

U.S. Army Corps of Engineers
Los Angeles District, c/o Dr. Spencer D. MacNeil
ATTN: CESPL-RG-2004-00917-SDM
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Dr. Ralph G. Appy, Director Environmental Management Division
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Subject: Comments Submittal for the Draft Supplemental EIR/Subsequent EIS for Pier
400, Berth 408 Project

August 11, 2008

Dear Dr. Appy and Dr. MacNeil,

Following are my comments regarding the Subject Project Environmental Impacts. Overall, the project does not adhere to the key elements of the Port's Clean Air Action Plan (CAAP) as originally drafted, and fails to comply with the new CARB regulations regarding fuel oil requirements for ships. I request that the final SEIR/SEIS comply with these important standards (even if they are successfully challenged by industry interests), in order to keep the commitment that the Port Staff has made to 'Clean Air Action', and to preserve the health and wellbeing of my community.

Local residents have borne an unhealthy and unjust burden due to the continuing industrial expansion of the Port – our community is considered a Federal non-attainment area for Air Quality. Recently, AQMD staff has re-analyzed the third Multiple Air Toxics Exposure Study (MATES III) data and found that, in the past 7 or 8 years, the basin-wide population weighted cancer risk has decreased by 8% when compared to the MATES II findings. However, the population weighted **cancer risk near the ports has increased by 17%**. This is a stark example of direct environmental injustice, as Port-adjacent residents are generally of lower economic status, have less political clout, and so on.

To add insult to injury, although the U.S. Census Bureau's most recent statistics state that in Los Angeles, 46.5% percent of the population is of Hispanic or Latino origin (the majority of those residents report that a language other than English is spoken at home) the full documentation for this project is not available to them. In communities that surround the Port, such as Wilmington and San Pedro, there is a particularly high percentage of Latino residents. It is therefore unjust to purposefully exclude them from this EIR process by not providing the complete documentation (not only the Executive Summary) in Spanish. The Port carefully translates all of its self-promotional and publicity materials (Newsletters, party + celebration invitations, public notices, etc.) into Spanish in order to engage and win the support of all local residents. The absence of

translated materials that alert these same residents, in a meaningful and detailed way, to serious health dangers and negative environmental and quality of life impacts (such as the full version of Draft Supplemental EIR/Subsequent EIS for Pier 400, Berth 408 Project) is a deliberate exclusion of a large portion of the community from the environmental review process. The exploitation of the language barrier is a clear example of Environmental Injustice and racism.

What was the basis for the decision to avoid translation of Subject documentation into Spanish? Why does the Port Staff translate all of its promotional materials into Spanish, but not all of the materials that reflect the hazards and negative impacts of port activities?

The development of the EIR should not continue until the information is made available to ALL concerned residents, and a new period of consideration for this phase (SEIR/EIS), should take place after the full translation becomes available to the public.

Below is a list of various concerns regarding the Subject Project:

1. The procedure of downloading all the various parts of the (SEIR/EIS) documentation is tedious and confusing. It does not allow for adequate searches of all the documentation in a simple and cohesive manner. In order to search thoroughly for a topic or keyword, the community member must first download ALL of the related documents and then search each of them individually. This is extremely time intensive and does not allow for adequate analysis of the material. The information becomes fragmented and piecemealed, difficult to decipher, and confusing. The manner of presentation of these documents to the public obfuscates the material.

What was the model for the information architecture of the Subject materials? Why did the Port/Army Corps choose to fragment these materials? What studies were utilized when preparing the materials for public consumption, to ensure that the information was searchable and accessible in a cohesive way for the general public (using best the practices for current electronic media navigation)?

The Port Staff/Army Corps should provide the material in an easily searchable data format. Again, the process should not move forward until all of the related information is truly accessible in a way that is easily searchable using best the practices for current electronic media navigation.

1A. Many local residents do not actually have computers/internet access at home. One resident of Wilmington told me that she wanted to participate but didn't have a computer at home and couldn't go to the library or other outlets because of her work schedule. She needed printed materials, in Spanish, which are not readily available. Again, the current EIR process excludes a heavily impacted portion of our local population because of their economic status and the language barrier. Since the Port acknowledges the presence and importance of the non-computer-using Hispanic population through its direct mail promotional programs, why does it not make printed information, in Spanish, easily accessible in its EIR process?

2. The project will create an extremely vulnerable and volatile potential target – front and center in our outer harbor. We are at war and in a new age of terrorism. These mammoth oil tankers and the storage tanks planned for the vicinity are symbols of World Trade and the American Industrial Complex and should not be centrally located in our outer harbor. This is exactly the kind of symbolic target (think 9/11 – World Trade Center) that terror groups seek out. Additionally, with most of the oil scheduled to be imported from the Middle East, the project is a symbol of the industrial imperialism that is an acknowledged target. An attack would be devastating to local communities and cripple national trade. For this reason alone, the project should not be located at the Port. The far-reaching impacts of a potential terrorist attack have not adequately been addressed in the DEIR/DEIS.

Given that we are a nation at war, and have already been attacked on our own soil at a nexus of World Trade, what is the basis for the decision to locate this volatile facility front and center in our nation's largest Port? What independent studies have been used or conducted to ascertain the effect on national trade and the national economy should this facility be targeted? Does the Port/Army Corps plan on conducting any such studies? What studies have been used to determine the vulnerability of this oil facility in this particular position? Does the Port/Army Corps plan on conducting any such studies? What studies have been used to determine the vulnerability of this oil facility at this particular point in our history? What less vulnerable alternative sites for regional oil importing have been proposed and offered as options?

3. There MUST be an evacuation plan as part of this documentation. With the vulnerabilities stated in item 3 above, as well as the location of the facility in an earthquake fault zone and the volatility of the materials, an adequate evacuation plan for the community must be incorporated.

Again, given that we are a nation at war, and have already been attacked on our own soil, there is certainly a possibility that this facility (with its imports principally from the Middle East) could be targeted. What evacuation plans have been studied and developed for the community as a part of this private business development? Will Plains All American Pipeline be required to fund such a study and develop such a plan as a counterpart to its profit-making scheme? Does the Port/Army Corps expect the community to “fend for itself” in case of an attack on this facility? Does the Port/Army Corps expect the community to “fend for itself” in case of earthquake or tsunami damage to this facility? Has the Port/Army Corps conducted a feasibility study regarding the evacuation of the San Pedro peninsula?

4. The project will be an industrial eyesore. Giant ships and related infrastructure will dominate the view (looking down at San Pedro Bay) from Angel's Gate and Point Fermin and become the visual centerpiece of the outer harbor from these important community vistas. Because of the massive size of the supertankers and the frequency of their visits, the project will greatly expand the visual footprint of the industrial Port into the outer harbor. A giant oil terminal - a symbol of backwards oil dependence and 'old thinking' - will certainly not help bolster the economic revitalization of our community. Aesthetically, the expansion of the industrial horizon will overpower the community's need for a healthy, natural, human scale development of the outer harbor. The impact of

the visual expansion of industrialization into the outer harbor must be more fully considered and addressed in the DEIR/DEIS.

Why doesn't the Subject material show clear and accurate elevations and pre-visualizations of the scale of this project from various vantage points? Why have only 2 dimensional linear outlines (on maps - seen from above) been used to denote the proportions/scale of the Supertankers? What specific outside studies have been utilized to determine the effects of this expansion of industrialization (and the related pollution) on LA's public waterfront, from a health perspective? What specific outside studies have been utilized to determine the effects of the expansion of industrialization on LA's public waterfront, from a quality of life perspective?

4A. Additional light and noise in the outer harbor at night will also have negative impacts on adjacent residents and on recreation at Cabrillo Beach, which is widely used by the community for evening picnics, etc. These impacts must be more fully addressed. What scientific studies have been used by the Port/Army Corps to determine the impacts of the cumulative light and noise in the harbor on the community? On aquatic wildlife and the environment?

5. Plains All American Pipeline, Pacific Energy Partners, and Mr. David Wright have been buying local support for this project for many years. They have joined and funded more than ninety local organizations, events and sponsorships (see [Plains_financialinvolvement.doc](#) – attachment). Dozens of industry supporters and their henchmen turned out for the June 26th public hearing to heap praise on the project. There is clear documentation that speakers at the hearing were drafted by Mr. Wright. Almost every person or organization who spoke in favor of the oil terminal has already been paid – directly or indirectly through organization fees or contributions – or stands to gain financially in the short term by constructing this project. Since these speakers have been paid in one way or another, their testimony and letters of support for this project should be dismissed. Letters of support from those affiliated with organizations/events sponsored or funded by Plains All American Pipeline, David Wright, Pacific Energy Partners or affiliated lobbyists (again, see attached list), should also be dismissed. If they are to be part of the record, each should be notated at the top of the document as solicited material with a financial relationship to the project developers.

Does Port Staff/Army Corps plan to use testimony and letters of support from individuals/agencies/groups that have been paid or funded by Plains All American Pipeline, to show that the community would like this project to move forward? Does Port Staff/Army Corps plan to notate admitted financial relationships between Plains A.A.P. and these "supporters"? Does the Port/Army Corps Staff believe that it is legitimate to count letters of support that have been paid for by Plains A.A.P. (directly or indirectly)? Does the Port/Army Corps Staff believe that this financial remuneration should be condoned? Does the Port/Army Corps Staff believe that coercion, as a means of moving the project forward, should be condoned?

6. According to the LA City Ethics Commission, Mr. David Wright and his lobbyists have spent hundreds of thousands of dollars to create luncheons for Port officials, and make contributions and donations at the behest of our city council people and other politicians. The judgment of Port management and local government has been impaired by this financial activity and these 'perks', and the procedure for the development review and support of these documents has been tainted. This impropriety has clearly skewed the process and the documentation in favor of the project, and has resulted in a biased report to the public. Therefore, the SEIR/SEIS should be prepared and reviewed by a neutral outside agency before the process moves forward.

Does the Port Staff believe that it can be neutral in its judgment and development of the EIR, despite the funding for various events and sponsorship perks that have transpired Between Plains A.A.P. and Port Staff and their business associates, including Chamber of Commerce Members/officers that are Port Staff? Would Port Staff/Army Corps please provide a complete and verifiable list of all such events/sponsorships/contributions, etc., that have been paid for by Plains A.A.P. or its agents or representatives, in order to assure public transparency?

7. Trade and industry insiders and their support networks, as well as Economic Development Coalitions, should not be allowed to add appendices to the SEIR which skew the overall documentation in favor of the Project. This is an Environmental Impact Report, not a business promotion. Appendices such as Appendix_D2_Californias_Uncertain_Oil_Future.pdf should not be included in the EIR documentation. They are promotional setups for the Port's historically consistent citing of "overriding importance" (reference Socioeconomic Impact) in order to push through desired business projects. In addition, these Appendices are currently outdated due to a rapidly changing oil market.

What is the process for selecting 'independent consultants/experts' to write these various appendices? Has the community ever been asked to participate in this selection process? Do any of these 'independent consultants or experts' stand to gain financially (directly or indirectly) from the development of this project? Will the Port Army Corps include updated studies that reflect the changing oil market?

8. The Executive Summary and other documentation is fraught with slippery and evasive language and is full of loopholes and discretionary measures. As an example, the documentation states that project developers will build a partial accommodation for AMP and then:

"The power substation and dockside cable handling gear would be constructed as soon as tankers become available that could utilize the AMP system."

But Mr. Wright and his business partners have already admitted that the Supertankers destined for this terminal are not equipped for this type of power system, and that it is possible that most Supertankers will never be so equipped.

Later the documents refer to convoluted *possible* alternative measures to reduce toxic emissions, which would require additional study and EIRs that could be years in the making. Meanwhile, the Oil Terminal is scheduled to be in full operation, polluting at will and degrading our community with it's many "Significant Environmental Impacts" (as stated in the documentation), with comfortably long phase-in times for all of the

environmental mitigation measures. The promotion of this terminal as environmentally forward simply untrue. The ramp up periods for AMPing and other mitigation measures are too long and are not mandatory or enforceable. How were these ramp-up times determined?

The open-ended discretionary language does not enable adequate assessment of Environmental Impacts. This is a serious flaw of the SEIR/SEIS and must be fully addressed in the final Draft of the documents.

What studies have been done to determine the feasibility of AMPing for this particular type of project? Why aren't such studies included in the Subject documentation? What studies have been done to thoroughly determine the feasibility for implementation of ALL currently available mitigation technologies (best practices) in order to decrease the negative environmental impacts of this project to a level of insignificance from the outset?

9. Environmental credits will be purchased to offset toxic emissions from the project. It appears that this is the only reason why the project will be better than the 'No Project Alternative'. However these emission offset/mitigation credits don't have to, and most likely will not be, used for mitigation in our polluted community. Recent examples are use of these credits/funds at Bolsa Chica and the Batiquitos Lagoon in Carlsbad. I visited the Lagoon in April, and it is surrounded by multi-million dollar homes. Local children get asthma, local adults get cancer and respiratory illnesses, our properties continue to be devalued and our quality of life is diminished – as a trade, so that other parts of the coast can be beautified. This is the worst kind of Environmental Injustice. It is simply shameful.

If mitigation credits are to be used to offset emissions from the project, they should ONLY be used for mitigation in the profoundly polluted and heavily impacted communities that surround the Ports.

The (implied) assertion that developing the Project would be better for our community than doing nothing is misleading, and the language in the documentation should be direct and clear regarding this point. Again, the credits should be used ONLY for local mitigation measures.

Has Port/Army Corps Staff determined how the mitigation/environmental credit funds could be used locally to offset the negative effects of this project? What specific studies have been conducted to determine how such funds might decrease the health risks/impacts on the local community? Has Port/Army Corps Staff determined if there is the potential to develop the project with NO negative health/environmental impacts in a manner that does not employ the use of purchased environmental credits?

10. The off-Port Impacts have not been adequately addressed in the Subject documents. Increased refinery output with related airborne toxins and additional traffic must be fully analyzed. A recent article in the Los Angeles Times By Elizabeth Douglass points out that companies are jockeying to purchase and upgrade refineries in the area, speculating on increased output. To quote the article: "companies see GOLD in local refineries..." Clearly, with increased oil imports locally, there will be a corresponding increase in local refinery production. Cumulative off-Port impacts of this project, including local/regional refinery output and related activities, noise impacts from

operations, etc., must be fully analyzed and acknowledged as part of the EIR documentation.

What studies have been conducted regarding future refinery output locally? What outside studies have been used to determine cumulative impacts? How has the socioeconomic impact of off-Port impacts been determined? Has Port/Army Corps Staff used both a Port Master Plan and a Community Development Master Plan to anticipate/determine the cumulative impacts - both on and off-Port?

11. There is not an adequate assessment of the various impacts that would take place during the 2 1/2 year construction period. Without adequate assessment there cannot be adequate mitigation.

Analysis of construction impacts must include full and specific quantifiable evaluation of noise, odor, dust, fumes, vibration, etc. For example: what effects will tunneling under Wilmington have on local residents? What kinds of odors and airborne toxins will result from the large scale welding within the project? What are the prevailing wind patterns at different times of day and where will the smoke and odors blow? How will construction noise, odors, traffic, and operations impact recreation? How will construction noise, odors, traffic, and operations impact nearby property values and the salability of nearby homes during the construction period? How will construction emissions including dust and traffic affect local health – particularly those with respiratory ailments? What will be the duration of airborne odors, noise, etc. in different parts of the surrounding communities? What studies have been utilized to determine cumulative construction impacts?

The specific and detailed analysis of the effects of project construction, and related mitigation measures, must be a part of the DEIR/DEIS.

12. The recent earthquake underscored the likelihood of another, larger earthquake in the future. The proposed project would be constructed in a vulnerable area. The potential results of an earthquake (or tsunami) have not been adequately addressed in the documentation. What would the resulting effects be on the regional and national economy if there were an oil spill, pipeline rupture, or explosion within the project? What would be the effect on the local community? How would the positioning of the project under these conditions affect other Port operations?

It makes no sense to build this vulnerable infrastructure in a fault zone at the front of Port operations. An in-depth analysis of the effects of an earthquake must be included in the documentation.

What thorough and specific studies has Port/Army Corps Staff used or conducted to answer the above questions and determine that that placement of this facility is safe, appropriate, and would not jeopardize the economy in the case of an earthquake or related events?

13. How will operations from the proposed Oil Terminal affect and restrict recreational boating in the outer harbor and San Pedro Bay? Will there be security zones and restrictions on recreational vessels? What types of restrictions and when (how often) will they be applied? Specific information must be a part of the Subject documentation.

14. Originally Port Staff and project proponents circulated the idea that the large ship calls (to the proposed project) would take the place of all of the smaller ship calls servicing the inner harbor. However, at the recent Northwest San Pedro Neighborhood Council meeting, David Wright (spokesperson for Plains All American Pipeline) admitted that the proposed operations at Pier 400 would not replace or lessen the smaller ship calls/oil deliveries in the inner harbor. The project would clearly increase ship emissions and add all the associated effects of operations on top of the existing oil delivery activities. The DEIR should state this clearly. Again, the notion that the project is environmentally 'better' for local residents than the 'No Project Alternative' is intentionally deceptive.

What studies have been conducted to determine the amount of inner harbor ship calls related to petroleum imports/industry servicing? Will there be an immediate decrease in these types of calls as a direct result of the proposed project? If so, what will be the corresponding reduction in pollution? Is there a firm schedule for the reduction of inner harbor activity, related to petroleum imports/industry servicing, that corresponds with the development of the Pier 400 project?

15. The negative perception of local communities as dirty, polluted, unhealthy, vulnerable and frightening places will be increased by this project. Dirty, stinking, polluting, backward oil infrastructure will create a deeper picture of an undesirable and unlivable area, and will further devalue our sagging property values. The project will undermine local efforts toward economic revitalization. There is not adequate assessment in the Subject documents of the project's contribution to the community's reputation as 'the toilet of Los Angeles' and the related devaluation of local property.

Additionally, the cumulative impacts with other projects planned for the near future, including the tunneling under Wilmington + San Pedro to dump sewage treatment offshore, have not been addressed. Again, what studies have been used to determine how this project, combined with all of the others, will affect perception of local communities – a perception that drives property values and deeply affects business viability and quality of life? What verifiable studies have been utilized to determine the impact of this proposed project on community development? What studies have been utilized to determine the conflicting effects of building oil infrastructure on the Port's plans for a Clean and Green Los Angeles waterfront? What studies have been utilized to determine how this proposed project will affect the community's image?

16. The number of full time permanent jobs reported in the Subject documentations seems to have been interpolated/exaggerated. According to earlier assessments, after the construction phase, there will be twenty-one permanent jobs created. The DEIR/DEIS should reflect an accurate number of actual on-site jobs. Who has provided the number of jobs in Subject documentation? Would Staff please provide an accurate list of those positions? How many actual on-site jobs will be created? How many of the general number cited in Subject documentation have been 'interpolated'? If off-port jobs will be created as a direct result, will Staff please list and specify them accordingly? Perhaps the figures in the documentation reflect the local health care jobs that will be created as a result of increased pollution? If so, this should be clearly stated as well. In

any case, the number of estimated permanent jobs in the Subject documentation is misleading and should be corrected and clarified.

17. The actual distance from the project site to the nearest residents should be clearly stated in the subject documents. The DER/DEIS should include a table indicating proximity (specific distance in feet/miles) to nearby prisoners, proximity to nearest local residents/homes, proximity to the Fort MacArthur, proximity to the nearest recreational areas (marina), and proximity to the nearest schools. Will Staff please provide this information so that the local population will have a better understanding of their specific exposure? Without these actual distances available, it is not possible to study the effects of the project at various locations.

What specific studies have been conducted or utilized, taking into account shifting wind patterns, varied locations, etc., to determine differing health risks at these various locations/proximities (for example – local elementary schools)? Will you please provide the public with this information as part of the EIR process?

18. Recent studies have indicated a decreasing demand for oil, based on increased price and other shifts in global conditions. How recent are the studies that are cited in Subject documents that relate to the demand for oil in our region? Do they apply to the current market conditions? Within the past year, much has changed in the energy market. What studies are Port/Army Corps Staff conducting, and what studies will be incorporated to reflect the current shifts in demand for oil and petroleum products? How will these studies affect the determination regarding the need for and the viability of this project? Should the energy market continue to shift profoundly, will the project be transformed into another type of terminal (such as an LNG terminal)? Is the project being developed with such flexibility in mind?

19. What is to prevent this proposed oil terminal from becoming converted to a Liquid Natural Gas terminal at a further point in time? What specific measures has Port/Army Corps Staff taken to prevent the future use of or modification of this facility for Liquid Natural Gas?

20. The proposed project does not adhere to a viable Port Master Plan. In fact, the Port Master Plan is currently out of compliance. There are conflicts between this project and others in development that have not been thought through or resolved. One example is the conflict between the related tank farm/storage facilities on Terminal Island and the proposed site for MagLev facilities in the same area.

Without a cohesive Master Plan, which defines the long-term goals to develop the Port in a thoughtful and sustainable manner, this project should simply not move forward. In fact, the development of this project without a fully developed Master Plan may be illegal.

Why has Port/Army Corps Staff chosen to ignore Master Planning as part of this EIR process? Does the Port/Army Corps Staff believe that it is not necessary to adhere to a compliant, updated Port Master Plan?

Once again, the project area remains a Federal non-attainment zone for Air Quality. The proposed Project as currently defined could only be implemented through consideration of "overriding importance" (see "Socioeconomic Impact" document) or through "Overriding Considerations (if necessary)" (see "Executive Summary and Introduction" document). The Port and the Corps of Engineers has the capability and the responsibility to require the application of currently available mitigations so that the impacts to air quality, from the start of the project (including during construction), can be reduced to a level that will not require application of Overriding Considerations. The aforementioned impacts must include more accurate assessments based, in part, on many of the points and questions in items 1-20 in this letter, and should include concerns and issues raised by other community members and organizations (who are not associated with, funded or sponsored by, Plains all American Pipeline) as well.

This terminal, if built, promises to be the jewel in the crown of backwards thinking that unfairly burdens and poisons our local community. It is a deliberately planned environmental injustice. Local residents, of lower economic status, with less political clout, will suffer the most, bearing the externalized costs of yet another poorly mitigated, open-ended, short sighted business expansion project.

To quote a recent speech of former Vice President Al Gore in Washington, ..."It is absolutely ludicrous at this point in our history to be borrowing money from China to buy oil from the Persian Gulf to burn it in ways that destroy the planet. All that has got to change..."

The Port and the Army Corps should show leadership rather than becoming complicit contributors to the serious problems that our community and our country face.

I look forward to your rectifying the above cited deficiencies of content and process. I request that the release of the Final EIR/EIS answer the questions and address and incorporate the concerns included in this letter.

Thank you for your attention.

Sincerely,

Danial Nord
San Pedro resident, homeowner, small business owner.

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