# Position Paper

# USACE'S FINAL ENVIRONMENTAL IMPACT STATEMENT ON THE PROPOSED BAYPORT CONTAINER AND CRUISE TERMINAL

The U.S. Army Corps of Engineers released its Bayport FEIS (final environmental impact statement) on May 16, opening an initial public comment period that closed on July 16. In August, the Corps issued a new public notice with a 30-day public comment period on the coastal prairie preservation components of PHA's mitigation plan. The second public comment period closed September 12. The Corps' record of decision (ROD) and permit decision are expected to be announced in October.

## 1. Air Quality Matters

- **Bayport will comply with the Houston area's clean air plan. In fact, all of the Bayport emissions were overestimated in the plan.**
    - Onsite Bayport nitrogen oxide (NOx) emissions estimated in the FEIS are only 33.5% of the onsite Bayport emissions assumed and included in the clean air plan.
    - Emissions from Bayport will be below the health-based National Ambient Air Quality Standards (NAAQS) established by the federal Environmental Protection Agency (EPA) in the surrounding neighborhoods.
    - Emissions from Bayport will be below the air quality standards for diesel particulate established by the EPA and the State of California.
- **Any of the alternative sites would have air impacts that are equal to or greater than Bayport.**
    - Operational emissions from all of the alternative sites would have the same level of impacts for ozone, carbon monoxide (CO), nitrogen oxide (NOx), sulfur dioxide (SO2), diesel particulate and PM10 (particles with a diameter of 10 microns or less).
    - During the construction phase, the alternative sites would be likely to have PM2.5 (particles with a diameter of 2.5 microns or less) emissions that are greater than at Bayport, and that could exceed the NAAQS.
    - The FEIS states that construction-related impacts at the other alternatives "would, in general, be greater than those related to the Bayport terminal location alternative

since these locations would require additional stabilization and/or increase in elevation."

- **The Bayport facility will be more protective of public health and the environment than the FEIS shows because the analysis used overstated emissions.**

    - The FEIS states, "Assumptions were generally made that would result in an estimate of the worst case scenario that could result from the terminal operation."

    - The study used very high estimates of emissions from construction and operations, like trucks and cranes. The FEIS states, "The emissions inventory presented for the terminal development is intended to be an order of magnitude of emissions greater than what would actually result from terminal operations."

    - The analysis in the FEIS did not include significant components of the PHA's air mitigation plan.

    - The study includes the first-ever model in Texas of the impact of such a facility under the new PM 2.5 air quality standard, as well as the impact of diesel particulate emissions.

    - The FEIS did not consider all of the benefits of several upcoming environmental regulations that will improve air quality in the region, including the new diesel and fuel standards announced by EPA, new Tier II and Tier III diesel equipment, and other rules relating to the Houston clean air plan. The FEIS states, "This study did not fully account for future regulations and technological advances that would potentially reduce emissions from operations related to the terminal project."

    - The FEIS states, "Therefore, actual emissions related to the project are likely to be lower than those presented in this assessment."

    - The FEIS states, "Background levels of PM 2.5 should decrease over time as this pollutant is further controlled. This positive impact was not included in the analysis since it was not possible to determine the degree to which future background levels might decrease."

- **The Port has also committed to controls that will reduce emissions from Bayport, and further minimize the chance of any harm to citizens living near the facility.**

    - The Port has committed to reducing emissions of ozone-forming chemicals well beyond what is required in the Houston clean air plan.

    - The Port also has committed to reducing diesel emissions through the use of clean fuels and clean engine technologies.

## 2. Wetlands and Water Quality Matters

- **The FEIS includes a detailed analysis of the wetlands and other habitat at the Bayport site.** The Corps has determined that there are 19.71 acres of wetlands that are subject to federal jurisdiction under the Clean Water Act (CWA), of which 19.28 acres will be impacted by the project. The large majority of those wetlands are on old dredge material disposal areas north of Port Road.

- **The PHA will mitigate for the loss of these wetlands on a 173.5 acre tract located on Red Bluff Road.** The Port will create 66.8 acres of new wetlands, within the Taylor Bayou/Bayport Channel watershed, a ratio of more than 3.4 acres of wetlands for each one acre used to build the terminal.

- **The PHA will compensate for other aquatic resources and habitat values.** In addition to the created wetlands, the Red Bluff Road site will include:

    - enhancement of 12 acres of existing wetlands
    - 23.7 acres of forested and shrub uplands
    - 71 acres of restored coastal prairie
    - a conservation easement will protect the entire 173.5 acre tract

- **At least 200 acres of inter-tidal marsh** will be created as a beneficial use of dredge material.

- **Critically, the water quality functions of the aquatic** resources (both jurisdictional and non-jurisdictional) will be adequately replaced.

- **The storm water quality plan at Bayport** will meet — and exceed — all environmental standards.

- **This program is being implemented** even though sampling of storm water at the existing Barbours Cut Terminal has never exceeded any regulatory limits. That record has been set without the high level of protection Bayport will have.

    - The Bayport Terminal will capture the first inch of rainfall at the terminal and divert it to a holding pond. The first flush pond will trap suspended solids, thus decreasing the discharge of sediments into the bay.

    - The rate of storm water flow into Pine Gully will be limited to pre-project conditions. The South Terminal Retention Pond will capture and hold storm water in excess of one inch, and then release it slowly. This retention pond will have a created wetland in its bottom to filter the storm water before its release.

    - The areas of the terminal with the highest chance to contribute contaminants to storm water (the Maintenance Facility, RTG maintenance areas, and equipment parking areas) will have isolated drainage basins, which will have inlet treatment units to

remove TSS, oil and grease, with the remaining water then proceeding to the first flush basins.

## 3. Alternative Sites

- **The USACE analysis of alternatives** includes several sites that, in the opinion of the PHA, are not practical or reasonable.

    - **Cedar Point** is located in Chambers County, not Harris County. There is no deep water access, so a new 40 foot deep channel approximately 15,000 feet long would need to be constructed from the Houston Ship Channel to Cedar Point. An additional 102 lane miles above that needed for the Bayport alternative would be required. From both an operational and financial standpoint, this alternative is neither reasonable nor practical.

    - **Spillman's Island** cannot be used for a container terminal. The site is a key component of the 50-year plan to dispose of dredged material from the congressionally authorized Houston Ship Channel project. Disposal of maintenance material is essential to keeping the Houston Ship Channel open. A replacement for Spillman's Island must be located and permitted before Spillman's Island could be used. This alternative disposal site would also produce environmental impacts. Even if that hurdle is overcome, repeated analyses have demonstrated that the costs of constructing a container terminal on the active disposal site are much higher than those for construction at Bayport.

    - **Shoal Point** in Texas City is not available to the PHA. A permit has been granted to another applicant to use that location. The construction of a Texas City terminal does not lessen the need for Bayport, but it does eliminate the location as a reasonable or practical alternative.

- **Bayport is a good location for the project.** It is located in an area designated for industrial uses along an existing federally maintained deep water channel. It has synergistic operational efficiencies with the existing Barbours Cut Terminal. It is in the overall public interest.

## 4. Noise Matters

- **It is important to recognize that the noise modeling in the FEIS is extremely conservative.** Indeed, according to the FEIS, it was "designed to evaluate a worst-case condition."

    - For example, the source sound level used for operations at the container terminal was the worst case hourly level among all measurements taken by the USACE at the existing Barbours Cut Terminal.

- Additionally, the model assumes full build-out with all seven berths operating during a 24-hour period. This scenario, which cannot possibly occur for many years, will never occur for more than a small fraction of the time the terminal operates.

- Consistent with its policy to be a good neighbor, the PHA will continue to work with surrounding areas to ensure compatibility with surrounding land uses.

- **The FEIS concludes that only short-term, less than significant noise impacts would occur as a result of construction activities at Bayport.**

- **The FEIS demonstrates that no significant noise impacts would occur from vehicular traffic** at Bayport or from traffic coming to or from the proposed location.

- **Bayport will not violate any noise regulations.**

- **If the Bayport Terminal was not built,** similar noise levels would likely occur at the site anyway due to future industrial growth. According to the FEIS, "Under the No Action Alternative, increases in industrial development are projected at several of the terminal location alternatives, including the Bayport area. It is expected that ambient noise levels in the Bayport area and at the Cedar Point and Pelican Island locations would increase commensurate with this projected industrial growth."

- **The PHA is committed to building a 20-foot-high barrier** to reduce noise from both construction and operation of the Bayport Terminal.

- **According to the FEIS,** "[t]here are no ground-borne vibration impacts as a result of construction, vehicular traffic, rail, or terminal operations under the Bayport terminal location . . ."

- **Despite the fact that the modeling over-predicted noise impacts**, the PHA has committed to the following mitigation measures to further protect the area:

  - <u>Construction</u>
    - Construction equipment that has the lowest possible noise emissions and acoustic height necessary to perform the job will be selected if feasible.
    - All equipment will be in good repair and fitted with "manufacturer recommended" mufflers.
    - All equipment maintenance and lay-down areas will be located as far from the development area as possible.
    - The PHA will use tangent pier construction techniques for the container wharf instead of sheet pile wharf construction to eliminate noise associated with pile drive equipment.
    - The Port will use drilled shafts instead of pile driven supports to reduce noise.

  - <u>Operation</u>
    - All terminal equipment will be properly maintained to reduce noise.

- All crane spreaders will be fitted with an impact control device which will reduce impact noise by approximately 35%.

# 5. Surface Transportation Matters (Motor Vehicles and Railroad)

- **Most of the roadways identified as requiring improvements** will need to be improved in the future, regardless of whether or not the PHA builds the Bayport facility. These required improvements are addressed in the no-action alternative.

- **The need for roadway improvements** in most of the study area would be triggered by the projected increases in "background traffic" (trips not associated with facility). This does not include the widening of Port Road from two lanes to four lanes, or ramp improvements (flyovers) between State Highway 146 and Port Road.

- **The need for improvements along SH 146** would be accelerated as a result of the Bayport project. A comparison of the required improvements at full build-out in the year 2025 indicates that one additional freeway lane would be needed in each direction on SH 146. The comparison also indicates that the Bayport site would require the least amount of lane mile construction compared to the alternatives.

**Table 3.5-53**
**Comparative Total of Lane Miles Required Per Alternative**

| Alternative | Year | | |
|---|---|---|---|
| | 2005 | 2015 | 2025 |
| Bayport | 2 | 16 | 82 |
| Pelican Island | 1 | 40 | 99 |
| Spillmans Island | 9 | 16 | 100 |
| Shoal Point/Bayport | 1 | 21 | 105 |
| Upper San Jacinto Bay/Bayport | 4 | 22 | 111 |
| Shoal Point | 1 | 15 | 127 |
| Cumulative Scenario | 17 | 30 | 166 |
| Cedar Point | 9 | 62 | 184 |
| No Action Alternative | 132 | 186 | 229 |

- The PHA's main function is to provide, operate, and maintain waterways and marine facilities for cargo and passenger ships. The PHA does not build roads outside of its facilities (responsibility of cities, county, or state). The PHA, however, has made a commitment to fund a portion of the intersection and rail crossing improvements in the local area to help accelerate their construction and thereby minimize traffic congestion.

- At full build-out in the year 2025, approximately 5,620 trucks will make more than 11,000 trips per day (transit into and transit out of the complex equal one trip). Bayport trucks will represent approximately 8% of the projected traffic on SH 146 at Port Road in 2025.
- Rail service to the facility would not begin until approximately 2012. Until that time, rail cargo would be trucked to the nearby Barbours Cut inter-modal facility. Initiation of rail

service will significantly decrease the volume of truck traffic associated with the development.