimization of impacts and finally mitigation be considered. The DEIS includes alternatives, including Shoal Point and Spilman's Island, that require filling fewer acres of wetlands. These alternatives are clearly practicable, or they would not have been included in the DEIS as final, feasible alternatives. The Environmental Protection Agency's 401(b)(1) guidelines require that the Corps deny the Bayport permit because there are practicable alternatives that require filling fewer acres of jurisdictional wetlands. 23-192

- The total number of acres of wetlands and the total number of jurisdictional wetlands were changed from the DEIS to the revised permit application. Since impact on wetlands is also an important issue in the DEIS, the DEIS should be reopened for comments to allow the public to amend its comments on the DEIS. The wetland mitigation proposed will not replace the Pimple Mound Wetlands that would be lost if the Bayport site was built as currently proposed. 14-75

- The total number of acres of open bay water and the total number of jurisdictional open bay water were changed from the DEIS to the revised permit application. Again, since an understanding of these impacts should be provided in the DEIS, the DEIS should be reopened for comments. 22-159

- The proposed noise mitigation for the project was changed from the DEIS to the revised permit application. Noise impacts are a particular concern to adjacent communities and we must be afforded the opportunity to update our comments on the DEIS to reflect these changes. In particular: 3-64

  - We expect that the proposed noise wall on the north side of the channel will do nothing to mitigate noise impacts in parts of Shoreacres, La Porte, Seabrook, El Lago and Taylor Lake Village. It has been shown concrete noise walls can actually increase noise impacts in areas more than a few blocks from the walls as the noise profile is altered and concentrated. The City of Taylor Lake Village would like to see the noise analysis in the DEIS revised for comment.

  - The addition of the noise wall changes the aesthetics analysis in the DEIS. The impacts on a concrete wall on aesthetics must be examined in an updated DEIS, on which the affected citizens would then have the opportunity to comment. 28-13

  - Much stormwater drains into the Bayport Channel via Boggy Bayou and numerous outflows along the north bank. The impacts of a concrete barrier on

drainage and flooding in the area must be examined in an updated DEIS, on which the affected citizens would then have the opportunity to comment. 25-13

- The impacts of a 20 foot concrete wall on area wildlife must be examined in an updated DEIS, on which the Agencies would then have the opportunity to comment. 12-49

In March, the City of Taylor Lake Village asked the Corps of Engineers to correct and complete the DEIS impact analysis with a Supplemental Draft Environmental Impact Statement. Now, combining the flaws and omissions of the DEIS with the changes made in the revised permit application the changes are clearly far too extensive to proceed to the Final EIS. The public deserves the right for the additional review and comment that would be afforded first by reopening the comment period on the DEIS, followed by a Supplemental DEIS. 23-216

The revised permit application does not correct any of the concerns or impacts to our community. The City of Taylor Lake Village remains opposed to the Bayport site for a new container terminal. The Bayport Alternative would create unavoidable and unacceptable negative impacts to thousands of citizens and should be rejected. It is clear that other alternative sites would pose fewer negative impacts to far fewer people. 29-99

Sincerely,

Natalie S. O'Neill
Mayor

REPRESENTATIVE
JOHN E. DAVIS

XS 11768

CAPITOL OFFICE
P.O. BOX 2910
AUSTIN, TEXAS 78768-2910
(512) 463-0734

DISTRICT 129 OFFICE
1350 NASA RD. 1, SUITE 212
HOUSTON, TEXAS 77058
(281) 333-1350
FAX: (281) 335-9101

TEXAS HOUSE OF REPRESENTATIVES

April 26, 2002

Kerry M. Stanley
Regulatory Branch, CESWG-PE-RB
U.S. Army Corps of Engineers
P.O. Box 1229
Galveston, Texas 77553-1229

Dear Mr. Stanley:

I am requesting an extension of the Comment Period regarding the USACE Public Notice dated April 4, 2002 regarding Permit Application 21520(Revised). There are significant changes within the revision to the application submitted by the Port of Houston Authority regarding the Proposed Bayport Container Facility. One of the numerous changes includes the project now viewed as a Tier II instead of Tier I which entail much more interaction at the State Level. Also, I did not receive the Public Notice in my office until April 10 as did other local concerned constituents, it seems that extending the deadline for comment would be the logical and responsible response.

23-179

I look forward to hearing from you and want to thank you in advance for the deadline extension.

Sincerely,

John E. Davis
State Representative
District 129

EMAIL: JOHN.DAVIS@HOUSE.STATE.TX.US

Robert J. Huston, *Chairman*
R. B. "Ralph" Marquez, *Commissioner*
Kathleen Hartnett White, *Commissioner*
Jeffrey A. Saitas, *Executive Director*

XS 11880

TEXAS NATURAL RESOURCE CONSERVATION COMMISSION

Protecting Texas by Reducing and Preventing Pollution

May 6, 2002

U.S. Army Corps of Engineers
Galveston District CESWG-PE-RE
P.O. Box 1229
Galveston, Texas 77553-1229

Attn: Mr. Kerry Stanley

Re: USACE Permit Application No. 21520

Dear Sir:

The applicant, Port of Houston Authority (PHA), proposes to develop a major marine terminal complex on approximately 1,081 acres, along the south side of the Bayport Ship Channel. The project is located along the Bayport Ship Channel, approximately thirty miles southeast of downtown Houston, in the City of Pasadena, between the cities of Shoreacres and Seabrook, in Harris County, Texas. This development would include facilities for docking, loading and unloading container and cruise ships, container storage areas, intermodal yard, warehousing facilities, and properties available for light industrial development.

In response to comments received during the Public Workshops and Hearing held in November and December 2001, the United States Army Corps of Engineers (Corps) has re-evaluated the proposed project site, and based on new information, determined that additional wetland areas exist. The total area of hydrologically connected wetlands that exists within the project site, and will be filled, is 18.3 acres. Approximately 310 acres of open water habitat will be impacted by the proposed project; twenty-three and a half acres would be impacted by the construction of the bulkhead/wharves for the cruise terminal with the remainder being channel modification and dredged material disposal impacts. In addition, approximately 114.5 acres of hydrologically isolated wetlands within the proposed project site will be filled. Impacts to hydrologically connected wetlands are greater than 3 acres therefore, the project must be reviewed by Texas Natural Resource Conversation Commission (TNRCC) under a Tier II 401 Water Quality Certification in accordance with the Memorandum of Agreement (MOA) between the Corps and TNRCC. Elevation of the project to a Tier II water quality review required the Public Notice dated April 4, 2002, to inform the public of the change in the area impacted and to allow for public comment on the 401 certification decision. The TNRCC requests that the project changes identified in the Public Notice dated April 4, 2002, be addressed in the Environmental Impact Statement. 23-19 23-21

The applicant has revised their original application to relocate a proposed berm to a site between the City of El Jardin and the proposed cruise terminal to provide additional buffering for noise, light and aesthetic impacts.

The applicant has also revised the application to include information on the vegetation proposed to be planted on the entire berm along the southern edge of the project site. A 75-foot wide area between the southern berm and Pine Gully is also proposed as a buffer area.

In addition, the applicant has revised the application to include the construction/maintenance of three outfall structures into Pine Gully on the southern edge of the project site. Outfall one already exists and will require the placement of additional riprap to prevent erosion of the gully. Outfall two already exists and will not require any additional erosion protection. Outfall three would be a new outfall and would require riprap to prevent erosion within the gully.

The application has also been revised to include construction of a 20-foot pre-cast concrete wall along the northern edge of the Bayport Channel between the channel and the North Shore Communities to buffer the potential noise impacts of the project. Loblolly pine trees would be planted along the north side of the wall as a noise buffer and aesthetic amenity.

Finally, the applicant has revised the proposed project to include impact noise reduction systems on wharf crane spreader bars to reduce the potential noise impacts during loading, offloading, and maneuvering of the containers.

Insufficient information is contained in the public notice to complete a water quality certification determination. The following issues must be addressed before a certification can be completed. Responses to this letter may raise other questions that will need to be addressed before a water quality certification determination can be made. 9-40

The TNRCC understands that the proposed mitigation plan for the revised impacts is currently under development by the PHA. Each type of impact should be linked to the specific mitigation measures intended to compensate for the impact with the success criteria established for all mitigation. It is recommended that impacts be compensated with in-kind replacement. There are 12.04 acres of existing wetlands at the proposed 164 acre mitigation site with 6.14 acres hydrologically connected. In the DEIS, the applicant proposes to create an additional 12.38 acres of hydrologically connected wetlands to compensate for impacts to hydrologically connected wetlands. This proposed ratio of 0.68:1 for the 18.3 acres of hydrologically connected wetlands will not insure "no net loss" of wetland function for those wetlands. The 114.5 acres of hydrologically isolated wetlands at the project site are waters in the state. Wetlands provide important water quality functions that protect and maintain the quality of water in the state such as storm water storage and retention, moderation of extreme water level fluctuations, shoreline protection against erosion through the dissipation of wave energy and water velocity, anchoring of sediments, habitat for aquatic life, and removal, transformation, and retention of nutrients and toxic substances. Consistent with Title 30, Texas Administrative Code (TAC), Chapter 279, lost water quality functions must be mitigated. Additional mitigation such as acquisition of offsite wetlands for conservation easements, restoration of degraded wetlands in the general study area, creation of offsite wetlands for conservation easements, and creation of wetlands within detention basins and other flood detention as regional water quality enhancement should be explored to provide replacement of wetland functions lost from the construction of this project. Please provide specific details of mitigation for all potential impacts to waters in the state. 23-24 14-100 14-101

As a consequence of the revised delineation and the increase of the acreage of impacts to waters of the state for the Bayport alternative, the comparison of the potential impacts of the other proposed alternatives is difficult to analyze. The Texas Parks and Wildlife Department (TPWD) comment letter on the DEIS dated March 8, 2002, questioned the validity of the no action alternative. The PHA is currently revising the footprint of the proposed project at the Bayport alternative, with a possible reduction in impacts. The TNRCC requests that the PHA verify the area and type of impacts for all the proposed alternatives, including the Bayport alternative for comparison between alternatives.

The DEIS indicates oyster beds may be impacted as a consequence of dredging. No mitigation has been provided to compensate for these impacts to Critical Areas. Avoidance of oyster beds is recommended as mentioned in the DEIS as potential mitigation. If impacts to oyster beds are unavoidable a mitigation plan to replace that loss is needed to prevent degradation of a water quality use designated in the Texas Surface Water Quality Standards.

The TNRCC has received figures depicting the location and types of all potentially impacted hydrologically and non-hydrologically connected freshwater wetlands, ponds, and drainages. However, potentially impacted intertidal flats, estuarine marsh, and oyster reefs were not included in those figures. Please provide a revised or separate figure depicting impacts to these aquatic resources.

Please identify the sources of the dredged material to be used for the proposed creation of 200 acres of estuarine marsh at the Mid Bay Marsh site in Galveston Bay, and specifics of the success criteria and monitoring requirements for this marsh creation. Also identify how the dredged material will be chemically evaluated for placement in the beneficial use sites. In the DEIS (Table 3.18-18), elutriate analyses of the dredged material from the Bayport site indicated all constituents of concern were below water quality standards with the exception of copper. The proposed placement areas are located in Upper Galveston Bay (segment 2421), which is designated as oyster waters in the Texas Surface Water Quality Standards. The acute toxic criterion for copper in saltwater is 3.6 mg/L and applies to designated oyster waters outside the mixing zone of a permitted discharge. Therefore, the proposed project must employ hydraulic dredging techniques with direct disposal of spoil material in an approved upland containment area. In the DEIS, the applicant proposes to use some of the same dredged material beneficially in marsh creation. Table 3.18-1 did not show bulk sediment analyses for copper. Bioassay tests for dredged material intended for beneficial use may be required. The source of dredge material for beneficial use may have to be limited to specific sample locations to prevent toxic impacts on aquatic life.

Please provide details of the installation of shoreline stabilization structures. Please specify if all anticipated impacts are identified and describe the mitigation for those impacts.

The DEIS has identified all the segments at the alternative sites as being on the 2000 303d List of Critically Impaired Waterbodies. Bayport Ship Channel (segment 2438) and Upper Galveston Bay (segment 2421) have been listed at the applicant's preferred alternative site of Bayport. Upper Galveston Bay has been listed as medium priority for a Total Maximum Daily Load (TMDL) for non-support of its designated oyster use for pathogens and a " no consumption" advisory for dioxin in the tissues of blue crab and catfish. The Bayport

11839

Ship Channel has been listed as a medium priority for a TMDL for a "no consumption" advisory due to dioxin found in the tissues of blue crab and catfish. Please provide details explaining the potential for the proposed project increasing the loading of any of these pollutants. 9-41

In order to ensure the long term conservation of the proposed mitigation site, please demonstrate a commitment that the property will be placed into a conservation easement with a responsible designee. 20-168

The effluent from the confined disposal of dredged material shall not exceed 300 mg/L Total Suspended Solids.

The TNRCC looks forward to receiving and evaluating other agency or public comments. Please provide any agency comments, public comments, as well as the applicant's comments, to Ms. Lili Lytle, Water Quality Division MC-150, P.O. Box 13087, Austin, Texas 78711-3087. Ms. Lytle may also be contacted by phone at (512) 239-4596, or email *llytle@tnrcc.state.tx.us.*

Sincerely,

Mark Fisher, Manager
Texas Natural Resource Conservation Commission

MF/LLL/emh

cc: Mr. Ted G. Walters, Port of Houston Authority, P.O. Box 2562, Galveston, Texas 77252-2562

REPRESENTATIVE
JOHN E. DAVIS

MAY 0 1 2002

XS 11831

CAPITOL OFFICE
P.O. BOX 2910
AUSTIN, TEXAS 78768-2910
(512) 463-0734

DISTRICT 129 OFFICE
1350 NASA RD. 1, SUITE 212
HOUSTON, TEXAS 77058
(281) 333-1350
FAX: (281) 335-9101

TEXAS HOUSE OF REPRESENTATIVES

April 30, 2002

Kerry M. Stanley
Regulatory Branch, CESWG-PE-RB
U.S. Army Corps of Engineers
P.O. Box 1229
Galveston, Texas 77553-1229

Dear Mr. Stanley:

I am writing to request a Public Hearing regarding the significant changes to the Port of Houston Authorities' Permit Application 21520 (Revised). Due to the significant nature of the proposed changes in the Revised Permit Application as noted in the USACE Public Notice dated April 4, 2002, I request the opportunity for the public to comment in writing and also at a Public Hearing. Some of the concerning changes include: the DEIS delineates 103.5 acres of non-jurisdictional wetlands while the Revised Public Notice delineates 114.5 acres, the DEIS delineates 2.5 acres of jurisdictional wetlands while the Revised Public Notice delineates 18.5 acres, and the changes in the open bay water and open bay bottom does not address the affect to water habitat which is a vital industry for this region. 23-209

Overall, my constituents have many concerns regarding this Proposed Project as noted in the DEIS Hearing Testimony and hundreds of letters to my District Office. I continue to be opposed to the location of the Bayport Container Facility, and consider the opportunity for the public to be heard in regards to this matter only reasonable. Due to the significant changes to this Permit Application, I also request a full revised copy of the Permit to be sent to my District Office. There are many concerns which have the potential to impact our community for years to come, many in a negative way. 23-001 29-98 23-210

It is with all due respect that I request a Public Hearing regarding the Revised Public Notice for Permit Application: 21520. I also request, as stated in a previous correspondence to your office, for an extension period on the comments regarding the Public Notice dated April 4, 2002. I am hopeful that you will see fit to extend the period to at least 60 days for proper response to be obtained. Any time short of that would not allow constituents to fully research and consider their correspondence with your office. 23-198
I look forward to hearing from you. If you have any questions please contact my District Office.

Sincerely,

John E. Davis
State Representative, District 129

EMAIL: JOHN.DAVIS@HOUSE.STATE.TX.US

XS 11832

TEXAS PARKS & WILDLIFE

May 2, 2002

COMMISSIONERS

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EXECUTIVE DIRECTOR

Mr. Kerry Stanley
Regulatory Branch
U.S. Army Corps of Engineers
P.O. Box 1229
Galveston, Texas 77553-1229

Mr. Mark Fisher, 401 Coordinator
Mail Code 150
TNRCC
P.O. Box 13087
Austin, Texas 73711-3087

Re: Permit Application Number 21520 (Revised)
Port of Houston Authority

Permit application number 21520 (Revised), dated April 4, 2002, requests authorization to develop a marine terminal complex on approximately 1,081 acres, along the south side of the Bayport Ship Channel. The development would include facilities for docking, loading and unloading container and cruise ships, container storage areas, an intermodal yard, warehousing facilities and properties available for light-industrial development. The Corps has re-evaluated the proposed project site, based on new information, and has determined that additional jurisdictional wetlands exist. The total jurisdictional area that exists within the project site is 18.3 acres of wetlands and 310 acres of open water. Twenty-three and a half acres of open water habitat is proposed to be filled by the construction of bulkhead/wharves for the proposed cruise terminal. All 18.3 acres of jurisdictional wetlands are proposed to be filled. Additionally, 114.5 acres of non- jurisdictional wetlands exist on the project site and are proposed to be filled.

The applicant has revised the application to include information on the vegetation proposed to be planted on the entire berm along the southern edge of the project site. A 75-foot wide area between the southern berm and Pine Gully is also proposed as a buffer area.

The development of the proposed terminal complex would result in the loss of approximately 948 acres of upland habitat and 132.8 acres of wetland habitat. The uplands consist of *Sapium* shrub with small areas of deciduous forest co-mingled with *Sapium* shrub, pasture/grassland habitat, and 25 acres of existing industrial land. Upland plant communities/wetland communities currently present on the Bayport terminal location alternative function as a unit and provide habitat for a variety of animal species listed in Tables 3.20-3, 3.20-4, 3.20-5 of the Draft Environmental Impact Statement (DEIS). These lists are not inclusive or comprehensive.

Give Thanks for the Memories...

Lone Star Legacy.

Give to the Lone Star Legacy Endowment Fund

4200 SMITH SCHOOL ROAD
AUSTIN, TEXAS 78744-3291
512-389-4800
www.tpwd.state.tx.us

To manage and conserve the natural and cultural resources of Texas for the use and enjoyment of present and future generations

11832

Construction and operation of the terminal complex would result in the displacement of the majority of individual animal species currently found there. Existing habitat for existing species and habitat for recruitment of new species would be lost and incidental taking of non-mobile species would be expected. The disruption of wildlife movement patterns would be expected both on the Bayport terminal location alternative itself and adjacent properties as a result of barriers created by transportation corridors. Noise and light associated with the terminal complex would be expected to affect wildlife behavior, as would the general increase in human activity. While the terminal complex would not be expected to extirpate or imperil any upland animal species or reduce species diversity within the upland animal community within the region, cumulative effects would include a general reduction in local population sizes of some upland animal species currently existing in the area. 12-59 12-64

Approximately 460 acres of open bay bottom would be included within the Bayport terminal location footprint, 150 acres of open bay bottom would be dredged and 23.5 acres of intertidal-flats would be filled. There is a discrepancy between the DEIS and the revised public notice in the acreage that would be included within the Bayport terminal location footprint. The above numbers are from the DEIS but the public notice states the proposed project contains 310 acres of jurisdictional open water and that 23.5 acres would be "impacted" by the construction of bulkhead/wharves for the cruise terminal. The Project Description of the public notice does not discuss the 150 acres of bay bottom previously proposed to be dredged. The discrepancy or change of the acreage of open bay included as part of the project, 460 acres to 310 acres, and the omission of the dredging portion of the project from the public notice gives the impression that this portion of the project has been removed from the project plans. A clear statement regarding the dredging of 150 acres of bay bottom is needed. 22-166 11-36

The Bayport Channel is considered high quality habitat for aquatic life. Fish, shellfish, estuarine reptiles and birds that currently use the open bay waters and open bay bottoms in the channel and areas adjacent to the Bayport terminal location alternative would be displaced during project construction. Increased turbidity during the construction period could temporarily affect foraging capability of some species. Additionally, even if adjacent oyster reefs are not removed by dredging activities, increased turbidity could still smother them. Deepening and maintenance dredging of the existing channel would impact the benthic community occupying the open bay bottom and increased suspended solids would lower phytoplankton productivity in the vicinity during these activities. Fish would be displaced and estuarine reptiles in the area would be expected to avoid the area during dredging activities. Additional effects resulting from operation of the terminal complex include decreased water quality due to stormwater runoff and high-suspended solids resulting from ship maneuvering. This could result in an overall decline in abundance and diversity of estuarine animals in the vicinity of the terminal complex. While the terminal complex 12-60 12-61

11832

would not be expected to extirpate or imperil any aquatic animal species or reduce species diversity within the aquatic animal community in Galveston Bay, cumulative effects may include a general reduction in local population sizes of some aquatic animal species currently existing in the area. 18-31

No federal or state-listed plant species are known to occur on the Bayport terminal location alternative. Two plants categorized as Texas species of concern are known to occur near the Bayport terminal location alternative but not within the footprint of the project. Federal and state-listed Kemp's Ridley and loggerhead sea turtles are known to feed in numerous areas within Galveston Bay but neither species has been recorded near the Bayport terminal location alternative. Two reptiles listed as Texas species of concern, Texas diamondback terrapin and the Gulf saltmarsh snake, could potentially be found in the waters surrounding the Bayport terminal location alternative. However, the salt marsh habitat that is typically occupied by these two reptiles does not occur directly on the Bayport terminal location alternative. Several protected bird species listed by the applicant in Table 3.20-1 of the DEIS occur as "transient" visitors to the Bayport terminal location alternative. None of these species are known to nest on the terminal location alternative, so reduction in habitat required for breeding is not expected. Reduction in foraging habitat would occur as a result of the terminal complex development.

The location of the proposed Bayport terminal site provides important habitat for and is used as a "fall out area" by Neotropical migratory birds. Dr Sidney Gauthreaux's radar studies of Neotropical migrant songbirds have identified the area between Matagorda Bay and east of Sabine Lake into Louisiana as one of the most important migration corridors in North America. Measures should be taken to ensure that migratory bird species and their habitat within and near the project area are not adversely impacted by the proposed project. The Migratory Bird Treaty Act (MBTA) implicitly prohibits intentional and unintentional take of migratory birds, including their nests and eggs, except where permitted. The U.S. Fish and Wildlife Service should be consulted if project activities could potentially result in the take of any migratory bird species. 12-62

TPW is concerned about the potential introduction of nonindigenous species through ballast water. What specific actions does the applicant (Port of Houston Authority) plan to implement in order to avoid/ minimize the introduction of nonindigenous species through ballast water? 12-63

Proposed Mitigation for Impacts to Fish and Wildlife Habitat

Buffer Zone and 20 Foot Berm

Within the buffer zone (ranging from 120 to 600 feet), a 20-foot tall earthen berm would be constructed. The applicant is proposing to plant the berm with a mixture of herbaceous and woody vegetation to increase vegetation on the berm.

The berm would be vegetated with an aesthetic tree line planting, which would be continuous at the top of the slope. The tree line species would be composed of native deciduous and evergreen species that are typically found within the Galveston Bay Area. Approximately nine different species would be located to create a natural appearance and view from nearby residential areas. Sheet 17 of 28 in the revised public notice has a plant palette listing 11 tree species, 12 shrub species, and 8 herbaceous species to be planted on the berm but the written description of in the Bayport Terminal Mitigation Features states that only approximately 9 different species would be planted. Additionally, sheet 17 of 28 states that the drawing is conceptual in nature and subject to change, and not for permit or construction purposes.

A constructed "vegetated berm" might reduce noise, light, and aesthetic impacts to nearby residential areas but the berm would do little to compensate for impacts to the wildlife community currently utilizing the area. However, if the proposal is to be implemented, the applicant should present a detailed planting plan that would be enforceable as a condition of the permit. The plan should include specific information regarding species to be planted (including only native strains), number of individual species to be planted, planting densities, time line, success criteria, and remedial actions if the success criteria are not met. 12-63

Of the 31 species listed on the plant palette only 20 are native species found within the Galveston Bay area. The non-native species and cultivars that should be removed from the list include: 22-167

Savannah Holly- cultivar
Bur Oak- not native to the Galveston Bay area coastal prairie, native to inland regions of Texas.
"Cedar Elm" – *Ulmus pumila* is actually Siberian Elm, introduced from Asia. Cedar elm is *Ulmus crassifolia*.
Dwarf Burford Holly – cultivar
Dahoon Holly – probably not native to Texas
Eleagnus – *Eleagnus pungens* also known as Russian Olive; native to Eurasia.
Foster's Holly – cultivar
Chastetree – Introduced, native to s. Europe and Asia.
Bamboo Muhly – cultivar
Maiden Grass – cultivar
Mexican Feather Grass – Native to west Texas.

Beneficial Use of Dredge Material

Excess dredge material would be used in the creation of estuarine marsh habitat. A minimum of 200 acres of marsh are proposed to be constructed. The public notice states that specifics are included in an enclosed offsite dredge material placement plan. TPW staff could not locate an offsite dredge material placement plan to review within this permit application. The specifics need to be a described in detail and included as conditions of this permit. 11-37

11832

Wetland Property Acquisition and Mitigation
The applicant states:

> "The verified wetland delineation of the project site by the Corps provides that there are 2.475 acres of jurisdictional wetlands on the site. To mitigate these and other biotic impacts, the POHA is acquiring a tract of land located at Highway 146 and Red Bluff, immediately adjacent to Armand Bayou Nature Center and Taylor Lake. Tributary drainage that crosses the track makes the area suitable for the creation of adjacent, brackish wetlands. The tract, and an additional 40 acres, is described in the enclosed report by Benchmark Consulting.
>
> Within this property, the applicant proposes to create 12.38 acres of jurisdictional wetlands, a ratio of 5:1 compensation for impacted, jurisdictional wetlands. In addition, a conservation easement will be imposed on the entire 164-acre tract. This will preserve a sizeable block of diverse habitat that is upstream of Armand Bayou Nature Center, and within its watershed. The applicant believes that this permanent protection of 163 acres offsets the impacts to aquatic resources located at the Bayport Terminal site. An evaluation of the Bayport site prior to the decision of the U.S. Supreme Court in *Solid Waste Authority of Northern Cook County* indicted that, using the 1987 wetland delineation manual, there were 104.557 acres of these aquatic resources. The 163 acres in compensation for these resources at a ratio of 1.5:1."

The stated purpose of this revised public notice is to provide additional information regarding the jurisdictional impacts of the proposed project and present project revisions that are proposed by the applicant. The applicant has not amended the Wetland Property Acquisition and Mitigation Plan to reflect the changes regarding proposed impacts to wetlands. All of the stated acreages referring to wetlands, both jurisdictional and non-jurisdictional, and associated mitigation ratios in the Wetland Property Acquisition and Mitigation Plan are incorrect. Additionally, the report by Benchmark Consulting describing the tract and an additional 40 acres is not included for review with this public notice as stated above. 14-99

When reviewing impacts to natural resources, particularly an upland/wetland complex, impacts cannot be evaluated separately. The entire complex has functions and values that are dependent on one another. This project is not impacting just 18.3 acres of jurisdictional wetlands, or 114.5 acres of isolated wetlands, or 23.5 acres of shallow open water, or 150 acres of open bay bottom, or 948 acres of *Sapium* shrub with inclusions of deciduous forest co-mingled with *Sapium* shrub and pasture/grassland habitat. This project is directly impacting 18-30

11802

1,561 acres of habitat with even more un-measurable secondary and indirect impacts. 18-30

Based upon the information presented in this revised public notice, Texas Parks and Wildlife recommends denial of this permit application. 29-105

Questions can be directed to Cherie O'Brien in Dickinson (281-534-0132), or to Tom Heger in Austin (512-389-4583).

Sincerely,

for Robert W. (Bob) Spain
Assistant Director, Resource Protection Division

RWS:COB:JRM:msf

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS, TX 75202-2733

YF 11982
JDM

SEP 06 2002

Colonel Leonard D. Waterworth
U.S. Army Corps of Engineers
Galveston District
Attn: Regulatory Branch, Kerry M. Stanley
P.O. Box 1229
Galveston, Texas 77553-1229

Dear Colonel Waterworth:

The Environmental Protection Agency (EPA) has reviewed the revised public notice for the Section 10/404 permit application number 21520, dated July 22, 2002. The applicant, Port of Houston Authority, has requested to develop a major marine terminal complex on approximately 1,081 acres along the south side of the Bayport Ship Channel. The project would require the placement of fill material into approximately 18.3 acres of jurisdictional wetlands and approximately 310 acres of open water habitat of which 23.5 acres would be impacted by the construction of the bulkhead/wharves for the cruise terminal. In addition, approximately 114.5 acres of wetlands exist within the proposed project site which the District has called "isolated" and not subject to jurisdiction. The project site is located along the south side of the Bayport Ship Channel, between the cities of Shoreacres and Seabrook in Harris County, Texas.

It appears that a significant amount of wetlands on the project site are being disregarded in both the permitting process and NEPA review. The EPA is concerned that the implementation of *Adjacent/isolated Criteria, Galveston District Policy Number 01-001*, dated 13 February 2001, by the Galveston District has and is causing the loss of jurisdictional wetlands by incorrectly determining depressional (pothole) wetlands outside the 100-year floodplain as "isolated". 14-112

It is the EPA's understanding that the District considers the movement of water from these wetlands as overland sheetflow and, therefore, considers that no hydrologic connection exists between the wetlands and the tributary system. The EPA disagrees with that assertion and believes that most, if not all, of these wetlands discharge with a predictable flow which occurs on a routine basis during normal (frequent) rainfall events and movement of water from the wetland to the tributary system through micro topographic features (micro swales) establishes a hyrdologic connection to waters of the U.S. These swales are subtle topographic patterns that can be easily discerned during runoff events. These drainage ways typically connect multiple potholes together prior to delivering runoff into a defined channel or ditch which then conveys the water through the tributary system. 14-116

Clearly these "pothole" wetlands have a hydrologic connection, as water can and does move from them into the bay system. These wetlands not only provide significant habitat for wintering waterfowl and other wildlife, but also provide a high level of water quality enhancement and floodwater storage. 14-113

At present, the EPA disagrees with the COE's jurisdictional determination for this project and requests that the COE reconsider its jurisdictional determination and include those areas previously determined to be isolated.

In regard to the current mitigation proposal by the applicant, the EPA believes that it fails to adequately compensate for all unavoidable impacts to the aquatic resources within the project area. The prairie depressional wetlands found on the project site are quite different than the proposed artificially impounded large wetlands proposed by the applicant. The smaller size and dispersed pattern of the potholes provide a unique biodiversity which local wildlife are adapted to. Additionally, the applicant has failed to provide sufficient acreage to compensate for all the wetlands on the project site. Therefore, in accordance with Section 404(q) of the Clean Water Act and as specified in Part IV.3(a) of the *1992 404(q) Memorandum of Agreement (MOA) Between the Environmental Protection Agency and the Department of the Army*, after reviewing the findings of my staff, I have concluded that the activities described in the above-referenced JPN may result in substantial and unacceptable impacts to aquatic resources of national importance. 14-114 14-117.

We recommend that the permit not be issued as proposed. Thank you for the opportunity to comment on this public notice. If you have any questions regarding these comments, please contact Elizabeth Reyes of my staff at (214) 665-3163 or Richard Prather at (214) 665-8333.

Sincerely yours,

for

Jane B. Watson
Chief
Ecosystems Protection Branch.

cc: U.S. Fish and Wildlife Service, Houston, TX
Texas Parks and Wildlife Department, Houston, TX
Texas Parks and Wildlife Department, Austin, TX
Texas Department of Environmental Quality, Austin, TX
National Marine Fisheries Service, Galveston, TX.
Texas General Land Office, Austin, TX.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS, TX 75202-2733

YF 11983
JDM

OCT 3 1 2002

Colonel Leonard D. Waterworth
U.S. Army Corps of Engineers
Galveston District
P.O. Box 1229
Galveston, Texas 77553-1229

Dear Colonel Waterworth:

The Environmental Protection Agency (EPA) has reviewed the revised public notice for the Section 10/404 permit application number 21520, dated July 22, 2002. The applicant, Port of Houston Authority, has requested to develop a major marine terminal complex on approximately 1,081 acres along the south side of the Bayport Ship Channel. The project would require the placement of fill material into approximately 18.3 acres of jurisdictional wetlands and approximately 310 acres of open water habitat of which 23.5 acres would be impacted by the construction of the bulkhead/wharves for the cruise terminal. In addition, approximately 114.5 acres of wetlands exist within the proposed project site which the District has called "isolated" and not subject to jurisdiction. The project site is located along the south side of the Bayport Ship Channel, between the cities of Shoreacres and Seabrook in Harris County, Texas.

Our previous September 6, 2002, letter included specific concerns and recommendations (see enclosed letter). Positive discussions between our two agencies have begun on the issue of isolated waters and we look forward to continuing that dialogue. However, regardless of the jurisdictional nature of the wetlands to be impacted by this project, we believe that full mitigation for all impacts must occur. Additionally, we believe that the applicant has failed to demonstrate ways to minimize impacts to wetlands. Therefore, in accordance with Section 404(q) of the Clean Water Act and as specified in Part IV.3(b) of the Memorandum of Agreement between the EPA and the Department of the Army, the EPA is concerned that the proposed project impacts will result in substantial and unacceptable impacts to aquatic resources of national importance. Therefore, we recommend that the permit not be issued until an agreement is reached on avoidance/minimization and mitigation for all wetlands impacts.

14 - 110

14 - 111

Over the last few years, both the Corps and the EPA have made a concerted effort to resolve our differences over environmental matters such as this. As a result, I would offer to discuss this matter personally with you if it would help in resolution of this controversy.

Thank you for the opportunity to comment on this public notice. If you have any questions regarding these comments, please call me at (214) 665-2100 or have your staff contact Elizabeth Reyes of my staff at (214) 665-3163.

Sincerely yours,

Gregg A. Cooke
Regional Administrator

Enclosure

cc: U.S. Fish and Wildlife Service, Houston, TX
Texas Parks and Wildlife Department, Houston, TX
Texas Parks and Wildlife Department, Austin, TX
Texas Commission on Environmental Quality, Austin, TX
National Marine Fisheries Service, Galveston, TX
Texas General Land Office, Austin, TX

Congress of the United States

House of Representatives

Washington, DC 20515–4309

NICK LAMPSON
9TH DISTRICT TEXAS

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

COMMITTEE ON SCIENCE

CONGRESSIONAL MISSING AND EXPLOITED CHILDREN'S CAUCUS

September 9, 2002

YF 11384
JDM

Captain Kevin Cook
Captain of the Port of Houston/Galveston
United State Coast Guard
9640 Clinton Drive
Galena Park, TX 77029

Dear Captain Cook:

I write today with regards to a particular national security issue that pertains to the safety of constituents in Southeast Texas. I respectfully request the assistance of the Coast Guard in determining the potential security impacts that the proposed Bayport Container Cargo terminal facility would present. 21-72

The Army Corps of Engineers is conducting an analysis of the proposed Bayport Container Cargo terminal facility to be located in southeast Texas. The proposed facility has understandably become an issue of great interest to public officials, community leaders and the general public. This proposed facility would have many implications for the local economy, the environment and the quality of life of local residents which constitute Corp's review through the Environmental Impact Statement process.

However, the Army Corps of Engineers has not conducted, nor is planning to conduct, a thorough review of the security concerns. It is my understanding that no other federal or state agency is planning such a review. Operations at Bayport will mean a very large number of closed containers from foreign ports transported through and near many local residential areas. This has been noted as a key security issue in the post September 11th world. 21-73

According to local representatives of the Army Corps of Engineers and other federal agencies such as the Coast Guard, security issues for the proposed port are relevant and important. However, my understanding is that none of these agencies have taken the responsibility for conducting such a review of security impacts. In effect, no federal agency has emerged as the responsible part for reviewing such risks, despite the increased need since September 11th. While the newly formed Homeland Security agency could conceivable handle such a review, it is unclear whether that agency now has or even will eventually have such responsibility.

The Coast Guard, of course, has official lead on performing and coordinating all port security at the federal level. I therefore request that the Coast Guard determine the appropriate existing agency or set of agencies that should perform such a review and ensure its timely completion. 21-74

WASHINGTON OFFICE: 417 CANNON HOUSE OFFICE BUILDING, WASHINGTON, DC 20515–4309 (202) 225–6565
HOME OFFICES:
300 WILLOW, SUITE 322, BEAUMONT, TX 77701 (409) 838–0061
601 ROSENBERG, SUITE 216, GALVESTON, TX 77550 (409) 762–5877
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I appreciate your prompt assistance in this matter and look forward to your response. If you have any questions please feel free to contact my office.

Sincerely,

YF 11934
JDL

NICK LAMPSON
Member of Congress

NVL/de

YF 12015
JDM

United States Department of the Interior
FISH AND WILDLIFE SERVICE
Division of Ecological Services
17629 El Camino Real, Suite #211
Houston, Texas 77058-3051
281/286-8282 / (FAX) 281/488-5882

August 22, 2002

Colonel Leonard D. Waterworth
Galveston District, Corps of Engineers
Attn: Regulatory Branch, Kerry M. Stanley
P.O. Box 1229
Galveston, Texas 77553

Dear Colonel Waterworth:

Reference is made to the Public Notice for **Department of the Army Permit 21520 (second revision)** dated July 22, 2002. The applicant, Port of Houston Authority, proposes to develop a major marine terminal complex on approximately 1,043 acres, along the south side of the Bayport Ship Channel. This development would include facilities for docking, loading and unloading container and cruise ships, container storage areas, an intermodal yard, warehousing facilities, and properties available for light-industrial development. A total of 18.3 acres of adjacent wetlands and 114.5 acres of isolated wetlands within coastal prairie habitat would be filled by the proposed project.

The revised project plans reduce the number of proposed cruise berths from five to three and reduce the amount of area proposed to be dredged by 23.0 acres, the amount of open water proposed to be filled by 21.3 acres, the amount of dredged material proposed to be placed off-site by 1,045,965 cubic yards. The current revision does not change impacts to prairie wetland habitat.

In addition, the applicant has revised the proposed wetland mitigation plan to include the creation of 66.8 acres of emergent wetlands, enhancement of 12.0 acres of existing wetlands, preservation of 23.7 acres of forested/scrub habitat, and restoration of 71.0 acres of coastal prairie habitat. This mitigation would be performed within a 173.5-acre tract of land located 2.4 miles southwest of the proposed project site and approximately 0.25 mile southeast of the intersection of Red Bluff Road and Bay Area Boulevard. The entire mitigation site would ultimately be placed under a conservation easement.

The revised Department of the Interior Manual Instructions (503 DM 1), dated August 3, 1973, assign responsibility for Department of the Interior coordination and review of Department of the Army permit applications to the U.S. Fish and Wildlife Service. Our comments are provided in accordance with these instructions and with the Fish and Wildlife Coordination Act (48 Stat. 401, as amended; 16 U.S.C. 661, et seq.).

The revised public notice does not address any comments previously submitted by the Service in a letter dated April 25, 2002. Our concerns remain the same and are summarized below:

We recommended avoidance of the forested areas, in particularly a large tract of forested wetlands, approximately 41acres, located along the south side of Pine Gully. This tract should be clearly demonstrated as avoided and placed in a conservation easement with a certified land trust.] 14-115

YF 12015

Attn: Regulatory Branch, Kerry M. Stanley
Permit 21520 (revised)
August 22, 2002

The storm water discharge into Pine Gully may alter existing wetlands and associated habitat. Specifically, the volume and periods of discharge could cause salinity changes and severe erosion along Pine Gully. A detailed analysis of the effects of storm water discharge into Pine Gully should be provided to the Service for review and contained in the EIS. 25-72

The project will contribute to cumulative loss of native coastal prairie-pothole wetlands in the area. Significant increases in development within the surrounding area are removing prairie wetlands at an alarming rate. An analysis of cumulative losses to native coastal prairie-pothole wetlands in Harris and surrounding counties should be provided to the Service for review and contained in the EIS. 14-118

We continue to recommend denial of this permit because of the significant cumulative loss of native coastal prairie habitat. The project would fill approximately 900 acres of coastal habitat of which about 500 acres is native coastal prairie containing 114.5 acres of prairie wetlands.

Based on our habitat assessment, adequate compensation would be the conservation of other native coastal prairie wetland complexes. The proposed mitigation, will not compensate for the loss of one of the last large native undeveloped tracts of prairie left in Harris County. In addition, created wetlands have substantially less value and do not function as well as natural wetlands. Previous mitigation efforts by creating prairie wetlands have failed to reproduce the hydrology, vegetation, and hydric soil conditions found in natural prairie wetlands. Additional mitigation proposed, such as tree and shrub planting in various areas and beneficial use of dredged material, are small segmented parcels that will take years to reach productivity and do not replace the functions and values of the habitat being impacted by this project. The applicant should scale down these efforts and concentrate on large contiguous tracts of land which provide a great number of functions and values for fish, wildlife, and the public. The Service is requesting an additional 500 acres of a native coastal prairie wetland complex be acquired and placed in a conservation easement with a certified land trust. 14-119 14-120

Thank you for the opportunity to comment on this application. If you need any additional information, please contact me or Moni DeVora at 281/286-8282.

Sincerely,

Frederick T. Werner
Assistant Project Leader, Clear Lake ES Field Office

cc:
Environmental Protection Agency, Marine & Wetlands Section 6WQ-EM, Dallas, TX
Texas General Land Office, La Porte, TX
Coastal Permitting Assistance Office, Pat Alba, NRC, Corpus Christi, TX
National Marine Fisheries Service, Habitat Conservation Division, Galveston, TX
National Park Service, Southwest Region, Santa Fe, NM
Texas Natural Resource Conservation Commission, Watershed Management Div., Austin, TX
Texas Parks and Wildlife Department, Austin, TX
Texas Parks and Wildlife Department, Resource Protection Branch, Dickinson, TX

Congress of the United States
House of Representatives
Washington, DC 20515–4309

YF 12019
JDM

NICK LAMPSON
9TH DISTRICT, TEXAS

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

COMMITTEE ON SCIENCE

CONGRESSIONAL MISSING AND EXPLOITED CHILDREN'S CAUCUS

July 23, 2002

Colonel Leonard D. Waterworth
U. S. Army Corps of Engineers
Galveston District
P.O. Box 1229
Galveston, TX 77553-1229

Dear Colonel Waterworth:

I am writing to urge that the Army Corps of Engineers complete additional analysis of the Port of Houston's proposed Bayport container cargo terminal facility.

The proposed facility has understandably become an issue of great interest to public officials, community leaders and the general public. The issue has many implications for the local economy, the environment and the quality of life of local residents. That is why conducting a thorough analysis of the many impacts of the facility is so important.

Unfortunately, the Draft Environmental Impact Statement (DEIS) prepared by the Army Corps of Engineers has not adequately addressed many legitimate concerns and issues. Many of these concerns and issues have been raised by the public at official meetings, by local elected officials and municipalities and by government agencies. Some of the key environmental issues that require more analysis are the impact of the proposed facility on local transportation and the resulting problems for local residents and businesses; air quality, especially with small air borne particulates; and wetlands. 23-222

In addition, I am concerned that the DEIS does not represent an adequate and balanced review of other potential sites. 23-223

Lastly, neither the Army Corps of Engineers, nor any other federal agency, has conducted a thorough review of the security concerns. Operations at Bayport will mean a very large number of closed containers from foreign ports transported through and near many local residential areas. This has been noted as a key security issue in the post September 11th world. 21-69

I therefore urge that the Army Corps of Engineers perform a supplemental Environmental Impact Statement. This would help clarify these and other outstanding issues. 23-224

I look forward to hearing from you regarding this request in the next two weeks. If you have any questions, please feel free to contact Dan Easley on my staff (202)225-6565.

Sincerely,

NICK LAMPSON
Member of Congress

WASHINGTON OFFICE: 417 CANNON HOUSE OFFICE BUILDING, WASHINGTON, DC 20515-4309 (202) 225-6565

HOME OFFICES:
300 WILLOW, SUITE 322, BEAUMONT, TX 77701 (409) 838-0061
601 ROSENBERG, SUITE 216, GALVESTON, TX 77550 (409) 762-5877
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YF 12034
JDM

U.S. REPRESENTATIVE
TOM DELAY

10701 CORPORATE DRIVE, SUITE 118
STAFFORD, TEXAS 77477
281/240-3700 *phone* 281/240-2959 *fax*

FAX TRANSMISSION

TO: Kerry Stanley DATE: 9/5/02

OFFICE: USACE Regulatory Branch

FAX NUMBER: 409-766-6301

- ☐ TOM DELAY
- ☐ NORMA DELGADO
- ☐ ERIC SCANLAN
- ☐ ANN TRAVIS
- ☑ TRISTIN DURHAM
- ☐ BEN JONES

COMMENT Comments for USACE Permit App. No. 21520 - revised

NUMBER OF PAGES: 20 (INCLUDING THE COVER SHEET)

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TOM DeLAY
22D DISTRICT, TEXAS
MAJORITY WHIP
COMMITTEE ON APPROPRIATIONS
SUBCOMMITTEES:
TRANSPORTATION
VA/HUD/INDEPENDENT AGENCIES

YF 12034
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(202) 225-5951

10701 CORPORATE DRIVE, SUITE 118
STAFFORD, TX 77477
(281) 240-3700
(800) 755-5748

One Hundred and Seventh

Congress of the United States

House of Representatives

Washington, DC 20515–4322

September 5, 2002

Mr. Kerry M. Stanley
Regulatory Branch, CESWG-PE-RB
U.S. Army Corps of Engineers
P.O. Box 1229
Galveston, Texas 77553-1229

Dear Mr. Stanley:

Enclosed is a copy of a letter I received from my constituent, Mayor Nancy R. Edmonson, regarding the City of Shoreacres' concerns with the Proposed Bayport Container Facility, USACE Permit Application No. 21520.

I would appreciate your taking the City's comments and providing the information which will help me respond to Mayor Edmonson further. I know that these concerns will be carefully and objectively reviewed and I am grateful for any assistance you will be able to render.

Please direct all correspondence to my District Office. The address is: 10701 Corporate Drive, Suite 118, Stafford, Texas 77477. The phone number is 281/240-3700 and the fax number is 281/240-2959.

Sincerely,

Tom DeLay

Tom DeLay
Member of Congress

TD:td
Enclosure

09-05-02 12:26pm FROM-CONG TOM DELAY 281 240 2959 I-437 P.002/020 F-281
9- 5-02: 12:27 ; 2812402959:# 2

YF 12034
JDM

City of Shoreacres

601 SHOREACRES BOULEVARD
SHOREACRES, TEXAS 77571
PHONE (281) 471-2244
FAX (281) 471-8955

A COMMUNITY OF BEAUTIFUL HOMES ON GALVESTON BAY
HOME OF THE HOUSTON YACHT CLUB

MAYOR
Nancy R. Edmonson

CITY SECRETARY
Shari Tait

August 30, 2002

The Honorable Tom DeLay
10701 Corporate Drive, Suite 118
Stafford, Texas 77477-4013

Dear Representative DeLay:

Attached for your information is a copy of the comments that the City of Shoreacres is submitting to the Corps of Engineers in response to the second revised Bayport permit application. We would very much appreciate it if you would also submit comments to the Corps of Engineers on this revised permit application. In addition to our continued concerns about the proposed project, we are also concerned with the permit and Environmental Impact Statement process as conducted by the Corps of Engineers.

Thanks again for your continued interest and support. Please let me know if I can provide you with any additional information.

Sincerely,

Nancy R. Edmonson

YF 12048
JDM

NOAA Fisheries
National Marine Fisheries Service

DOC
NOAA

Habitat Conservation Division
Galveston Facility (F/SER42)
4700 Avenue U, Galveston, TX 77551-5997
(409) 766-3699
Fax No. (409) 766-3575
Rusty.Swafford@noaa.gov
William.Jackson@noaa.gov
Heather.Young@noaa.gov
Ofilia.Perez@noaa.gov

Community Based Restoration Program
Brena.Jones@noaa.gov

Date: 9-11-02 Time: 1015

No. Of Pages Including Cover: 3

To: Kerry Stanley

From: Ofilia

Message: Comments on 21520 (Revised) are attached.

Notify us immediately at: (409) 766-3699
in case of any problems with transmission.

UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE

Southeast Regional Office
9721 Executive Center Drive N.
St. Petersburg, Florida 33702

VF12048
JDM

September 11, 2002

Colonel Leonard D. Waterworth
District Engineer, Galveston District
Department of the Army, Corps of Engineers
P.O. Box 1229
Galveston, Texas 77553-1229

Dear Colonel Waterworth:

The National Marine Fisheries Service (NOAA Fisheries) has reviewed Permit Application 21520 (Revised) dated July 22, 2002, for the Port of Houston Authority's Proposed Bayport Channel Container/Cruise Terminal Project. The proposed project is located on a primarily upland area adjacent to the Bayport Ship Channel in the City of Pasadena with access to Galveston Bay. The purpose of this public notice is to provide additional information regarding the jurisdictional impacts of the proposed project and present some project revisions that are proposed by the applicant. NOAA Fisheries previously provided comments on the Draft Environmental Impact Statement on March 13, 2002 and Essential Fish Habitat (EFH) Conservation Recommendations by letter of May 8, 2002.

The proposed revisions now include the reduction in fill for construction of the bulkhead/wharves for the cruise terminal from 23.5 acres of open water area to 3.1 acres. Excess dredged material from the proposed dredging will now be used to create the containment levees for a 200 acre beneficial use of dredged material site at Atkinson Island. The proposed beneficial uses site will be utilized to create a combination of estuarine emergent marsh, high marsh and uplands. This revision provides a significant reduction in impacts to EFH and could provide an overall net benefit to Federally managed species, if the proposed 200 acre beneficial use of dredged material site is properly designed, constructed, monitored and maintained. 12-68

We remind the Corps of Engineers that consistent with Section 305(b)(4)(B) of the MSFCMA and NOAA Fisheries' implementing regulation at 50 CFR 600.920(k), your office is required to provide a written response to our EFH recommendations. Your response must include a description of measures to be required to avoid, mitigate, or offset the adverse impacts of the proposed activity. If your response is inconsistent with our EFH Conservation Recommendations, you must provide a substantive discussion justifying the reasons for not implementing those recommendations. The detailed response should be provided in a manner to ensure that it is received by the NOAA Fisheries at least 10 days prior to final approval of the action. 12-69

VF 12043
JDM

Thank you for your consideration of our recommendations. If we may be of further assistance, please contact Mr. Rusty Swafford of our Galveston Facility at (409) 766-3699.

Sincerely,

FOR: William Ward

Andreas Mager, Jr.
Assistant Regional Administrator
Habitat Conservation Division

YL 12024

City of Clear Lake Shores

Mayor:
Ted K. Guthrie, Jr.

City Secretary:
Theresa Parani

931 Cedar Road
Clear Lake Shores, Texas 77565

Phone: (281) 334-2799
Fax: (281) 334-2866
E-mail: tparani@nol.net

City Council:
Brown, Lowell
Chernecke, Brian
Garst, Jean
McIntyre, Katherine
Moncur, Jim

August 14, 2002

Mr. Kerry Stanley, Project Manager
Regulatory Branch, CESWG-PE-RE
U.S. Army Corps of Engineer
P.O. Box 1229
Galveston, Texas 77553-1229

Reference: Bayport Expansion

Dear Mr. Stanley,

This letter is a response to the request by the Corps of Engineers for comments on the Bayport expansion.

The City of Clear Lake Shores is opposed to the proposed expansion of the Bayport terminal in Shoreacres and Seabrook. This expansion would negatively affect the neighboring cities in many ways. Two of the most significant would be the increased truck traffic on SH146 and I10; and the effects of dredging on the channel to create a deep-water port that would allow container ships to use the port. 27-111 11-45

In addition, the Port's amended permit application should trigger a supplemental DEIS (SDEIS) and the SDEIS should reevaluate air quality, noise, land use, wetlands, transportation, 50ft. Bayport channel impacts, and cumulative impacts with the concurrent proposed San Jacinto Rail project, in light of the revised application. 23-248

There are other ports better suited for cruise and cargo. Galveston has a growing cruise ship business; and Texas City already has a deep-water port. 2-204

The City of Clear Lake Shores appreciates the opportunity to present our City's view to the Corps.

Sincerely,

Ted K. Guthrie, Jr., Mayor

City of Shoreacres

601 SHOREACRES BOULEVARD
SHOREACRES, TEXAS 77571
PHONE (281) 471-2244
FAX (281) 471-8955

A COMMUNITY OF BEAUTIFUL HOMES ON GALVESTON BAY
HOME OF THE HOUSTON YACHT CLUB

MAYOR
Nancy R. Edmonson

CITY SECRETARY
Shari Tait

YL 12035

August 30, 2002

Kerry M. Stanley
Regulatory Branch, CESWG-PE-RE
U.S. Army Corps of Engineers
P.O. Box 1229
Galveston, Texas 77553-1229

Dear Mr. Stanley:

This letter presents the City of Shoreacres' comments on the Port of Houston's Bayport Channel Container/Cruise Terminal second revised permit application (Permit Application Number 21520-revised).

The City of Shoreacres requests the following actions from the Corps of Engineers:

- The revisions in the permit application do not change any of the concerns documented in the City of Shoreacres' comments on the Port of Houston's Bayport Channel/Cruise Terminal Draft Environmental Impact Statement (DEIS) conveyed with the letter to you dated March 12, 2002. The City of Shoreacres remains opposed to the project. *By this letter, please incorporate the City's comments on the DEIS into these comments on the revised permit application.* 29-120

- The Corps of Engineers states that there have been changes in the proposed project, including a reduction in the number of cruise ship berths from five to three, a reduction in the amount of areas proposed to be dredged by 23 acres, a reduction in open water fill to 21.3 acres, and a reduction in the amount of dredged material to be placed off-site by 1,045,965 cubic yards. However, these changes cannot be identified in the attached drawings. It is impossible to knowledgably comment on these changes if they are not properly identified. Similarly, the number of acres of jurisdictional wetlands and acres of dredged open water habitat that would be affected are inconsistently defined in the DEIS, revised Public Notice #1, and revised Public Notice #2. The differences are not explained. *The second revision to Permit Application #21520 should be corrected and reissued for comment.* 22-181 14-152

- Permit Application #21520 has now been revised twice since the issuance of the DEIS and the close of the public comment period on the DEIS. The revised permit application requests changes in the project that were not included in the DEIS, such as the reduced number of cruise ship berths and revised wetlands mitigation plan. In March, the City of Shoreacres asked the Corps of Engineers to correct and complete the DEIS impact analysis with a Supplemental Draft Environmental Impact Statement. Now, combining the flaws and omissions of the DEIS with the changes made in the two revised permit applications, the changes are clearly far too extensive to proceed to the Final EIS. *The public deserves the right for the additional review and comment on the project as it is now defined by reopening the comment period on the DEIS, followed by a Supplemental DEIS. In addition, the Corps should hold a public meeting to explain the changes in the project.* 23-299

- The elimination of two of the five cruise berths invalidates the alternatives analysis conducted in the DEIS. A number of potential sites were eliminated in the DEIS because they could not accommodate five cruise berths. Now that there are only three cruise berths, the alternatives analysis in the DEIS is incorrect. In fact, since there is no functional relationship between the cruise and container terminals, the alternatives analysis should have never required a site large enough to accommodate both the cruise terminal and the container terminal together. *The alternatives analysis in the DEIS should be redone in a supplemental DEIS.* 2-205

- There is no mitigation proposed for 114.5 important, non-jurisdictional wetlands. Because these are unmitigated impacts, they should be considered as negative impacts of the proposed action. This project contributes to the cumulative loss of prairie pothole wetlands along the coast. *A supplemental DEIS should be developed to discuss the role of this project regarding cumulative loss of wetlands.* 14-153

- As those of us living nearby know, the Bayport site includes high quality wetlands and natural habitat. By contrast, the Spillman's Island and Shoal Point sites involve the development of spoil disposal areas that are not legally classified as wetlands. *The evaluation of alternatives in the DEIS should be amended in a supplemental DEIS to clearly note that the wetland impacts associated with the Bayport project are much greater than previously identified and that these wetlands are viable, natural wetlands.* 14-154

- There is no mitigation proposed for the loss of neo-tropical bird habitat that will be lost if the site is developed. That is an impact that is considered within the scope of EPA's 404(b)(1) guidelines and should be considered in the analysis of alternatives. There is no indication that this factor has been considered in any form or fashion. *This topic should be covered in a supplemental DEIS.* 12-71

- There is no mitigation proposed for the impacts of the estuarine open waters of Galveston Bay. Depending upon whether one believes Revised Public Notice #1 or #2, there are either 310 acres of open water impacted or 127.3 acres of open water. Additionally, the cruise terminal development will impact upwards of 23 acres of tidal flats. It appears that 11-46

there are significant ecological values that are not being mitigated, an unacceptable impact to Galveston Bay. *The Corps of Engineers should deny the Port of Houston's permit.* 11-46

Clearly, many of the issues listed above should be addressed a Supplemental Draft EIS. The proposed Bayport container project has been substantially altered since it was proposed and discussed in the Draft EIS. The acreage of jurisdictional wetlands has been increased, the total acreage of wetlands has been disclosed, the noise mitigation has been changed, tne number of cruise terminal berths has been changed, and the land plan associated with the cruise terminal has been changed, to name the more notable changes. In addition, the DEIS was already deficient in a number of areas, including small particulate pollution, Ship Channel deepening, property values, public safety (e.g., terrorism), transportation, and many other areas. Most importantly, the analysis of alternatives is now obsolete. 22-183

A supplemental DEIS needs to be issued, identifying honestly the relative impacts of the various alternatives. In this revised alternatives analysis, the issue of the necessity of an adjacent cruise terminal should be directly and honestly addressed. There is no rationale why the cruise terminal should not be built at a separate location from the container facility. It is purely arbitrary and should not be a basis for eliminating alternatives as was done in the DEIS. 2-206

In summary, the City of Shoreacres remains opposed to the Bayport site for a new container terminal. The Bayport Alternative would create unavoidable and unacceptable negative impacts to our citizens and should be rejected. It is clear that other alternatives would pose fewer negative impacts to far fewer people. The 404(b)(1) guidelines found at 40 CFR 230 et seq, require that the least damaging practicable alternative be selected by the Corps of Engineers. Clearly, Bayport is not that alternative. 22-184

Thank you for your consideration of the citizens of Shoreacres in this important matter.

Sincerely,

Nancy R. Edmonson

Nancy R. Edmonson
Mayor

YL 12040

City of El Lago

September 4, 2002

Mr. Kerry M. Stanley
Regulatory Branch, CESWG-PE-RE
U.S. Army Corps of Engineers
P.O. Box 1229
Galveston, TX 77553-1229

RE: Port of Houston Authority permit application 21520 (revision #2)

Dear Mr. Stanley:

I find myself responding AGAIN on behalf of the citizen's of El Lago to the Port of Houston Authority's permit application 21520 (rev #2) for a container and cruise terminal facility in Bayport. Our concerns addressed in response to the original DEIS and revised application #1 have not changed and should be considered along with these additional comments. There is nothing in this second revision that convinces me that a PHA facility in Bayport would not be detrimental to the general welfare of our community.

In addition I strongly object to the process where the applicant is allowed to revise, eliminate features and promulgate questionable mitigation measures without the public being given time to question, digest and verify these modifications and their impacts on a plan, now substantially changed. Where is the fairness and unbiased process the Corps promised?

I leave technical comments about wetlands, mitigation and dredge to the Galveston Bay Conservation and Preservation Association whose experts speak on behalf of our City on environmental and traffic matters on the proposed Bayport project.

The revised application raises several questions. Is this a 1043 acre project, or 1133 acres per Sheet 2 of 54? Is the Bayport Channel being widened 225' or 300'? Details are not clearly evident, especially from some of the attachments. What is GCA effluent discharge (waste) shown on Sheet 18 of 54? Will widening of the Bayport Channel and additional ship traffic disturb and release potential toxic sediment from that source? or from other Bayport companies? The Bayport Channel has been identified as one of Harris County's most polluted waterways. Dredged material from the Channel must be tested before being used as fill.

98 Lakeshore Drive El Lago, Texas 77586-6136 (281) 326-1951

I object to using aerial views and attachments that do not show American Acryl, Atofina and Nova chemical companies and their pipelines and drainage. If wetlands created as mitigation by American Acryl and half of their detention pond are "taken" by eminent domain by the PHA in order to create rail access, the EIS must allow for increased impact on Pine Gully and the need for additional remediation. Safety, traffic, environmental impact and economic disruption for these and other companies currently using the Bayport Channel and the Pine Gully watershed must be considered. The issue of terrorism and increased cost of security for the proposed Port's neighbors have not being addressed. 14-162 21-80

The reduction in cruise berths substantially alters the analysis of alternatives in the original DEIS and exposes the PHA's faulty economic assumptions. The arbitrary reduction in cruise berths changes the footprint needed for this project and makes alternative sites with less environmental impact on residential communities more attractive, especially Spilmans Island. The alternative analysis in the DEIS is no longer valid and should be redone in a supplemental DEIS. 2-211

Will the sound wall proposed along the North Shore of the Bayport Channel create an echo of noise directed southward toward El Lago? Will the wall impede the operation of the Taylor Bayou floodgate? or create erosion behind the wall impacting Taylor Bayou? I need answers. 3-71 25-75 15-40

And, wetlands created by earthen levees conjure visions of a rice field. Creating a coastal prairie reserve and excavating land, wet when there is rain, is admirable but clearly not similar to the natural wetlands which will be destroyed at Bayport. 14-16

Now that the U.S. Surface Transportation Board has given the San Jacinto Railroad a conditional permit to proceed with their plans for a Bayport rail line, subject to an environmental analysis, a combined environmental impact study should be required to address the cumulative impacts to the Clear Lake region of this proposed rail line and a Bayport Container and Cruise Terminal. No permit should be issued until the cumulative effect of these two projects is evaluated in a supplement DEIS. 23-25

I fear you are being rushed into issuing a permit in light of the time and expense incurred by your PHA "partner." I contend recent developments -- changes in the number of cruise berths, the noise wall, the San Jacinto Railroad, the likelihood of a Texas City Shoal Point container terminal, probable TCEQ (nee TNRCC) constraints arising from their State Implementation Plan, the incomplete traffic analysis and two revisions to the application have made the DEIS obsolete and clearly lacking in scope. Our citizens ought to have an opportunity to speak to these new developments in a supplemental DEIS which would include issues, raised in public hearings and in written comments, not yet addressed. 23-25

Under Section 404(b)(1) guidelines, the U.S. Army Corps of Engineers must select the least damaging practicable alternative. If (quoting from your Public Notice) "the decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the proposed activity on the public interest;" and "all factors, which may be relevant to the proposal, will be considered: among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs and, in general, ***the needs and welfare of the people***," then this permit application must be denied and the Port Authority encouraged to put their expansion in a more appropriate site.

23-260

29-12

Respectfully,

K. Natalie Ong
Mayor Pro Tem

copies to:

Environmental Protection Agency
Mr. Robert D. Lawrence, Chief Officer of Planning and Coordination
1445 Ross Avenue
Dallas TX 75202

U.S. Army Corps of Engineers, Headquarter
Mr. Kirk Stark, Acting Regulatory Head
FAX 1-202-761-4150

The Honorable Tom Delay
10701 Corporate Drive, Suite 118
Stafford TX 77477-4013

The Honorable Nick Lampson
FAX 281-333-4355

U.S. Army Corps of Engineers
Colonel Leonard Waterworth
District Engineer and Commanding Officer
P.O. Box 1229
Galveston TX 77553-1229

YL 12042
Cal

City of La Porte

Established 1892

August 30, 2002

VIA Fax - (409)766-3931
Certified Mail
7000 1670 0002 2103 3985

Mr. Kerry M. Stanley
Regulatory Branch, CESWG-PE-RE
U.S. Army Corps of Engineers
P.O. Box 1229
Galveston, TX 77553-1229

RE: Response to Public Notice dated July 22, 2002
For Revised Permit Application No. 21520

Dear Mr. Stanley:

On behalf of the City of La Porte, please accept, record and file this letter as the City's comments regarding the revision of Permit Application #21520 described in the Public Notice issued on July 22, 2002.

Because of changes introduced by Revision #1 and now #2, we believe there should be consideration for a supplemental DEIS because the proposed Bayport Container Project has been substantially altered since it was presented and discussed in the DEIS. Even in the absence of a supplemental DEIS, the public comment period on the DEIS should be reopened and/or at least a public meeting should be conducted to explain these changes in the proposed project. We feel strongly that these actions should be considered because the proposed revisions clearly effect the DEIS evaluation of alternative sites which is the heart of the DEIS. 23-251

The more notable changes that affect the "analysis of alternatives" are:

- The acreage of jurisdictional wetlands has been decreased.
- The total acreage of wetlands has been disclosed.
- The number of cruise terminal berths and number of cruise ships has been reduced.
- The land use associated with the cruise terminal has been changed
- The noise mitigation has changed by introducing a 20-foot tall concrete wall along the north line of the Bayport Channel adjacent to a residential neighborhood (separated only by a pipeline corridor).

Aside from and in addition to our belief that a supplemental DEIS is warranted, **the City is opposed to the proposed revisions because we are firmly opposed to the Bayport site** as evidenced by our January 10, 2002 response to the DEIS. Further manipulation of the Bayport site does not change our view of the analysis of alternative sites contained in the DEIS. In general, our review found that the proposed Bayport site ranked either favorably or equal to other sites in the non-environmental categories of availability, operational effectiveness and site constraints. However, within the environmental category, the Bayport site displayed many negative impacts that were more significant than alternate sites. We sincerely hope that convenience, ease of construction and infrastructure costs for Port of Houston Authority does not prevail over real environmental impacts to adjacent and nearby homes and communities. 29-121 2-207

The proposed 20-foot wall is objected to for a number of reasons:

- **First,** there is no study or evidence to either evaluate or support its potential effectiveness for noise mitigation. 3-69
- **Second,** the wall certainly will interrupt the prevailing southeast breezes that have been enjoyed by adjacent neighborhoods for years and are a trademark of our community. 7-161
- **Third,** the presence of a 20-foot wall, approximately 50 feet from the nearby homes may certainly be objectionable from the standpoint of visual pollution. When coupled with the loss of bay breezes this proposed mitigation would in fact further compound the negative effects of the proposed Bayport project. While the Community Advisory Group referenced potential mitigation strategies for the North Shore, including possible construction of a noise barrier (wall), they did so based on the premise that additional detailed analysis, beyond that provided by the DEIS, be provided. 28-14

We appreciate the opportunity to respond to this revision. We hope that you concur that a supplemental DEIS should be developed, or at least, further public meetings to better describe these revisions be conducted. 23-252
Additionally, a detailed analysis of the noise barrier for all facets of environmental issues should be undertaken. 3-69

In closing, aside from our comments regarding this revision, the City remains opposed to the Bayport site, or any combination including Bayport, because we believe the DEIS reinforces our concerns that this site would have substantial long term negative impacts for our community. We encourage the Port of Houston to consider the severe damaging impacts of the Bayport location and seriously consider alternate sites. Likewise, we ask the Army Corps of Engineers to deny the permit for this location. 29-122

Sincerely,

Mayor Norman L. Malone

Peter Griffiths, Councilman At-Large A

Barry Beasley, Councilman At-Large B

Mike Mosteit, Councilman District 1

Chuck Engelken, Jr. Councilman District 2

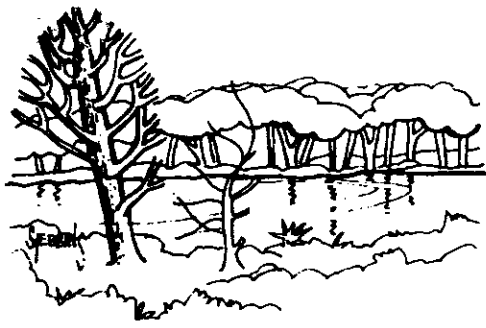
Howard Ebow, Councilman District 3

James Warren, Councilman District 4

Charlie Young, Councilman District 5

Bruce Meismer, Councilman District 6

c: John Joerns, Acting City Manager
Knox W. Askins, City Attorney



TAYLOR LAKE VILLAGE

—a residential community on the lakes—

YL 12043

September 4, 2002

Kerry M. Stanley
Regulatory Branch, CESWG-PE-RE
U.S. Army Corps of Engineers
P.O. Box 1229
Galveston, Texas 77553-1229

Dear Mr. Stanley:

The City of Taylor Lake Village asks that you consider these comments on the Port of Houston's Bayport Container/Cruise Terminal revised permit application (Permit Application Number 21520-**revision #2).**

- The latest revisions in the permit application do not change any of the concerns documented in the City of Taylor Lake Villages' comments on the Port of Houston's Bayport Container/Cruise Terminal Draft Environmental Impact Statement (DEIS). The City of Taylor Lake Village remains opposed to the project. **By this letter, please incorporate the City's comments on the DEIS into these comments on the revised permit application.**

- The latest revisions in the permit application substantially change the alternatives analysis, **the City asks that the public comment period on the DEIS be reopened to allow us to correct those portions of our studies to reflect the changes in the permit application.** 23-253

- The City questions the relationship between the Cruise Terminals and the Container Terminals. **The DEIS dismissed many of the alternative sites because they were too small to accommodate the proposed Bayport "footprint" of seven (7) container berths and five (5) cruise berths.** Now, with out explanation, two of the cruise berths have been dropped, clearly making the **alternatives analysis in the DEIS incorrect.** We believe that the Alternatives Analysis needs to be conducted without any associated cruise terminals because: 2-208

    - **There is no functional relationship between the cruise terminals and the container trade.** 2-209
    - There is no public funding plan to develop the cruise terminals proposed.

- There is no private cruise company contracted to fund the cruise terminals proposed.
- The cruise industries that have attempted to do business out of Barbours Cut have failed.
- The PHA does not own the property where the cruise terminals are proposed to be located.
- The PHA can not condemn property for an unfunded, potential future project and the owner is unwilling to sell.

2-209

- The City has been unable to discern where the 23 acre reduction in dredged material is coming from. Although the reduction in open water fill and the reduction in the amount of dredged material to be placed off site have been declared, Sheet 9 of 54 seems identical to Sheet 9 of 28 on the previously revised permit issued April of 2002. **Please revise the public notice to correct this error.**

11-47

- The revised wetlands mitigation proposal fails to address impacts to open waters of the bay and the designated "non-jurisdictional" wetlands. If the current revision to the permit application is correct then a mitigation plan must be designed to address those 127.3 plus 310 acres of estuarine habitat. The cruise terminal development will impact more than 23 acres of tidal flats. These flats have ecological value according to Dr. Costanza. In the journal *Nature* (Volume 387, May 15, 1997, pp.253-260), Dr. Costanza values marshes at $9000 per acre per year, estuaries at $11,000 per acre per year, and tidal flats at $9,000 per acre per year, in terms of value to our ecological system. Utilizing Dr. Costanza's values and Mr. Blackburn's calculations the 114.5 acres of unmitigated wetlands are worth over one million dollars per year, the 310 acres of open water are worth about three million dollars per year, and the 23 acres of tidal flats are worth over $200,000.00 per year. **This adds up to over $4.2 million per year in lost ecological productivity that The PHA failed to address in a mitigation plan.**

14-156

- Impacts to hydrologically connected wetlands are greater than three (3) acres and therefore must be reviewed by the Texas Natural Resource Conservation Commission (TNRCC) under a Tier II 401 Water Quality Certification in accordance with the Memorandum of Agreement (MOA) between the Corps and the TNRCC. **The City asks that the project changes be addressed in a Supplemental Draft Environmental Impact Statement to allow for public comment on the 401 certification decision.**

14-157

- **Under the 404(b)(1) guidelines, the least damaging practicable alternative must be selected by the U. S. Army Corps of Engineers.** The impacts to Bayport's natural prairie pothole wetlands, marshes, and flats are much greater than previously identified and these wetlands must be differentiated from those at the Spilmans Island and Shoal Point sites, which are dredge spoil disposal sites and therefore not legally classified as wetlands. **The current wetlands comparison in the DEIS is incorrect and must be corrected in a**

14-158

14-159

Supplemental DEIS. The land uses for each alternative site in figures 3.2-1 through 3.2-6 remain erroneous, the Spilmans Island site (figure 3.2-2) is shown as wetland and the Bayport study area (figure 3.2-1) shows no wetlands. As stated in the U. S. Fish and Wildlife letter dated April 23, 2002 "We **recommend denial of this** [Bayport] **permit** because of the significant cumulative loss to native coastal prairie pothole wetland complexes and because the mitigation offered will not adequately compensate for the loss of fish and wildlife habitat. Created wetlands have substantially less value and do not function as well as natural wetlands.....It is the opinion of the Department of the Interior that the proposed project may result in substantial and unacceptable impacts to aquatic resources of national importance...." These valuable wetlands do not exist on the dredge spoil alternative sites. **If the DEIS is corrected the permit must be denied under Section 404(b)(1).** 14-159

- **There is no mitigation proposed for the loss of neo-tropical bird habitat.** This should be considered in the analysis of alternative sites under 404(b)(1) guidelines. 12-72

- **The assumptions made in the No Action Alternative in the DEIS remains in conflict with NEPA requirements.** Texas Parks and Wildlife states in their letter dated March 8, 2002 "the No Action Alternative presented would constitute a major federal action that may significantly affect the quality of the environment resulting in the preparation of a separate Environmental Impact Statement (EIS)." They further state that "the No Action Alternative is intended by the Council on Environmental Quality (CEQ) Regulations to describe the status quo or baseline of the environmental impacts with out any project". Because the applicant has improperly represented the No Action Alternative, a major portion of the information in the DEIS is incorrect. **The City again asks that a Supplemental DEIS be done to address this conflict with our nation's laws.** 35-6

- The revised permit application proposes a sound wall that purports to address the noise concerns of local residents. Neither the validity of this measure, nor secondary impacts of this wall, such as blocking storm water run-off, blocking of bay breezes, blocking of wildlife access to the bay or aesthetics are addressed in the DEIS. The affected community needs to have the opportunity to comment on the value of this proposed mitigation measure. 3-70

Although the following issues are not part of the latest permit revisions, the City reiterates; the U. S. Army Corps of Engineers' DEIS continues to fail to address PM 2.5 as well as the cumulative air quality impacts (NOx and VOC's) of both the proposed Texas City Site and the proposed Bayport site on the State Implementation Plan (SIP). 7-162 The City continues to ask for a combined EIS on the cumulative impacts of the San Jacinto Rail and Bayport site. 18-35 The City remains dismayed that the **Army** Corps refuses to include the impact of Bayport Container traffic to the safety of our local residential communities. It is the City's understanding that the DEIS should include the possible impacts from terroristic threat and that ports remain at high risk due to the inability of the 21-79

Coast Guard to inspect more than 2% of the incoming container traffic. **The US Army Corps of Engineers has been given the responsibility under the Rivers and Harbors Act for civilian safety in navigable waterways.** 21-79

Although the Colonel Waterworth has determined that there is no need for a Supplemental DEIS and insists that all issues will be fully addressed in the Final Environmental Impact Statement, the City feels that this gives no opportunity for comment and review to the many inconsistencies, inadequacies, and biases currently found in the DEIS. **The primary factors controlling the evaluation of alternatives under NEPA and the EPA's 404(b)(1) guidelines have changed due to the alterations in permit revision #2. It is because of these revisions and the earlier inconsistencies, insufficiencies, and biases that a Supplemental DEIS must be reconsidered or the permit must be denied.** 23-255

Sincerely,

Natalie S. O'Neill, Mayor
City of Taylor Lake Village

Cc:

Environmental Protection Agency
Mr. Robert D. Lawrence, Chief Officer of Planning and Co-ordination
1445 Ross Ave.
Dallas, Texas 75202

U. S. Army Corps of Engineers, Headquarters
Mr. Kirk Stark, Acting Regulatory Head
Via FAX 1-202-761-4150

The Honorable Tom Delay
10701 Corporate Drive, Suite 118
Stafford, Texas 77477-4013

The Honorable Nick Lampson
Via FAX 281-333-4355

Colonel Leonard Waterworth
Regulatory Branch, CESWG-PE-RE
U.S. Army Corps of Engineers
P.O. Box 1229
Galveston, Texas 77553-1229

AUG 30 2002

Robert J. Huston, *Chairman*
R. B. "Ralph" Marquez, *Commissioner*
Kathleen Hartnett White, *Commissioner*
Jeffrey A. Saitas, *Executive Director*

YS 12010
JDM

TEXAS NATURAL RESOURCE CONSERVATION COMMISSION

Protecting Texas by Reducing and Preventing Pollution

August 22, 2002

U.S. Army Corps of Engineers
Galveston District CESWG-PE-RE
P.O. Box 1229
Galveston, Texas 77553-1229

Attn: Mr. Kerry Stanley

Re: USACE Permit Application No. 21520 (revised)

Dear Sir:

The applicant, Port of Houston Authority (PHA), requests authorization to develop a major marine terminal complex on approximately 1,043 acres, along the southside of the Bayport Ship Channel. This development would include facilities for docking, loading and unloading container and cruise ships, container storage areas, an intermodal yard, warehousing facilities, and properties available for light-industrial development. A total of 18.3 acres of wetlands which are jurisdictional waters of the U.S. (jurisdictional wetlands) exist within the project site. The project is located along the Bayport Ship Channel, approximately 30 miles southeast of downtown Houston, in the City of Pasadena, between the cities of Shoreacres and Seabrook, in Harris County, Texas and Bacliff, Texas.

The applicant has revised their project plans to reduce the number of proposed cruise berths from five to three. This revision results in a reduction in the amount of area proposed to be dredged by 23.0 acres, a reduction in the amount of open water proposed to be filled by 21.3 acres, and a reduciton in the amount of dredged material proposed to be placed off-site by 1,045,965 cubic yards. Under this revision, 18.3 acres of jurisdictional wetlands would be filled, 127.3 acres open water would be dredged, and 3.1 acres open water would be filled.

In addition, the applicant has revised the proposed wetland mitigation plan to include the creation of 66.8 acres of emergent wetlands, enhancement of 12.0 acres of existing wetlands, preservation of 23.7 acres of forested/shrub habitat, and restoration of 71.0 acres of coastal prairie habitat. The entire mitigation site would ultimately be placed under a conservation easement. This mitigation would be performed within a 173.5-acre tract of land located 2.4 miles southwest of the proposed project site and approximately 0.25 mile southeast of the intersection of Red Bluff Road and Bay Area Boulevard.

Insufficient information is contained in the public notice to complete a water quality certification determination. The following issues must be addressed before a certification can be completed. Responses to this letter may raise other questions that will need to be addressed before a water quality certification

9-42

determination can be made. Comments contained herein include issues raised previously in a comment letter to the Public Notice dated April 4, 2002, which have not yet been resolved.

In the Public Notice dated July 22, 2002, PHA has omitted impacts to the 114.5 acres of hydrologically isolated wetlands. Is this omission an additional reduction in impacts? Please clarify why impacts to 114.5 acres of hydrologically isolated wetlands included in the Public Notice dated April 4, 2002, were not included in the July 22, 2002, Public Notice. The 114.5 acres of hydrologically isolated wetlands at the project site are waters in the state as originally stated in the comment letter in response to the draft Environmental Impact Statement (DEIS) dated March 15, 2002. Wetlands provide important water quality functions that protect and maintain the quality of water in the state such as storm water storage and retention, moderation of extreme water level fluctuations, shoreline protection against erosion through the dissipation of wave energy and water velocity, anchoring of sediments, habitat for aquatic life, and removal, transformation, and retention of nutrients and toxic substances. Additional mitigation such as acquisition of offsite wetlands for conservation easements, restoration of degraded wetlands in the general study area, creation of offsite wetlands for conservation easements, and creation of wetlands within detention basins and other flood detention as regional water quality enhancement should be explored to provide replacement of wetland functions lost from the construction of this project. 14-131 14-132

On page 32/54 of the PHA Wetland Mitigation Plan dated June, 2002, under "Ecological Classification," "isolated" wetlands are discussed as "projected impacted resources resulting from the Bayport Project...[which] provide benefit to the coastal ecosystem." It further states that the proposed mitigation site will provide the same ecological services as those resources that will be impacted by the proposed project. On page 43/54, "Success Criteria and Performance Standards," the first sentence states how the objective of the mitigation is to replace the ecological services lost when "jurisdictional and non-jurisdictional wetlands" are removed as a consequence of the proposed Bayport Project. The next sentence, however, states how the mitigation wetlands must provide a reasonable level of ecological service to replace 18.3 acres of adjacent wetlands expected to be lost at the Bayport Project site. Not only are impacts to 114.5 acres of hydrologically isolated wetlands omitted from the public notice, but no mitigation is proposed for those impacts. Please explain this inconsistency and how the creation of 66.8 acres of emergent wetlands and enhancement of 12.0 acres of existing wetlands will reasonably replace impacts to the lost ecological services of a total of 132.8 acres of wetlands. Please provide specific details of mitigation for all potential impacts to waters in the state. 14-133

As a consequence of the revised delineation and revision of the acreage of impacts to waters of the state for the Bayport alternative, the comparison of the potential impacts of the other proposed alternatives is difficult to analyze. The TNRCC requests that the PHA verify the area and type of impacts for all the proposed alternatives, including the Bayport alternative, to facilitate an Alternatives Analyses that reflects the revisions in the proposed project. 14-134

The DEIS indicated that oyster beds may be impacted as a consequence of dredging. Please clarify if these impacts will occur. Has the reduction of impacts related to the decrease in cruise berths eliminated the potential impacts to oyster beds? Avoidance of oyster beds is recommended. If impacts, direct or indirect, to oyster beds are unavoidable, mitigation to compensate for these impacts to these Critical Areas is needed 12-66

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to prevent degradation of a water quality use designated in the Texas Surface Water Quality Standards. 12-66

The TNRCC has received figures depicting the location and types of all potentially impacted hydrologically and non-hydrologically connected freshwater wetlands, ponds, and drainages. However, potentially impacted intertidal flats, estuarine marsh, and oyster reefs were not included in those figures. Please provide a revised or separate figure depicting impacts to these aquatic resources.

In the DEIS (Table 3.18-18), elutriate analyses of the dredged material from the Bayport site indicated all constituents of concern were below water quality standards with the exception of copper. The proposed placement areas are located in Upper Galveston Bay (segment 2421), which is designated as oyster waters in the Texas Surface Water Quality Standards. The acute toxic criterion for copper in saltwater is 3.6 mg/L and applies to designated oyster waters outside the mixing zone of a permitted discharge. Therefore, the proposed project must employ hydraulic dredging techniques with direct disposal of spoil material in an approved upland containment area for dredged material where elutriates exceed water quality standards. The effluent from the confined disposal of dredged material shall not exceed 300 mg/L Total Suspended Solids. In the DEIS, the applicant proposes to use some of the same dredged material beneficially in marsh creation. Table 3.18-1 did not show bulk sediment analyses for copper. Bioassay tests for dredged material intended for beneficial use may be required. The source of dredge material for beneficial use may have to be limited to specific sample locations to prevent toxic impacts on aquatic life. 10-9

On page 46/54 of the Mitigation Project Design, subsection (b) under "Performance Standards," is the "flooded zone" the same as the "planted zone"? 14-137

Please provide a larger diagram as depicted on page 9/54 of the mitigation plan as it is difficult to read due to it's reduced size. 23-230

In order to ensure the long term conservation of the proposed mitigation site, please identify how the property will be placed into a conservation easement with a responsible designee. 14-138

The TNRCC looks forward to receiving and evaluating other agency or public comments. Please provide any agency comments, public comments, as well as the applicant's comments, to Ms. Lili Lytle of the Water Quality Division MC-150, P.O. Box 13087, Austin, Texas 78711-3087. Ms. Lili Lytle may also be contacted by phone at (512) 239-4596, or by e-mail at *llytle@tnrcc.state.tx.us*.

Sincerely,

Mark Fisher, Manager
Water Quality Assessment Section
Water Quality Division
Texas Natural Resource Conservation Commission

MF/LLL/emh

cc: Mr. Ted G. Walters, Port of Houston Authority, P.O. Box 2562, Galveston, Texas 77252-2562

YS 12016
JDM

TEXAS STATE SOIL AND WATER CONSERVATION BOARD

311 North 5th
P.O. Box 658
Temple, Texas 76503-0658
(254) 773-2250
Fax (254) 773-3311

August 22, 2002

Mr. Kerry M. Stanley
Regulatory Branch, CESWG-PE-RS
U.S. Army Corps of Engineers
PO Box 1229
Galveston TX 77553

Dear Mr. Stanley:

We have reviewed a copy of Public Notice, Permit Application No. 21520, Applicant – Port of Houston Authority. We offer no comments at this time.] 23-225

Sincerely,

Lee Munz
Planner

TEXAS PARKS & WILDLIFE

COMMISSIONERS

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EXECUTIVE DIRECTOR

Give Thanks for the Memories...

Lone Star Legacy.

Give to the Lone Star Legacy Endowment Fund

August 22, 2002

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Mr. Kerry Stanley
Regulatory Branch
U.S. Army Corps of Engineers
P.O. Box 1229
Galveston, Texas 77553-1229

Mr. Mark Fisher, 401 Coordinator
Mail Code 150
TNRCC
P.O. Box 13087
Austin, Texas 73711-3087

Re: Permit Application Number 21520 Revised
Port of Houston Authority

Permit application number 21520(Revised), dated April 4, 2002, requests authorization to develop a marine terminal complex on approximately 1,043 acres along the south side of the Bayport Ship Channel. The development would include facilities for docking, loading and unloading container and cruise ships, container storage areas, an intermodal yard, warehousing facilities and properties available for light-industrial development.

The applicant has revised their project plans to reduce the number of proposed cruise berths from five to three. This revision reduces the amount of area proposed to be dredged by 23.0 acres, the amount of open water proposed to be filled by 21.3 acres, and the amount of dredged material proposed to be placed off-site by 1,045,965 cubic yards. Under this revision, 18.3 acres of jurisdictional wetlands would be filled, 127.3 acres of open water would be dredged, and 3.1 acres of open water would be filled.

In addition, the applicant has revised the proposed wetland mitigation plan to include the creation of 66.8 acres of emergent wetlands, enhancement of 12.0 acres of existing wetlands, preservation of 23.7 acres of forested/shrub habitat, and restoration of 71.0 acres of coastal prairie habitat. This mitigation would be performed within a 173.5-acre tract of land located 2.4 miles southwest of the proposed project site and approximately 0.25 miles southwest of the intersection of Red Bluff Road and Bay Area Boulevard.

As described in the revised permit application dated April 4, 2002 the applicant has also included information on the vegetation proposed to be planted on the entire berm along the southern edge of the project site. A 75-foot wide area between the southern berm and Pine Gully is also proposed as a buffer area.

The development of the proposed terminal complex would result in the loss of approximately 948 acres of upland habitat and 132.8 acres of wetland habitat. The uplands consist of *Sapium* shrub with small areas of deciduous forest co-mingled

4200 SMITH SCHOOL ROAD
AUSTIN, TEXAS 78744-3291
512-389-4800
www.tpwd.state.tx.us

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with *Sapium* shrub, pasture/grassland habitat, and 25 acres of existing industrial land. Upland plant communities/wetland communities currently present on the Bayport terminal location alternative function as a unit and provide habitat for a variety of animal species listed in Tables 3.20-3, 3.20-4, 3.20-5 of the Draft Environmental Impact Statement (DEIS). These lists are not inclusive or comprehensive. Construction and operation of the terminal complex would result in the displacement of the majority of individual animal species currently found there. Habitat for existing species and habitat for recruitment of new species would be lost and incidental taking of non-mobile species would be expected. The disruption of wildlife movement patterns would be expected both on the Bayport terminal location alternative itself and adjacent properties as a result of barriers created by transportation corridors.

To date the applicant has not addressed Texas Parks and Wildlife Department concerns, stated in our letter dated May 2, 2002 regarding the overall impacts of the proposed project to fish and wildlife and their habitat. Additionally, questions about discrepancies between the DEIS and the first revised permit application dated April 4, 2002 have still not been addressed. 23-233

The applicant is including several features into the overall mitigation package that we have recommended be scaled back or omitted, as they are not features that appropriately compensate for the proposed impacts to wildlife and their habitat at the site, such as:

1) Planting 17,000 linear feet of 20-foot high, 130 to 600-foot wide berm ($60,000 /1,000 linear feet). The mitigative feature this berm serves is a visual barrier to the adjacent neighborhoods, not compensation to wildlife. The construction of the berm would require the destruction of a maritime forest with diverse age class trees and would be considered an impact to wildlife and their habitat. 14-144

2) Creation of a 200-acre beneficial use cell as mitigation. The proposed project is impacting 3 acres of marine habitat and it is inappropriate for the U.S. Army Corps of Engineers to consider the 200 acres as partial compensation for their impacts to coastal prairie as it is out of kind. We encourage the creation of marsh through the beneficial use of dredged material but it should not be used as compensation for impacts to out of kind habitat particularly, coastal prairie habitat. 11-42

Other beneficial use sites (Atkinson Island) are not mitigative features meant to compensate for impacts to fish and wildlife. The Beneficial Uses Group (BUG) for the Houston Ship Channel Improvement Project was not tasked with mitigating impacts caused by the deepening and widening of the Ship Channel. The BUG was tasked with finding an environmentally acceptable and engineeringly and economically feasible use for the material dredged 11-43

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from the channel and the maintenance material to be dredged for the next 50 years. In situations where environmentally acceptable projects were not found, the material was either disposed of on uplands or was barged off-shore to an existing placement area. The goal was to end open bay disposal of dredged material associated with the project (either new work or maintenance). That goal was achieved.

This proposed project should be held to the same standards. [An acceptable beneficial use project for the material should be identified or the material should be placed on uplands or within an existing off-shore placement area.] 11-44

Over time a BU marsh may offset the impacts to open bay habitat caused by its placement there, but it may not generate additional fisheries benefit, particularly in this part of the open bay where open water habitat is prime white shrimp and blue crab habitat. [Existing beneficial uses marshes will likely take 20-years from first filling to reach habitat goals including ponds, creeks and a certain percentage of edge (open water components within the marsh thus increasing edge). A mitigation marsh should have these components incorporated up front, i.e. channel and pond creation. Until these features are a functioning component of a created marsh, the marsh has little to no value to non-resident marine fisheries (shrimp and crabs) and is considered an additional impact of the project.] 14-145

3) The existing wetland property acquisition and mitigation currently proposed is wetland creation (67 acres of emergent freshwater wetlands), preserve 23.7 acres of forested and shrub uplands and 71 acres of restored prairie, and tallow tree removal on a 173.5-acre tract of land known as the Memorial Tract. While we have no specific problem with the technical aspect of the proposed wetland creation it is not the preferred method of compensation for the impacts at the proposed project site. [The amount of habitat conserved in the proposed mitigation plan does not adequately compensate for the impacts to coastal prairie, including its wetlands, at the proposed project site. A more effective method to compensate for the proposed impacts is to purchase and preserve a large tract of coastal prairie with a natural wetland component instead of spending $1.2 million to engineer and construct the proposed wetland creation and tallow tree removal at the Memorial Tract.] 14-146

[These features of the over all mitigation plan are very expensive, and they do not replace the functions and values of the habitat that will be destroyed if the project is constructed.] Many of these features are being done to satisfy and resolve other project concerns. It is not appropriate to use them as mitigative features for wildlife habitat. Our recommendations of omitting and scaling back these features would significantly reduce the cost of the current "mitigation proposal" and the applicant's current financial burden allowing opportunity for the applicant to 14-148

YS 12017
JDM

purchase a large tract of coastal prairie that would adequately compensate the proposed impacts.

Port representatives initiated negotiations with Park Division staff about opportunities to conduct mitigation on parkland, particularly San Jacinto State Park. The Port and TPWD have a MOU for the Port to conduct mitigation on Department land. The MOU between TPWD and The Port of Houston Authority was for one particular project, the restoration of the San Jacinto Marsh. It is not a "blanket" MOU for the Port to conduct mitigation on Department land. It should also be noted that when mitigation for impacts to wetlands or other waters of the U.S. is proposed to be conducted on Department land through the Section 404 permitting process, the Resource Protection division should be contacted to assure coordination within TPWD. Contact Cherie O'Brien should you wish to pursue this further and she will take the step necessary to do so.

18-33

Overall, the proposed mitigation plan does not compensate for the cumulative impacts to fish and wildlife resources by the proposed project. Texas Parks and Wildlife Department recommends denial of this permit application as presented.

Questions can be directed to Cherie O'Brien in Dickinson (281-534-0132), or to Tom Heger in Austin (512-389-4583).

Sincerely,

Robert W. (Bob) Spain
Assistant Director, Resource Protection Division

RWS:COB:JRM:msf

YS 12027
JDM

OFFICE OF THE GOVERNOR

RICK PERRY
GOVERNOR

Friday, July 05, 2002

Mr. Kerry M. Stanley
US Army Corps of Engineers/re: Port of Houston Aut
CESWG-PE-RE, US. Army of Corps of Engineers, PO Box
Galveston, TX 77553-1229

RE: TX-R-20011218-0002-50

Marine Terminal Complex - Bayport Ship Channel

Dear Mr. Stanley:

Your application for assistance referenced above has been reviewed. No substantive comments were received.] 23-232

We appreciate the opportunity afforded to review your proposal. Please let me know if we can be of further assistance.

Sincerely,

Denise S. Francis

Denise S. Francis, State Single Point of Contact
DSF/dsi

cc: United States Army Corps of Engineers

THE SENATE OF THE STATE OF TEXAS

CAPITOL OFFICE
P.O. BOX 12068
AUSTIN, TEXAS 78711
512/463-0111
TDD: 1-800-735-2989

DISTRICT 11
1109 FAIRMONT PARKWAY
PASADENA, TEXAS 77504
713/948-0111
FAX: 713/948-0004

MIKE JACKSON

YS 120-15
JDM

September 4, 2002

Mr. Kerry M. Stanley
Regulatory Branch, CESWG-PE-RE
U. S. Army Corps of Engineers
P. O. Box 1229
Galveston, Texas 77553-1229

Dear Mr. Stanley:

Based on information presented in the draft Environmental Impact Statement (EIS), I want to reiterate my position that the Bayport Ship Channel is not the appropriate location for the proposed Port of Houston expansion project to be built. If built, the project will have wide-spread adverse effects on our area, our environment and our residents.

After reviewing the draft EIS and subsequent revision, I do not believe that the concerns of the residents and local community officials have been properly addressed. The study does not present a balanced or adequate review of the alternative sites, nor does it lend significant weight to the negative aspects associated with air quality, transportation and the environment as a whole. 23-231

Today's Chronicle reports the EPA's conclusion that diesel exhaust from large trucks and other sources probably cause lung cancer. That conclusion alone should be sufficient to stop a project of this magnitude in an area where air quality is already sub-standard and a heavy concentration of diesel traffic already exists. 7-156

I urge you to more thoroughly investigate these issues and the concerns of the individuals who will be severely impacted by this project if it is permitted to move forward. I am convinced that, once you have fully evaluated the issue, you will believe as I do that this expansion should not take place at Bayport.

Sincerely,

Mike Jackson

Mike Jackson
State Senator, District 11

MJ:ls

YS 12049 JDM

Coastal Coordination Council

P.O. Box 12873 • Austin, Texas 78711-2873 • (512) 463-5385 • FAX (512) 475-0680

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David Dewhurst
Texas Land Commissioner

•

Members

Michael L. Williams
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Coastal Government Representative

John Barrett
Agriculture Representative

Bob Dunkin
Coastal Business Representative

Jack Hunt
Texas Water Development Board

Robert J. Huston
Texas Natural Resource Conservation Commission

John W. Johnson
Texas Transportation Commission

Elizabeth A. Nisbet
Coastal Resident Representative

Robert R. Stickney
Sea Grant College Program

Donald Swann
Texas State Soil & Water Conservation Board

Mark E. Watson, Jr.
Parks & Wildlife Commission of Texas

•

Diane P. Garcia
Council Secretary

Permit Service Center
1-866-894-3578

September 10, 2002

Mr. Charles D. Jenkins
Port of Houston Authority
P.O. Box 2562
Houston, TX 77252-2562

Re: U.S. Army Corps of Engineers Permit Application 21520 (Revised)
CMP#: 02-0226-F1

Dear Mr. Jenkins:

Pursuant to Section 506.30 of 31 TAC of the Coastal Coordination Act, the project referenced above has been reviewed for consistency with the Texas Coastal Management Program (CMP).

Based on information you have supplied regarding the project referenced above, it has been determined that this project is above the Texas Commission on Environmental Quality (TCEQ) thresholds for referral to the Coastal Coordination Council (CCC). The TCEQ will be solely responsible for determining the project's consistency with the goals and policies of the CMP. This determination will accompany TCEQ's Section 401 certification for the permit referenced above.

23-226

Sincerely,

Thomas R. Calnan
Consistency Review Coordinator
Texas General Land Office

TRC/dac

cc: Kerry Stanley, COE
Mark Fisher, TCEQ
Kristan Clann, GLO Permit Service Center
Garry McMahan, GLO Field Service

REPRESENTATIVE
JOHN E. DAVIS

CAPITOL OFFICE
P.O. BOX 2910
AUSTIN, TEXAS 78768-2910
(512) 463-0734

DISTRICT 129 OFFICE
1350 NASA RD. 1, SUITE 212
HOUSTON, TEXAS 77058
(281) 333-1350
FAX: (281) 335-9101

TEXAS HOUSE OF REPRESENTATIVES

YS 12050
JDM

September 5, 2002

Col. Leonard Waterworth
US Army Corp of Engineers
P.O. Box 1229
Galveston, Texas 77553-1229

Dear Col. Waterworth:

I want to first thank you for meeting with my office and various concerned parties regarding the Permit Application 21520. There were various concerns raised regarding the Security Issues surrounding a Container Port Facility which in light of 9/11 events we must address. I have sent a letter to Congressman Tom DeLay asking for assistance at the Federal Level to alter the Permit Application which would allow for you to consider the safety concerns within the parameters of the Permit process. The location of the Proposed Bayport Container Facility allows for various access points and is also in the most densely populated location considered. The alternative sites which where explored during the DEIS process should be considered by both the Corp and the applicant as more viable due to the accessability issues and population. Before 9/11 we did not have to heavily weigh these concerns, due to 9/11 and the current state of unrest it would be wise for the Corp and the applicant to not consider the viable alternatives. 21-67

In respect to the most recent Public Notice issued by the USACE, I would like to ask again for a supplemental. There have been significant changes within the original Permit Application given to the Corp by the PHA, these changes impact the initial DEIS. The comments given by constituents throughout the process are now losing validity due to the vast amount of changes the applicant has taken the liberty to impose. If a supplemental is not issued, I would request at the very least a 90 day period for comment on the FEIS and a Public Hearing to allow the constituents the right to voice their concerns in light of the significantly altered Permit Application. 23-221

EMAIL: JOHN.DAVIS@HOUSE.STATE.TX.US

X5 12050
JDM

The continued alterations within the original Permit Application change and in many cases increase the damage to our natural resources, local community safety and air quality. Due to the current state of the SIP in the Houston Region, bringing more large ships, diesel trucks and container equipment into the region will add significantly to an already dangerous Air Quality situation. 7-155

I want to thank you in advance for taking my comments into consideration as we move through the process. However, I cannot overemphasize the importance of our Federal government to consider the upside risk of a container facility in the middle of a populated area and the Petrochemical plants. It is our duty as public servants to ensure the security of our communities. The possibility of some terrorist group using a container as a "delivery device of destruction" is not far fetched. So I ask you, as our Federal official in charge of issuing a permit for the location of this container facility that you give our comments full consideration. 21-68

Once again I thank you for your time and service, also your dedication to our Country, State and Galveston Bay.

Sincerely,

John E. Davis
State Representative
District 129

12050

Stanley, Kerry M SWG

From: Waterworth, Leonard D COL SWG
Sent: Friday, September 13, 2002 3:49 PM
To: 'JOHN DAVIS'
Cc: Stanley, Kerry M SWG
Subject: RE: Revised Letter Sept 5, Rep.

Sir, for some reason could not open the attachment, we will look for your Fax..

Len

-----Original Message-----
From: JOHN DAVIS [mailto:JOHN.DAVIS@house.state.tx.us]
Sent: Friday, September 13, 2002 2:46 PM
To: Waterworth, Leonard D COL
Subject: Revised Letter Sept 5, Rep. Davis

September 13, 2002

Col. Leonard Waterworth
US Army Corp of Engineers
P.O. Box 1229
Galveston, Texas 77553-1229

RE: September 5, 2002 Letter, Permit Application 21520

Dear Col. Waterworth:

Please see the enclosed revised copy of my letter to your office dated September 5, 2002. The original letter contains an obvious typographical error. The last sentence of the first paragraph should read:

"Before 9/11 we did not have to heavily weigh these concerns, due to 9/11 and the current state of unrest it would be unwise for the Corp and the applicant to not consider the viable alternatives."

Please place the corrected letter in your files.

Thanks again.

Sincerely,

John E. Davis
State Representative
District 129

I am faxing a signed copy and sending an original out in today's mail.

REPRESENTATIVE
JOHN E. DAVIS

ys 12051
JDM

CAPITOL OFFICE
P.O. Box 2910
AUSTIN, TEXAS 78768-2910
(512) 463-0734

DISTRICT 129 OFFICE
1350 NASA RD. 1 SUITE 212
HOUSTON, TEXAS 77058
(281) 333-1350
FAX: (281) 335-9101

TEXAS HOUSE OF REPRESENTATIVES

September 4, 2002

The Honorable Tom DeLay
10701 Corporate Drive
Suite 118
Stafford, Texas 77477-4013

Re: Proposed Bayport Container Facility
USACE Permit Application No. 21520

Dear Congressman DeLay:

The Proposed Bayport Container Facility, USACE Permit Application No. 21520, continues to be a concern to local municipalities within my district. Recently my office met with the USACE Col. Waterworth, Project Manager for Permit Application 21520, area municipal leaders and interested parties regarding the most recent Public Notice related to Bayport. Various topics discussed during the meeting included but were not limited to:

- Homeland Security Issues were questioned regarding the recent INS Publication in which containers are listed as a high-security risk. Because the Bayport facility is located in a highly populated region with various points of access along a Petrochemical corridor, why was this location of higher viability than the locations which would allow for immediate containment such as Spillman's Island and Shoal Pointe? Knowing that the Permit Process for this project began long before 9/11 one could understand why it was initially a concern. In light of 9/11 I think we must consider the security issues. Col. Waterworth explained that the security issues where not a requirement for the Permit Application, it is not part of the "present criteria for permitting." I am asking you to consider changing this aspect of the Permit Application process in regards to this and any other Proposed Container Port facility as a matter of National Security.

- The length of time given to municipalities to comment on the Public Notices is a concern. Most municipalities are run by volunteer leadership who meet once or twice a

EMAIL: JOHN.DAVIS@HOUSE.STATE.TX.US

SEP. -04' 02 (WED) 13:13 31. REP. JOHN DAVI
08-05-02 12:31pm FROM-CONG TOM DELAY 281 240 2959 T-437 P.019/020 F-281
9- 5-02:12:27 ; 2812402959:# 19

month. The 30-day comment period does not give them adequate time to give a substantial comment. There were a few other organizations such as the Houston Yacht Club who showed the same type of concern regarding the limited comment period. Response: The USACE on Aug. 22 extended their deadline for comments until Sept. 5. Though we appreciate the extra two weeks, the issue of not having enough time to comment is still a concern.

- The various aspects of the original Permit Application have changed so much that the comments made during the DEIS Hearing are not valid any longer. The concern is that because of the changes to the original Permit Application the municipalities and interested parties are trying to update their information, understand the full scope of the ever-changing project and allow their volunteer organizations enough time to comment. If the Port of Houston Authority is allowed so much leeway in changing the scope of the project during the Permitting Process, why are they not required to submit a new Permit Application? A supplemental to the EIS has been requested from Congressman Lampson's office, but to date has been denied. With the various concerns which have been raised, I am not understanding why a supplemental is not a consideration given the security issues we now must consider.

I would like to thank you in advance for helping me to assist our mutual constituents with these concerns. Please contact me if you would like any further information.

Sincerely,

John E. Davis
State Representative
District 129

SEP.-04.02(WED) 13:15 ST. REP. JOHN DAVI
09-05-02 12:31pm FROM-CONG TOM DELAY
9- 5-02:12:27
281 240 2859 T-437 P.020/020 F-291
2812402859:# 20