

PORT OF LOS ANGELES



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Source: Los Angeles Port Authority

PORT OF LOS ANGELES

SUMMARY

The mandates that affect the Port's relations with its neighboring communities include the California Environmental Quality Act (CEQA) which requires environmental impact reports for Port projects. Other mandates include Board resolutions and judicial orders that require the Port to work with a community-based organization called the Port Community Advisory Committee (PCAC). PCAC was created in 2001 to provide an efficient method for collecting and organizing community input regarding Port operations and projects. PCAC is not a separate entity and functions as an advisory committee to the Board of Harbor Commissioners (BOHC). PCAC also had a role in identifying environmental mitigation projects that would benefit the community.

For the most part, the Port has complied with these mandates. In the intervening years, the PCAC and the BOHC have addressed most community concerns though not always to the satisfaction of the community. PCAC has also registered many successes. It has accumulated issues such as weak attendance, light agendas, entrenched interests, lack of participation from the business community, and inactive member organizations. Either because of these weaknesses, or due to neglect of the Board, the Port has bypassed the PCAC in conducting community relations for certain projects or formed additional organizations for dealing with mitigation projects. While the PCAC has its flaws, it does offer a degree of legitimacy and objectivity that these other avenues lack. This Report contains several recommendations for restructuring PCAC to strengthen its role in providing an independent, objective voice for the community.

The Port is subject to thirty-seven (37) different environmental mandates handed down by twenty-three (23) separate agencies. These mandates cover the impacts from air and water pollution, traffic congestion, hazardous waste, excessive light and noise. The Port is in compliance with these mandates and has adopted a self-imposed mandate called the Clean Air Action Plan (CAAP) with another water-related plan to follow in the next year. The Port should expand the scope of emissions targeted and measured to include total particulate matter (PM_{2.5} and PM₁₀) in addition to diesel particulate matter (DPM).

The Ports of Los Angeles and Long Beach share many resources such as transportation infrastructure, waterways and labor force. The two ports also cooperate widely on a variety of issues and initiatives including the CAAP and the upcoming Water Resources Action Plan (WRAP). As separate entities, the ports have duplicative management structures and governance systems. While the ports do cooperate on certain initiatives, the process is hindered by the separate governance and decision making processes.

Historically, the two (2) ports have not competed much for shipping traffic or lessees, as there was usually a waiting list for leasing terminal space. Recently, and potentially in the future, this has changed with the downturn in cargo volumes. Since the two ports are similar in so many ways there is not enough to differentiate them should the ports have to compete for shippers and terminal lessees. This could result in a transfer of economic value, i.e. subsidy, from the publicly owned ports to privately owned lessees.

For these reasons, BOHC should propose to the City of Long Beach and regional policy makers to commission a study examining the costs and benefits of port consolidation. Consolidation

may result in more efficient use of port properties; more streamlined governance, management and decision making; more effective environmental management; and maximization of the value of port properties and the financial benefits to the citizens and taxpayers of the region.

Mandates related to homeland security are entirely within the jurisdiction of the Federal government. The Port of Los Angeles, through its Port Police, is responsible for enforcement of local and State laws and the Port Tariff. The Port is in compliance with its mandate to enforce these laws. The history of security breaches at the Port is sparse with only two (2) incidents in the last five (5) years, both involving fake Coast Guard-issued identification cards.

PURPOSE

This report has four (4) purposes:

1. Assess the status of community relations between the Port of Los Angeles (POLA) and neighboring communities; e.g., San Pedro, Wilmington. Recommend ways to improve community relations and methods for incorporating neighborhood concerns into POLA decision making.
2. Assess POLA environmental mitigation programs, especially as they pertain to neighboring communities.
3. Evaluate the benefits of port consolidation
4. Assess the integrity of POLA security infrastructure

BACKGROUND

Description of the Port of Los Angeles

POLA is the busiest port in North America and the sixteenth (16th) largest in the world when measured by cargo throughput. Along with the adjacent Port of Long Beach, the San Pedro Bay ports process over 30% of the containerized cargo imported into the U.S. each year. The port complex occupies 7,500 acres along forty-three (43) miles of waterfront. The port is predominantly a container port. Sixty-nine (69) container cranes handled 7.2 million TEUs (a common metric for containerized cargo) in FY 2009-2010. The Port also hosts a major cruise terminal. The Port is a major economic engine for Southern California and helps sustain tens of thousands of jobs in trade, distribution and transportation.

Background on Community Relations

Success in the maritime supply chain has come at a cost for neighboring communities. The advent of containerized cargo has greatly reduced the transportation costs for imports and has been a major factor in the growth of Asian trade in the last thirty (30) years. The growth in number and size of container vessels calling on the Port has prompted the construction of larger container terminals, taller container cranes, bigger, brighter lights for 24-hour operations, and significantly more truck traffic on area roads and freeways to connect the port with rail yards and distribution points throughout the region. The ensuing air, water and visual pollution has steadily eroded the patience of the surrounding communities.

Starting in the late 1990s, local community groups started to advocate for control over the growth of port activities. In 2001 and 2002, advocacy was given structure with the advent of PCAC and City sponsored Neighborhood Councils. This culminated in a 2004 court settlement over the construction of a new container terminal for China Shipping next to San Pedro. As a result of this settlement, the role of PCAC in reviewing Port capital projects, environmental reviews and mitigation projects was formalized. In recent years, however, this role has been diminished and PCAC itself has had organizational challenges.

Community Input Mandates and Level of Compliance

The primary mandate for obtaining community input on Port projects is CEQA (Public Resources Code 21000 et seq.). CEQA mandates that a project owner prepare and file an environmental impact report (EIR) to describe a project's potential impact on the environment for various categories of impact such as air pollution, noise and traffic. The EIR also includes project alternatives that compare each alternative's benefits with the expected impact, a preferred alternative, and mitigation measures to decrease the project's potential impacts. If a proposed project is deemed to have no potential impacts, a Negative Declaration is filed instead of an EIR. Both of these documents are subject to public noticing requirements so that impacted property owners can review the documents and provide their input through organized methods. The public can also challenge the findings of these documents in court and request relief in the form of more mitigation, a reconfigured project or outright rejection of the project in question. The Port files several CEQA documents each year for its various projects and complies with the public noticing requirements.

As mentioned in the Background section, BOHC passed Resolution Number 6039 on September 26, 2001 creating PCAC as a standing committee of BOHC. PCAC was designed to provide a more structured and continuous method of collecting, assimilating, organizing and reporting public input regarding Port projects and operations. PCAC is composed of twenty-eight (28) members that are appointed by twenty-two (22) constituent organizations plus eight (8) additional at-large members. These organizations include Neighborhood Councils sanctioned by the City's Department of Neighborhoods, economic development agencies, business and labor organizations, educational institutions, and homeowner groups and associations. PCAC also includes four (4) active sub-committees assigned to the topic areas of a steering committee, Wilmington waterfront, San Pedro planning and EIR and aesthetic mitigation. PCAC and its sub-committees meet monthly. Motions that are approved by PCAC are forwarded to BOHC at one of its regular meetings.

Resolution 6039 is advisory in nature rather than a true legal mandate, but it does contain directions for both PCAC and BOHC. Resolution 6039 requests that PCAC assess the impacts of Port projects and develop mitigation measures, provide a public forum and take a leadership role in creating balanced communities in the surrounding areas. It named a BOHC member as Co-Chair of PCAC with responsibility for reporting back to BOHC on PCAC recommendations.

A third mandate for the Port with regard to public input is a true legal mandate: the Amended Stipulated Judgment (ASJ), Modification of Stay, and Order Thereon settling case number BS 070017 in Los Angeles County Superior Court between the Port, BOHC and the City and a group of plaintiffs led by the Natural Resources Defense Council. The ASJ, filed on June 14, 2004, ended three (3) years of litigation over a Coastal Development Permit issued by the Port for constructing the China Shipping container terminal in the west basin area of the port. This was the first significant instance where the surrounding communities were able to effect a significant change in a Port project.

Articles IX and X of the ASJ require that the Port provide for the continued existence of PCAC under the governance of BOHC, consider all PCAC resolutions in a timely manner, provide written reasoning for rejected resolutions, and provide a monthly notice to PCAC for all proposed projects. The following Table 1 shows the level of compliance with each element of the Resolution and ASJ.

Table 1. Comparison of PCAC-Related Mandates and BOHC/Port Compliance

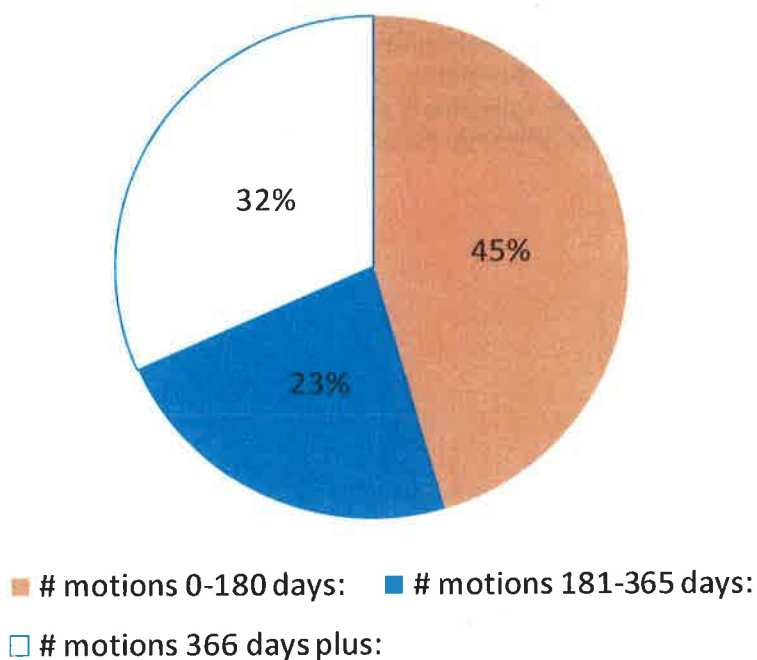
Req#	Source	Requirement	Action taken	Compliance status
1	Resolution 6039, Sec 1	BOHC establish PCAC	PCAC formed on October 10, 2001	Requirement met
2	Resolution 6039, Sec 2	PCAC assess impacts, provide public forum, review environmental documents	Meetings held since 2001	Requirement met
3	Resolution 6039, Sec 3	Commissioner Townsend-Kocol serve as PCAC Co-Chair	Townsend-Kocol served until replaced as a Commissioner in 2005. Co-Chair position has been unfilled since that time.	Requirement met
4	ASJ, Article IX-A	BOHC adopt resolution providing for continued existence of PCAC	Resolution 6170 passed on 2/26/03	Requirement met
5	ASJ, Article IX-A	BOHC adopt resolution providing for PCAC to operate under BOHC governance	Resolution 6170 passed on 2/26/03	Requirement met
6	ASJ, Article IX-B	BOHC adopt resolution stating that BOHC will consider all PCAC resolutions in a timely manner	No resolution passed	Requirement not met
7	ASJ, Article IX-B	BOHC adopt resolution stating that BOHC will issue written reasoning for PCAC resolutions that are rejected	No resolution passed	Requirement not met
8	ASJ, Article X	Port will provide monthly notice for proposed projects to the PCAC and local Neighborhood Councils	Notices issued regularly	Requirement met

Areas of non-compliance with these requirements are discussed in the following paragraphs.

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ASJ Article IX-B requires that BOHC adopt a resolution providing that, “the Board will consider all resolutions adopted by PCAC in an expeditious and timely manner.” As indicated in the matrix, this BOHC resolution was never adopted. In addition, BOHC has not always been in material compliance by considering PCAC resolutions in a timely manner. The following chart shows the timeliness with which these resolutions have been considered (as defined by the date that a staff report has been submitted to BOHC). As seen in the chart, 45% of PCAC resolutions have been considered fully within 180 days. Thirty-two percent (32%) have taken longer than a year. Included in this last group of untimely decisions are three (3) resolutions (71, 83 and 84) that date to 2007 and 2008 and have yet to be decided. These three resolutions all address proposed changes to PCAC bylaws. As will be discussed later, this is an area where BOHC has been deficient.

Figure 1. Elapsed Time to Respond to PCAC Motions



ASJ article IX-A requires BOHC to adopt a resolution providing for “the PCAC to operate under the continued governance of the Board.” While this resolution was passed, BOHC has not complied with the spirit of ASJ. PCAC is a standing committee of BOHC yet no member of BOHC has been appointed a member of PCAC since ex-Commissioner Camilla Townsend-Kocol left BOHC in July 2005. (She was replaced upon the election of current mayor Antonio Villaraigosa.) Ex-Commissioner Townsend-Kocol was the Co-Chair of PCAC in accordance with Resolution 6039 in order to provide a measure of Board governance, a role that has been missing for the last six (6) years. PCAC bylaws also provide for a Commissioner to serve as the Co-Chair of PCAC. Again, this has not been done since 2005.

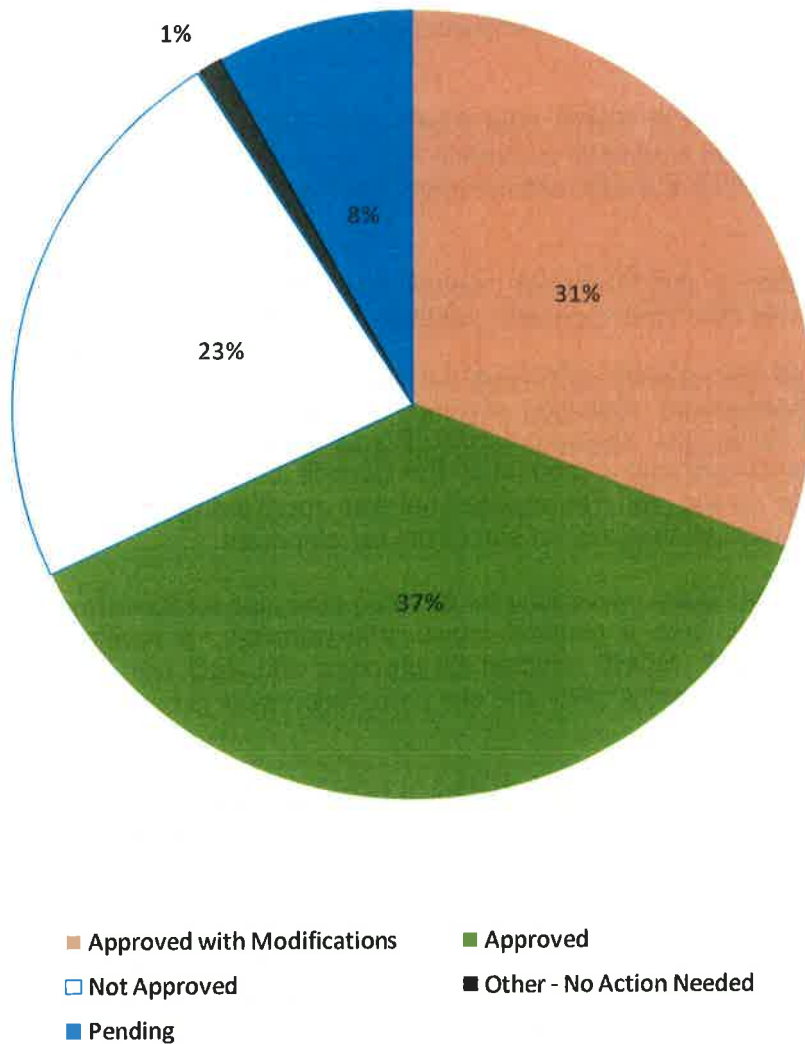
PCAC has adopted and forwarded resolutions seeking to amend the Committee’s bylaws. These amendments must be approved by BOHC. These resolutions were intended to address organizational issues that had been reducing the effectiveness of PCAC. The resolutions (71, 83 and 84) were forwarded to BOHC for action in 2007 and 2008. To date, no action has been taken on these resolutions. Port staff submitted a staff response to the resolutions in May 2010,

two (2) to three (3) years after the resolutions were first forwarded to BOHC. In recent months, the President of BOHC has sought a meeting with PCAC and Port leadership to discuss the resolutions and how PCAC could better serve BOHC. This lack of a timely response also demonstrates deficient governance of PCAC, contrary to the requirements of ASJ. This deficiency is also contrary to ASJ article IX-B that requires timely response to PCAC resolutions.

ASJ article IX-B requires BOHC to adopt a resolution providing that the Board “shall issue a written statement of reasons and appropriate findings for any PCAC resolution rejected by the Board.” Though this BOHC resolution was never adopted, BOHC has been in material compliance providing written notice and reason for rejected PCAC resolutions.

PCAC has been successful in achieving approval of motions that it presents to BOHC. The following chart shows the final disposition of all motions forwarded to BOHC for consideration since inception. As seen in the chart, 68% of all motions forwarded to BOHC have eventually been approved to some extent. Twenty-three percent (23%) have been rejected. It should be noted that many rejected PCAC resolutions pertain to properties that are outside the Port (which has a strictly defined district boundary) and, therefore, outside the jurisdiction of BOHC. Furthermore, the terms of the Tidelands Trust Agreement between the City and the State of California prohibit the use of Port resources for anything outside the Port District.

Figure 2. Final disposition of PCAC motions to BOHC



Existing Community Concerns

A key source of community input to PCAC, the Port and BOHC are the Neighborhood Councils established pursuant to Article IX of the Los Angeles City Charter. Four (4) Neighborhood Councils adjoin the Port of Los Angeles:

1. Northwest San Pedro Neighborhood Council
2. Central San Pedro Neighborhood Council
3. Coastal San Pedro Neighborhood Council, and
4. Wilmington Neighborhood Council

The Northwest San Pedro Council has been promoting resolutions and actions for undergrounding utilities, beautification of North Gaffey Street and reducing train noise. Undergrounding utilities was presented as PCAC Motion 55 in 2006. BOHC denied the motion in 2009 (not on a timely basis) and, instead, directed the Port to consider undergrounding on a project-by-project basis. Certain utility lines were undergrounded with mitigation funds from the China Shipping settlement.

Several motions have been forwarded to BOHC from PCAC over the years regarding North Gaffey Street. These motions include proposals to remove billboards, move petroleum storage tanks, purchase properties, etc. Most of these motions have been approved or approved with modifications by BOHC.

The issue of train noise reduction in the Northwest Council area has not been forwarded to BOHC from PCAC, although it has from other Councils, particularly Wilmington.

The Central San Pedro Council has recently advocated for improvements to Front Street and the San Pedro waterfront development including ensuring access to the waterfront from downtown San Pedro. A draft Wilmington Waterfront EIS/EIR was approved by BOHC in 2009 that included the Front Street improvements promoted by the Council, but with a low priority for implementation. A draft EIS/EIR for the San Pedro waterfront was approved by BOHC in 2009. The draft document includes several alternatives for waterfront development.

The Coastal San Pedro Council has been advocating for an alternative use for the former liquid bulk terminal at Kaiser Point other than a planned cruise ship terminal. A resolution was presented by PCAC to BOHC in 2008. BOHC rejected the proposal and stuck with the original alternative, a cruise ship terminal. Currently, utility and site preparation work is being conducted at the Kaiser Point site.

In recent years, the Wilmington Council has advocated for a buffer between residential areas near the waterfront and West Basin container terminals. The Wilmington Buffer was approved in 2007 and will be completed this year.

More recently, the Wilmington Council has advocated for train and truck noise reduction and improved circulation on Harry Bridges Boulevard. Train and truck noise mitigation measures were proposed by PCAC and approved by BOHC in 2005 and 2009. A more all encompassing ban on any project that would generate additional truck or rail traffic on the Wilmington waterfront was rejected in 2003. A PCAC proposal that opposed a realignment of Harry Bridges Boulevard was rejected.

As shown in the discussion, the Councils and PCAC have achieved several successes in recent years regarding Port projects of concern. In other cases, the wishes of the local councils were denied by BOHC. Proposals were more likely to be successful if they were focused on a specific project or issue and incorporated reasonable alternatives, or involved a property with limited potential for revenue production; e.g., San Pedro waterfront. Proposals were less likely to be successful if they contained blanket prohibitions on certain types of Port activity, involved projects outside the jurisdiction of BOHC; i.e., outside the Port District, or proposed replacing a major terminal improvement with a recreational or passive use. Major revenue producing projects may have been modified or mitigation projects implemented, but the projects usually proceeded.

Background on Environmental Management

The Port has built up its in-house environmental management resources and has promulgated policies and implemented projects to mitigate the environmental impacts of terminal and cargo growth including a self-mandated Clean Air Action Plan and Water Resource Action Plan. Initiatives to retire older, polluting trucks; powering idle ships through the local power grid rather than running heavily-polluting ship engines; and an extensive array of air monitoring stations have been started.

Current Environmental Management Mandates and Level of Compliance

The Port is subject to thirty-seven (37) environmental mandates enforced by twenty-three (23) separate governmental agencies and non-governmental organizations. The majority of these mandates stipulate specific planning protocols such as the elements that are incorporated into environmental impact reports; permitting and/or reporting of certain activities such as liquid discharges into Port waterways; or the installation of specific technologies. With a few exceptions, these mandates do not have quantitative targets that are specific to the Port. The primary enforcement tool for several mandates is the EIR which identifies environmental impacts and mitigation measures on a project-by-project basis. Most significant projects at the Port have approved EIRs. Projects are eventually permitted and conditioned with the selected mitigation measures. The Port is in compliance with the thirty-seven (37) mandates at this time, although compliance with the individual EIRs could not be determined. In many cases, compliance with an EIR is an ongoing process.

The primary environmental impacts of the Port are air and water pollution. Secondary impacts include traffic congestion, noise and light pollution. The thirty-seven (37) mandates cover all these impacts, especially air and water pollution, which is regulated by several agencies at all levels of government. Most of the existing mandates do not include quantitative goals for reducing or capping pollutants, with the exception of CAAP which is a voluntary mandate but is derived from the standards set by the Clean Air Act, a Federal statute, and the State level California Clean Air Act. CAAP sets San Pedro Bay-wide (both ports) quantitative standards for three (3) types of air emissions. The Ports of Los Angeles and Long Beach are currently preparing a Water Resources Action Plan that will operate in a similar manner and have equally ambitious goals and strategies.

Background on Port Consolidation

The Ports of Los Angeles and Long Beach are adjacent to each other, share much of the same transportation and supply chain infrastructure, compete for the same shipping traffic and coordinate on a wide range of infrastructure and environmental programs. In similar circumstances in North America, port organizations have merged to consolidate operations and realize scale economies. This approach has never been explored seriously in San Pedro Bay, but it may yield significant benefits to the region.

Background on Port Security

Along with environmental impacts are concerns and mandates surrounding anti-terrorism as it was determined that the Port is potentially a prime access point for terrorists or weapons of mass destruction. The Port now fields the largest port-dedicated police force in North America. However, concerns remain regarding the ability of the Port to police the waters and terminals under its jurisdiction.

METHODS AND PROCEDURES

During the investigation, the CGJ performed the following tasks and procedures:

1. Interviewed twenty (20) people including Port managers, members of community groups and one member of the Board of Harbor Commissioner
2. Reviewed twenty-eight (28) documents including legal settlements, statutes and regulations, meeting minutes, environmental documents, crime statistics, various Port databases and previous consulting reports
3. Toured the Port's security infrastructure
4. Inventoried the security mandates of the Port and evaluated compliance with those mandates
5. Inventoried the community relations mandates of the Port and evaluated compliance with those mandates
6. Inventoried the environmental mandates of the Port and evaluated compliance with those mandates
7. Inventoried community concerns with Port operations
8. Prepared an analysis of composition of PCAC
9. Prepared an analysis of PCAC attendance

FINDINGS

1. **The community input process in the Port of Los Angeles community has degraded and does not have the organizational strength to be effective.**

Status of the Port Community Advisory Committee (PCAC)

PCAC exists and operates today though there have been several changes made in its funding and organization. The biggest changes occurred in 2009 when the Port (not BOHC) eliminated staff support for five (5) of the nine (9) original PCAC subcommittees. This was accomplished by reducing the overtime budget that allowed Port staff to attend PCAC subcommittees in the evening. The Port also eliminated the funding of private consultants that formerly had performed work on behalf of PCAC and its subcommittees. Finally, the Port eliminated funding for renting space at a hotel in San Pedro for PCAC meetings.

The rationale for these changes was that Port revenues had decreased due to the economic recession, and operating expenses were cut as a result. Also, many subcommittee meetings were lightly attended, often by the same people; and their scopes tended to overlap with other subcommittees. PCAC now has four (4) subcommittees: Steering, Wilmington Waterfront, San Pedro Coordinated Plan and EIR/Aesthetic Mitigation. The scopes of defunded subcommittees that dealt with specific

environmental issues such as water, air, and noise have been rolled into the EIR/Aesthetic subcommittee. Though PCAC is a standing committee of BOHC, these changes were never formally vetted nor approved by BOHC.

Another issue with PCAC is the composition of membership. As originally envisioned, PCAC was to include a broad representation of constituents in the harbor community including neighborhood and residential associations, labor and business groups, educational institutions, representatives from local government and economic development agencies. As it has unfolded in the last ten (10) years, certain groups have failed to appoint members and some appointed members have failed to consistently attend. This has resulted in PCAC being dominated by members from the Neighborhood Councils and residential groups. Business groups have been under-represented.

Several constituent organizations either no longer exist or they lack any legal structure as a registered corporation with the State. Lack of a legal structure makes it more difficult to ensure that an organization has bylaws, elects officers, conducts periodic meetings and maintains a legitimate address for notices and agendas. Some of the existing PCAC constituent organizations are reportedly nothing more than a small, informal group of neighbors. Table 2 shows the status of some of these organizations:

Table 2. PCAC Member Organization Status

Organization	Current Status	# of votes
Wilmington Community Advisory Committee	No legal structure	3
Harbor City/Harbor Gateway Chamber of Commerce	Suspended	1
Pacific Avenue Corridor Task Force	No legal structure	1
Wilmington Commercial District/Business Improvement District	Dissolved	1
Crescent Area Residents Association	No legal structure	1
Dana Strand Residents Association	No legal structure; No appointed member	1
Point Fermin Residents Association	No legal structure	1
Rancho San Pedro Residents Association	No legal structure; No appointed member	1
San Pedro & Peninsula Homeowners Coalition	Suspended	3
Wilmington Citizens Committee	No legal structure	1
At large member from Council Dist 15	No appointed member	1
Education at large – LA Harbor College	No appointed member	1
	Total	16

Some of these organizations such as Point Fermin and Crescent are, in fact, active but do not meet regularly lack bylaws. Dana Strand and Rancho San Pedro Residents have not appointed a representative. Representatives from Council District 15 and Los Angeles Harbor College have resigned and have not been replaced. In total, sixteen (16) out of thirty-six (36) voting seats are unfilled, have never been filled, or represent organizations that no longer exist or lack a legal structure. It may be time to address the composition of PCAC to ensure that it has equitable representation from legitimate organizations that have a stake in Port operations and appoint active members.

Existing PCAC bylaws provide for no term limits for PCAC members. This is left up to the appointing organizations. The voting Co-Chair of PCAC is elected for a one-year term but can be re-elected with no term limit. This has resulted in institutional memory among PCAC membership. It has also led to domination by entrenched interests, particularly among representatives of homeowner groups which form the largest constituency within PCAC.

Attendance has been an issue for PCAC for years. PCAC bylaws require a quorum of 50% of the voting membership of eighteen (18) members. Beginning in late 2008, attendance began to decline at the monthly PCAC meetings. In late 2009, attendance declined to the point that a quorum was not present at three (3) consecutive meetings. Meetings that did have quorums were razor thin. The last time a PCAC meeting had twenty (20) or more members attend was in June 2009, a standard that formerly was often achieved.

The sub-committees have been meeting sporadically. The EIR Sub-Committee has met only once since July 2010. The Wilmington Waterfront and San Pedro Planning Sub-Committees have been meeting fairly regularly but sometimes miss a month or two.

Along with declining attendance is the problem of light agendas. Meetings in recent months have featured agendas that were light on substance or major action items. Agendas are often light at the Sub-Committee meetings as well, with agendas featuring more status reports than action items. In 2010 only three (3) motions were approved by PCAC for referral to BOHC, two (2) of those dealing with the Battleship USS Iowa. In contrast, in 2007, twelve (12) motions were approved by PCAC for referral to BOHC. In 2008, fourteen (14) motions were approved. In 2009, nine (9) were approved. Clearly, PCAC is running out of things to do.

This paucity of substantive business is partially the price of success. Many of the projects and mitigation measures that were the focus of PCAC deliberations in earlier years have been completed. As mentioned above, PCAC has notched many successes in how these projects have been shaped or influenced. Many of these projects such as the Wilmington Buffer, San Pedro Waterfront, Pier 300/400, the Plan, etc. are now completed, in development or nearing construction. In recent years, there have not been as many projects with EIRs that required debate. This may change in the future as the Port contemplates a new generation of major projects such as Pier 300 expansion, main channel deepening and development of near-dock intermodal rail facilities. This last project, in particular, may produce new community relation challenges as the rail facilities will be close to residential areas. However, until these new EIRs are at the point where PCAC can review them, monthly meetings may be too often.

Another factor in the declining PCAC agendas is that the Port staff is bypassing PCAC and transferring the Committee's mission of organizing community input and working on environmental mitigation projects either to itself or to newly created entities. The Port has taken upon itself the task of organizing community input related to the development of the San Pedro waterfront. Port staff have successfully organized several workshops to present

the project and gather input, something that PCAC may not be set up to do. But whereas PCAC had a role in collecting and shaping community input and presenting recommendations to BOHC in a transparent and inclusive way, the Port controls most aspects of this in-house process; and it lacks the transparency, inclusiveness and deliberative qualities of PCAC.

In 2008, the Port negotiated a settlement with a number of litigants over the expansion of the TraPac container terminal in the west basin area of the Port. This settlement included the establishment of a Port Community Mitigation Trust Fund that would be administered by a yet-to-be established 501(c) 3 non-profit organization. This non-profit would evaluate and recommend mitigation projects that would be funded from the trust fund with an initial funding of \$12 million. Projects would still have to be vetted and approved by BOHC. PCAC had a similar role in earlier years with mitigation funds from the China Shipping settlement. Now the Port has opted to create another entity to serve a similar purpose. Unlike PCAC, however, this new entity will not include broad community input; and its deliberations will not have the transparency of PCAC. Instead, it will be governed by a seven (7) member Board, composed of elected officials, public health professionals and two members of the local community.

Nothing in the ASJ or any other mandate gives PCAC a monopoly on Port related community input or access to BOHC. There are no restrictions on the Port creating other avenues for conducting community relations. By many accounts, PCAC can be, and has been, a difficult entity with which to do business; but it does have some major, unique assets that can provide legitimacy to Port efforts to develop and operate facilities in a manner that is sensitive to nearby residents. PCAC is a step removed from the Port staff in providing an independent assessment of Port plans and operations. PCAC operates in an open and transparent way, unlike the Port staff who works in a secured building. When the Port staff gathers community input, as they have done with the community workshops, it is the staff (working behind closed doors) that organize, sifts, analyze, reconcile and shape this input. PCAC would conduct this process in an open, deliberative environment. Both the Port staff and PCAC may come up with the same answers, but the PCAC process is open and transparent. Any tradeoffs and compromises that are made to get to those answers are apparent to any observer. Tradeoffs and compromises made within the Harbor Administration Building may never see the light of day. PCAC represents a broad cross section of the community, while the new non-profit entity is mostly composed of non-residents. Despite the inefficiency of the PCAC process, the Committee does provide a unique service to the Port and the surrounding community.

2. The Clean Air Action Plan Is Not Analytically Sound

Clean Air Action Plan

The Plan was originally prepared and approved by the governing boards of both San Pedro bay ports in 2006 and then updated in 2010. The Plan sets emission reduction goals for three (3) types of pollutants

- a. Diesel Particulate Matter (DPM)
- b. NOx or Oxides of Nitrogen
- c. SOx or Oxides of Sulfur

The Plan also sets a goal of reducing of Particulate Matter less than 2.5 microns in diameter (PM_{2.5}) but assumes that DPM reductions will also result in reductions in PM_{2.5}, rather than setting a specific target.

The Plan establishes a baseline of 2005 emission levels and emission reduction goals for the years 2014 and 2023. The goals are expressed as percentage reductions such as 77% reduction for DPM, 59% reduction for NOx and 93% reduction for SOx by the year 2023. These goals are not controlled for cargo growth so the reductions have to be achieved irrespective of cargo volumes. These goals also dovetail with overall basin-wide air quality goals established by the South Coast Air Quality Management District (SCAQMD). The Plan, if implemented successfully, will achieve the Port's "fair share" of emission reduction as required by the SCAQMD.

By far the major polluters are ocean going vessels and heavy duty trucks. Technologies and capital investments for achieving reduction goals are heavily weighted toward these polluters. These strategies include:

- d. Reducing vessel speeds up to 40 nautical miles from Point Fermin, thereby burning less fuel as they approach the ports
- e. Setting emission standards for heavy duty trucks that exceed EPA standards, along with incentives for truck operators to replace older trucks with those running cleaner burning engines
- f. Switching fuels on ocean going vessels with cleaner burning fuels
- g. Setting standards for cleaner burning engines for ocean going vessels
- h. Using shore-based power sources for ocean going vessels when docked at berth, instead of running heavily polluting auxiliary engines
- i. Establishing an Emission Control Area (nationwide) that sets pollution standards for ocean going vessels up to two hundred (200) nautical miles off the coast

Table 3 shows the emission reduction targets vs. current emission levels vs. the emissions forecast given the current cargo volume forecast through the year 2023.

Table 3 Emission Reduction Standards and Forecasts (Figures are annual tons of emissions. Deficit number in parentheses means that target reduction is not met.)

Pollutant	2005 Baseline	2009 Actual	2014 Target	2014 Forecast	2014 Deficit	2023 Target	2023 Forecast	2023 Deficit
DPM	2,025	1,004	567	576	(9)	459	527	(68)
NOx	34,444	21,755	26,866	27,865	(999)	14,286	28,244	(13,958)
SOx	12,421	6,358	869	890	(21)	1,010	994	16

As shown in the Table 3, the combined Port effort is forecast to nearly meet the targeted emission reduction standards for each pollutant. A major exception to this is NOx in the year 2023. There is less confidence in the forecast for NOx reductions because of uncertainties regarding the reduction strategies and technologies, particularly for improvements in ocean going vessel engines. As these technologies are tested and proven, the ports may be more confident in upgrading the forecast in future updates to the Plan.

The Plan shows a serious commitment on the part of the ports of Los Angeles and Long Beach to limit the environmental impacts of port operations. The Plan includes ambitious goals for emission reductions and wide ranging and controversial strategies for achieving those reductions. No doubt, implementation of the Plan will result in cleaner air and increased health status for area residents.

The Plan expresses a goal to reduce health risk from Port operations. Increased health risk is assumed to be positively correlated with exposure to DPM, which is considered to be a carcinogen. The Plan further assumes that reducing DPM will reduce the risk of cancer and improve the health status of nearby residents, as cancer is a reliable proxy for many health risks. In fact, health risks are impacted by all particulate matter, not just DPM. Particulate matter in general is highly correlated with respiratory disease and impaired lung development. Most of the emission sources at the Port are diesel engines which explain the reliance on DPM as a marker for particulate matter in the Plan. However, given the enormous costs associated with implementing the Plan, the Port may want to take the extra step of targeting and measuring total particulate matter (PM_{2.5} and PM₁₀) in addition to DPM.

3. Los Angeles County could benefit from a Regional Port Authority consolidating the Ports of Long Beach and Los Angeles.

Existing Coordination Between Ports

The ports of Los Angeles and Long Beach are both municipally controlled by their respective cities. Each port is governed by a Board of Harbor Commissioners. The two (2) ports are adjacent to each other and are roughly the same size both in terms of area and workload. The ports also share much of the same infrastructure, including the outer harbor (the waterways between the breakwater and the piers). The transportation infrastructure such as freeways, railways and rail yards are also shared by the customers of both ports. Both ports are financial guarantors for the Alameda Corridor Transportation Authority (ACTA) which operates a major rail corridor between the ports and the rail yards in east Los Angeles.

In the past few years, the two (2) ports have widely coordinated on environmental programs. This is a recognition that the ports have to implement similar mitigation programs to ensure that costs are shared equitably, and neither port can benefit by foregoing participation. For example, the ports have coordinated in producing a joint Plan. Specific programs from this Plan are implemented jointly. For example, both ports have enacted similar regulations on vessel speed reductions and cleaner fuels, powering ships with shore based power when they are in port and replacing older truck engines with newer, cleaner burning engines. The ports are now working on a joint WRAP that will require the same type of joint effort and coordination.

Both ports are dominated by container terminals. In the past, both ports also served other types of shippers such as liquid bulk, autos, break bulk, and cruise ship operators. In recent years, there has been some consolidation. The Port of Los Angeles has largely gotten out of the liquid bulk; e.g., petroleum business; and this type of cargo has consolidated in Long Beach. Wood products have largely consolidated at the Port of Long Beach as well.

Detriments of Current Port Structure

In the past, the ports did not often compete for shipping traffic. Usually, there was little excess terminal capacity so steamship lines and terminal operators would have little choice in properties. In other cases, the steamship line or terminal operator worked with one port to develop a facility specifically for their requirements. Terminals were never built without a tenant in mind. In the past two (2) or three (3) years as cargo growth has trailed off and even decreased, the ports have started to compete for shipping traffic. For example, Hyundai Merchant Marine recently moved from Long Beach to Los Angeles. This is a concern since both ports serve the same market, use the same landside transportation infrastructure; and longshoremen are covered by the same collective bargaining agreement. The ports do not have many ways differentiating themselves other than lease rates or the configuration of a specific property. Should the ports engage in rate-based competition, it would result in a transfer of economic value from the publicly owned ports to privately held lessees, contrary to sound public policy goals which should preclude this type of subsidy. This may become a larger problem when the Panama Canal expansion is completed in three (3) years as shipping traffic potentially bypasses the West Coast altogether.

There is duplication in some specialized facilities. For example, both ports operate cruise ship terminals (though the Port of Long Beach cruise terminal is technically leased out by another city department). Los Angeles is planning to open yet a third cruise ship terminal at Kaiser Point in the next few years. Should the cruise ship business lessen, there may be temptation to compete for this business resulting in a transfer of economic value from the publicly owned ports to private cruise ship lines.

Finally, the ports compete for the same staff which theoretically increases personnel costs. There are duplicative administrative structures at both ports which precludes the ability to economize by sharing management positions.

Potential Benefits of Consolidation

Consolidating the control and governance of the two (2) ports could realize significant benefits. One major benefit is already being realized. As mentioned earlier, the two (2) ports are coordinating on environmental mitigation efforts such as the Plan and WRAP. This coordination requires negotiations between the environmental management units of each port as well as the approval of the two (2) governing boards. Consolidation would eliminate the need for these negotiations and the potential tradeoffs, compromises and uncertainty that undoubtedly occur with these negotiations. Consolidation would also be an explicit recognition that the two (2) ports share the same ecosystem and the source of pollutants is difficult to trace from one port or another.

Consolidated ports would remove temptation for the two (2) ports to compete for shipping traffic on financial terms. This would ensure that private shipping interests are not being subsidized by publicly owned agencies through favorable lease terms. The consolidated port would still have to compete for shipping traffic with other port authorities in North America; but due to its location, sheer size and access to a vast local market, it could still compete effectively with other

West Coast ports. The distraction of competing with a nearby port authority would be removed. The combined port authority could compete as a united front.

A consolidated port could benefit from a streamlined management structure including a consolidated governing board. This would result in unified decision making over port operations and development. In addition to more streamlined decision making, it would realize economies by reducing the number of management positions needed to staff the consolidated management structure.

Infrastructure decisions may be streamlined through consolidation of ensuring that all facilities are used optimally throughout the port. For example, cruise ship operations could be consolidated at one or two facilities rather than the three that are either in operation or in the construction stage.

Challenges to Consolidation

Port consolidation faces some serious challenges. A major legal hurdle is that the two ports are located on separate land grants from the State. These grants would have to undergo some sort of consolidation which would require an act of the State Legislature. All existing lease contracts would also have to be assigned to the new port entity. Depending on the lease terms, some tenants may want to negotiate new terms.

The consolidated port would most likely be governed through a port authority, a special district dedicated to operating the port. This would also require an act of the Legislature to create this special district. The region has precedents for a special district of this magnitude. The Metropolitan Water District of Southern California or the Los Angeles County Metropolitan Transportation Authority is successful examples of regional special districts. The role of the two (2) cities (Los Angeles and Long Beach) would have to be determined. The two (2) mayors might have appointment powers over the authority's governing board, or the board might be elected region wide.

Consolidation would also require consolidating, assuming or refinancing the existing port revenue bonds that each city has issued. It is conceivable that the bond markets may perceive less financial risk in a consolidated port authority than in the current city controlled structure. This would result in less debt service, reduced financing costs and more rate flexibility.

Perhaps the most serious hurdle would be the loss of local control. A consolidated port authority would mean less control for the cities of Los Angeles and Long Beach unless they retained appointment powers for the governing board. A hybrid structure for the governing board where the mayors appoint some portion of the board while the remaining seats are elected region wide may make the most sense. In any scenario, amendments would have to be made to both city charters.

4. The Port of Los Angeles is adequately secured from external threats.

Current Security Mandates and Level of Compliance

The mandate for security of Port facilities is divided by jurisdiction. The Federal government has jurisdiction for ensuring security in all cargo and cruise terminals. This jurisdiction is further divided as follows:

The U.S. Coast Guard has authority for securing the terminal facilities. This authority is granted by the Maritime Transportation Security Act (as enabled by the Code of Federal Regulations 33 CFR 105). These regulations require operators of deep draft; e.g., container terminals and cruise terminals to prepare a Facilities Security Plan which is approved by the Coast Guard. Each terminal lessee has a plan for their terminal property. The Coast Guard is responsible for enforcing the terms of these plans at the Port and has a small force of armed security staff to respond to violations of the plans. The Coast Guard has the authority to shut down a terminal in the event of a serious violation. A primary enforcement tool for the Coast Guard is the Transportation Worker Identification Credential (TWIC) which is required for access to any Coast Guard secured areas such as container terminals. The Port Police does not have access to the terminals unless requested by the Coast Guard or the terminal operator. The Coast Guard also has shared jurisdiction over the waterways with the Port.

The U.S. Customs and Border Patrol has jurisdiction over the actual cargo. They monitor incoming containers through examination of records and will inspect certain high risk cargoes and containers such as those originating in the Middle East. Customs and Border Patrol also operates gamma radiation detection equipment at the exit gates of all container terminals. This equipment detects the presence of radiation and flags containers for more extensive inspection including opening the container and examining the contents.

Security for other leased facilities at the Port, other than cargo and cruise terminals, is the responsibility of the individual lessees, which can include restaurant and hotel operators, warehouse operators and other industrial property lessees. This responsibility is established in the terms of individual leases and is similar to those found in standard commercial leases.

Security for non-leased Port property is the responsibility of the Port Police. This includes waterways, roadways, common areas, parks and Port operated facilities. The Port Police have no mandate or responsibility for Homeland Security or counter terrorism. Instead, the Port Police is responsible for enforcing the Port Tariff; i.e., rules promulgated by BOHC for Port users, the Los Angeles Municipal Code and the State Penal and Vehicle Codes. The Port Police have a staff of 217, including 131 sworn police officers. The Port Police use an array of cameras, water-borne sonar devices and patrol craft to monitor Port property.

The Port Police augments the capabilities of the Federal authorities for certain functions such as water patrol and inspections using divers. Port divers inspect the hulls of ships if warranted. Drugs have been found hidden in hull cavities in the past. Water craft will provide a protective screen around cruise ships as they enter and exit the Port.

History of Security Incidents at the Port

Since 2006, there have been only two (2) security breaches on Port property. Both involved fake TWICs and were investigated by the Coast Guard and prosecuted by the U.S. Justice Department. No further details are available.

The Port Police tracks crimes and arrests on Port property involving violations of State or local laws. Reported crimes are approximately two hundred (200) per year with about two-thirds of these classified as Part I crimes; e.g., violent and property crimes. Theft and vandalism are frequent crimes reported at the Port in addition to traffic infractions. Port Police also make 400-500 arrests each year. About half of these arrests involve apprehending persons with outstanding warrants or for failure to appear. Rather than Homeland Security related issues, Port Police workload is similar to that of a municipal police force with the addition of a sizeable surveillance function.

RECOMMENDATIONS

1. BOHC to restructure PCAC, improving the efficiency and effectiveness of the Committee and refocusing its mission:
 - a. Rename PCAC to Port Region Advisory Committee. Note: the committee will still be referred to as PCAC in this recommendation for ease of understanding
 - b. Adopt a resolution that fulfills the requirements of the ASJ, Article IX-B and better define the role of PCAC:
 - i. Article IX-B requirement is, "(a) the Board will consider all resolutions adopted by PCAC in an expeditious and timely manner; and (b) the Board shall issue a written statement of reasons and appropriate findings for any PCAC resolution rejected by the Board."
 - ii. Make the resolution clear and specific in defining the types of actions and decisions in which PCAC should engage, including reviewing CEQA documents, mitigation measures costing more than \$1 million, as well as, those vetted by the TraPac related non-profit Board.
 - c. Enhance the governance role of BOHC by establishing an annual work plan for PCAC. Require quarterly updates on deliberations through a standing agenda item on the BHS agenda. Furthermore, the BHS resolution should include a requirement that a BOHC member serve as a Co-Chair of PCAC. The role of this Co-Chair would be to ensure that PCAC fulfills its advisory role to BOHC and focuses on mission related activities.
 - d. BOHC to amend PCAC's by-laws so that PCAC and its sub-committees meet quarterly instead of monthly.
 - e. BOHC to amend PCAC's by-laws regarding composition of PCAC constituent organizations and voting membership to reflect the relative impacts of Port operations on the groups. For example, residential composition should be weighted higher than business composition insofar as Port operations impact residents more than businesses. The by-laws should also reduce the total composition of PCAC by 40%, thereby eliminating groups that are not as

established or lack certification standards, such as a legal structure, elected officers, etc. Table 4 shows how one such restructuring would look:

Table 4 Proposed PCAC Composition

Type of constituency	Organization	# of reps	Total #	Total %
Neighborhoods/Residential	Central SP	1		
	Coastal SP	1		
	Harbor City	1		
	NW SP	1		
	Wilmington	2		
	CD 15 - SP	2		
	CD 15 - Wilmington	1		
	Total Neighbor/residential			9
Civic	Wilmington Comm Advisory	1	1	5%
Business/Econ Dev	Harbor Assoc of industry	2		
	SP C of C	1		
	PMSA	1		
	Wilmington C of C	1		
	Total business/econ dev			5
Labor	ILWU	1		
	Non-ILWU	1		
	Total labor			2
Education	LA Harbor College	1	1	5%
At Large	BHC appointed	1		
	CD 15 appointed	1		
	Total at large			2
Totals		20	20	100%

- f. BOHC to amend PCAC's by-laws to include a certification process for PCAC constituent organizations. These organizations should:
 - i. Be registered with the California Secretary of State
 - ii. Have their own by-laws or articles of incorporation
 - iii. Have a purpose that has a nexus or connection with Port operations or the impacts of Port operations
 - iv. Meet at least quarterly in open session
 - v. Elect officers
 - vi. Organizations should be required to recertify annually. Any organization that has not recertified within six (6) months should be decertified and replaced. This requirement would not apply to governmental organizations or subdivisions such as Neighborhood Councils.
- g. BOHC to amend PCAC's by-laws to include a certification process for PCAC voting members. The certification requirement should include:

- i. Prospective voting members should have a letter of nomination from their appointing constituent organization. BOHC would then certify their appointment.
 - ii. Certification should be revoked if the voting member has two (2) unexcused absences or three (3) excused absences during a period of four (4) consecutive quarterly meetings.
 - iii. Certification should also be revoked if the voting member is charged with code of conduct breaches in two (2) meetings during a period of four (4) consecutive quarterly meetings.
 - iv. Upon revocation, the voting seat would be filled by the alternate voting member, or the constituent organization could nominate a new member.
 - v. Existing PCAC members can be granted new five-year terms at the discretion of BOHC.
- h. BOHC to amend PCAC's by-laws to limit terms for PCAC Co-Chair (not a BOHC member) and PCAC sub-committee chairs to two (2) consecutive one (1) year terms. Terms for all PCAC members should be limited to five (5) years.
 - i. BOHC to amend PCAC by-laws to include a code of conduct for PCAC members. This code of conduct should be enforced by an appointed Sergeant-at-Arms. Breaches of the code of conduct should be documented and enforced pursuant to the revocation process as described above.
 - j. Retain the current roster of sub-committees within PCAC plus the addition of a subcommittee that would assume the responsibilities of the planned non-profit organization to oversee the Port Community Mitigation Trust Fund. This new subcommittee would replace this planned non-profit organization. All recommendations from this subcommittee would then be vetted and approved by PCAC prior to recommendation to BOHC.
 - k. Continue to assign technical and administrative support staff to PCAC meetings in order to provide expert advice and knowledge. The Port should continue to assign legal counsel to PCAC meetings.
- 2. Revisit the Plan to ensure that all particulate matter, not just DPM, is being tracked and those reduction goals are included for PM_{2.5} and PM₁₀.
 - 3. BOHC to propose to the City of Long Beach the commissioning of independent study of the costs and benefits of a consolidated Port Authority in San Pedro Bay. The study should be overseen by a commission composed of experts in municipal finance, supply chain logistics, public health, and public policy plus representatives from the governments of Los Angeles County, City of Los Angeles, Long Beach and the State of California, including a representative from the State Lands Commission. Should the study suggest that the region would benefit from a consolidated Port Authority; the Commission would be well advised to develop a legislative action plan to enact the recommendations from the study.

SUMMARY OF FINDINGS AND RECOMMENDATIONS

FINDINGS

1. The community input process of the Port of Los Angeles communities has degraded and does not have the organizational strength to be effective.
2. The Clean Air Action Plan does not include goals for reducing total particulate matter.
3. Los Angeles County could benefit from a regional Port Authority consolidating the Ports of Long Beach and Los Angeles.
4. The Port of Los Angeles is adequately secured from external threats.

RECOMMENDATIONS

1. Board of Harbor Commission to restructure PCAC, improving the efficiency and effectiveness of the Committee and refocus its mission.
2. Revisit the Clean Air Action Plan to ensure that goals and standards are established for total particulate matter (PM_{2.5} and PM₁₀) in addition to DPM.
3. Board of Harbor Commission to propose to the City of Long Beach an independent study of the costs and benefits of a consolidated Port Authority in San Pedro Bay.

REQUEST FOR RESPONSE

California Penal Code Sections¹§933(c) and §933.05 requires a written response to all Recommendations contained in this Report which shall be made no later than ninety (90) days after the Civil Grand Jury publishes its Report (filed with the Clerk of the court).

Respond to:

Presiding Judge
Los Angeles County Superior court
Clara Shortridge Foltz Criminal Justice Center
210 West Temple Street
Eleventh Floor, Room 11-506
Los Angeles, CA 90012

All responses for the 2010-2011 CGJ Report's Recommendations must be submitted to the above address on or before the end of business **September 30, 2011**.

¹ Reference California Penal Code Sections §933(c) and §933.05 at the beginning of this 2010-2011 Civil Grand Jury Report

Responses are required from:

<u>Recommendation Numbers</u>	<u>Responding Agency</u>
1	City of Los Angeles (Board of Harbor Commission)
1a	City of Los Angeles (Board of Harbor Commission)
1b	City of Los Angeles (Board of Harbor Commission)
1c	City of Los Angeles (Board of Harbor Commission)
1d	City of Los Angeles (Board of Harbor Commission)
1e	City of Los Angeles (Board of Harbor Commission)
1f	City of Los Angeles (Board of Harbor Commission)
1g	City of Los Angeles (Board of Harbor Commission)
1h	City of Los Angeles (Board of Harbor Commission)
1i	City of Los Angeles (Board of Harbor Commission)
1j	City of Los Angeles (Board of Harbor Commission)
1k	City of Los Angeles (Board of Harbor Commission)
2	City of Los Angeles (Board of Harbor Commission)
3	City of Los Angeles (Board of Harbor Commission)

APPENDIX

Table 1 – Source: BOHC Resolution 6039, China Shipping Amended Stipulated Judgment

Figure 1 – Source: PCAC Motions Recommended to BOHC as of 01-18-11, POLA

Figure 2 – Source: Motions Recommended to BOHC as of 01-18-11, POLA

Table 2 – Source: California Secretary of State

Table 3 – Source: Clean Air Action Plan Update, 2009

ACRONYMS

ACTA	Alameda Corridor Transportation Authority
ASJ	Amended Stipulated Judgment
BOHC	Board of Harbor Commissioners
CAAP	Clean Air Action Plan
CEQA	California Environmental Quality Act
DPM	Diesel Particulate Matter
EIR	Environmental Impact Review
NOx	Oxides of Nitrogen
PCAC	Port Community Advisory Committee
PM	Particulate Matter
POLA	Port of Los Angeles
SCAQMD	South Coast Air Quality Management District
SOx	Oxides of Sulfur
TEU	Twenty-foot Equivalent Unit
TWIC	Transportation Worker Identification Credential
WRAP	Water Resources Action Plan