UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105-3901

August 29, 2008

Ms. Joy Jaiswal, Chief
Ecosystem Planning Section
U.S. Army Corps of Engineers
Los Angeles District
Attn: Regulatory Division
P.O. Box 532711
Los Angeles, California 90053-2325

Subject: Draft Supplemental Environmental Impact Statement (DSEIS) for the Port of Los Angeles Channel Deepening Project (Project) in the Port of Los Angeles, California (CEQ # 20080272)

Dear Ms. Jaiswal:

The U.S. Environmental Protection Agency (EPA) has reviewed the above project pursuant to the National Environmental Policy Act (NEPA), Council on Environmental Quality (CEQ) regulations (40 CFR Parts 1500-1508), and our NEPA review authority under Section 309 of the Clean Air Act. These comments were also prepared under the authority of, and in accordance with, the provisions of the Federal Guidelines (Guidelines) promulgated at 40 CFR 230 under Section 404(b)(1) of the Clean Water Act (CWA) and EPA's ocean dumping regulations promulgated at 40 CFR 220-227 under the Marine Protection, Research and Sanctuaries Act (MPRSA). Our detailed comments are enclosed.

Over the past few years, EPA has coordinated with the U.S. Army Corps of Engineers (Corps) and Port of Los Angeles (Port) to provide our input towards the development of the Project, including our review and comments on the Administrative DSEIS. We also provided detailed scoping comments dated January 13, and November 21, 2005. We acknowledge and appreciate the effort that the Corps and Port have made to solicit our input and to incorporate our comments into this DSEIS. In particular, removal of the additional Pier 300 fill area and the tern nesting island fill has addressed our concerns regarding impacts to existing habitats from fill at these locations. We also recognize the inclusion of more appropriate language concerning

"overdepth" dredging amounts and appreciate the use of our suggested language in Section 2.3.2. The removal of the Consolidated Slip Superfund Site from the DSEIS is also appropriate, as this project will continue on its own separate schedule and remain subject to separate decision-making, as appropriate. EPA staff from our Superfund Division will continue to coordinate with the Corps and Port on this effort. Finally, the revised project purpose and need language adequately responds to our concerns over narrowly defining the project purpose and need of beneficial re-use of dredged material.

Based on our review, we have rated the document EC-2 (Environmental Concerns – Insufficient Information). For more details on this rating, please see the enclosed *Summary of EPA Rating Definitions*. We continue to have concerns with cumulative impacts to human health from construction emissions of toxic air contaminants. In the interest of environmental justice, we are especially interested in working with the Port and Corps to identify additional mitigations to reduce these human health risks to the adjacent communities. We are also concerned with the adequacy of the human health risk assessment (HRA) for this project, and suggest the FSEIS include a more robust HRA or, at a minimum, provide a more detailed discussion of the approach and adequacy of the analysis done in the DSEIS. Clarification of general conformity with the State Implementation Plan is also recommended.

EPA recognizes the efforts of the Port and Corps to assess and disclose impacts to the communities adjacent to the Port; however, we remain concerned over the significant and unavoidable impacts to these already disproportionately affected communities and recommend additional measures to fully offset these impacts. As suggested in our previous EIS comment letters regarding Corps actions pertaining to the Port, we suggest the Corps and Port develop a port-wide health impact assessment to better identify these impacts and work with the community to identify offset measures.

Regarding waters of the U.S., we ask the Corps and Port to clarify in the FSEIS that contaminated sediments are prohibited from ocean disposal, contrary to language provided in the DSEIS. We also note that the DSEIS incorrectly describes 1.4 million cubic yards per year disposal capacity at the LA-2 ocean disposal site, when, in reality, it is only 1.0 million cubic yards per year. We are concerned that Alternative 1 proposes to dispose of approximately 4,000 cubic yards of dredge material at the LA-2 ocean disposal site, when the Project total projected dredging volumes are rounded up 226,000 cubic yards. Based on this information, it appears that ocean disposal may not be needed. We recommend that the Corps and Port exhaust all other disposal options prior to seeking ocean disposal authorization from EPA. Finally, we ask for clarification of the configuration of the proposed 5-acre fill at the Northwest Slip. The DSEIS illustrates two different configurations, making it impossible to identify the correct one and evaluate whether it is the least environmentally damaging practicable alternative consistent with Clean Water Act Section 404 (b)(1) Guidelines.

We appreciate the opportunity to review this DSEIS, and look forward to continued coordination with the Corps and the Port. When the FSEIS is published, please send a copy of it to us at the address above (Mail Code: CED-2). If you have any questions, please contact Paul

Amato, the lead reviewer for this project, at 415-972-3847 or amato.paul@epa.gov; or contact me at 415-972-3521 or goforth.kathleen@epa.gov.

Sincerely,

Kathleen M. Goforth, Manager
Environmental Review Office

Enclosures: Summary of EPA Rating System
EPA's Detailed Comments

cc: Dr. Ralph Appy, Director, Environmental Management Division, Port of LA;
Mr. John Foxworthy, Project manager, Port of LA;
Ms. Cindy Tuck, Undersecretary, California Environmental Protection Agency;
Ms. Cynthia Marvin, Assistant Division Chief for Planning and Technical Support, California Air Resources Board;
Ms. Susan Nakamura, South Coast Air Quality Management District;
Mr. Hassan Ikrhata, Executive Director, Southern California Association of Governments;
Dr. Paul Simon, Director, Division of Chronic Disease & Injury Prevention, Los Angeles County Department of Health;

SUMMARY OF EPA RATING DEFINITIONS

This rating system was developed as a means to summarize EPA's level of concern with a proposed action. The ratings are a combination of alphabetical categories for evaluation of the environmental impacts of the proposal and numerical categories for evaluation of the adequacy of the EIS.

ENVIRONMENTAL IMPACT OF THE ACTION

LO" (Lack of Objections)

The EPA review has not identified any potential environmental impacts requiring substantive changes to the proposal. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposal.

"EC" (Environmental Concerns)

The EPA review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce the environmental impact. EPA would like to work with the lead agency to reduce these impacts.

EO" (Environmental Objections)

The EPA review has identified significant environmental impacts that must be avoided in order to provide adequate protection for the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no action alternative or a new alternative). EPA intends to work with the lead agency to reduce these impacts.

"EU" (Environmentally Unsatisfactory)

The EPA review has identified adverse environmental impacts that are of sufficient magnitude that they are unsatisfactory from the standpoint of public health or welfare or environmental quality. EPA intends to work with the lead agency to reduce these impacts. If the potentially unsatisfactory impacts are not corrected at the final EIS stage, this proposal will be recommended for referral to the CEQ.

ADEQUACY OF THE IMPACT STATEMENT

Category 1" (Adequate)

EPA believes the draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis or data collection is necessary, but the reviewer may suggest the addition of clarifying language or information.

"Category 2" (Insufficient Information)

The draft EIS does not contain sufficient information for EPA to fully assess environmental impacts that should be avoided in order to fully protect the environment, or the EPA reviewer has identified new reasonably available alternatives that are within the spectrum of alternatives analysed in the draft EIS, which could reduce the environmental impacts of the action. The identified additional information, data, analyses, or discussion should be included in the final EIS.

"Category 3" (Inadequate)

EPA does not believe that the draft EIS adequately assesses potentially significant environmental impacts of the action, or the EPA reviewer has identified new, reasonably available alternatives that are outside of the spectrum of alternatives analysed in the draft EIS, which should be analysed in order to reduce the potentially significant environmental impacts. EPA believes that the identified additional information, data, analyses, or discussions are of such a magnitude that they should have full public review at a draft stage. EPA does not believe that the draft EIS is adequate for the purposes of the NEPA and/or Section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised draft EIS. On the basis of the potential significant impacts involved, this proposal could be a candidate for referral to the CEQ.

*From EPA Manual 1640, "Policy and Procedures for the Review of Federal Actions Impacting the Environment."

Air Comments

Commit in the FSEIS and Record of Decision (ROD) to fully implement mitigations that will reduce health risks. The DSEIS cumulative impacts analysis describes cumulatively considerable and unavoidable contributions to health impacts within the Project region, due to toxic air contaminants (TACs) from Alternative 1 construction (p. 6-24). EPA is concerned that the Project would increase cancer risks and both chronic and acute non-cancer health impacts in the Port region. As described in the document, the South Coast Air Quality Management District's (SCAQMD) Multiple Air Toxics Exposure Study III (MATES III) estimates diesel emissions produced about 84 percent of cancer risks in the South Coast Air Basin (SCAB). California Air Resources Board (CARB) studies also found that elevated cancer risks around the ports could be attributed to port operations. The cumulative impacts analysis concludes that "there are no feasible measures that would further reduce toxic air contaminants emissions and resulting health impacts from construction of Alternative 1." While we recognize efforts of the Port to reduce construction emissions from the Project, we remain concerned with cumulative impacts to human health resulting from Alternative 1. The Corps and Port should work with EPA, CARB, and the SCAQMD to identify additional measures to reduce construction emissions and further reduce human health impacts in the port region.

> *Recommendation:*
> The Port and Corps should commit, in the FSEIS, to working with EPA, CARB, and SCAQMD to identify additional measures to reduce construction emissions and further reduce human health impacts in the port region.

The FEIS should include a more robust Health Risk Assessment (HRA) or clarify why the assessment in the DSEIS is adequate. The DSEIS states that Alternative 1 would produce less than significant cancer risk, and less than significant chronic and acute non-cancer effects to all receptor types in the Project area (pp. 3.2-38 & 39). These results are based on multiplying the ratio of Alternative 1 construction emissions and operational emissions of the Berths 136-147 Container Terminal Project (TraPac) 1 to the results of the TraPac HRA. While we recognize that this approach may be appropriate for determining direct health risk to sensitive receptors near the TraPac Terminal, we remain concerned that impacts to sensitive receptors near other Alternative 1 activities may not be adequately accounted for. Previous Port HRAs included proximity analyses and dispersion modeling that took into account impacts to sensitive receptors exposed to project emission sources. We suggest the FSEIS include an expanded analysis and discussion of potential health risks to sensitive receptors exposed to emissions from Project construction elements beyond the TraPac Project area. At a minimum, the FSEIS should clarify why the approach taken in the DSEIS was taken and why the Port and Corps consider it an adequate HRA for cancer risk, chronic and acute non-cancer effects.

> *Recommendation:*
> The FSEIS should include a more robust HRA that includes a proximity analysis and dispersion modeling to assess emission exposure to sensitive receptors. At a minimum,

the FSEIS should clarify why this level of analysis was not considered necessary and how the DSEIS analysis adequately assesses health risk to sensitive receptors exposed to all Project emission sources.

Use equipment meeting Tier 3 or greater engine standards and commit to the best available emissions control technology. Mitigation Measure AQ-2.1: Fleet Modernization for Construction Equipment commits to meeting Tier 2 emission standards and California Air Resources Board (CARB)-certified Level 3 diesel emissions control devices for construction equipment diesel engines greater than 50 horse power (p. 3.2-30). This mitigation measure would force an early turnover of existing construction equipment to lower emitting models. Tier 3 engine standards are currently available; Tier 4 will be available in the 2009-model year and should be used for Project construction equipment to the maximum extent feasible. Lacking availability of non-road construction equipment that meets Tier 3 or greater engine standards, the Corps and Port should commit to using the best available emissions control technologies on all equipment.

Recommendation:
The Corps and Port should commit in the FSEIS and ROD to using construction equipment meeting Tier 3 or greater engine standards to the maximum extent feasible, and to using the best available emissions control technologies on all equipment.

Describe the likelihood that mitigation measure exceptions will occur and how this will affect air quality. Mitigation Measures AQ-2.1: Fleet Modernization for Construction Equipment, and AQ-2.2: Fleet Modernization for On-Road Trucks both include circumstances that would result in the contractor not having to meet these measures. Based on the DSEIS, the mitigated air quality assumed that both of these mitigation measures would be fully implemented. While EPA understands that there may be certain circumstances that prevent the full implementation of these measures, we remain concerned that full implementation was assumed in the air analysis without at least a qualitative discussion of the potential for anything less. Given that exceptions to these measures have been provided, it is assumed that there is some degree of potential for them to be needed.

Recommendation:
The FEIS should describe the likelihood that exceptions to Mitigations Measures AQ-2.1 and 2.2 will be needed. To the extent feasible, this should be based on experience with recent projects using similar equipment. In the event that these exceptions are likely to occur and result in greater than mitigated emission levels, the FEIS should describe what additional mitigations will be implemented to reduce construction emissions.

Revise the attainment status for carbon monoxide (CO) in the SCAB. The DSEIS section on criteria pollutants incorrectly states that the SCAB is designated a serious nonattainment area for CO by the EPA (p. 3.2-5). This is followed by the correct statement that the EPA has reclassified the SCAB as an attainment area for CO. The two statements are contradictory and should be corrected to avoid confusion. The next paragraph describes California Ambient Air Quality Standards (CAAQS) and incorrectly states that the SCAB is designated severe nonattainment for CO and fails to mention that the CARB has designated the SCAB as nonattainment for $PM_{2.5}$.

Recommendation:
Clarify in the FSEIS that the SCAB is not designated a serious nonattainment area for CO by EPA nor by CARB, and that it is designated nonattainment for $PM_{2.5}$ by CARB.

For questions regarding air quality planning issues, please contact Francisco Doñez, EPA Air Division, in our Los Angeles Office at (213) 244-1834, or by email at donez.francisco@epa.gov.

General Conformity

Demonstrate general conformity with the South Coast State Implementation Plan (SIP). A complete analysis is required to determine if the emissions associated with the Federal action (both construction and operational emissions) are subject to the requirements of a formal conformity determination under the General Conformity rule codified at 40 CFR 93, subpart B. The "applicability" analysis involves quantification of emissions caused by a Federal action that are generated within nonattainment or maintenance areas, that are reasonably foreseeable, and that the Federal agency can practicably control and will maintain control over, due to a continuing program responsibility. A formal conformity determination is required for all such emissions that exceed de minimis thresholds set forth in the rule.

The discussion in the DSEIS regarding whether the Project meets the applicable general conformity requirements does not demonstrate that the emissions associated with the Federal Action are accounted for, either explicitly or otherwise, in the applicable SIP for the nonattainment area (p. 3.2-17). (We note that, although there have been several SIP revisions since then, the 1997/1999 SIP was the last SIP revision approved by EPA for the area.) We acknowledge recent discussions between EPA, the Corps, and the Port on how best to address demonstrating conformity with the 1997/1999 SIP. We will continue to work with the Corps and Port to resolve this issue. For questions regarding general conformity, please contact John Kelly, EPA Air Division, at (415) 947-4151, or by email at kelly.johnj@epa.gov.

Recommendation:
We recommend that the Corps and Port revisit their general conformity analysis, based on guidance provided by EPA, and include the results of your analysis in the FEIS. The FEIS should clarify consistency with the 1997/1999 South Coast SIP revision, including whether the emissions associated with the Federal Action are specifically accounted for in that SIP revision.

Environmental Justice

The Environmental Justice (EJ) analysis in Chapter 5 should include additional information provided in past Port NEPA documents. EPA acknowledges the efforts of the Corps and Port to describe impacts of the Project to the adjacent community; however, assessments in previous Port EISs, such as the DSEIS for the Pacific LA Marine Terminal Project and the China Shipping DEIS, have been more comprehensive. For example, the EJ chapter of the DSEIS for the Pacific LA Marine Terminal Project includes:

- Consideration of the high cost of living in Southern California and factoring that into the low income calculations (p. 5-3).
- Summary of the concerns expressed in public comments (p. 5-19).
- A table displaying a summary of EJ impacts (p. 5-43).

Recommendation:
Consistent with previous Port project EJ analyses, we recommend the Corps and Port revise the FSEIS to include factoring the high cost of living into the low income calculations, a summary of concerns expressed in public comments, and a summary table of EJ impacts.

The Port and Corps should conduct a port-wide health impact assessment (HIA). There is a growing body of evidence that environmental justice communities are more vulnerable to pollution impacts than are other communities.[1] As discussed in EPA's *Framework for Cumulative Risk*[2] and the *National Environmental Justice Advisory Council's Ensuring Risk Reduction in Communities with Multiple Stressors: Environmental Justice and Cumulative Risks/Impacts*[3], disadvantaged, underserved, and overburdened communities are likely to come to the table with pre-existing deficits of both a physical and social nature that make the effects of environmental pollution more, and in some cases, unacceptably, burdensome. Thus, certain subpopulations may be more likely to be adversely affected by a given stressor than is the general population.

Low-income and minority communities are potentially experiencing more health impacts than would be predicted using traditional risk assessments. An HIA is a potential tool for examining this complex issue. HIAs look at health holistically, considering not only bio-physical health effects, but also broader social, economic, and environmental influences. HIAs also explicitly focus on health benefits and the distribution of health impacts within a population. HIAs strive to anticipate potential impacts for decision-makers and to deliver a set of concrete recommendations targeted at minimizing health risks and maximizing benefits.[4]

A helpful resource for examples of HIAs is the Dannenberg et al (2008)[5] study that examined 27 case studies of Health Impact Assessment in the US, with six HIAs in California and Alaska conducted in conjunction with environmental impacts assessment processes. The study includes

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[1] O'Neill M, Jerrett M, Kawachi I, Levy J, Cohen AJ, Gouveia N, Wilkinson P, Fletcher T, Cifuentes L, Schwartz J.. Health, Wealth, and Air Pollution: Advancing Theory and Methods. Environmental Health Perspectives. Vol 111, No 16, December 2003. This article evaluated 15 different studies of particulate air pollution and socioeconomic conditions and found the majority of the studies evaluating individual-level characteristics did show effect modification with higher health impacts (such as mortality or asthma hospitalizations) among those with lower socioeconomic position. Low educational attainment seemed to be a particularly consistent indicator of vulnerability in these studies.

[2] Available at: http://cfpub.epa.gov/ncea/raf/recordisplay.cfm?deid=54944

[3] Available at: http://www.epa.gov/environmentaljustice/nejac/past-nejac-meet.html

[4] Bhatia, Rajiv and Wernham, Aaron. Integrating Human Health into Environmental Impact Assessment: An Unrealized Opportunity for Environmental Helth and Justice. Environmental Health Perspectives. Available on-line April 16, 2008.

[5] Dannenberg, A, Bhatia R, Cole B, Heaton S, Feldman J, Rutt, C. Use of Health Impact Assessment in the US. 27 Case Studies, 1999-2007. American Journal of Preventive Medicine. 2008; 34(3).

eleven HIA analyses in California. Most of the HIAs evaluated included recommendations to mitigate predicted adverse health impacts of the proposed policy or project and/or to increase predicted health-promoting components of the proposal.

> *Recommendation:*
> We recommend the Port and Corps consider development of a port-wide health impact assessment (HIA). We recognize that emissions from this project are from construction and therefore short-term relative to terminal operations. Regardless, given the magnitude and complexity of potential health impacts related to Port projects, EPA recommends the Corps and Port partner with the local health department and the local community to conduct a HIA which encompasses this project and all upcoming Corps/Port projects. An additional resource that provides information about Health Impact Assessments is the following Center for Disease Control and Prevention (CDC) website: http://www.cdc.gov/healthyplaces/hia.htm.

Provide additional mitigations to fully offset impacts to the environmental justice community
The DSEIS does not propose any measures to mitigate significant and unavoidable impacts identified in Chapter 5. As stated by the Council on Environmental Quality's (CEQ) *Environmental Justice: Guidance Under the National Environmental Policy Act*, the identification of disproportionately high and adverse human health or environmental effects on a low-income or minority population does not preclude a proposed agency action from going forward nor compel a finding that a proposed project is environmentally unacceptable. Instead, the identification of such effects is expected to encourage agency consideration of alternatives, mitigation measures, and preferences expressed by the affected community or population.

The EJ Chapter of the DSEIS concludes that there will be disproportionately high and adverse effects on minority and/or low-income populations related to air quality. The local community is already heavily impacted, a condition which could be exacerbated by the many projects currently planned at and around the Port. In addition, we note that Wilmington and East San Pedro are designated as Health Professional Shortage Areas.[6] Therefore, all impacts, even seemingly small impacts, are important to consider and mitigate in order to fully offset the adverse project related impacts to the local community. Considering the magnitude of potential cumulative health impacts related to the Project, and the CEQ guidance to encourage agency consideration of mitigation measures and preference of the local community, EPA has developed potential measures for mitigating the impacts to the local community.

The Port should use both information from an HIA and continued input from the local community on mitigation measures that would help fully offset port-related health impacts. The Los Angeles Environmental Justice (LAEJ) Network is an example of a forum that the Port could engage to solicit input on priority mitigation measures. In addition, many groups impacted by ports and goods movement came together in late 2007 at Moving Forward, the first North American community-oriented gathering on this topic, which was organized by The Impact Project and cosponsored by private groups along with National Institute of Environmental Health Scientists and the EPA-funded Children's Environmental Health Sciences Center. The Corps

[6] http://hpsafind.hrsa.gov/HPSASearch.aspx

and Port should contact the conference organizers to see if potential mitigation measures were discussed at this conference and whether they would be appropriate for this project.

Furthermore, the Corps and Port should contact those involved with the mitigation trust fund associated with the expansion of the TraPac Terminal Expansion Project to get their input on appropriate mitigation measures. Finally, some of the recommendations of the Port Community Advisory Committee (PCAC) such as the recommendation for a Public Health Trust Fund, Health Survey, Partners for Kids Health (mobile clinic) and the Health and Environmental Directory should be considered as potential environmental justice mitigations.

EPA is available to participate as a partner with the community, the Port, and the Corps to assist in the identification of mitigation measures to reduce the impacts on the affected communities for this and future projects.

Recommendation:
The Port and Corps should consider and work with communities to further develop the following mitigation measures to more fully offset health impacts of the Project to the already burdened community in the Project area:

- Engage in proactive efforts to hire local residents and train them to do work associated with the project in order to improve economic status and access to healthcare;
- Provide public education programs about environmental health impacts and land use planning issues associated with the Port to better enable local residents to make informed decisions about their health and community;
- Establish Environmental Management Systems at the Port to improve efficiency and reduce environmental impacts from operations;
- Improve access to healthy food through establishment of farmer's markets or retail outlets on Port lands;
- Continue expansion and improvements to the local community's parks and recreation system in order to provide increased access to open space and exercise opportunities. EPA supports increased parks and open space, but strongly encourages the Port to implement emission reduction measures as soon as possible to prevent increased health risk from greater exposure opportunities.

For further coordination with EPA on EJ issues, please contact Zoe Heller at (415) 972-3074 or by email at heller.zoe@epa.gov. You can also contact Steven John, Director of the Los Angeles Office at (213) 244-1804, or by email at john.steven@epa.gov.

Waters of the U.S.

Clarify that ocean disposal is not an option for disposal of contaminated sediments. Section 2.3.3, Contaminated Sediments, describes the Los Angeles Contaminated Sediment Long Term Management Strategy goal of 100 percent beneficial reuse of contaminated dredged material. The document then describes ocean disposal as a last option for contaminated sediment. EPA prohibits the disposal of contaminated sediments at ocean disposal sites; therefore, the FSEIS should be revised to this effect.

Recommendation:
The FSEIS should be revised to clarify that ocean disposal is not an option for contaminated sediments.

The FSEIS should clearly justify the need for disposal of 4,000 cubic yards of dredging material at the LA-2 ocean disposal site. The DSEIS includes an estimate of approximately 4,000 cubic yards of dredging material to be disposed of at the LA-2 ocean disposal site (p. 2-32). We note that this amount of fill is a fraction of the 226,000 cubic yards of material accounted for by rounding up to 3.0 million cubic yards of total project dredging in Table 2-1. Based on this information, it is questionable whether ocean disposal will even be necessary for Alternative 1. Furthermore, EPA will only concur on ocean disposal once the Corps and Port have adequately demonstrated that other reuse opportunities have been exhausted. One possible option that has not been considered in this DSEIS is the Port of Long Beach Middle Harbor Project, if it proceeds with an alternative that requires additional sediment sources.

Recommendation:
The FSEIS should demonstrate that all reuse opportunities for approximately 4,000 cubic yards of material from Alternative 1 have been exhausted. The FSEIS should also mention that EPA will not approve ocean disposal until these conditions have been adequately met.

The FSEIS should clarify the viable disposal options for dredging material. Section 2.4.2, Viable Disposal Options, incorrectly states that the EPA-designated LA-2 ocean disposal site can accept up to 1.4 million cubic yards of material per year. The correct annual limit on disposal at LA-2 is 1.0 million cubic yards per year (40 CFR 228.15(l), and 70 FR 53729). This section should also note that excess material from this project could, subject to EPA concurrence, also be directed to the EPA-designated LA-3 ocean disposal site off Newport Beach. Figure 2-8 should be updated to include this site.

Recommendation:
The FSEIS should be updated to clarify that LA-2 can accept up to 1.0 million cubic yards of material per year, and include LA-3 as another potential ocean dumping site.

Clarify the configuration of the proposed fill at the Northwest Slip. Section 2.4.2, Viable Disposal Options, Figure 2-5 is inconsistent with other figures in the DSEIS (e.g., Fig. S-2 on p. S-7 and Fig. 2-11 on p. 2-29) regarding configuration of the 5 acres of fill proposed at Northwest Slip. Specifically, the rock dike and fill shown on Figure 2-5 appear to significantly constrict navigation into and out of the unfilled areas of Northwest Slip, including Berths 130-131. In contrast, the other figures show that the fill in Northwest Slip would result in a straight line extending from behind the tip of the existing wharf that would not further restrict the width of entry into the slip. Based on the existing information shown in the DSEIS, it is not possible to reasonably evaluate exactly what configuration is proposed for the proposed fill, nor whether it represents the least environmentally damaging practicable alternative (LEDPA) consistent with the Guidelines. The FSEIS should provide more detail on the proposed fill at Northwest Slip, including land use atop the fill that influences its shape.

Recommendation:
The FSEIS should clarify the configuration of the proposed fill at the Northwest Slip and the contradicting figures in the DSEIS. The FSEIS should also clarify the operations that govern the correct configuration.

For questions regarding waters of the U.S., including dredging and fill issues, please contact Brian Ross, EPA Water Division, at (415) 972-3475, or by email at ross.brian@epa.gov.

Alternatives

Remove references to project operations. Section 2.7.1 describes significant and unavoidable impacts of construction and operation of the alternatives (p. 2-45). This statement suggests that the Project includes operational activities and is inconsistent with the alternative descriptions and the purpose and need. The Final Supplemental Environmental Impact Statement (FSEIS) should remove any references to project operations, or clarify and adequately assess any that would occur.

Recommendation:
The FSEIS should remove any references to project operations, or clarify where they would occur.