

RECOMMENDATION APPROVED;
RESOLUTION 23-10189 (PERMIT 881) ADOPTED
BY THE BOARD OF HARBOR COMMISSIONERS

May 25, 2023
AM KLESGES
AMBER M. KLESGES
Board Secretary



Executive Director's
Report to the
Board of Harbor Commissioners

5/25/23
#8
DATE: MAY 18, 2023

FROM: CARGO & INDUSTRIAL REAL ESTATE

SUBJECT: RESOLUTION NO. 23-10189 CONSENT TO THE TRANSFER OF 51 PERCENT OF THE AGGREGATE DIRECT AND INDIRECT OWNERSHIP INTERESTS OF TRAPAC, LLC - PERMIT NO. 881 FROM MITSUI O.S.K. LINES, LTD., A JAPANESE CORPORATION, TO UNITED PACIFIC PORTS B (UK) LTD., A UNITED KINGDOM PRIVATE LIMITED COMPANY; AND APPROVE GUARANTEES FROM OCEAN NETWORK EXPRESS HOLDINGS, LTD. AND OCEAN NETWORK EXPRESS PTE. LTD.

SUMMARY:

Staff requests the Board of Harbor Commissioners (Board) i) consent to the transfer of 51 percent of the aggregate of the direct and indirect ownership interests in TraPac, LLC (TraPac), a tenant of the City of Los Angeles Harbor Department (Harbor Department) under Permit No. 881 (Permit); and ii) approve termination of the existing guaranty provided by Mitsui O.S.K. Lines, Ltd. (MOL) in favor of new guarantees furnished by Ocean Network Express Holdings, Ltd. and Ocean Network Express Pte. Ltd.

Currently, TraPac is 100 percent owned by International Transportation, Inc. (ITI) (to be renamed TraPac Holdings, LLC), which is 100 percent owned by Mitsui O.S.K. Lines, Ltd. (MOL). Under this proposed transfer, United Pacific Ports B (UK) Ltd. (UPP), a wholly owned subsidiary of Ocean Network Express Pte. Ltd. would acquire 51 percent indirect ownership in TraPac via a 77.8 percent ownership interest in ITI. There is a separate but related item also subject to the Harbor Department's consent concerning the remaining 49 percent interest in TraPac.

If both items are approved, Ocean Network Express Pte. Ltd. through its subsidiary UPP would own 51 percent of TraPac and the Macquarie Infrastructure Partners Inc. (MIP)-controlled funds or investment vehicles (i.e. Skipjack entities) will hold, in the aggregate, the remaining 49 percent direct and/or indirect equity interest in TraPac.

No changes will be made to the Permit or terminal operations under this action.

RECOMMENDATION:

It is recommended that the Board of Harbor Commissioners:

1. Find that the Director of Environmental Management has determined that the proposed action is administratively exempt from the requirements of the California Environmental Quality Act (CEQA) under Article II Section 2(f) of the Los Angeles City CEQA Guidelines;

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2. Approve and consent to the transfer of 77.8 percent of the ownership of International Transportation, Inc. from Mitsui O.S.K. Lines, Ltd. to United Pacific Ports B (UK) Ltd., a United Kingdom Private Limited Company;
3. Approve the guarantees furnished by Ocean Network Express Holdings, Ltd. and Ocean Network Express Pte. Ltd.;
4. Approve the termination of the existing guaranty furnished by Mitsui O.S.K. Lines, Ltd., subject to both Ocean Network Express Holdings, Ltd. and Ocean Network Express Pte. Ltd. furnishing guarantees on or before the termination of the existing guarantee furnished by Mitsui O.S.K. Lines, Ltd.;
5. Direct the Board Secretary to transmit to City Council pursuant to Section 606 i) the consent to the transfer of 77.8 percent of the ownership of International Transportation, Inc. from Mitsui O.S.K. Lines, Ltd. to United Pacific Ports B (UK) Ltd., a United Kingdom Private Limited Company; and ii) related items concerning the guarantees from Mitsui O.S.K. Lines, Ltd., Ocean Express Holdings, Ltd. and Ocean Network Express Pte. Ltd.;
6. Authorize the Executive Director to execute and the Board Secretary to attest to any instruments necessary to terminate the guaranty furnished by Mitsui O.S.K. Lines, Ltd.; and
7. Adopt Resolution No. 23-10189.

DISCUSSION:

Background - The Harbor Department issued TraPac, a terminal operator at the Port of Los Angeles (Port), the Permit, as amended, to operate through September 28, 2039. TraPac operates at the northern end of the West Basin at Berths 136-147. See Transmittal No. 1 – Site Map.

Changes in Ownership – Permit Requirements - Under the Permit, a transfer of more than 25 percent of the economic interest in TraPac or any entity that directly or indirectly controls or owns fifty percent (50%) or more of Tenant constitutes a transfer and requires the Harbor Department's consent. As such, the transfer of MOL's 51 percent interest requires the Board's consent and must also be approved by the Los Angeles City Council.

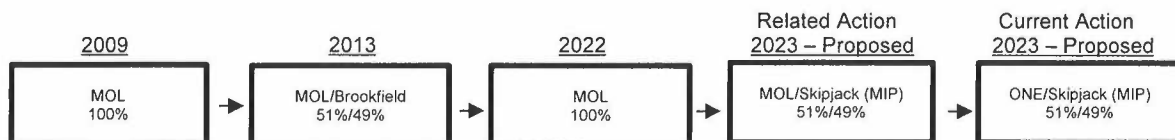
Under this action, the Harbor Department and TraPac are complying with and implementing the transfer provision as set forth Permit. In evaluating the transfer notice, which TraPac submitted in accordance with the terms of the Permit, the Harbor Department bases its consent on specific factors germane to the transfer. Staff reviewed the details of the transfer, as detailed in the staff report, and determined there is no need to withhold or condition consent to the proposed transfer.

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Provided below is a diagram illustrating the changes in TraPac's upstream ownership since the inception of the Permit, as well as the two proposed changes under consideration.



Proposed Transfer of 77.8 percent of the equity ownership of ITI (which presently directly owns and controls 100 percent of TraPac) - The Permit describes certain procedures for TraPac in seeking the Harbor Department's consent to a transfer. Specifically, Section 14.2 requires TraPac to provide written notice, known as a "Transfer Notice", at least 30 days before the effective date of the proposed Transfer. Based on that Section, TraPac provided the required written notice on January 20, 2023, requesting that the Harbor Department consent to the sale of a 51 percent majority interest of ITI from MOL to Ocean Network Express Pte., Ltd., a Singapore Private Limited Company (ONE). This transfer will hereinafter be referred to as the ONE Transfer. Subsequent to the delivery of the Transfer Notice, MOL and ONE agreed in principle to modify the structure of the ONE Transfer, such that UPP will purchase 77.8 percent of the equity interests of ITI, which translates to 51 percent ultimate indirect ownership interest in TraPac.

ONE was founded in 2017 as a joint venture between Nippon Yusen Kabushiki Kaisha, Ltd. (aka NYK), MOL, and Kawasaki Kisen Kaisha, Ltd. (a/k/a "K" Line). The company was formed as part of a larger process of consolidation that was occurring in the container shipping industry at that time. It merged the container shipping divisions of the three companies.

Additional procedures to obtain such consent are set forth in Section 14.3 (*Factors Germane to City Consent*) of the Permit. In evaluating any Transfer Notice, the Harbor Department bases its consent on specific factors germane to the transfer, and may not unreasonably withhold its consent. See Transmittal 2, which identifies the factors. Following the evaluation of these factors, staff determined there is no need to withhold or condition the consent to the ONE Transfer.

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Evaluation and Analysis of the ONE Transfer –

1. Ocean Network Express Pte. Ltd.

The Finance Division reviewed the audited financial statements of Ocean Network Express Pte. Ltd. relative to the unaudited financial statements of MOL for the periods ending March 31, 2022, March 31, 2021, and March 31, 2020. Staff noted that Ocean Network Express Pte. Ltd. held 1,767 percent more cash than MOL as of March 31, 2022. Furthermore, staff noted that Ocean Network Express Pte. Ltd.'s interest-bearing debt represented only 0.1 percent of assets while MOL's interest-bearing debt represented 36.8 percent of assets as of March 31, 2022. Lastly, as of March 31, 2022, Ocean Network Express Pte. Ltd. generated an operating margin of 56.5 percent vs. an operating margin of 4.3 percent at MOL. Based upon the above analysis, staff has observed that Ocean Network Express Pte. Ltd. was more liquid, less leveraged as well as more profitable relative to MOL as of March 31, 2022, and appears to possess a reasonable level of financial wherewithal to serve as a guarantor under Permit No. 881. Ocean Network Express Pte. Ltd. is a subsidiary of Ocean Network Express Holdings, Ltd.

2. Ocean Network Express Holdings, Ltd.

Staff has also reviewed financial statements prepared in accordance with accounting principles generally accepted in Japan for Ocean Network Express Holdings, Ltd. for the same periods noted above. Based upon this review, staff noted that Ocean Network Express Pte. Ltd. is listed as a major consolidated subsidiary of Ocean Network Express Holdings, Ltd. in addition to 39 other global subsidiaries that are consolidated for reporting purposes. Similar to Ocean Network Express Pte. Ltd., Ocean Network Express Holdings, Ltd. appears to possess a reasonable level of financial wherewithal to further support financial obligations as a guarantor under Permit No. 881.

Under this transaction, the existing guaranty provided by MOL would be terminated in favor of new guarantees furnished by Ocean Network Express Holdings, Ltd. and Ocean Network Express Pte. Ltd. See Transmittal 3 - Guarantees. Securing Ocean Network Express Holdings, Ltd. as an additional guarantor beyond Ocean Network Express Pte. Ltd. provides further financial capability to pay obligations under Permit No. 881.

With respect to TraPac's operations at the Port, TraPac will remain the tenant under the Permit, and the current day-to-day operations of TraPac will remain the same and are expected to be unaffected as a result of the ONE Transfer.

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In connection with the noticing process, TraPac informed the Harbor Department that ITI will, prior to the closing of the ONE Transfer, change its name and convert to TraPac Holdings, LLC, resulting in TraPac Holdings, LLC replacing ITI as the entity which holds 100 percent of the ownership interest of the Harbor Department's Tenant, TraPac.

Ultimate Ownership Composition of TraPac

Subject to the Harbor Department's consent, after the ONE Transfer described in this action, and the Macquarie transfer (MCQ) described in a separate but concurrent Board action, Ocean Network Express Pte. Ltd. through its subsidiary UPP would hold indirect 51 percent interest in TraPac and the MIP-controlled funds or investment vehicles (i.e. Skipjack entities) will hold, in the aggregate, the remaining 49 percent direct and/or indirect equity interest in TraPac.

Required Regulatory Approvals - The parties secured the required regulatory approvals from the Committee on Foreign Investment in the United States on this proposed transfer.

Requested Action: Staff recommends the Board consent to the ONE Transfer based upon the review of the transaction involved and approve the new guarantees.

ENVIRONMENTAL ASSESSMENT:

The proposed actions are the approval of a transfer of ownership agreement of 77.8 percent of TraPac to United Pacific Ports B (UK) Ltd., and guarantees furnished by Ocean Network Express Holdings, Ltd. and Ocean Network Express Pte. Ltd., which are administrative activities. Therefore, the Director of Environmental Management has determined that the proposed actions are administratively exempt from the requirements of CEQA in accordance with Article II Section 2(f) of the Los Angeles City CEQA Guidelines.

FINANCIAL IMPACT:

TraPac will continue operations under Permit No. 881 until September 28, 2039. During calendar year 2023, staff estimates that minimum annual guaranteed compensation obligations under Permit No. 881 will be approximately \$40.9 million. Guaranteed compensation during calendar year 2024 will be subject to change pending the outcome of a five-year reset due September 29, 2024.

Staff has reviewed financial information pertaining to Ocean Network Express Holdings, Ltd., Ocean Network Express Pte. Ltd. as well as MOL for the most recently available three fiscal years. As of the most recently completed fiscal year, staff observed that key liquidity, leverage and profitability metrics of Ocean Network Express Holdings, Ltd. and Ocean Network Express Pte. Ltd. are stronger relative to MOL. Furthermore, it appears that Ocean Network Express Pte. Ltd. possesses a reasonable amount of financial wherewithal to serve as a majority owner of MOL under Permit No. 881.

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CITY ATTORNEY:

The proposed actions are approved as to form and legality by the Office of the City Attorney.

TRANSMITTALS:

1. Site Map
2. Factors Germane to the Harbor Department's Consent to Transfer
3. Guarantees
4. Hierarchy Chart

FIS Approval: *MB*
CA Approval: *SO*

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APPROVED:

Marla Bleavins For
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Executive Director

ES:MD:MK:TK:raw
Author: Traci Kuchta
BL989raw TraPac Transfer No. 2