



PORT OF OAKLAND

MEMO

TO: Danny Wan, Executive Director

FROM: Joe Marsh, Port Permit Coordinator

DATE: November 19, 2020

**SUBJECT: PORT PERMIT DECISION
for Work on Private Property in the Port Area**

The Port of Oakland Permit Coordinator and Environmental Programs and Planning Division staff have reviewed the subject Port Development Permit Application. We find the proposal meets the applicable standards of the Port of Oakland, as set forth in the detailed analysis and findings below.

Port Permit No: 5301
Permit Applicant: Schnitzer Steel Industries, Inc.
Project Location: 1101 Embarcadero West, Oakland
Estimated Value: \$ 12,000,000
Environ. Assessment: Addendum to Negative Declaration

Background:

Schnitzer Steel Industries, Inc. (SSI or Permit Applicant) operates a metals recycling facility in Oakland. SSI has an ongoing improvement program to reduce its environmental footprint. The SSI environmental improvement program includes three separate projects. The status of each of these projects is outlined below based on representations made by SSI:

A. Stormwater treatment system (CEQA Initial Study/Negative Declaration [IS/ND] by the Port of Oakland dated December 2014 and adopted January 2015 at the time of permit approval): SSI completed construction of the stormwater treatment system, which is now in operation;

B. Construction of Shredder and Joint Product Plant (JPP) particulate matter (PM) emission control systems (First Addendum to the 2014 IS/ND, dated January 2016): SSI completed construction of the enclosures for the shredder and the JPP, and for the ancillary particulate emission control system, which are now in operation; and

C. Shredder emission control system upgrades with Volatile Organic Compound (VOC) treatment. The proposed treatment/abatement consists of Regenerative Thermal Oxidizers (RTOs) and Acid Gas Scrubbers (AGSs) to remove VOCs from the gases exiting the PM scrubbers. This is the subject Project for this permit application and was evaluated in the Second Addendum to the 2014 IS/ND (September 2020).

The SSI site is largely privately-owned with some property leased from the Port. The SSI site is partially in City of Oakland planning jurisdiction and partially in the Port Area, under Port of Oakland planning jurisdiction. The current application is for a project on private property in the Port Area (planning jurisdiction.)

SSI applied for an Authority to Construct permit to the Bay Area Air Quality Management District (BAAQMD) for the upgraded shredder emission control system. The BAAQMD permit applies to both construction and operations of the Project. The application is undergoing BAAQMD review. Approval of the BAAQMD application is pending the Port's permit approval. In the interim, SSI has entered into an agreement with BAAQMD memorializing its commitment to install and operate the additional VOC emission controls.

Project Description

Project site: The Project site is located on the Oakland Estuary, west of the Port of Oakland's Berths 67-68 (i.e., Howard Terminal) in the City of Oakland (City). The Project site is adjacent to Port-owned maritime facilities on the east and west sides, the waters of the Oakland Estuary on the south side, and Embarcadero West on the north side. SSI is a metal recycling facility with a dock on the Oakland Estuary. The SSI facility is largely on privately-owned property, with some of the facility on property leased from the Port. The Proposed Project is mainly on the private property.

Project Features: The equipment to be installed includes Regenerative Thermal Oxidizers (RTOs) and Acid Gas Scrubbers (AGSs). The RTOs will receive the exhaust gas from the existing shredder PM emission control devices. The two RTOs will be seated on a single concrete footing, approximately four feet (4') deep, that measures approximately 50 feet by 30 feet. The RTO exhaust will be connected to two AGSs. The two AGSs will each be seated on a concrete footing approximately four feet (4') deep. Each footing measures approximately 20 feet by 20 feet. In addition, there will be a caustic tank to support the AGS operation. The tank is seated on a concrete footing, approximately four feet (4') deep, that measures approximately 12 feet by 12 feet. The need for pilings to support these footing pads is being studied and is not yet determined. The Proposed Project lies outside the 100' shoreline band jurisdiction of the Bay Conservation and Development Commission (BCDC); no BCDC permit is required for the Proposed Project.

The Project equipment will occupy an area presently used to stockpile materials produced by the shredding operation. After installation of the new equipment, the stockpile will be moved further to the west. A barrier wall, measuring approximately 140 feet in length and up to 20 feet high, will be constructed on the south and west side of the new equipment to shield it from the relocated stockpile. The barrier wall will be supported by pile foundation.

Details about Project construction and operation are available in the attached Second Addendum to the 2014 Schnitzer Stormwater Improvement Project Initial Study/Negative Declaration.

Land Use Analysis

The Project is located within an existing metals recycling facility and does not change its use. The Project land use is consistent with the City of Oakland's General Plan, which designates the SSI site as General Industry and Transportation. The Project is part of SSI's industrial operations. Its primary purpose is to meet BAAQMD regulatory requirements for the continued operation of the SSI facility. The new equipment is located at the center of the SSI facility site. Visual access is from the Oakland Estuary. Installation of the Project equipment will improve the view of the Project site by reducing clutter and providing a cohesive exterior skin, minimizing visual access to operating equipment. Because there is no change to SSI's existing use as a metal recycling facility, no further General Plan conformity analysis is necessary.

Findings

The Port approves this application for a Port Development Permit, as submitted by SSI, with the following findings:

1. The Project will not be detrimental to the health, safety, peace, morals, comfort or general welfare of persons working, visiting, transiting through the vicinity of the Project site, or be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood or to the general welfare of the City of Oakland. By reducing air emissions, the project will improve the health and general welfare of workers and residents.
2. The Project is consistent with the City of Oakland's General Plan, which designates the SSI site as General Industry and Transportation. The Project is part of Schnitzer's industrial operations.
3. The Project complies with provisions of the City of Oakland Charter and the regulations adopted by the Port of Oakland to carry out its building permit responsibilities by approving an important improvement to the SSI facility.
4. The primary purpose of the Project is to install equipment that will assist SSI's efforts to comply with BAAQMD Regulation 8, Rule 2 and to reduce VOCs from the shredder operations, thereby contributing to improved air quality. The Project will be monitored by the Bay Area Air Quality Management District for compliance with BAAQMD permit conditions.
5. The Port has evaluated the Project pursuant to the California Environmental Quality Act (CEQA). In September 2020, the Port prepared the Second Addendum to the Schnitzer Stormwater Improvement Project Initial Study/Negative Declaration (IS/ND; December 2014) to analyze the Project for potential environmental impacts. The Second Addendum concluded that the Project would not result in any significant effects not already analyzed in the IS/ND and that no mitigation measures would be required.

Environmental Findings

The Port is the Lead Agency under CEQA, having land use jurisdiction over the Project site. The Port evaluated the impacts of the Project and determined that the Project would not result in any significant effects not discussed in the 2014 IS/ND and no mitigation measures would be required. Consistent with CEQA Guidelines Section 15164(b), the Port prepared the Second Addendum to the 2014 Schnitzer Stormwater Improvement Project IS/ND (September 2020) to document the changes to the 2014 project and the determination that no subsequent ND is required per Section 15162 of the CEQA Guidelines.

Permit Conditions

1. All conditions of approval shall be printed on the final permit set of plans.
2. The Project shall conform to Port-stamped approved plans, including the conditions of approval, unless otherwise approved by the Port. The Permit Applicant is responsible for including all details agreed upon, or conditions made by the Port, during the approval process. Failure to include any such details will not exempt the Permit Applicant from meeting the Port Development Permit conditions.
3. The Permit Applicant shall meet all conditions and requirements of all outside agencies having jurisdiction over the project, including but not limited to: the City of Oakland, Bay Area Air Quality Management District (BAAQMD) and San Francisco Bay Regional Water Quality Control Board. The Permit Applicant shall report to the Port prior to Project construction any conflicts with Port Development Permit or other requirements arising from outside agencies' permit conditions and requirements. Any such conflicts must be resolved by the Permit Applicant to the satisfaction of the Port and the outside agency involved.
4. The Permit Applicant shall provide copies to the Port of authorizations or permits from outside agencies.
5. The Permit Applicant shall obtain, at the Permit Applicant's expense, all City of Oakland building permits required for the Project.
6. The Permit Applicant and the Permit Applicant's contractor shall construct the Project according to the plans approved under Port and City permits. Modifications made to comply with City of Oakland permit requirements shall be subject to verification of compliance with Port permit conditions by the Port prior to the start of Project construction.
7. The Permit Applicant must adhere to the Project-Incorporated Best Management Practices and Hazardous Materials Management conditions in the Second Addendum to the 2014 Schnitzer Stormwater Improvement Project IS/ND (September 2020).

8. The Permit Applicant shall maintain the Project site in a clean and orderly condition during the entire term of the Development Permit. If there is a work stoppage at any time after Project construction has commenced for a period of more than 30 days, the Permit Applicant shall physically secure any completed or uncompleted work on the Project site and remove or screen any stored materials. The Chief Engineer of the Port may provide a 30-day Notice and Order to the Permit Applicant to comply with this condition. If the Project Applicant fails to comply during that time period, or fails to present and implement an acceptable plan for compliance, the Port maintains the right at Port's discretion, to complete the necessary work and bill the Permit Applicant for all related costs, or impose reasonable fines for violation of this condition of approval and/or for violation of the Port Chief Engineer's 30-day Notice and Order. Any such fines shall be reasonably related to the nature of the violation and/or the cost to correct.
9. To the maximum extent permitted by law, the Permit Applicant shall defend, hold harmless, and indemnify the Port and its respective officers, agents and employees (whether the action is on behalf of the Port, or otherwise) (the "Indemnified Parties") against any and all liability, damages, claims, demands, judgments or other losses (including, without limitation, attorneys fees, expert witness and consultant fees and other litigation expenses), referendum or initiative relating to, resulting from or caused by, or alleged to have resulted from, or caused by, any action or approval associated with the Project. This indemnity includes, without limitation, any legal or administrative challenge, referendum or initiative filed or prosecuted to overturn, set aside, stay or otherwise rescind any or all approvals granted in connection with the Project, any environmental determination made for the Project, and granting any permit issued in accordance with the Project. This indemnity includes, without limitation, payment of all direct and indirect costs associated with any action specified herein. Direct and indirect costs as used herein shall include, without limitation, any attorney's fees, expert witness and consultant fees, court costs and other litigation fees, Port Attorney time and overhead costs, and other Port Staff overhead costs and normal day-to-day business expenses incurred by the Port ("Litigation Expenses"). The Indemnified Parties shall have the right to select counsel to represent the Indemnified Parties, at the Permit Applicant's expense, in the defense of any action specified in this condition of approval. The Indemnified Parties shall take all reasonable steps to promptly notify the Permit Applicant of any claim, demand, or legal actions that may create a claim for indemnification under these conditions of approval.
10. The Permit Applicant shall agree to comply with any other conditions added by the Permit Hearing Officer.

RECOMMENDED:

Environmental Programs and Planning: *Andrea Gardner* Date: Nov 19, 2020
Andrea Gardner (Nov 19, 2020 13:58 PST)

Port Permit Coordinator: *Joe Marsh* Date: Nov 19, 2020
Joe Marsh (Nov 19, 2020 13:05 PST)

Chief Operations Officer: *Kristi McKenney* Date: Dec 1, 2020
Kristi McKenney (Dec 1, 2020 11:42 PST)

DECISION:

Executive Director: Approve Deny

Signature *Danny Wan* Date: Dec 3, 2020
Danny Wan (Dec 3, 2020 16:08 PST)

5301 ED Decision Memo Nov2020

Final Audit Report

2020-12-04

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