



STOCKTON PORT DISTRICT

Board of Port Commissioners

April 6, 2020

Pursuant to notice duly given, the regular meeting of the Board of Commissioners of the Stockton Port District was held on April 6, 2020, in Room 18 of the Port of Stockton Administration Building located at 2201 West Washington Street in Stockton, California.

COMMISSIONERS PRESENT: R. Jay Allen, Vice Chairman
Anthony Barkett
Gary Christopherson, Chairman
Michael Patrick Duffy
Stephen Griffen
William R. Trezza

COMMISSIONERS ABSENT: None

COMMISSIONERS EXCUSED: Elizabeth (Liz) Blanchard

OTHERS PRESENT: Richard Aschieris, Port Director
Steve Escobar, Senior Deputy Port Director
Michelle Bowling, Director of Finance
Katie Miller, Director of Human Resources and
Administrative Services
Steven A. Herum, Port Counsel
Melanie Rodriguez, Secretary to the Board

A quorum being present, the meeting was called to order by Chairman Gary Christopherson at 3:37 p.m. Chairman Christopherson presided and Melanie Rodriguez, Secretary to the Board, acted as Secretary for the meeting.

CONSENT CALENDAR

In compliance with Port Policy Statement #003, the Consent Calendar items of business, having been provided to each member of the Board prior to this meeting, the Commissioners present acted upon all Consent Calendar items of business under one vote.

Chairman Christopherson acknowledged the emailed comments as received from Mary Elizabeth with the Delta-Sierra Group:

“Today you will approve minutes that become final record with an approval date which I have not seen and I was present. I received last week a copy of the minutes from March 2, 2020 that I read into the record: First regarding the minutes of the Jan 2020 meeting which were approved at the Feb meeting. I understand that staff determined that 60 days was not specified for the 3rd party review of the Wildfire Mitigation Plan. At the meeting staff indicated that the Fire Marshall's review would be available in March 2020, yet the minutes made available do not reflect this - only that the plan will be submitted by July 1, 2020. Please forward to the Sierra Club a copy of the Fire Marshall's findings when available. Second, I would like to invite all Commissioners to attend the first meeting of the AB617 Advisory Committee to be held at the North Hall of the Civic Auditorium. The meeting will begin with food at 5:00 and begin at 5:30 on Wednesday 3.4.2020.

Please consider posting draft minutes so that final minutes are final minutes.”

MINUTES OF MARCH 16, 2020 MEETING

Vice Chairman Allen moved to correct the March 16, 2020 Commission Minutes, as follows:

Minute Book No. 62, Page No. 23, Resolution #8165

COMMISSIONERS IN FAVOR: Aguilar, Allen, **Barkett**, Blanchard,
Christopherson, Griffen, Trezza

Resolution #8167: RESOLVED, that the minutes of the REGULAR meeting of the Board of Commissioners of the Stockton Port District held on the 16th day of March 2020, as the same are endorsed on Page No. 020 to Page No. 025, inclusive, of Minutes Book No. 62, be and they are hereby approved, as corrected.

Vice Chairman Allen moved to adopt the following resolution:

AUTHORIZATION TO EXECUTE AMENDMENT 3, TASK 1, FOR JMA CIVIL FOR THE RAIL MASTER PLANNING SERVICES FOR \$98,000

Resolution # 8168: RESOLVED, by the Board of Commissioners of the Stockton Port District that the Port Director is hereby authorized to execute Amendment 3, Task 1, for JMA Civil for Rail Master Planning Services for a total amount of \$98,000.00; and

RESOLVED FURTHER, that the Port Director is authorized, empowered and directed to ensure that the provisions of this resolution are appropriately effected.

Resolutions #8167 and #8168 were passed by the following vote:

COMMISSIONERS IN FAVOR:	Allen, Barkett, Christopherson, Duffy, Griffen, Trezza
COMMISSIONERS AGAINST:	None
COMMISSIONERS ABSTAINING:	None
COMMISSIONERS ABSENT:	None
COMMISSIONERS EXCUSED:	Blanchard

CONSIDERATION OF ITEMS REMOVED FROM THE CONSENT CALENDAR

Chairman Christopherson acknowledged there were no items removed from the Consent Calendar.

CONSIDERATION AND POSSIBLE APPROVAL OF ORDINANCE #257 TO AUTHORIZE THE PORT DIRECTOR TO CERTIFY AND ADOPT A CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) FINAL ENVIRONMENTAL IMPACT REPORT; AUTHORIZATION TO FILE A NOTICE OF DETERMINATION RELATED THERETO; AND, APPROVAL OF AN AMENDED AND RESTATED LEASE AGREEMENT WITH NUSTAR TERMINAL OPERATIONS PARTNERSHIP L.P., RELATED TO THE CONSTRUCTION AND OPERATION OF AN UNDERGROUND PIPELINE FROM DOCK 10/11 TO NUSTAR'S EXISTING TERMINAL OPERATION LOCATED AT 2941 NAVY DRIVE FOR A TERM OF TEN YEARS WITH 4 TEN-YEAR OPTION PERIODS

Port Senior Deputy Director Escobar provided an executive summary of this agenda item. His presentation included the following:

Background:

- NuStar has been a Tenant at the Port since 1988 (started as Support Terminal Services – STS)
- Existing terminal occupies approximately 18 acres of land and is rail served
- Site contains 33 above ground storage tanks with a capacity of 878,000 barrels (138,000 tons)
- The terminal operation currently receives gasoline via the Kinder-Morgan pipeline and ethanol by rail

Project Summary:

- NuStar is proposing to connect its existing terminal on Navy Drive by pipeline to Dock 10/11
- The Marine Oil Terminal Engineering and Maintenance Standards (MOTEMS) pipeline will handle inbound renewable diesel
- The pipeline is approximately 3,400 feet long and 12 inches in diameter
- A pipeline manifold will be constructed below grade and located near Dock 10/11
- Cargo unloading time is approximately 18 hours

- The project is designed to handle 12 vessels per year with an annual volume up to 272,000 tons and 4,238 annual truck trips
- NuStar has invested approximately \$1.2 million to date in the project design and engineering
- Commercial operation is expected to start by June 2021
- The prior lease contained option periods that could have extended the lease to April 2034

Lease Terms:

- Lease Term is 10 years with four 10-year option periods
- Minimum Annual Guarantee (MAG) Term is 10 years with four 10-year option periods for 175,000 tons per year, this would allow NuStar the flexibility to match customer needs
- NuStar is required to remove improvements if there is no active MAG
- Escalations will be based on the Annual Standard Consumer Price Index (CPI) reappraisal to market every 10 years
- Capital Investment is estimated at \$20 million
- Rent is \$29,816 per month or \$357,800 annually
- Through-Put-Charge is approximately \$108,000 per year
- Rail revenue is approximately \$158,400 per year
- Maritime revenue is approximately \$1,073,290 per year
- The project will create approximately 15 full time jobs averaging \$70,000 per year plus approximately 30 construction jobs

Financials:

- NuStar is a publicly traded company (the parent company is NuStar Energy L.P. with market capital of \$2.85 billion)
- NuStar has the capacity to fund this estimated \$20 million project with existing lines of credit and available debt options and has shown historical evidence of their ability to use the capital markets to fund growth and overall operations
- Risk to the Port appears manageable with construction risk supported by a construction guaranty from the parent company and consistent payment history with this long term tenant
- No delinquency issues have been reported

California Environmental Quality Act (CEQA) Documentation:

- The Environmental Impact Report (EIR) was prepared to determine whether the proposed project would present potential significant impacts and to determine whether such effects would require mitigation measures to limit the effects.

Public Comments Received and Response to Comments:

- The Draft Environmental Impact Report (DEIR) was released and distributed on December 16, 2019, for a 45-day review period, which ended on January 29, 2020.
- The Port received five comment letters on the DEIR from the California Air Resources Board (ARB), California Department of Toxic Substances Control, California State Lands Commission, San Joaquin Valley Air Pollution Control District and Delta Sierra Group of the Sierra Club. In addition, one email was received from ARB. Pursuant to Section 15088 of the CEQA Guidelines, the Port reviewed all comments received during the review periods for the DEIR and responded to each comment in Chapter 2 of the Final Environmental Impact Report (FEIR).

Mitigation Monitoring Reporting Program (MMRP):

- Pursuant to Assembly Bill 3180, an MMRP was prepared to verify compliance with individual mitigation measures identified as part of the FEIR.

The FEIR and Findings of Fact (FOF) and Statement of Overriding Considerations (SOC), transmitted herewith, identify major findings and conclusions, including a recommendation that the proposed project be approved over the two project alternatives, a discussion of areas of environmental concern, feasible mitigation measures and identification of unavoidable impacts. The following discussion summarizes the proposed FOF for the Board's consideration.

In making findings on alternatives to the proposed project, the Port certifies that it has independently reviewed and considered the information on alternatives provided in the DEIR, including the information provided in the comments of the DEIR and the responses included in the FEIR. The Port further finds that the FEIR analyzes a reasonable range of project alternatives that would feasibly attain most of the basic objectives of the proposed project and would substantially lessen one or more of the significant impacts of the proposed project and adequately evaluates the comparative merits of each alternative.

The Board is asked to adopt Ordinance #257 providing for the certification, adoption and approval of the following actions:

- Certify that the FEIR for the NuStar MOTEMS Development and Vessel Service Project (proposed Project): a) has been completed in compliance with CEQA (Public Resources Code Section 21000 et seq.) and the CEQA Guidelines (14 California Code of Regulations Section 15000 et. seq.); b) was reviewed and considered by the Board of Port Commissioners prior to approving the proposed Project; and c) reflects the independent judgment and analysis of the Port of Stockton (Port).
- Approve the proposed project as identified in the FEIR, including all feasible mitigation measures, with consideration and approval of the FOF, SOC and the MMRP.
- Direct the Real Estate Division to incorporate by reference the EIR and MMRP into any and all lease agreements or assignments encompassed in the approved Project.
- Authorize Port staff to file the Notice of Determination.
- Approve the Amended and Restated Lease Agreement with NuStar Terminals Operations Partnership L.P. for the construction of a ±3,400-foot underground MOTEMS pipeline and related improvements connecting Dock 10/11 to an existing bulk petroleum terminal on ±18-acres located at 2941 Navy Drive for an initial term of 10-years with four 10-year option periods.

The following emailed comments were provided to the Commissioners for consideration related to this item:

Emailed Comment as received from Frances Aubrey:

“I have spent the past 14 years trying to keep a planet that is healthy and viable for my grandsons, ages 7 and 9. The ONLY way to do this is to STOP mining and burning fossil fuels. This includes transporting them as well. I urge you in the strongest terms to allow and ENCOURAGE the community around the Port of Stockton to speak out about the health hazards they will experience if the terminal expansion goes through.

Do you not have any children? Do you not have any grandchildren? Do you not care whether the planet they will inherit from us can provide them with what you and I benefited from? Cannot provide them with clean air, clean water, healthy food? If you care about your children and grandchildren at all, you owe it to THEM to listen to the people who will be most affected in the community and the world. Air and water do not stay in one place, they move about the Earth. TAKE A MORAL STAND. LISTEN TO YOUR CHILDREN AND YOUR GRANDCHILDREN AND ALL THE OTHER HUNDREDS OF THOUSANDS OF PEOPLE WHO WILL BE AFFECTED BY YOUR DECISION! DO NOT EXPAND THE PORT OF STOCKTON TO SHIP OIL!! OR, AT THE VERY LEAST, LISTEN TO YOUR COMMUNITY.”

Emailed Comments as received from Reverend Will McGarvey with the Interfaith Council of Contra Costa County:

“The Final EIR for the NuStar Terminal Project referenced in Ordinance #257 is not publicly available on CEQAnet or the Port’s website. We request that any action on the referenced agenda item be postponed until the Final EIR has been available to the public for 30 days or more as necessary to provide community information and for a public meeting so that community members can provide input regarding this project and 10 to 50 year lease conditions. We object to the 250-word limit on comments.

We also remind you of the effect COVID-19 has had that doesn't allow people to publicly safely meet to share their concerns with the Commission. I think there needs to be a public meeting and since the public can't safely meet there needs to be more than a 30 extension. This project effects the people of Richmond to Bethel Island, and all of those downwind of the ships as they pass our waters. 250 words and no public meeting are not good enough for us, or for you.”

Emailed Comments received from Mary Elizabeth with the Delta-Sierra Group:

“The Final EIR for the NuStar Terminal Project referenced in Ordinance #257 is not publicly available on CEQAnet or the Port’s website. We request that any action on the referenced agenda item be postponed until the Final EIR has been available to the public for 30 days or more as necessary to provide community information and for a public

meeting so that community members can provide input regarding this project and 10 to 50 year lease conditions. We object to the 250-word limit on comments.

The Delta-Sierra Group (DSG) of the Sierra Club requested at the November 4, 2019 Port of Stockton Commission meeting (Commission) that notices be provided whenever a CEQA document is available for review. Port of Stockton staff contacted the DSG and Catholic Charities providing us with the Draft EIR for the NuStar Terminal Project and comments were submitted by the DSG on January 28, 2020. The DSG requested at the January 21, 2020 Commission meeting that a “workshop should be held to hear the concerns of the community before the final EIR is prepared and briefing notices provided so that the community can be informed and knowledgeable when reviewing the final EIR.” The requested workshop “to ensure that interested persons are informed about discretionary decisions and have the opportunity to provide input” was never held. On February 18, 2020, all Commissioners were provided with the Port’s CEQA webpage showing the most recent document was dated 2015. This remains unchanged.”

Emailed Comments as received from Veronica Tovar with the Catholic Charities of the Diocese of Stockton:

“The Catholic Charities Environmental Justice Program respectfully requests the following recommendations regarding the final Environmental Impact Report (EIR) for the NuStar Terminal Project referenced in Ordinance #257:

- Extend the public comment period to 30 days. It is imperative that the deadline be extended to allow residents and interested stakeholders the opportunity to provide feedback on the final EIR. Public outreach and engagement is an important and necessary component of the democratic process. These opportunities provide residents, advocates, and interested/relevant stakeholders the ability to have their voices heard in decision-making processes, as well as assures a level of transparency and accountability.
- Without the ability to do in-person outreach/meetings, it is vitally important to provide options of virtual communication (i.e., teleconferencing, webcasts) to all members of the public seeking to engage and provide public comment on the specific project’s environmental factors. It is also important to be mindful that not all community members will have access to these types of communication mediums and providing alternative methods is key to incorporate meaningful resident feedback.
- We urge the dissemination (Post) of EIR materials through the Port of Stockton’s website or create a project-specific website, so individuals who are not physically able to attend have an opportunity to maintain participation in the meeting. All materials and documents should be made easily accessible before the meetings and available at the time the meeting notice is posted.
- We appreciate your time in reviewing and considering our recommendations.”

Emailed Comments as received from Charles Davidson with The Rodeo Citizens Association:

“We categorically disagree with the Nustar Port of Stockton EIR where it states (in section 3.5.3.4.2 GHG-2): “The proposed Project would likely reduce regionwide GHG emissions by increasing the renewable diesel supply within California to meet carbon intensity goals for transportation fuels, which is consistent with state policies.”

Rather, both renewable diesel supply and demand are highly likely to collapse in the near-to-mid-term future, reflecting and contingent upon the current case with overall U.S. petroleum demand.

The EIR also states (3.1.3.4.2) that the: “ultimate destination of cargo varies depending on market forces”. Circumstances and transportation needs have dramatically changed both during and post COVID-19 pandemic, for the foreseeable future, since the Nustar EIR was prepared. We disagree about Nustar’s projected need for increasing transportation fuel needs in California and also for the availability of biodiesel. For the reasons cited in this comment letter, we believe that the project will not be in a position to help reduce California greenhouse gasses (GHGs), as claimed by the Nustar EIR.

Post-COVID-19, the increased need for renewable diesel use in California, as claimed in the Nustar EIR, will not actually increase for two reasons:

1) For economic reasons, there will be reduced growth in transportation use in California, so the growth of renewable diesel will also decrease, and 2) In a constrained petroleum market, renewable diesel will not be able to compete economically with petroleum diesel.

We also believe that an increased supply of renewable diesel will not increase after the current COVID-19 pandemic and (for an indefinite period), rather the supply will decrease.

The reason for this decrease will be that, post-COVID-19 pandemic, far less people will be going out to public restaurants, so reducing amounts of available tallow and frying oil to Nustar. There will be indefinitely constrained renewable diesel supplies for Nustar and also other suppliers, and

In conclusion, the Nustar Port of Stockton project is not needed now and in the indefinite future because California automobile transportation will likely decrease, not increase or even stay the same. Reduced petroleum usage translates to decreased renewable diesel needs and less need for the Nustar port expansion and pipeline extension.

Additionally, supplies of renewable diesel will likely decrease significantly as restaurant business will also likely decrease indefinitely.

The Project will not reduce GHGs, but will increase GHGs, because the project’s proposed activities are not needed.

Finally, the comment period for the Nustar Port of Stockton should be extended until the COVID-19 pandemic and State of California mandated shelter-in-place restrictions lifted.”

Vice Chairman Allen moved, to adopt the following resolution:

Resolution #8169: RESOLVED, by the Stockton Port District Board of Commissioners, that:

- the Final Environmental Impact Report (FEIR) for the NuStar Marine Oil Terminal Engineering and Maintenance Standards (MOTEMS) Development and Vessel Service Project (proposed Project):
 - was completed in compliance with the California Environmental Quality Act (CEQA); (Public Resources Code Section 21000 et seq.) and the CEQA Guidelines (14 California Code of Regulations Section 15000 et. seq.);
 - was reviewed and considered by the Board of Commissioners prior to approving the proposed Project; and
 - reflects the independent judgment and analysis of the Port of Stockton;
- the proposed Project as identified in the FEIR, including all feasible mitigation measures, with consideration of the Findings of Fact and Statement of Overriding Considerations and the Mitigation Monitoring and Reporting Program is hereby approved;
- the Findings of Fact and Statement of Overriding Considerations is hereby adopted:
 - in accordance with the information contained in the FEIR, the proposed Project will have significant and unavoidable cumulative adverse impacts related to environmental effects on air quality and greenhouse gas emissions as defined by Public Resources Code (PRC) Sections 21068 and 21082.2 and the CEQA Guidelines Sections 15064, 15064.4, 15064.5, and 15382;
 - in accordance with the provisions of the CEQA Guidelines Section 15091(a)(1), changes or alterations have been required in, or incorporated into, the proposed Project which substantially lessen or avoid one or more of the significant adverse environmental impacts identified in the FEIR;
 - in accordance with the provisions of the CEQA Guidelines Section 15091(a)(3), specific economic, legal, social, technological, or other considerations, make infeasible certain mitigation measures such that some environmental impacts remain significant and unavoidable;
 - all information added to the FEIR after public notice of the availability of the Draft Environmental Impact Report (DEIR) for

- public review but before certification, merely clarifies, amplifies, or makes insignificant modifications in an adequate EIR and recirculation is not necessary; and
- in accordance with PRC Section 21081(b) and the CEQA Guidelines Section 15093, the benefits of creating a more efficient facility at the proposed Project site outweigh the significant and unavoidable environmental impacts;
- the Mitigation Monitoring Reporting Program (MMRP) is hereby adopted, as required by PRC Section 21081.6;
- Port staff is directed to incorporate by reference the Environmental Impact Report and MMRP into any and all lease agreements or assignments encompassed in the approved Project; and
- Port staff is directed to file a Notice of Determination in accordance with CEQA.

RESOLVED FURTHER, that the Stockton Port District Board of Commissioners approves final adoption of Ordinance #257 for the Amended and Restated Lease Agreement with NuStar Terminal Operations Partnership, L.P., for the construction of a ±3,400-foot underground MOTEMS pipeline and related improvements connecting Dock 10/11 to an existing bulk petroleum terminal on ±18-acres located at 2941 Navy Drive for an initial term of 10-years with four 10-year option periods.; and

RESOLVED FURTHER, that Ordinance #257 shall take effect, and be in full force and effect, from and after its final adoption; and

RESOLVED FURTHER, that the Port Director is authorized, empowered and directed in the name of and as the act and deed of this Stockton Port District to make, execute and deliver all necessary documents in the accomplishment thereof, and to ensure that the provisions of this resolution are appropriately effected.

Resolution #8169 was passed by the following vote:

COMMISSIONERS IN FAVOR:	Allen, Barkett, Christopherson, Duffy, Griffen, Trezza
COMMISSIONERS AGAINST:	None
COMMISSIONERS ABSTAINING:	None
COMMISSIONERS ABSENT:	None

COMMISSIONERS EXCUSED:

Blanchard

COMMITTEE REPORTS

Chairman Christopherson acknowledged that there were no Committee Reports.

PORT DIRECTOR'S COMMENTS

Port Director Aschieris provided an executive summary of recent Port activities.

- Since the last Commission meeting, the following short-term lease has been executed:

Lessee: Alicia Valenzuela dba Mowzilicia
Location: West Complex, Building 217, Suite 141 and 142
Term: 1 year

- Current calendar year-to-date shipping reflects 54 ships. Shipping activity for the same period in 2019 reported 67 ships. Since the last Commission meeting, 18 ships have called at the Port.
- Current calendar year-to-date tonnage totaled 1,012,309 metric tons. Tonnage for the same period in 2019 totaled 1,248,675 metric tons. Since the last Commission meeting, 302,002 metric tons of cement/slag from Japan, Vietnam and Mexico, food grade oils from Malaysia, anhydrous ammonia from Trinidad, fertilizer from Indonesia, Trinidad and Russia, molasses from Nicaragua, steel from Japan and Korea, bulk paddy rice to Turkey, sulfur to New Caledonia, bulk beet pellets, bagged rice and tire chips to Japan have been handled.
- Director of Human Resources and Administrative Services Miller provided an update on how the Port is responding to the Novel Coronavirus (COVID-19) situation.
- Director of Finance Bowling provided an update on the Port's current financial situation.

COMMISSION COMMENTS

Commissioner Griffen shared information on the changes that have been made to the dispatch procedures for the longshoremen.

PUBLIC COMMENTS ON NON-AGENDA ITEMS

Chairman Christopherson acknowledged Ms. Mary Elizabeth from the Sierra Club. Ms. Elizabeth shared that the Port as the lead California Environmental Quality Act (CEQA) agency should provide the public with access to CEQA documents.

CLOSED SESSIONS:

- A. PURSUANT TO GOVERNMENT CODE §54957.6 CONFERENCE WITH LABOR NEGOTIATOR: RECEIVE REPORTS FROM, GIVE INSTRUCTIONS TO AND CONFER WITH PORT NEGOTIATOR RICHARD ASCHIERIS REGARDING LABOR NEGOTIATIONS WITH THE INTERNATIONAL LONGSHORE AND WAREHOUSE UNION (ILWU) LOCAL 6
- B. PURSUANT TO GOVERNMENT CODE §54957.6 DISCUSSION OF PERSONNEL MATTER: ANNUAL PERFORMANCE REVIEW OF THE PORT DIRECTOR

At 4:30 p.m., Chairman Christopherson announced that, in accordance with the Ralph M. Brown Act, that executive sessions would be conducted by the Board of Commissioners pursuant to Government Code §54957.6. The general public and other Port staff were excused from the meeting, and the closed session commenced at 4:35 p.m. Port Director Aschieris remained for the entire executive session, Director of Human Resources and Administrative Services Miller and Attorney Herum remained for a portion of the executive session.

At 5:21 p.m., Chairman Christopherson re-opened the meeting in public session. He reported that the Port Commission conferred with legal counsel and took no formal, reportable actions during the closed session.

ADJOURNMENT

There being no further business to discuss, the meeting was adjourned at 5:22 p.m. by Chairman Christopherson.

Melanie Rodriguez
Secretary to the Board

Chairman Gary Christopherson