

July 10, 2008

Commander, U.S. Army Corps of Engineers
Los Angeles District, c/o Dr. Spencer D. MacNeil
P.O. Box 532711
Los Angeles, CA 90053-2325

Dr. Ralph G. Appy, Director Environmental Management Division
425 S. Palos Verdes Street
San Pedro, CA 90731

Subject: Comments Submittal for the Re-Circulated Draft EIR/EIS for Berth 97-109 (China Shipping) Container Terminal Project

Dear Dr. Appy and Dr. MacNeil,

We appreciate the opportunity to submit comments regarding the Subject Project Environmental impacts and hereby state our request that the Project be revised to implement the key elements of the Clean Air Action Plan as originally drafted and as described in the GENERAL and SPECIFIC COMMENTS listed below. We also state our acknowledgement and support of key mitigation measures also noted below.

GENERAL COMMENTS

Please note that we are gravely alarmed that the Port again proposed a Project with the statement that the air quality impacts are "considered significant, adverse, and unavoidable" after the proposed mitigation measures have been applied. We remind the Port and the Corps of Engineers that the affected area remains a Federal non-attainment area for Air Quality and that the proposed Project as currently defined could only be implemented through application of Overriding Considerations. We recommend that the Port require the mitigation efforts for the Project as defined in the CAAP and if projected emissions still create residual significant air quality impacts after full application of all feasible mitigation measures, that mitigation measures be required for existing sources in closest proximity to the Project. The mitigations applicable to sources other than the Project provide the opportunity to reduce the residual emissions to below significant levels on a port-wide basis. We believe that the Port and the Corps of Engineers has the capability and the responsibility to require the application of currently available mitigations such that the impacts to air quality can be reduced to a level that will not require application of Overriding Considerations.

SPECIFIC COMMENTS

1. Measure MM AQ-11, Low Sulfur Fuel (LSF) in Ships applicable to Auxiliary and Main engines, requires revision to schedule full implementation based on current availability of LSF and as was originally committed in the CAAP. The EIR's currently stated phase-in of LSF (maximum sulfur content of 0.2 percent) in Ocean Going Vessels of 30% in 2009, 50% in 2010, and 100% in 2013 violates the CAAP commitment to implement 100% LSF compliance in terminal leases as they are renewed or modified. The EIR/EIS requires revision to impose 100% LSF implementation on start of operations.

We noted that the CAAP included implementation of Measures OGV3, applicable to Auxiliary Engines, and OGV4, applicable to Main Engines, which required that, on lease renewal or revision, all ocean going vessels utilizing the leased facilities must burn $\leq 0.2\%$ S MGO within the current Vessel Speed Reduction program boundary of 20 nm, subsequently expanded to the 40 nm boundary. The schedule in the draft EIR would not require all OGV to comply until four years after the date established in the CAAP (lease renewal/revision) and would result in a severe shortfall in the emission reductions promised in the CAAP.

Furthermore, OGV3 and 4 require the port to continue to evaluate the availability of $\leq 0.1\%$ S fuels and possibly change the requirement to the lower limit. Therefore, MM AQ-11 should be revised to require the lease to automatically adjust the sulfur limit to $\leq 0.1\%$ when the CAAP is amended to generally require $\leq 0.1\%$.

We also noted that the recently published Fuel Availability Study, conducted by Tetrattech for POLA, established that regional LSF supply is sufficient such that the fuel would be available for ships serving the China Shipping terminal and/or can be planned in advance to ensure access to LSF prior to arriving at the San Pedro Bay ports.

2. Measure MM-AQ12, Slide Valves in Ship Main Engines requires revision to ensure consistency with the CAAP. The currently stated phase-in of slide valves in the EIR/EIS applicable to Ocean Going Vessels at 25% in 2009, 50% in 2010, 75% in 2012, and 100% in 2014 fails to satisfy the CAAP milestones applicable to the same slide valve measure applicable to OGVs.

The CAAP requires that the Measure OGV5, Slide Valve Technology, shall be implemented through lease requirements as new leases are established or existing leases are revised. Specifically, OGV5 requires that immediately upon lease renewal, all ocean going vessels utilizing the leased facilities must employ slide valve technology. The schedule in the Re-circulated Draft EIR/EIS would not require all OGVs to comply until five years after the date established in the CAAP (lease renewal/revision), resulting in a substantial shortfall in the emission reductions promised in the CAAP. Further, we noted that the Re-circulated Draft EIR/EIS falls short of the previous China Shipping Draft EIR/EIS which required slide valve technology on 100% of the ships serving the terminal by 2010.

3. Measure MM-AQ-23, Throughput Tracking, indicates the Port's recognition of the potential for exceeding throughput as planned in the EIR/EIS yet requires revision to impose review of actual throughput through a defined process and on a stated basis, such as yearly. The current MM-AQ-23 defines no specific requirement for when or how the reviews will be performed and further definition for the Measure is required to ensure compliance.
4. Measure MM AQ-18, Rail Switch Engine Modernization, indicates the Port's recognition of the availability and importance of Tier 2 locomotives and installation of diesel particulate filters (DPF's) yet requires revision to impose requirement for DPF's at start of project operations. The current MM AQ-18 would not require DPF's until January 2015.
5. NEPA Impact Determination, Particulates: Morbidity and Mortality, Health Effects of DPM Emissions lists quantities for Health Outcomes which require recalculation to ensure consistency with California Air Resources Board calculations for Health Effects as released in Year 2008. The EIR/EIS current quantification of Cases per Year varies by large order of magnitude from updated CARB Health Effect calculations. The EIR/EIS Health Effect quantification requires the corrected adjustment to properly determine health impacts and the benefit from mitigations and to restore POLA credibility in the community.
6. The lease term stated in the EIR/EIS requires adjustment to reduce the term or to include re-opener clauses to allow for evaluation at ten year intervals to ensure application of best available technologies and mitigation measures.
7. Plans for on-dock rail require increased application to encourage greater utilization of the concept to increase efficiency and reduce pollution.
8. The EIR/EIS requires additional mitigation measure applicable to electric or electric/hybrid drayage that will become more feasible in near term as current testing likely proceeds to improved technologies and proven capabilities.

9. The EIR/EIS requires revision to incorporate the mitigations required in the recent TraPac EIR/EIS Memorandum of Understanding established through Settlement with the Claimants to the TraPac EIR/EIS.

We look forward to release of the Final EIR/EIS with incorporation of our recommendations as we seek mutually to benefit from improved air quality.



Richard Havenick
Chair, Air Quality Subcommittee
Port Community Advisory Committee

Copies to: Dr. Geraldine Knatz, Port of Los Angeles Executive Director; Mr. Henry Hogo, Deputy Executive Officer, South Coast Air Quality Management District; Todd Sterling, California Air Resources Board; Jayme Wilson, Chair, Port Community Advisory Committee; Port Community Advisory Committee Members