

Staff Report 60

TRUSTEE:

San Diego Unified Port District

PROPOSED ACTION:

The San Diego Unified Port District (Port) requests that the Commission make determinations and findings under Public Resources Code section 6702 (b)(1)-(3) for an Intergovernmental Support Agreement that allows the Navy Region Southwest (Navy) to participate in California's Low Carbon Fuel Standard (LCFS) market and allows the Port to register, generate, and sell credits from Navy shore power to provide Naval Base San Diego with energy and utility improvement projects. The Port also requests that the Commission authorize the Port to expend funds generated from the LCFS market on projects located on Naval Base San Diego, adjacent to the Port's granted Public Trust Lands.

BACKGROUND:

The LCFS is designed to decrease the carbon intensity of California's transportation fuel pool and provide an increasing range of low-carbon and renewable alternatives, which reduce petroleum dependency and achieve air quality benefits. Under the LCFS, the California Air Resources Board (CARB) calculates a "carbon intensity" score to diesel and gasoline fuels, and also establishes a carbon intensity benchmark. Providers of transportation fuels must stay below the carbon intensity benchmark, which lowers over time, by using less carbon intensive fuels or by purchasing credits.

Using fuels whose carbon intensity is under the benchmark generates credits and using fuels that exceed the benchmark creates deficits. Credits can also be generated by emissions-reducing projects, like carbon-capture and sequestration projects, and by operating zero emission vehicle infrastructure. When an entity generates credits, it can use those credits itself or sell them on a credit market. Under CARB's LCFS regulations and guidance, proceeds from credit sales can only be used for electrification projects serving the same sectors in which the credits

were generated. For example, revenue from credits generated from electric vehicle charging stations could be used to incentivize public electric vehicle charging or to install additional charging infrastructure.

CARB identified the LCFS as one of nine early action measures to reduce California's greenhouse gas emissions that cause climate change. The LCFS is a key part of a comprehensive set of programs in California to reduce greenhouse gas emissions and other smog-forming and toxic pollutants by improving vehicle technology, reducing fuel consumption, and increasing transportation mobility options.

When docked, ships can either connect to shore electric cables or else they must rely on their onboard fossil fuel-based engines and generators. Providers of electric shore power can generate LCFS credits, which represent the difference between the carbon intensity of the electricity versus the carbon intensity of the fossil fuel.

The Navy could generate LCFS credits while ships are plugged into shore power at Naval Base San Diego. But under federal law, the Navy could not use the proceeds from LCFS credit sales for electrification projects at Naval Base San Diego as required by LCFS regulations.

PROJECT DESCRIPTION:

The LCFS program allows designation of a third party to manage and collect LCFS credits. The Port has several agreements already in place with lessees where the Port accepts responsibility for generating and selling credits in exchange for a portion of the revenue from credit sales. The Port and Navy signed an Intergovernmental Support Agreement in September 2022, forming a partnership that gives the Navy access to California's LCFS credit program.

Under the Intergovernmental Support Agreement, the Navy designated the Port to be the generator of its LCFS credits. The Port will register Naval Base San Diego's electric shore power infrastructure in the LCFS program, monitor and report on its use, collect LCFS credits generated by the use, and sell those credits on the market. The Port estimates that this partnership with the Navy as described in the Intergovernmental Support Agreement will generate over \$200 million in credit sales.

The Port will use 81.75 percent of the proceeds from the Navy credit sales to undertake electrification projects at Naval Base San Diego, which is adjacent to Port property but outside of the Port's granted lands. The Port will procure and manage the projects under its existing authority, using standard competitive procurement procedures.

The projects at Naval Base San Diego will modernize, build out, and expand electrical infrastructure at the base. This will increase shore power capacity to meet expected growth, expand car charging, and install electrical resilience systems. The Navy has provided project examples in the Intergovernmental Support Agreement.

The utility infrastructure at Naval Base San Diego is approaching or past the end of its useful life. The expected life of most large electrical equipment at the Base is approximately 30 years. Much of the infrastructure replacement and upgrades are about 10 years overdue. The electrical infrastructure is close to capacity and additional power is significantly constrained or not possible in its current configuration and age. Naval Base San Diego needs to rebuild its electrical infrastructure to increase vehicle charging and accommodate planned ship number increases. The Port will retain the remaining 18.25 percent to pay its administrative costs in administering the LCFS credit generation and undertaking the Naval Base San Diego electrification projects. These remaining funds will also help to pay for the Port's own electrification projects.

Commission approval is required for the Port to expend funds for projects on property outside of its legislatively granted lands. Therefore, the Port requests that the Commission authorize its expenditures on Naval Base San Diego pursuant to the Intergovernmental Support Agreement.

LEGAL REQUIREMENTS:

AUTHORITY:

Public Resources Code sections 6005, 6009, 6009.1, 6216, 6301, 6701, and 6702; Harbor & Navigation Code, Appendix 1, § 30.5; California Code of Regulations, title 2, section 2802.

STAFF ANALYSIS AND RECOMMENDATION:

PUBLIC TRUST AND STATE'S BEST INTERESTS ANALYSIS

The Port's legislative grant is codified as the San Diego Unified Port District Act, Harbor & Navigation Code, Appendix 1, section 1 *et seq* (The Port Act). The Legislature created the Port to provide a holistic approach to waterfront planning in the San Diego Bay (Port Act, § 2). Section 4 of the Act provides that the Port is charged with "management of the harbor of San Diego upon the tidelands and lands lying under the inland navigable waters of San Diego Bay, and for the

promotion of commerce, navigation, fisheries, and recreation thereon” and to “protect, preserve, and enhance [. . .] the natural resources of the bay, including plant and animal life.” (Port Act, § 4.) Section 87 of the Act states that a purpose of the grant is “For the establishment, improvement, and conduct of a harbor” (subdivision (a)(1)).

The partnership created by the Intergovernmental Services Agreement will allow Naval Base San Diego and the Port to fund electrification projects that are designed to remove harmful particulates from the air and reduce greenhouse gas emissions and are intended to reduce the health and environmental impacts on nearby communities. Electrification projects will also help accommodate increased ship use. Increased electrification will also benefit future facility development, including nearby shipyards that are critical to the State and regional economy.

The Agreement aligns with the Port's [Maritime Clean Air Strategy](#) (MCAS), a policy document to help the Port identify future projects and initiatives to improve health through cleaner air while also supporting efficient and modern maritime operations. The MCAS recognizes that its neighboring communities continue to suffer a disproportionate burden of environmental impacts, including air pollution, and more needs to be done to reduce these impacts. The MCAS is the Port's strategy to reduce those burdens by, among other things, transitioning cargo fleets and equipment to zero-emission alternatives, doubling shore power for cruise ships by 2023, and adding shore power or an alternative technology to reduce ocean-going emissions at berth at the National City Marine Terminal by 2025. As an example, based on the Port's MCAS modeling Inputs for 2030, the various operational improvements could reduce 30-year maximum cancer risks by nearly 50% for the neighboring communities of National City, Barrio Logan, and Coronado.

Electrification projects at Naval Base San Diego, funded through LCFS credit sales, will address environmental impacts disproportionately burdening neighboring communities. The Port can use the portion of the credit sales it retains to implement ongoing and future MCAS related projects.

Like all Port trust revenue, the proceeds from LCFS credit sales will be deposited in an appropriate fund and can only be used for statewide purposes authorized by the Port Act. CARB's regulations and guidance require that proceeds from LCFS credit sales be used for electrification projects and other uses that further the purposes of the LCFS program.

For these reasons, staff recommends that the Commission find that the Intergovernmental Services Agreement is consistent with the Port's granting statute.

San Diego Unified Port District Act section 30.5

Section 30.5 of the San Diego Unified Port District Act requires that before the Port makes an expenditure of over \$1 million on property adjacent to, but outside of, its granted lands, the expenditure must be approved by the Commission. When reviewing the expenditure, Section 30.5 requires the Commission to consider the factors listed in Public Resources Code section 6702.

Public Resources Code Section 6702

When the Commission approves a trustee's agreement under Public Resources Code sections 6701 and 6702, termination or modification of the trustee's legislative grant does not affect the rights of the other parties to that agreement.

To approve an agreement, Section 6702 subdivision (b) requires the Commission to find:

- (1) That such lease, contract, or other instrument is in accordance with the terms of the grant or grants under which title to the tide or submerged lands in question is held.
- (2) That the proceeds of such lease, contract, or other instrument shall be deposited in an appropriate fund expendable only for statewide purposes authorized by a legislative grant.
- (3) That such lease, contract, or other instrument is in the best interests of the State.

The Commission also has regulations (California Code of Regulations, title 2, section 2802) that establish the criteria it will consider when determining, in the context of Public Resources Code section 6702 subdivision (b), whether an agreement is in the best interests of the State. The criteria are that the project is consistent with the Commission's policies and practices; that the project is economically viable, necessary, and desirable; that it is appropriate for developmental mix; that the project is conducive to public access; that it is consistent with environmental protection; and that the project is otherwise in the best interests of the State.

Taking the above into account, staff recommends that the Commission find that the Agreement is in the best interests of the State, consistent with the findings in both Public Resources Code section 6702 (b)(1)-(3) and section 2802 of Title 2 of the California Code of Regulations, and that the expenditures of trust revenue on property adjacent to, but outside of, the Port's tidelands is consistent with Section 30.5 of the Port Act.

CONCLUSION:

Staff recommends that the Commission make the findings required by Public Resources Code section 6702 subdivision (b)(1)-(3) and approve the Interagency Support Agreement consistent with both the statutes and regulations pertaining thereto. Staff also recommends that the Commission approve off-site expenditures for electrification projects on Naval Base San Diego pursuant to that Agreement.

OTHER PERTINENT INFORMATION:

1. This action is consistent with the “Meeting Evolving Public Trust Needs” and “Committing to Collaborative Leadership” Strategy Strategic Focus Areas of the Commission’s 2021–2025 Strategic Plan.
2. Approval of an agreement under Public Resources Code 6702 subdivision (b) and approval of related off-site expenditures are not projects as defined by in the California Environmental Quality Act because they are administrative actions that will not result in direct or indirect physical changes in the environment.

Authority: Public Resources Code section 21065 and California Code of Regulations, title 14, section 15378, subdivision (b)(5).

EXHIBITS:

- A. Intergovernmental Support Agreement
- B. Request from the Port

RECOMMENDED ACTION:

It is recommended that the Commission:

AUTHORIZATION:

1. Find, under Public Resources Code section 6702 subdivision (b)(1), that the Intergovernmental Support Agreement between the San Diego Unified Port District and Navy Region Southwest, including expenditures on Naval Base San Diego pursuant to that agreement, is consistent with the Port’s legislative granting statutes.
2. Find, under Public Resources Code section 6702, subdivision (b)(2), that all proceeds related to the Intergovernmental Support Agreement between the

San Diego Unified Port District and Navy Region Southwest, including the Port's expenditures on Naval Base San Diego pursuant to that agreement, shall be deposited into an appropriate fund expendable only for statewide purposes authorized by the Port's legislative grant.

3. Find that the Intergovernmental Support Agreement between the San Diego Unified Port District and Navy Region Southwest, including the Port's expenditures on Naval Base San Diego pursuant to that agreement, is in the best interests of the State under Public Resources Code section 6702, subdivision (b)(3) and California Code of Regulations, title 2, section 2802.
4. Approve, under Public Resources Code sections 6701 and 6702, the Intergovernmental Support Agreement between the San Diego Unified Port District and Navy Region Southwest.
5. Approve, under San Diego Unified Port District Act section 30.5, the proposed off-site expenditures by the San Diego Unified Port District at Naval Base San Diego for electrification projects pursuant to the Intergovernmental Support Agreement between the San Diego Unified Port District and Navy Region Southwest.