

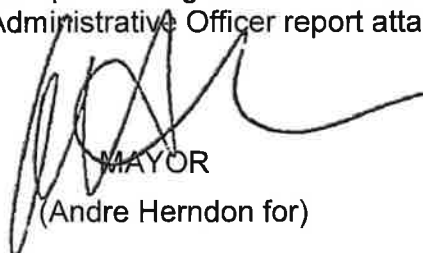
0150-08589-0005

TRANSMITTAL

TO Eugene D. Seroka, Executive Director Harbor Department	DATE 03/11/2022	COUNCIL FILE NO. 13-0332
FROM The Mayor	COUNCIL DISTRICT 15	

PROPOSED THIRD AMENDMENT TO PERMIT NO. 708 WITH KINDER MORGAN TANK STORAGE TERMINALS, LLC FOR CONTINUED MARINE OIL TERMINAL OPERATIONS

Transmitted for further processing and Council consideration.
See the City Administrative Officer report attached.



MAYOR
(Andre Herndon for)

MWS:JCY:10220071t

REPORT FROM

OFFICE OF THE CITY ADMINISTRATIVE OFFICER

Date: March 9, 2022

CAO File No. 0150-08589-0005

Council File No. 13-0332

Council District: 15

To: The Mayor

From: Matthew W. Szabo, City Administrative Officer

Reference: Correspondence from the Harbor Department dated September 30, 2021; referred by the Mayor for report October 14, 2021

Subject: **PROPOSED THIRD AMENDMENT TO PERMIT NO. 708 WITH KINDER MORGAN TANK STORAGE TERMINALS, LLC FOR CONTINUED MARINE OIL TERMINAL OPERATIONS**

RECOMMENDATIONS

Approve Harbor Department (Port) Resolution No. 21-9894 authorizing the proposed Third Amendment to Permit No. 708 with Kinder Morgan Tank Storage Terminals, LLC to continue marine oil terminal operations for a period of two years, through April 13, 2024, and to restore and surrender the site at Berths 118-119 to the Port by April 13, 2025; and, return the Resolution documents to the Port for further processing, including Council consideration.

SUMMARY

The Harbor Department (Port) Board of Harbor Commissioners (Board) requests approval of Resolution No. 21-9894 authorizing the proposed Third Amendment (Amendment) to Permit No. 708 (Permit) with Kinder Morgan Tank Storage Terminals, LLC (Kinder Morgan) to continue marine oil terminal operations at Berths 118-119 for a period of two years, through April 13, 2024, and to restore and surrender the site to the Port by April 13, 2025. The proposed Amendment extends the term of the Permit by two years to 37 years, subject to early termination should California State Lands Commission (CSLC) authorization be denied or terminated, and maintains a 12-month period for restoration and surrender after ceasing operations should the Port Executive Director authorize a month-to-month operations extension. Except for these provision changes, all other terms and conditions of the Permit remain in effect.

Kinder Morgan operates a marine oil terminal at the Port of Los Angeles (POLA), storing, distributing, and providing for the berthing of vessels to unload and load liquid bulk products under a 35-year agreement initiated on April 14, 1988. Under the current Permit, Kinder Morgan leases approximately 10 acres of land and wharf at Berths 118-119, but is scheduled to cease operations by April 13, 2022 and restore and surrender the site within 12 months thereafter. The Port states

that the Permit termination relates to pending POLA development plans that may use or restrict access to the site.

The proposed Amendment to the Permit authorizes Kinder Morgan to continue operations for an additional two years, until April 13, 2024, with cessation and surrender to the City by April 13, 2025 after demolition and remediation. Kinder Morgan requested this extension because it has yet to find a suitable location to relocate its operations and wishes to continue operating at Berths 118-119, and to expand to Berth 120 pending a feasibility study. The Port reports that the City has no immediate need for the property but plans to make a determination on development within two years. The site and usage are subject to CSLC approval and compliance with CSLC Marine Oil Terminal Engineering & Maintenance Standards (MOTEMS) and any audits. The CSLC has authorized Kinder Morgan to continue to operate at Berths 118-119 for up to two years, until the Port can make a determination on the availability of Berth 120. Kinder Morgan is responsible for all costs and actions related to CSLC compliance, including repairs and improvements. The proposed Amendment also maintains holdover and early termination provisions, including a 12-month period for restoration and surrender after ceasing operations should the Port Executive Director authorize a month-to-month operations extension. The Port anticipates that the proposed two-year extension will generate revenue of \$6.18 million to \$6.68 million depending on wharfage and dockage receipts.

Kinder Morgan is a subsidiary of Kinder Morgan, Inc., a United States-based energy infrastructure company with headquarters in Houston, Texas. The Port granted the original Permit to GATX Tank Storage Terminals Corp (GATX) in 1988 with a term of 25 years, expiring April 13, 2013. The Port reports that Kinder Morgan Energy Partners acquired GATX in 2000, operating the terminal under Kinder Morgan. The Port reports that in 2009, the City gave notice to Kinder Morgan that the Permit would not be renewed. Kinder Morgan made plans to relocate its operations to the Port of Long Beach (POLB), but construction on its new terminal was incomplete by the original Permit expiration date. The First Amendment to the Permit, approved by the Council on May 10, 2013, extended the Permit term by five years to April 13, 2018 and required Kinder Morgan to limit operations, remove improvements and abate soil contamination from the site in accordance with Los Angeles Regional Water Quality Control Board Order No. 97-119, issued in 1997 (C.F. 13-0332). The First Amendment also reset the rental rate and required Kinder Morgan to meet CSLC MOTEMS requirements. Kinder Morgan's terminal plans at the POLB became infeasible and it requested further extension of the Permit in 2018 to explore a different POLA site instead. The Second Amendment to the Permit, approved by the Council on August 23, 2018, extended the Permit term by an additional five years to April 13, 2023. The Second Amendment acknowledged Kinder Morgan's remediation and surrender of a portion of the site and required Kinder Morgan to cease operations and begin remediation of the remainder of the site by April 13, 2022, in consideration of the Port's development plans for the site and Kinder Morgan's plans for another site in the Port complex. The Second Amendment also added holdover and early termination provisions and annual Consumer Price Index adjustments to the Permit pricing structure, in accordance with the Port's Leasing Policy. The Port reports that Kinder Morgan did not find another suitable site at POLA and now wishes to remain at the current site and expand to the adjacent Berth 120.

The City Attorney has approved the proposed Amendment as to form and legality. The Port states

that the proposed Amendment and Permit comply with all applicable provisions of City Ordinance and permit requirements. In accordance with Charter Section 606, the Amendment requires Council approval because the term exceeds five years. The Port states that the proposed action is an administrative activity, and that execution of restoration activities are separate from this action and will require a separate assessment under the California Environmental Quality Act (CEQA). Therefore, the Port Director of Environmental Management has determined that the proposed action is administratively exempt from the requirements of CEQA in accordance with Article II, Section 2(f) of the Los Angeles City CEQA Guidelines.

FISCAL IMPACT STATEMENT

The proposed Third Amendment (Amendment) to Harbor Department (Port) Permit No. 708 with Kinder Morgan Tank Storage Terminals, LLC to continue marine oil terminal operations for a period of two years, through April 13, 2024, and to restore and surrender the site at Berths 118-119 to the Port by April 13, 2025, will generate an estimated \$6.18 million to \$6.68 million to the Port over the two-year extension period. The proposed terms meet Port leasing and financial policies. All funds will be deposited in the Harbor Revenue Fund. There is no impact on the City General Fund.

MWS:JCY:10220071