

San Diego Unified Port District

**CEQA and COASTAL DETERMINATIONS
and
NOTICE OF APPROVAL**

Project: Tideland Use and Occupancy Permit to International Materials, Inc.
Location(s): Tenth Avenue Marine Terminal – Warehouse C, 1800-1824 Crosby Road, San Diego, CA 92101
Parcel No.(s): 020-113
Project No.: 2017-193
Applicant: Rob Walsh, Vice President, International Materials, Inc., 327 Plaza Real, Suite 320, Boca Raton, FL 33432
Date Approved: December 13, 2017

Project Description

The proposed project is a Tideland Use and Occupancy Permit (TUOP) to International Materials, Inc. (Tenant) for their continued use of approximately 144,000 square feet of warehouse area located in Sections C-8, C-10, and C-12 in Warehouse C at the Tenth Avenue Marine Terminal (TAMT) located in the city of San Diego, California. The area proposed for use under this TUOP is currently and is proposed to be used only and exclusively for the purpose of importation, storing, and truck loading of bauxite for no other purpose whatsoever. The Tenant would be responsible for compliance with all laws and regulations associated with the activities on or in connection with the above-described premises.

As noted above, the Tenant currently utilizes Sections C-8, C-10 and C-12 of TAMT Warehouse C for the storing and distribution of bauxite, which is considered a dry bulk commodity. The storage and distribution of bauxite by the Tenant was contemplated and analyzed as part of Final Environmental Impact Report (FEIR) for the Tenth Avenue Marine Terminal Redevelopment Plan and Demolition and Initial Rail Component Project (TAMT Program) (UPD EIR 2015-39; SCH # 2015-031046). The TAMT Program FEIR, adopted by the San Diego Unified Port District (District) on December 13, 2016, established a baseline for dry bulk commodities for the entire TAMT of 289,864 metric tons (Baseline Dry Bulk). The TUOP stipulates that the Tenant maximum annual throughput shall not exceed sixty-five thousand and one (65,001) metric tons of bauxite or other dry bulk commodity per calendar year at District marine terminal facilities unless there is remaining capacity available that would not allow an exceedance of the Baseline Dry Bulk (289,864 metric tons) at TAMT.

As part of the TAMT Program FEIR, a Mitigation Monitoring and Reporting Program (MMRP) was adopted in accordance with Public Resources Code (PRC) Section 21081.6 and Section 15097 of the California Environmental Quality Act (CEQA) Guidelines. The purpose of the MMRP is to ensure that activities envisioned in the TAMT Program FEIR comply with all applicable environmental mitigation requirements. Public Resources Code Section 21081.6 requires the Lead Agency, for each project that is subject to CEQA, to monitor performance of the mitigation measures included in any environmental document to ensure that mitigation does, in fact, take place. The District is the designated lead agency for the MMRP and is responsible for review of all monitoring reports, enforcement actions, and document disposition.

As identified in the TAMT Program FEIR MMRP, Mitigation Measure AQ-4 (MM AQ-4), states that as a condition of approval of any new or amended real estate agreement or Coastal Development Permit for dry bulk operations that would result in an increase in daily or annual throughput over baseline conditions, the San Diego Unified Port District shall require the project proponent to install and use the best available control technologies to achieve a minimum 95% control efficiency for particulate matter. Implementation of MM AQ-4 would not be applicable to the proposed project as the granting of the TUOP would not result in an exceedance of the Baseline Dry Bulk throughput (289,864 metric tons) previously contemplated at TAMT. No new development, construction, uses, or increase in the size of the Tenant's leasehold or the TUOP area is proposed or authorized as part of this TUOP.

It is anticipated that the TUOP would commence on January 1, 2018 and terminate on December 31, 2019, for a total term of two (2) years. The TUOP may be terminated by the Executive Director of District or her duly authorized representative, or Tenant, as a matter of right and without cause at any time upon the giving of thirty (30) days' notice in writing to the other party of such termination.

The following categorical determinations are based on the TUOP and all project information known to the District as of the date of this determination. Furthermore, the Project is responsible for complying with all applicable federal, state, and local laws regulating construction demolition debris, hazards and hazardous materials, noise, and stormwater.

CEQA DETERMINATION

Based upon the above description, the project is determined to be Categorically Exempt pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15301 (Existing Facilities) and Section 3.a. (4) of the District's *Guidelines for Compliance with CEQA* because the project is a TUOP for the purpose of importation, storing, and truck loading of bauxite that would involve no expansion of use beyond that previously existing. Section 3.a. (4) of the District's CEQA Guidelines is as follows:

- 3.a. Existing Facilities (SG § 15301) (Class 1): Includes operation, repair, maintenance, or minor alteration of existing public and private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that previously existing, including but not limited to:
 - (4) New and renewed short-term tenancy agreements which do not result in change in the existing use. This exemption does not apply to any new development associated with the activities of the tenant. This exemption is also inapplicable if the cumulative impact of continuing the existing use or conditions in the same place, over time, is significant.

The Categorical Exemption listed above is appropriate for the proposed project because it is a TUOP for the purpose of importation, storing, and truck loading of bauxite that would involve no expansion of use beyond that previously existing. Furthermore, the TUOP would not result in any significant cumulative impacts due to the continuation of the existing use.

Pursuant to CEQA Guidelines Section 15062, a 35-day statute of limitations for this CEQA exemption shall apply from the date a Notice of Exemption is posted with the San Diego County Clerk, or a 180-day statute of limitations for this CEQA exemption shall apply if no Notice of Exemption is filed.

The proposed project complies with Section 87 of the Port Act, which allows for all visitor-serving commercial and industrial uses and purposes, and the construction, reconstruction, repair, and maintenance of commercial and industrial buildings, plants, and facilities. The Port Act was enacted by the California Legislature and is consistent with the Public Trust Doctrine. Consequently, the proposed project is consistent with the Public Trust Doctrine.

CALIFORNIA COASTAL ACT

PORT MASTER PLAN

The project site is located in Planning District 4, Tenth Avenue Marine Terminal, which is delineated on Precise Plan Map Figure 13 of the certified Port Master Plan. The Port Master Plan land use designation within the limits of the proposed project is Marine Terminal. The project conforms to the certified Port Master Plan because it is issuance of a TUOP for the purpose of importation, storing, and truck loading of bauxite consistent with the existing certified land use designation. The project would not change the use of the site nor would it interrupt or expand the existing conforming use of the site.

CATEGORICAL DETERMINATION

The above project proposes a TUOP for the purpose of importation, storing, and truck loading of bauxite that would involve no expansion of use beyond that previously existing. This project is consistent with the existing certified land use designation and is Categorically Excluded under Section

8.a. of the District's *Coastal Development Permit Regulations*, as follows:

8.a. Existing Facilities: The operation, repair, maintenance, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that previously existing.

Pursuant to California Coastal Act Section 30717, there is a 10-working-day period to appeal this "Coastal Act Categorical Determination of Exclusion" to the California Coastal Commission.

RANDA CONIGLIO
President/CEO

Determination by:
Kelly Czechowski
Senior Planner
Development Services

Signature: K. Czechowski
Date: 12/13/17

Deputy General Counsel

Signature: Rebecca S. H. J.
Date: 12/13/17