

STATE OF CALIFORNIA

GRAY DAVIS, Governor

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April 22, 2002

File Ref: W9777.69

Ms. Nadell Gayou  
The Resources Agency  
901 P Street  
Sacramento, CA 95814Ms. Kathy Stevens  
21865 Copley Drive  
Diamond Bar, CA 91765

Dear Ms. Gayou and Ms. Stevens:

Staff of the California State Lands Commission (CSLC) have reviewed the Ultramar, Inc. Wilmington Refinery CARB Phase 3 Draft Subsequent Environmental Impact Report (SCH #200061113). Based on our review, we offer the following comments.

**Jurisdiction**

A portion of the project, Berth 164, Port of Los Angeles, involves sovereign tidelands and submerged lands granted in trust, by the Legislature, to the City of Los Angeles. The California State Lands Commission (CSLC) is, therefore, a Trustee Agency under the California Environmental Quality Act (CEQA).

Additionally, as a result of the Lempert-Keene-Seastrand Oil Spill Prevention and Response Act (Act) of 1990, as amended, California State Lands Commission (CSLC) has adopted regulations for the inspection and monitoring of marine oil terminals, inspection and testing of marine oil terminal pipelines, testing and certification of marine oil terminal personnel, and structural requirements for vapor recovery systems (2 CCR Sections 2300 through 2571). In furtherance of the mandates of the Act (PRC Section 8755), regulations on performance standards of existing and proposed marine terminals within the state are in the draft stages. These performance standards, referred to as Marine Oil Terminal Engineering and Maintenance Standards (MOTEMS), are expected to become effective in 2003. As such, a thorough assessment of the fitness-for-purpose of this terminal will be required.

4-1

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On March 7, 2002, the CSLC adopted Marine Terminal Physical Security Program regulations (2 CCR Section 2351) in response to the September 11, 2001, terrorist attacks. The regulations require that, "Any change in the operation of a marine oil terminal must contemplate the impact on the terminal's physical security. Increased operations, such as additional ship calls, may necessitate adjustments in the terminal's physical security arrangements. The marine oil terminal security officer should review the security plan for adequacy anytime there is a change in operations."

4-2

On October 8, 1999, the Governor of California signed into law AB 703, "The Ballast Water Management For Control of Nonindigenous Species Act" (Act), which became effective January 1, 2000, Public Resources Code, (PRC) Sections 71200 - 71271. The Act established a statewide mandatory ballast water management and control program under the jurisdiction of the CSLC (PRC Sections 71206 - 71207).

4-3

### Specific Comments

1. Page 1-6, Modifications to the Marine Terminal: The text states "Ultramar has acquired two terminals previously used by the Los Angeles Department of Water and Power. . .". These two sites are actually tank farms and the use of "terminal" here is confusing. Please clarify/correct this throughout the document.
2. Page 1-7, Changes to Material Transport: The proposed project is expected to result in an increase of approximately 65 marine vessels annually. What size vessels are expected to visit the terminal? Ultramar's existing Marine Terminal Operations Manual limits the size of vessels visiting the terminal to 82,000 DWT. If larger vessels are expected, then a mooring analysis and possibly a structural upgrade would be required prior to any Operations Manual change being approved by the Marine Facilities Division of the CSLC.

4-4

4-5

Additionally, the text states that 120 additional truck trips are expected annually as a result of this project. Please confirm this number.

4-6

3. Page 1-8, Hydrology/Water Quality and Page 1-19 Table 1-1, Summary of Environmental Impacts, Mitigation Measures and Residual Impacts. The document does not mention ballast water and its potential impact on surface waters or on biological resources. It is an accepted fact that vessels have the potential to transport many types of organisms/pollutants via ballast water and through hull fouling. The expected increase of 65 vessel calls per year will likely result in an increase in ballast water discharged into California water; this potentially significant impact needs to be discussed in the document. The subsequent EIR should document the current water quality, channel flushing etc. and potential impacts for operational activities of the proposed facility due to ballast water. Additionally, the voyage characteristics (last port of call, next port of call, etc.) and the expected size of tank vessels should be evaluated and discussed in the document.

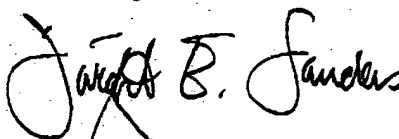
4-7

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4. Page 2-23, Table 2-6, Federal, State and Local Agency Permits and Applications. The document does not include the CSLC, which has regulatory authority over marine oil terminals. CSLC approval will be required on any Operations Manual changes that might be generated by this project. Additionally, CSLC has authority over physical security requirements, pipelines and training regulations as they relate to marine oil terminals. 4-8
5. Chapter 3.0, Existing Environmental Setting: The document does not include a discussion of biological resources (terrestrial and marine) that may be affected by this project. In particular, the document does not address potential impacts to biological resources as a result of increased ballast water discharges and hull fouling associated with vessel visits to the terminal. Please provide a description of the biological resources in and around the marine oil terminal and evaluate the impacts of the project on those resources. 4-9
6. Page 3-32, Regulatory Background, 4<sup>th</sup> paragraph, 5<sup>th</sup> sentence should read: The Marine Terminal Operations Manual in compliance with Coast Guard and State of California requirements, . ." As mentioned previously, CSLC has regulatory authority over marine oil terminals. Please correct. 4-10
7. Page 3-32, Regulatory Background, 5<sup>th</sup> paragraph states that, "Ship washings and ballast water are stored in two tanks for further treatment and disposal." Please clarify. Will this apply to all vessels visiting the terminal? How many vessels have the capability to offload to landside tanks? How and where will ballast water be treated? 4-11

We appreciate your consideration of these comments. If you have any questions, please contact Maurya Falkner at (562) 499-6312.

Sincerely,



Dwight E. Sanders, Chief  
Division of Environmental  
Planning and Management

cc: Maurya Falkner, Marine Facilities Division  
Mary Howe, Granted Lands Program  
OPR

**COMMENT LETTER NO. 4**  
**LETTER FROM CALIFORNIA STATE LANDS COMMISSION**

Dwight Sanders  
April 22, 2002

**Response 4-1**

The SCAQMD understands that the California State Lands Commissions (CSLC) is a trustee Agency under the Ultramar CEQA process and that the CSLC has adopted regulations affecting marine terminals under the Oil Spill Prevention and Response Act of 1990. The Ultramar Marine Terminal is currently subject to the requirements of these regulations which include inspection and monitoring of marine terminals, inspection and testing of marine terminal pipelines, testing and certification of marine oil terminal personnel and structural requirements for vapor recovery systems (2 CCR Sections 2300 through 2571).

Based on discussions with CSLC staff, the CSLC is currently developing regulations on performance standards for new and existing terminals, referred to as Marine Oil Terminal Engineering and Maintenance Standards (MOTEMS). The MOTEMS are expected to require an engineering audit to thoroughly evaluate the affected terminals for compliance with various seismic, electrical, mechanical and fire requirements. The MOTEMS are currently being developed by the CSLC and other agencies and organizations and are not yet available for public review and comment. The CSLC staff indicates that the draft MOTEMS regulations should be available for public review later this summer, with approval expected during the first quarter of 2003. The Ultramar Marine Terminal will be required to comply with any applicable MOTEMS, once they are finalized.

**Response 4-2**

The SCAQMD understands that there are new regulations that require terminals to develop Marine Oil Terminal Security Plans (MOTSP) and that those MOTSP be submitted to the CSLC for review and approval. Ultramar has prepared and submitted its MOTSP to the CSLC and is currently working with the CSLC to finalize the Plan. It should be noted that the only modifications proposed for the Ultramar marine terminal is to install a secondary seal on the tank and change the service of the tank to allow the storage of naphtha and other organic liquids. No new storage tanks are expected at the marine terminal. The changes required by the proposed project (change in service of the tank) have been included in the facility's MOTSP.

**Response 4-3**

The vessels that deliver materials to the Ultramar terminal are not owned by Ultramar and compliance with the ballast water management program is the responsibility of the owner/operator of the vessel.

Ships arriving at the Port associated with the proposed project are not expected to arrive with ballast. Instead they will be carrying products necessary to comply with the MTBE phase-out mandate and CARB's Phase 3 Reformulated Gasoline specifications. Ballast is used to balance a ship that is empty of cargo. Therefore, ballast would be discharged when a ship that is empty of cargo arrives at berth and starts to take on a shipment. This situation is not expected to occur at the Ultramar marine terminal associated with the proposed project. The proposed project is expected to result in elimination in shipments of MTBE to the Port and an increase in shipments of ethanol and gasoline blending components. The ships delivering material (ethanol or other gasoline blending components) to the marine terminal are expected to come into port full, discharge their cargo, and leave. If necessary, these vessels would take on ballast and discharge it at a port where they take on their next cargo, which is not expected to be in the Port of Los Angeles. The proposed project is not expected to result in an increase in ballast handled by the terminal or discharged into California waters.

#### **Response 4-4**

A terminal can be a marine terminal or a truck terminal or another type of terminal. Storage tank farms are often used as truck terminals or railcar terminals, i.e., materials are moved through the facility via rail or trucks. The EIR will be reviewed to ensure that the marine terminal is consistently referred to as the marine terminal.

#### **Response 4-5**

Ultramar does not own ships but contracts with other companies for the delivery of materials to the Marine Terminal. Contracts for the ethanol and gasoline blending stocks have not been finalized so that specific data on the type and size of vessels that will visit the Marine Terminal are not available and will not be known until contracts are signed. However, vessels that visit the marine terminal are not expected to be above the current allowable limit of 82,000 DWT because Ultramar will not accept bids from contractors using vessels with a DWT that exceeds Ultramar's existing Marine Terminal Operations size limit. Therefore, a mooring analysis is not expected to be required.

#### **Response 4-6**

The text in the Draft SEIR should have read that the proposed project is expected to result in an increase of 120 trucks per day within the South Coast Air Basin. However, the Final EIR has been revised to indicate that, based on more detailed project information, no increase in gasoline production is expected so no increase in truck traffic associated with gasoline transportation is expected.

#### **Response 4-7**

See Response 4-3. No increase in ballast water discharge is expected as a result of the proposed project.

Since vessels are not owned or operated by Ultramar and contracts for the petroleum products have not been developed, the voyage characteristics (last port of call, next port of call, etc.) of the vessels are not known and, therefore are speculative. As noted in Response 4-5, the size of the vessels is also not known at this time but is not expected to exceed the current allowable limit of 82,000 DWT.

#### **Response 4-8**

It should be noted that the only modifications proposed for the Ultramar marine terminal is to install a secondary seal on the tank and change the service of the tank to allow the storage of naphtha and other organic liquids. No new storage tanks or other physical modifications are expected at the marine terminal. Although a change in its operations manual is not anticipated to be necessary for the proposed project, Ultramar will review its operations manual, modify it, as appropriate to account for the proposed project modifications, and submit it to the CSLC, if appropriate, for review. With regard to the applicability of security regulations, see Response 4-2.

#### **Response 4-9**

The impacts of the proposed project on biological resources were determined to be less than significant in the Notice of Preparation/Initial Study (see SCAQMD, Final EIR, December 2002, Appendix A). No comments were received on the Notice of Preparation/Initial Study disputing this conclusion. The proposed project will be located within the confines of an existing operating Refinery, within an existing marine terminal, and within existing storage tank farms. Past development of the sites has virtually eliminated all natural habitat within the boundaries of the existing facilities. No species of rare, threatened, or endangered plants or animals have been reported in the vicinity of the project sites. Thus, no listed species are expected to be significantly adversely impacted by construction or operation of the proposed project. Further, no increase in the discharge of ballast water is expected (see Response 4-3) so adverse effects on marine biology are also not anticipated.

#### **Response 4-10**

This comment will be incorporated into the Final EIR to reflect that, in addition to the U.S. Coast Guard, CSLC has regulatory authority over marine oil terminals.

#### **Response 4-11**

See Response 4-3 regarding the need to discharge ballast water at the marine terminal. Ultramar does not routinely accept ship washing or ballast water at the marine terminal. No ballast water has been accepted at the marine terminal in the past three years. The tanks for ship washing and ballast water are located at the marine terminal so that, in an emergency, Ultramar can accept ship washing and ballast materials. Material collected at the marine terminal is tested and shipped to the Refinery for treatment in the existing wastewater treatment system at the Refinery. The proposed project is not expected to result in an increase in the amount of ballast received at the marine terminal.