

September 19, 2007

U.S. Army Corps of Engineers, Los Angeles District
Regulatory Division
ATTN: Dr. Spencer D. MacNeil
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Los Angeles, CA 90053-2325

Los Angeles Harbor Department
c/o Dr. Ralph G. Appy
425 S. Palos Verdes Street
San Pedro, CA 90731

Subject: Comments Submittal for the 2007 Berth 136-147 Container EIR/EIS from the Air Quality Subcommittee of the Port Community Advisory Committee

Dear Dr. Appy and Dr. MacNeil,

We appreciate the opportunity to submit comments regarding the Subject Project Environmental impacts and hereby state our opposition to the Proposed Project due to the current unhealthy conditions in the affected community identified as a Federal non-attainment area for Air Quality, and due to the failures listed in the sections SUMMARY COMMENTS and SPECIFIC COMMENTS, below.

SUMMARY COMMENTS

1. The Mitigation Measures listed for the Proposed Project require revision to, at a minimum, ensure compliance and consistency with all applicable Measures stated in the FINAL 2006 San Pedro Bay Ports Clean Air Action Plan (CAAP) and on the schedule required in the CAAP. As noted in SPECIFIC COMMENTS, several highly crucial CAAP measures are not currently listed for implementation or are scheduled for implementation at dates that undermine the CAAP.
2. We are gravely alarmed that the Port proposed the Project with the statement that the air quality impacts are "considered significant, adverse, and unavoidable" after the proposed mitigation measures have been applied. We have higher expectations that the Port and the City of Los Angeles will demonstrate greater regard for Public Health. We recommend that the Port pursue/require mitigation efforts for the Project beyond compliance with the CAAP and if projected emissions still create residual significant air quality impacts after full application of all feasible mitigation measures, we recommend 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. Such actions are necessary so that air quality impacts from the Project can be reduced to a level less than significant and so that Overriding Considerations is not invoked on Air Quality.
3. The Proposed Project requires revision to include a legally binding agreement (e.g., lease re-opener clause, specifically stated plan, etc.) with the terminal operator to perform a periodic re-evaluation for the following two actions/purposes:
 - a. As the CAAP was adopted with yearly review required, we request that the Project remain consistent with the CAAP and include such periodic review as a lease requirement. Specifically, the CAAP includes the Technology Advancement Program (TAP), which will likely yield technologies or other improvements not currently identified. We recommend that the potential benefit of the TAP be reflected in the Project EIR/EIS by explicitly requiring future adoption of newly proven technologies or operational methodologies which offer improved or increased mitigation as such

PCAC-AQ-1

PCAC-AQ-2

PCAC-AQ-3

- PCAC-AQ-3 alternatives become available (e.g., cleaner fuels, add-on equipment, operational changes).
- b. For verification that throughput Projections stated in the Final EIR/EIS are not exceeded and, where throughput projections are exceeded, additional mitigation is required.
- PCAC-AQ-4 4. The Mitigation Measures listed for the Construction phase of the Project require revision to implement EPA standards for on-road and off-road vehicles and equipment as noted in SPECIFIC COMMENTS.
- PCAC-AQ-5 5. We request that the Baseline emissions for the No Project Alternative be adjusted to reflect the reductions that would result through CAAP implementation to provide a more accurate basis for comparison of the No Project Alternative with the Proposed Project. Currently, the incremental CEQA project impacts are inappropriately calculated in the EIR/EIS by subtracting the current operation's impacts from the increased health impacts associated with the fully-developed Proposed Project. A more accurate depiction of the Proposed Project would define the baseline condition as the No Project alternative with the application of all mitigation strategies (i.e., provide a determination as to how clean the current operation can reasonably be made) and compare the mitigated No Project Alternative to the fully-developed Proposed Project, thereby providing the maximum predicted incremental impact.
- PCAC-AQ-6 6. We request that final approval of the Proposed Project be authorized only after adoption of the San Pedro Bay Standards addressing toxic air contaminants and state/federal criteria air quality standards and after confirmation that the Proposed Project will not violate the adopted Standards. We note that the Board of Harbor Commissioners' November 2006 adoption of the CAAP included commitment to the establishment of such San Pedro Bay Standards through cooperation between the Ports and Regulatory Agencies, expected to be completed in the coming months, and that the authorization of the Proposed Project provides opportunity to demonstrate the Port's commitment to the Clean Air Action Plan and the adherence to cooperatively established Standards. Given that adoption of the standards will occur in the coming months, the Final EIR/EIS can be prepared as a parallel effort and can be modified in a timely fashion to ensure consistency.
- SPECIFIC COMMENTS (applicable to referenced CAAP Section)
- Executive Summary
- PCAC-AQ-7 The future year numbers for Ship Calls, TEUs, Truck and Rail Trips, as presented in Table ES-1, are based on capacity calculations for berths 136-147. These numbers require verification for correctness and the respective assumptions forming the basis of the calculations must be explicitly stated. In particular, the following issues must be addressed:
- On page 3.10-23, statement is made, "...it is expected that the gate moves would be distributed as follows: 80 percent day shift, 10 percent night shift, and 10 percent hoot shift in 2015; and 60 percent day shift, 20 percent night shift, and 20 percent hoot shift in 2038." The associated total annual throughputs presented in Table ES-1 are projected to be 1,747,500 TEUs in 2015 and 2,389,000 in 2038. In fact, if all three shifts were operated at the day shift levels, the total annual throughputs would be 4,194,000 TEUs in 2015 and 4,300,200 TEUs in 2038 (dayshift level times three), resulting in far greater numbers of ship, rail and truck trips and their respective emissions.
 - Annual rail trips appear to be higher than would be calculated using the rail capacity data presented in the draft EIR. This has the effect of underestimating emissions because truck trips (and their higher per TEU emissions) would be under predicted because TEUs not shipped on rail would be shipped by truck. As actual annual TEUs, Ship Calls, Truck Trips, and Rail Trips may differ from the Final EIR/EIS projections, we recommend that
- PCAC-AQ-8

the lease for the Proposed Project include a requirement for periodic measurement of actual TEUs/Calls/Trips and where throughput projections are exceeded, additional mitigation is required.

PCAC-AQ-8

Chapter 3.2: Air Quality

Operational Mitigation Measures

Measure MM AQ-9, Fleet Modernization for On-Road Trucks, requires revision to ensure consistency with the CAAP and the concession-approach Clean Trucks Program announced by the Port on April 12, 2007. As shown in the following table, the EIR's currently stated phase-in of USEPA 2007 emission standards applicable to heavy-duty diesel trucks entering Berths 136-147 falls drastically short of the schedule presented in the April 12 Program announcement.

	MM AQ-9	April 12 Clean Trucks Program
Implementation Date	Cumulative Percentage of Trucks Meeting 2007 Stds	Cumulative Percentage of Trucks Meeting 2007 Stds
By January 1, 2008	15%	14%
By January 1, 2009	30%	47%
By January 1, 2010	50%	90%
By January 1, 2011	70%	99%
By January 1, 2012	90%	100%
By January 1, 2013	100%	

PCAC-AQ-9

Furthermore, the adopting statement by the Board of Harbor Commissioners requires establishment of, "...a program that restricts the operation of trucks that do not meet the clean standards established in the Plan." The Program was further detailed in the April 12 announcement as follows:

- Ban pre-1989 trucks from port service by 1/1/08
- Ban 1989-1993 trucks from port service by 1/1/09
- Ban unretrofitted 1994-1998 trucks from port service by 1/1/10
- Ban unretrofitted 1999-2003 trucks from port service by 1/1/11
- Ban unretrofitted 2004-2006 trucks from port service by 1/1/12

Specific lease provisions should be established that incorporate the ban schedule above.

Measure MM AQ-11, Low Sulfur Fuel (LSF) in Ships, requires revision to ensure consistency with the CAAP. The EIR's currently stated phase-in of LSF (maximum sulfur content of 0.2 percent) in Ocean Going Vessels of 10% in 2009, 20% in 2010, 50% in 2012, and 100% in 2015 fails to satisfy the CAAP milestones applicable to the same LSF measures applicable to OGVs.

The CAAP requires that the Measures OGV3, applicable to Auxiliary Engines, and OGV4, applicable to Propulsion Engines, shall be implemented through lease requirements (as new leases are established or existing leases are revised) and/or through a tariff to be implemented by third quarter 2007. Specifically, OGV3 and OGV4 require that immediately upon lease renewal, all ocean going vessels utilizing the leased facilities must burn $\leq 0.2\%$ S MGO within the current VSR program boundary of 20 nm. In the first quarter of 2008, the requirement is expanded to the 40 nm

PCAC-AQ-10

PCAC-AQ-10	<p>boundary. The schedule in the draft EIR would not require all OGV to comply until seven years after the date established in the CAAP and would result in a severe shortfall in the emission reductions promised in the CAAP.</p> <p>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%.</p>
PCAC-AQ-11	<p>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 15% in 2008, 25% in 2010, 50% in 2012, and 95% in 2015 fails to satisfy the CAAP milestones applicable to the same slide valve measure applicable to OGVs.</p> <p>The CAAP requires that the Measure OGV5 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 draft EIR would not require all OGVs to comply (a maximum of 95% of ships must comply) and the 95% level is not achieved until seven years after the date established in the CAAP, resulting in a substantial shortfall in the emission reductions promised in the CAAP. (In comparison, note that the draft EIR/EIS for China Shipping required slide valve technology on 70% of the ships serving the terminal by 2007 and 100% by 2010.)</p>
PCAC-AQ-12	<p>Measures MM AQ-7 and AQ-8, Yard tractors and all other diesel-powered terminal equipment, as written on page 191 of the EIR, appear to basically comply with CAAP measure CHE-1. However, the description of the requirements for yard tractors on page 62 and 66 is silent about existing yard tractors, an apparent typographical error, and should be corrected.</p>
PCAC-AQ-13	<p>Measure MM AQ-13, New Vessel Builds - Controls Technologies, must be expanded to include specific control requirements of 90% for PM, NOx and SOx and a clear description of how the measure would be enforced by the lease agreement.</p>
PCAC-AQ-14	<p>Measure MM-AQ14, Clean Rail Yard Standards, while identifying possible "cleanest locomotive technologies," is vague in describing exactly how the measure will be enforced. Specific language must be included in the lease to require percent reduction requirements or numerical emission standards reflecting the referenced "cleanest" technologies and when they will be achieved.</p>
PCAC-AQ-15	<p>The Project EIR/EIS currently includes no measures applicable to Harbor Craft, which represent a sizeable percentage of total Port particulate matter pollution. The EIR/EIS requires revision to include mitigation measures consistent with the Clean Air Action Plan Measure HC1 which is to be implemented through lease requirements. Specifically, lease requirements for TraPac should be established which require:</p> <ul style="list-style-type: none">• By 2008, all harbor craft servicing TraPac shall meet the EPA Tier 2 standards for harbor craft;• By 2011, all previously re-powered harbor craft servicing TraPac will be retrofitted with the most effective CARB verified NOx and/or PM emissions reduction technologies; and• On availability of Tier 3 engines, within five years all harbor craft servicing TraPac will be re-powered with Tier 3 engines.

Construction Mitigation Measures

Measure MMAQ-2, Fleet modernization for On-Road Trucks, allows for 2007 model year or 1994 model year + CARB Level 3 Particulate filter on-road heavy-duty diesels. Construction emissions from on-road trucks in Phase I (2008-2015) can be substantially reduced by requiring the entire fleet of on-road trucks used for construction and/or to convey material to or from the site to meet the following hierarchy of requirements:

1. Meet the 2010 on-road emission standard for NOx (0.2 g/bhp-hr) and for PM (0.01 g/bhp-hr); or
2. If infeasible (not commercially available) for all on-road trucks used for construction activities to meet the 2010 standard, such trucks shall use LNG (exceeding 2007 on-road standard for NOx and PM).
3. If infeasible (not commercially available) for on-road trucks to use LNG, such trucks shall at least meet the 2007 standard of 1.2 g/bhp-hr for NOx and 0.01 g/bhp-hr for PM.
4. Only if the above approaches are determined to be infeasible (not commercially available), use of 2003 or later model year trucks retrofitted with the highest level of CARB-verified NOx and PM control devices is recommended.

PCAC-AQ-16

During Phase II (2015-2025), only heavy duty trucks meeting the 2010 standards should be used since the trucks will have already been available for five years.

Measure MMAQ-3, Fleet Modernization for Construction Equipment, requiring Tier 2 on-road emission controls in Phase 1, is not as aggressive (and public-health conscientious) as possible. Emissions from construction equipment in Phase I (2008-2015) can be substantially reduced by requiring the following hierarchy of requirements:

1. Use of on-road engines that meet the 2010 emission standards for NOx and PM.
2. If the use of on-road engines that meet the 2010 standard is infeasible (not commercially available), use of LNG (exceeding 2007 on-road standard for NOx and PM).
3. If LNG is infeasible (not commercially available), use of on-road engines that meet the 2007 emission standards for NOx and PM.
4. If the use of on-road engines that meet the 2007 NOx and PM on-road standards is infeasible (not commercially available), use of off-road engines that meet the EPA Tier 3 off-road emission standard in combination with verified diesel emission controls (VDECs) that will provide the greatest reduction in NOx and PM.
5. Only if the above approaches are determined to be infeasible (not commercially available), then the use off-road engines that meet the EPA Tier 2 standards in combination with the use of emulsified, ultra low sulfur fuel is recommended for all off-road equipment.

PCAC-AQ-17

Technical Comments

P3.2-3, line 11 – An important component of PM is the photochemical (secondary) formation of PM in ambient air in and downwind of primary Port emissions. This downwind occurrence is unambiguously related (though not wholly attributable) to Port emissions through the release of sulfur, VOCs, PAHs, combustion exhaust, and other airborne contaminants. Control of sulfur emissions, for example, at the Port, offer dual-edged benefits in air quality, through reductions in direct sulfur dioxide emissions AND reductions in subsequent (downwind) particulate sulfate production. In that sense,

PCAC-AQ-18

- PCAC-AQ-18 ozone is NOT unique as a secondary photochemical pollutant associated with Port operations.
- PCAC-AQ-19 P 3.2-5, lines 6 through 8 – Particulate matter is bi-modal in annual mass maxima, with a slightly higher winter peak than summer. This is understood to be the result of two slightly differing phenomena. Summertime photochemistry accounts for a significant portion of the observed PM (which is produced by secondary particle formation, using the ultraviolet energy of the summer sunlight). During the winter months, low inversions and cooler weather limit atmospheric dispersion and provide conditions conducive to gas-to-particle condensation and phase shifts, resulting in higher PM levels than those directly assignable to primary emissions alone. Therefore, describing wintertime PM as “inert” is inaccurate, misleading, and should be corrected.
- PCAC-AQ-20 P3.2-5, line 13 – Air pollutant monitoring is a means of assessing air quality, NOT a direct method of air quality improvement.
- PCAC-AQ-21 P3.2-14, Table3.2-5 – How is it that Ships are such a relatively small category contributor to total PM (25%) in this listing of 2003 emissions? In contrast, the 2001 port-wide emission inventory identified the contribution of ocean-going vessels to PM10 emissions as 55%.
- PCAC-AQ-22 P3.2-43, line 21 – Why do “unmitigated” emission calculations use 2.7% (27000 ppm) sulfur residual fuel for predictions and presentation, but much cleaner fuels (500 ppm sulfur fuel or 15 ppm sulfur fuel) for other alternative applications? Is the Port implying that ANY cleaning of sulfur from fuels is “mitigation” and that internationally, other fuel sources will remain at 2.7%? This would seem to run counter to recent international observations, SECA areas, and other activities.
- PCAC-AQ-23 P3.2-97, line 24 – The implication here seems to be that the C-R function may not be appropriate for the Port because non-California cities were primarily used in the Krewski et al study cited. If this is a substantive concern on the part of Port staff, a revised analysis, by Jerrett, using data from Southern California only, was performed and found a higher relative risk value than that determined by Krewski et al for the 63 US cities investigated. This issue was discussed in the preparation of the 2007 SCAQMD AQMP, where the decision was made to ignore the specific California value and use the national value.
- PCAC-AQ-24 P3.2-97, line 33 – This sentence is confusingly worded – how can a change in concentration be below the ambient concentration? By definition, the outdoor concentration is the ambient concentration.
- PCAC-AQ-25 **Chapter 4 Cumulative Analysis:**
P4-32, line 36 - The 2007 SCAQMD AQMP predicts attainment for ozone in 2023/24 (not 2020).
- PCAC-AQ-26 P4-39, line 18 (Section 4.2.2.8, Cumulative Impact AQ-7, Potential conflict with applicable AQMP) – The contribution of emissions from this project will impact the timing and ability of the AQMP to achieve needed reductions for attainment, so how can the conclusion be reached that the impact is “less than cumulatively considerable”? The proposed explanation is that the Port has provided SCAG with cargo forecasts for AQMP development, so the AQMP, by definition, accounts for Project development. This would seem to be circular reasoning, in that the ability of the AQMP to achieve attainment by any given date will be a function of the cumulative emissions and identified control strategies available to offset them, so additional

emissions (from additional projects) would seem, by definition, to cumulatively affect the timely and successful implementation of the AQMP.

PCAC-AQ-26

Appendix D3: Health Risk Assessment

pD3-4, para2 – With respect to diesel-fired external combustion boilers, how is considerations of DPM only (1 chemical) more conservative than consideration of individual TAC emissions (16 chemicals)? Given that “boiler emissions” are later determined to be responsible for almost 40% of the CEQA residential cancer risk, simplifying assignments of this exposure category should be well-documented, supported, and carefully considered.

PCAC-AQ-27

pD3-7, para2 – The idling time assumption for line-haul locomotives assumes a value of 1 hour, compared to 1.9 hours previously used. Has this idling reduction time (contained in the CARB-Railroad MOU) actually become a part of routine operations (can the reduced idling time be currently verified for operations today)?

PCAC-AQ-28

pD3-9, Item 2, Terminal Equipment – Increasing average hourly terminal operations by 25% to simulate peak activities seems very low, when peak activities would seemingly multiplicatively increase average operations. On what basis was the 25% assumption value selected?

PCAC-AQ-29

pD3-9, Item 3, Trucks – If 10% ADT is assigned to each hour from 0600 to 1800m doesn't that make 120% (not to mention the additional 60% from the 5% assignment from 1800 to 0600)? What does it mean to use a value of 180% of the ADT?

PCAC-AQ-30

pD3-9, Item 4, On-Dock rail-yard – assumption is one hour of activity, but how does this compare with current use(s) and the MOU?

PCAC-AQ-31

P.D3-20, Table D3-5, Receptor Type – While it may be true that “Students” would “only” be exposed for 6 hours, 180 days at school, their lifetime exposure would be an additive sum of time spent at school (6 hours, presumably) AND at home (18 hours, per the simplifying assumptions used herein). The calculations used in this health risk assessment would therefore seem to systematically under-predict exposure for identified groups (students, recreational, occupational) because the calculations do not seem to account for the total 24hr period for these sub-populations.

PCAC-AQ-32

P. D3-20, Table D3-5, Exposure Assumptions Notes, #4 – The recreational breathing rate of 3.2 m³/hr (or 3200 liters per hour, or ~53 liters per minute) does not seem especially conservative for two hours of effort; this is only five times resting ventilation rate. Aerobic exercise (such as running and cycling) can routinely involve exercise at ten times resting ventilation rates for extended periods of time.

PCAC-AQ-33

Non-Air Quality Comments

Chapter 3.1: Aesthetics

Claim is “no significant changes”, but this seems a surprising conclusion given the three-fold expansion of the operations, the re-alignment of Harry Bridges Boulevard (and the resulting recreational area/buffer), the wharf extensions, and the crane replacements.

PCAC-AQ-34

Chapter 3.9: Noise

Several questions are raised by the presented Noise information including the questions listed below.

1) Measurements made during 2002 are certainly of value, but were possibly made prior to the completion and current level of operations at the China Shipping Terminal. In this regard, the current noise levels may differ from those previously reported because the level of current operations is significantly greater, the area under active use is significantly larger, and the topological surface (berms, working areas, ground slope and shapes) are potentially substantively different from the physical reality during the measurements of 2002. Are more current measurements available, or can a few spot measurements be made to provide a comparison/adjustment factor to current configurations and intensity of usage?

2) The measurements provided in the Wilmington area appeared to be generally at the terminal fence-line. Was a specific determination made that measurements back at homes and playing fields would be lower and less relevant, or that the topography was sufficiently flat and open such that noise would dissipate in a predictable manner with increasing distance? How do the noise measurement locations fit with the predominant wind trajectories for the area around the proposed terminal?

3) Comparisons are made in On-Site Operations, p.3.9-33, to 1990 measurements for container operations in the Port of Los Angeles, a period when two Evergreen vessels were being unloaded and four gantry cranes were in use. Is this a realistic and appropriate comparison for typical terminal operations noise, seventeen years later, with much more activity, and somewhat different equipment?

Control of removed landfill or sediment

The EIR/EIS requires revision to include specific plans for the control of removed landfill or sediment such that landfill disposed during construction is controlled in a manner that protects Public Health and ensures adequate coverage and handling of disposed toxic material.

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 of Los Angeles 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; Air Quality Subcommittee Members; Port Community Advisory Committee Members

PCAC Air Quality Subcommittee, September 19, 2007

PCAC-AQ-1. The Final EIS/EIR provides an adequate analysis of air quality impacts for CEQA/NEPA purposes. Mitigation Measures AQ-1 through AQ-25 represent all feasible means to reduce air pollution impacts from proposed construction and operational emission sources. The Final EIS/EIR has accelerated implementation of some mitigation measures proposed in the Draft EIS/EIR, as discussed in more detail in the following responses. The Project would comply with all applicable CAAP measures.

PCAC-AQ-2. Please see the response to comment PCAC-AQ-1. Final EIS/EIR Mitigation Measures AQ-1 through AQ-25 represent all feasible means to reduce air pollution impacts from proposed construction and operational emission sources. Mitigation Measures AQ-17, AQ-18A, and AQ-18B provide a process to consider new emission control technologies to mitigate proposed emissions in the future. Implementation of the CAAP would assist in the control of emissions from existing sources in proximity to the project. Additionally, the Port will add the following measure to the lease to ensure compliance with Mitigation Measure AQ-17:

As partial consideration for the Port's agreement to issue the permit to the tenant, tenant shall implement not less frequently than once every 7 years following the effective date of the permit, new air quality technological advancements, subject to the parties mutual agreement on operational feasibility and cost sharing which shall not be unreasonably withheld.

PCAC-AQ-3. Please see the responses to comments PCAC-AQ-1, PCAC-AQ-2, and SCAQMD-8. The Project lease agreement will require the tenant to (1) annually evaluate the status of the implementation of mitigations adopted in the Final EIS/EIR and (2) annually monitor the CAAP Technology Advancement Program process and determine if it will provide any applicable measures to mitigate future Project emissions. The project MMRP requires Port staff to develop annual reports on this process and to make these reports available to the Board at a regularly scheduled public Board Meeting. The Port and Project terminal operator would comply with the MMRP for the life of the lease, or 30 years. In addition, the following mitigation measure has been added to the document:

Mitigation Measure AQ-26: Throughput Tracking. If the project exceeds project throughput assumptions/projections anticipated through the years 2015 and 2025, and 2030, then staff would evaluate the effects of this on the emission sources (ship calls, locomotive activity, backland equipment, and truck calls) relative to the EIR. If it is determined that these emission sources exceed EIR assumptions, staff would evaluate actual air emissions, for comparison with the EIR and if the criteria pollutant emissions exceed those in the EIR including any subsequent mitigation/emission reductions added to the terminal, then new/additional mitigations would be applied through Mitigation Measure AQ-17.

PCAC-AQ-4. Thank you for your comment. Please see response to comments SCAQMD-11 and -12. The following mitigation measures have been amended in the Final EIS/EIR:

Mitigation Measure AQ-2: Fleet Modernization for On-Road Trucks. All on-road heavy-duty diesel trucks with a gross vehicle weight rating (GVWR) of 33,000 pounds or greater used on-site or to transport materials to and from the site shall comply with USEPA 2007 on-road PM emission standards and be the cleanest

available NOx for Phase I. In addition, for Phase II construction (post January 2015), all on-road heavy-duty diesel trucks with a gross vehicle weight rating (GVWR) of 33,000 pounds or greater used on-site or to transport materials to and from the site shall comply with year 2010 emission standards where available. Trucks hauling materials such as debris or fill shall be fully covered while operating off Port property.

Mitigation Measure AQ-3: Fleet Modernization for Construction Equipment.

All off-road diesel-powered construction equipment greater than 50 hp, except derrick barges and marine vessels, shall meet the cleanest off-road diesel emission levels available but no greater than Tier 2 emission standards for projects starting construction prior to December 2011. Tier 3 emission standards shall be applied to projects starting construction between December 2011 and January 2015. The contractor could meet Tier 3 equivalent PM10 emission limits through the use of new or repowered engines designed to meet Tier 2 PM standards and/or the use of CARB approved diesel particulate traps. ~~achieve the Tier 2 emission standards in Phase 1 construction and Tier 4 emission standards in Phase 2 construction, as defined in the USEPA Non-road Diesel Engine Rule (USEPA 1998 and 2004). Equipment not designated Tier 23 by the manufacturer may achieve the emissions requirement by retrofitting the equipment with an CARB Verified Diesel Emission Control System (VDECS) and/or by the use of an CARB verified emulsified fuel.~~ For Phase II construction (post 2015), equipment shall meet the Tier 4 emission standards where available. In addition, construction equipment shall incorporate, where feasible, emissions savings technology such as hybrid drives and specific fuel economy standards.

The following mitigation measure also has been added to the Final EIS/EIR:

Mitigation Measure AQ-25: Special Precautions near Sensitive Sites. All construction activities located within 1,000 feet of sensitive receptors (defined as schools, playgrounds, daycares, and hospitals), shall notify each of these sites in writing at least 30 days before construction activities begin.

- PCAC-AQ-5.** It is acknowledged that many of the Port-wide CAAP measures, such as the Clean Trucks Program, will affect terminals that are not in the process of new development plans or revising their lease agreements. However, to be conservative, the Draft EIS/EIR assumes that the emission reduction benefits of these measures would not occur as part of the No Project scenario. As an optional comparison, Alternative 5 includes applicable CAAP measures and the same throughput as the No Project Alternative; however it does include the land-side development associated with the Project.

The Draft EIS/EIR correctly estimates the CEQA increment according to the CEQA Guidelines. Significance of an action under CEQA is determined by comparing the Project to the CEQA Baseline, or existing conditions in 2003.

- PCAC-AQ-6.** Please see response to comment SCAQMD-5. The Ports are in the process of finalizing the CAAP San Pedro Bay Standards. Final EIS/EIR Appendix D4 presents annual DPM emission estimates of Project sources for the 2003 existing conditions and 70 years of Project mitigated operations starting in 2007 (Tables D4-PP-Mit-xx). These data show that emissions of most source categories peak in year 2010 and then beyond 2012, they are less than 2003 conditions. In other words, by reducing Project emissions, the

proposed mitigations satisfy the intent to timely achieve the CAAP San Pedro Bay Standards.

PCAC-AQ-7. Please see response to comment NRDC-7. This document has not underestimated the total throughput. As throughput grows, more gate movements would be distributed to the night and hoot shift. Currently, infrastructure (such as the highway network) and employee levels can handle the majority of gate movements during the day hours. However, although expected future upgrades to both on- and off-Port infrastructure would add additional capacity, the gate would become more congested during these hours shifting the additional throughput to the night and hoot shifts. Most cargo would continue to move through the gate during the day because warehouses and other cargo end users are expected to operate primarily during the day. To ensure cargo can be handled and moved through the gate at night, the Port and industry groups are exploring operational changes both at the Port and with end users. For example, PierPASS, is a new program that implements financial disincentives to the movement of containers during peak hours (3:00 a.m. to 6:00 p.m., Monday through Friday. While this project assumes 24/7 operation in the future, the terminal, rail facilities, distribution centers and warehouses, and retailers are not expected to operate at full capacity during the night and hoot shifts.

PCAC-AQ-8. Please see response to comment SCAQMD-3. The design and capacity of the Project rail yard optimizes a balance between the need to support intermodal rail projections and the need for terminal backland area to support cargo destined for the local market. While the railyard has been sized to handle the majority of rail-destined cargos, it is neither efficient nor environmentally beneficial to require that all rail-destined cargoes be required to be transported only via on-dock rail facilities. Because all the containers on a unit train built in on-dock rail yards are bound for the same destination, the on-dock rail yard cannot accommodate intermodal cargo destined for locations other than that of the unit train. For example, over the course of a week, the container terminal may have enough containers to build a number of unit trains to Chicago. However, the terminal may have 20 additional containers bound for Texas and 30 containers bound for New York. In such a scenario, containers bound for these other locations are hauled to near dock facilities to be grouped with containers from other terminals bound for the same destinations.

The current design of the rail yard would handle 83 percent in 2015 of the Project's rail bound cargo and 80 percent of the 2025 .

Regarding the need for the tenant to monitor annual values and apply additional mitigations if approved throughputs are exceeded, please see the response to comment PCAC-AQ-3.

PCAC-AQ-9. Trucks that call at the Berths 136-147 Terminal would be CAAP-compliant. Mitigation Measure AQ-9 incorporates the Port's Clean Truck tariff into the TraPac Terminal. On November 1, 2007 the Board of Harbor Commissioners adopted a tariff to implement the progressive banning of older trucks from operation at the Ports (the tariff is included as Attachment 1). Under the progressive ban, trucks would only be granted entry to Port terminals if they (i) are registered with the Ports, (ii) meet the model-year requirements of the schedule banning dirty trucks, and (iii) have a Radio Frequency Identification (RFID) tag that would provide information about each truck to the Ports. The truck registry information would include the truck owner, model year, and emissions level as indicated by the truck's status of compliance with the USEPA 2007

Heavy-Duty Highway Rule emissions standards and/or CARB Verified Diesel Emission Control Strategy (VDECS) retrofit status. Port marine terminal operators would be required to equip their terminals with RFID tag readers to manage access of drayage trucks and improve security at their facilities.

Mitigation Measure AQ-9 would ensure required gate modifications are completed to support the Clean Trucks tariff, and would prohibit the applicant from permitting access to the terminal any truck not compliant with the CTP truck ban schedule.

The text in the Final EIS/EIR Table 3.2-24 has been revised to state that Clean Trucks Program compliant trucks are those that achieve the USEPA 2007 Heavy-Duty Highway Rule PM emission standards and have the cleanest available NOx emissions at time of purchase. Additionally, as discussed in the Final EIR, the Project start year was identified as 2007 in Chapter 3.2. Due to delays in project approval, the start year has been changed to 2008, consistent with the construction schedule and the lease term (2008-2038) presented in Chapter 2 of the DRAFT EIS/EIR. Changes to the start year results in changes to Mitigation Measure AQ-9:

Mitigation Measure AQ-9: Trucks Heavy-duty diesel trucks entering the Berths 136-147 Terminal shall achieve the USEPA 2007 Heavy-Duty Highway Rule emission standards for on-road heavy-duty diesel engines (USEPA 2001a) in the following percentages: 15% in 2008 ~~2007~~, 30% in 2008, ~~50% in 2009~~, 70% in 2010, and 100% in or newer 2012 and thereafter.

The new implementation schedule does not change the significance findings presented in the Draft EIS/EIR, as Project emission projections for 2008 are expected to be essentially the same or slightly lower compared to those estimated for the Project in year 2007 for the following reasons: (1) all Project vehicle fleets except vessels will have an additional year to turn over to vehicles with newer and cleaner emission standards, (2) proposed Project throughput does not increase between 2007 and 2008 due to lack of terminal upgrades, (3) operational scenarios remain the same, and (4) mitigation measures remain the same or become more aggressive.

PCAC-AQ-10. Thank you for your comment. Mitigation Measure AQ-11 in the Final EIS/EIR has been revised to increase the compliance rate of total ship calls that use low-sulfur fuel (maximum sulfur content of 0.2%) in auxiliary engines, main engines, and boilers within 40 nm of Point Fermin (including hoteling for non-AMP ships). By 2012, all frequent caller ships (three or more calls a month) shall comply with this requirement as follows:

Mitigation Measure AQ-11: Low Sulfur Fuel Ships calling at Berth 136-147 shall use low-sulfur fuel (maximum sulfur content of 0.2%) in auxiliary engines, main engines, and boilers within 40 nm of Point Fermin (including hoteling for non-AMP ships) at the following annual participation rates: (a) 2009: 20 ~~10~~-percent of auxiliary engines, main engines, and boilers; (b) 2010: 30 ~~20~~-percent of auxiliary engines, main engines, and boilers; (c) 2012: 50 percent of auxiliary engines, main engines, and boilers; and (d) 2015: 100 percent of auxiliary engines, main engines, and boilers In addition, by 2012, all frequent caller ships (three or more calls a month) shall use 0.2% in main and auxiliary engines within 40nm of the Port.

MOL has committed to using low sulfur (0.2%) fuel in MOL ships dedicated to a Los Angeles service. This phase-in schedule assumes 100 percent of MOL's P-Class vessels

would use low sulfur fuel in auxiliary engines, main engines, and boilers by 2012. These P-class vessels would be the most frequent callers at the terminal providing a weekly service between the US West Coast and Asia and are assumed to make up approximately 50 percent of TraPac's ship calls.

The longer phase-in schedule is to accommodate 3rd party invitees. TraPac has recently lost a majority of their third-party invitees due to terminal upgrades delays and costs associated with expected future environmental requirements. While TraPac anticipates they would be able to attract new third-party invitees with the terminal upgrades assumed as part of the proposed Project, the actual customer mix is not yet known and costs associated with environmental requirements remain an issue.

Currently, ships that frequent the Port burn heavy fuel oil (HFO), that has a sulfur content ranging from 1.0 to 4.5%, with an average sulfur content of 2.7% in their main, auxiliary, and boiler engines. At today's cost, low sulfur (0.2%) costs approximately \$350 more per ton than bunker fuel (currently, bunker fuel is approximately \$400 per ton, while low sulfur fuel is \$750 [www.bunkerworld.com accessed 10/10/07]). Assuming a round trip voyage from 40 nm to Berth 136-147 at 12 knots an hour and hotelling, a 5,000 TEU ship would use approximately 22 tons of fuel in main, auxiliary and boiler engines. Based on this scenario, low sulfur fuel (0.2%) would cost approximately \$7,700 more than the use of HFO (MOL 2007). Additionally, there may be retrofits associated with using low sulfur fuel. Maersk ship retrofits cost approximately \$300,000 per vessel. Through future lease amendments and the CAAP, all Port container terminals are expected to comply with low sulfur fuel regulations in the future. However, until most or all of the other container terminals and shipping lines are required to use low sulfur fuel, with 0.2% sulfur requirements at the Berth 136-147 Terminal, TraPac would have difficulty attracting third party business. The longer phase-in schedule allows TraPac to negotiate environmental upgrades with the invitees and to also remain competitive with other Port terminals that do not yet have environmental requirements as part of their operating requirements. Additionally, as part of the CAAP, the Ports are developing a low sulfur fuel tariff that would apply to all container vessels entering the San Pedro Bay. This tariff would both remove any competitive disadvantages among the different container terminals competing for third party business (Maersk does not currently go after third party business) and accelerate emissions reductions. This tariff would supersede the proposed environmental mitigation.

While the phase-in schedule is largely to accommodate financial considerations, there are potential issues with fuel availability and potential ship retrofits. As a whole, most container ships would require minimal upgrades to use 0.2% sulfur fuel, especially newer ships designed with low sulfur fuel in mind. However each ship must be looked at on a case-by-case basis to ensure safe vessel functions. MOL is currently performing retrofits and safety testing on all ships dedicated to the Berth 136-147 Terminal. Third party customers will also require time to address their ship fleets. According to the *Evaluation of Low Sulfur Marine Fuel Availability- Pacific Rim* (2005) and further investigations by the San Pedro Bay Ports, low sulfur fuel is available in most Japanese ports (the origin of most MOL ships dedicated to the Berth 136-147 Terminal), Singapore and Hong Kong. However, low sulfur fuel is not readily available in China (most of TraPac's former third-party business originated in China). These vessels could take on fuel in Los Angeles, but use of low sulfur fuel in their inbound leg cannot be guaranteed at this time. As part of the CAAP, the Ports are working with local port authorities and fuel suppliers in areas that low sulfur fuel is not readily available to remove this hurdle.

0.2% vs. 0.1% Sulfur Fuel

In order to allow for some margin of error and product contamination in the distribution system, when a shipping line orders 0.2% sulfur fuel, they are actually receiving a fuel with a lower sulfur content of between 0.13% and 0.16%. Therefore, if the mitigation measure required 0.1% fuel, the fuel supplier would have to provide fuel at a lower than 0.1% content, which may not be possible in current refineries. Additionally, 0.2% is consistent with the CAAP. In developing and approving the CAAP, the Ports of Los Angeles and Long Beach met and collaborated with agencies (including CARB, AQMD, and USEPA), environmental and community groups, and the shipping industry. As a result of this collaborative process, 0.2% sulfur fuel was found to be feasible from port-wide perspective and use of this fuel represents consensus.

CAAP Compliance

The phase-in schedule allowed by this mitigation measure is consistent with the CAAP. The CAAP assumes full compliance of OGV-4 and OGV-5, pending technical feasibility and fuel availability. As discussed above, the Ports are pursuing a tariff mandating 100 percent compliance in all ships entering the San Pedro Bay Ports. However, as detailed in the CAAP, a number of steps must be performed, including further fuel availability and technical studies, and legal analysis, prior to implementing this tariff. Lease implementation was another identified strategy to implement OGV-4 and OGV-5 in the CAAP. However, a phase-in schedule (port-wide) was assumed in all presentations of emission reductions.

PCAC-AQ-11. Thank you for your comment. Mitigation Measure AQ-12 in the Final EIS/EIR has been revised to increase the compliance rate of total ship calls that implement slide valves or equivalent on main engines to a minimum of 50 percent in year 2009. Additionally, the measure will state the following:

By 2012, all frequent caller ships (three or more calls a year) shall comply with this requirement as follows:

Mitigation Measure AQ-12 Slide Valves: Ships calling at Berth 136-147 shall be equipped with slide valves or equivalent on main engines in the following percentages: (a) 15 percent in 2008; (b) 50 ~~25~~ percent in 2010; ~~(c) 50 percent in 2012;~~ and (c) 95 percent in 2015. By 2012, all frequent caller ships (three or more calls a month) shall comply with this requirement.

MOL has committed to retrofitting MOL ships with slide valves. This phase-in schedule assumes 100 percent of MOL's P-Class vessels would be retrofitted with slide valves by 2010. These P-class vessels would be the most frequent callers at the terminal providing a weekly service between the US West Coast and Asia and are assumed to make up approximately 50 percent of TraPac's ship calls.

The longer phase-in schedule is to accommodate 3rd party invitees. While MOL represents TraPac primary business partner, TraPac will also contract with other shipping line, referred to as third-party invitees, to fill extra terminal capacity. TraPac has recently lost a majority of their third-party invitees due terminal upgrades, delays, and costs associated with expected future environmental requirements. While TraPac anticipates they will be able to attract new third-party invitees with the terminal upgrades assumed as

part of the proposed Project, the actual customer mix is not yet known and costs associated with environmental requirements remain an issue.

Slide valves are relatively easy to install, not overly expensive, and provide good NO_x and PM reductions. However, slide valves are specific to Man B&W engines. Other engine manufactures are working on equivalent technologies and preliminary tests appear promising. Because the third-party invites mix is not yet known, slide valves are being phased in over time to allow for this research and development.

Implementation of the additional measures requested in comment NRDC-24 would be more feasible for new vessel builds, as identified in Mitigation Measure AQ-13.

PCAC-AQ-12. Comment noted. The second bulleted paragraph of Mitigation Measure AQ-7 in the Draft EIS/EIR is a typographical error and it has been revised in the Final EIS/EIR to state the following:

By the end of 2010, all yard tractors will meet at a minimum the USEPA 2007 Tier 4 non-road emission standards.

PCAC-AQ-13. Please see response to comment PCAC-AQ-2. Mitigation Measures AQ-17 and AQ-18B provide a process to consider new or alternative emission control technologies in the future. Additionally, the Port will add the following measure to the lease to insure compliance with Mitigation Measure AQ-17:

As partial consideration for the Port's agreement to issue the permit to the tenant, tenant shall implement not less frequently than once every 7 years following the effective date of the permit, new air quality technological advancements, subject to the parties mutual agreement on operational feasibility and cost sharing which shall not be unreasonably withheld

Approval of the Project is dependent upon an acceptable Mitigation Monitoring and Reporting Program (MMRP) that identifies all feasible measures to reduce Project air quality impacts. The Port and Project terminal operator will comply with the MMRP for the life of the lease, or 30 years.

As discussed in Section 1.1.3, the Draft EIS/EIR used a number of Port studies to determine the maximum capacity for the terminal. As discussed in Section 1.1.3, changes to operation that require any physical change at the facility or new technology that could increase throughput beyond what was analyzed in the document will require a separate environmental analysis.

PCAC-AQ-14. Mitigation Measure AQ-14 has been revised in the Final EIS/EIR to state:

Mitigation Measure AQ-14: Clean Rail Yard Standards. The Berth 136-147 on-dock rail yard will incorporate the cleanest NO_x and PM locomotive technologies into their operations. These include diesel-electric hybrids, multiple engine generator sets, use of alternative fuels, DPFs, SCR, idling shut-off devices, and idling exhaust hoods. The on-dock rail yard shall also utilize “clean” CHE and HDVs and comply with the CAAP’s Technology Advancement Program. Additionally, the Port shall require diesel particulate traps (DPTs) on all PHL switcher locomotives that

operate within the Project rail yard beginning in 2015. Because some of these systems are not yet available, but are expected to be available within the next few years, and given the uncertainty of implementation. Mitigation Measure AQ-14, the mitigated emission analysis took no reduction for the effects of this measure.

The Port will implement Mitigation Measure AQ-14 with respect to line haul locomotives using the new on-dock rail yard through ongoing negotiations with Class 1 railroads, consistent with the schedule set forth in CAAP measures RL2 and RL3.

- PCAC-AQ-15.** The CAAP proposes to reduce harbor craft emissions within the next 5 years and thereafter with the use of a Portwide measure (HC-1), as tugboats operate independent of proposed terminal developments and associated lease renewals. Additionally, terminals may not have the infrastructure necessary to implement HC-1. The measures proposed in comment PCAC-AQ-15 essentially are included in HC-1. Rather than simulate the effects of HC-1, the air quality analysis in the Draft EIS/EIR more conservatively assumes that the future baseline vessel assist tug boat fleet would be 38 percent Tier 2-compliant in year 2015 and 100 percent compliant in 2030, based upon a slower pre-CAAP fleet turnover rate that has occurred by funding from the CARB Carl Moyer Program.
- PCAC-AQ-16.** Please see the response to comment PCAC-AQ-4. Mitigation Measure AQ-2 has been amended in the Final EIS/EIR. Mitigation Measure AQ-2 in the Draft EIS/EIR was somewhat misrepresented, as the measure assumed that the 2007 Heavy-Duty Highway Rule was fully implemented, meaning initiation of the 0.01 PM standard in 2007 and the 0.2/0.14 NO_x/VOC standards in 2010. The Project construction procurement process would include a selection system that requires bidders to use clean construction equipment.
- PCAC-AQ-17.** Please see the response to comment PCAC-AQ-4. Mitigation Measure AQ-3 has been amended in the Final EIS/EIR. The Project construction procurement process would include a selection system that requires bidders to use clean construction equipment.
- PCAC-AQ-18.** Thank you for your comment. Page 8 of the Draft EIS/EIR discusses secondary PM formation.
- PCAC-AQ-19.** Thank you for your comment. The write-up does not define PM as inert. However, the Final EIS/EIR write-up more clearly explains the difference between warm and cold season ambient pollutant levels.
- PCAC-AQ-20.** Comment noted.
- PCAC-AQ-21.** Vessels produce the overwhelming majority of total emissions for non-container terminals, as they require only a minimal amount of terminal equipment, trucks, and/or trains to handle their cargo. Since there are several of these terminals at the Port, their operations bias total Port emissions in favor of vessel emissions, compared to other emission source categories.
- PCAC-AQ-22.** The air quality analysis evaluated adopted fuel standards as they pertain to each applicable emission source category and project year. In regard to future ocean-going vessel (OGV) operations, this is a conservative approach for unmitigated scenarios, as the

international maritime industry continues to progress towards development of international sulfur fuel limitations.

PCAC-AQ-23. The value calculated in the Draft EIR/DRAFT EIS/EIR is intended to serve as an example of a typical approach of calculation of mortality/morbidity. There is a large body of literature examining the relationship between particulate matter and premature mortality. Each study develops its own C-R function and coefficients.

In a full-scale analysis, many factors would be considered in choosing an appropriate C-R function (geographical location, single city vs. multi-city, long-term vs. short-term exposure, PM_{2.5} as the measure of particulate matter vs. PM₁₀, multi-pollutant vs. single-pollutant functions). However, even these criteria cannot by themselves be used to determine which C-R functions to select, because the criteria may conflict with each other in the selection process. For example, one C-R function may have been estimated in the assessment location (e.g., Los Angeles) but used PM₁₀ as the measure of particulate matter, while another C-R function may have been estimated in a different location but used PM_{2.5} as the measure. By one selection criterion, the first C-R function would be selected, but by another the second would be more appropriate. Judgment calls are made in which the particular strengths of one C-R function are weighed against those of another for the same health endpoint.

The Jerrett et.al (2005) study examined the relationship between air pollution and mortality with small-area exposure measures in Los Angeles. This is a cohort study based on a subset of the American Cancer Society cohort. The study suggested that these effects are closely related to traffic exposure and concluded a 2.5 times higher estimate for premature death than the national study by Pope et al. (2002), but also greater uncertainty. The USEPA has not adopted this study in its core health impacts analysis and CARB chose to use the Jerrett et.al (2005) study in their sensitivity analysis only for the Port and Goods Movement study.

PCAC-AQ-24. The sentence has been revised in the Final EIS/EIR to the following:

However, perhaps the most compelling limitation to use C-R functions for site-specific projects is the consideration of whether it is valid to apply the C-R functions to changes in ambient PM concentrations that are far below the thresholds used to develop the C-R functions.

PCAC-AQ-25. The text in the Final EIS/EIR has been revised to state that the 2007 AQMP predicts attainment of the NAAQS for ozone in 2024 (SCAQMD 2007).

PCAC-AQ-26. The 2007 AQMP takes into consideration all future emissions in the SCAB and proposed control measures to predict attainment. Since the Project emissions are accounted for in these future emissions, they would not conflict with or obstruct implementation of the AQMP. Therefore, the impacts of Project emissions are less than cumulatively considerable in regard to cumulative impact topic AQ-7.

PCAC-AQ-27. The following calculation shows that use of the diesel internal combustion engine cancer unit risk factor would produce results that are about 15 times greater than use of a composite factor based upon the speciation of diesel external combustion emissions into individual chemicals.

Weighted URLs for Diesel External Combustion - (Speciation of Emissions * Speciated URLs) vs. ICE URLs

Source Type	Pounds of Chemicals/1000 Gallons Fuel								
	TOG	PM	Arsenic	Benzene	Cadmium	Formaldehyde	Lead	Naphthalene	Nickel
Boiler	1.28	11.3	0.06	0.03	0.01	0.001	0.06	0.001	0.01
URF			3.30E-03	2.90E-05	4.20E-03	6.00E-06	1.20E-05	3.40E-05	2.60E-04
EF*URF			1.98E-04	8.17E-07	2.37E-05	7.68E-09	7.46E-07	3.05E-08	1.47E-06
Composite Speciated URF (Sum of all EFs * URF)									2.24E-04
IC-Engine DPM-weighted URF (PM * 3.00E-04)									3.39E-03

PCAC-AQ-28. The one hour “idling” assumption is an estimate of how line hauls would operate in the future at existing rail yards in consideration of the 2005 CARB/rail road MOU, as the Project rail yard currently does not exist. The one hour “idling” assumption is actually a composite notch one engine setting (load factor of 0.05), which is blend of idling (load factor of 0.004) and notch two (load factor of 0.11) modes of operation. Hence, this approach produces higher emissions than the use of idling mode. The railroads expect to achieve the one hour idling times with the use of anti-idling or engine shut-off devices. The POLA 2005 emissions inventory process determined that line haul locomotives operated within on-dock rail yards at the Port for one hour per trip into the Port and 2.5 hours per outbound trip (Table 5.11). Hence, the use of a one hour duration for inbound trains is a reasonable assumption. Use of a longer dwelling time for outbound locomotive trips within the rail yard would increase the estimate of Project locomotive emissions, but not substantially when compared to Project emissions as a whole. Additionally, revisions to other Project operational assumptions essentially would offset these emission increases. These revisions include (1) use of electric rubber-tired gantry (RTGs) cranes in the Project on-dock rail yard instead of diesel-powered units; (2) acceleration of the implementation of proposed mitigation measures; and (3) a shift of Project year 1 from 2007 to 2008, which would allow all Project vehicle fleets except vessels an additional year to turn over to vehicles with newer and cleaner emission standards.

PCAC-AQ-29. The 25 percent increase in hourly terminal equipment emissions is deemed adequate for the Project analysis for the following reasons: (1) this increase in activity would occur for each hour of the year and (2) when added to peak emissions of other source categories, it was deemed adequately conservative.

PCAC-AQ-30. Use of a value of 180 percent ADT simulates an 80 percent increase in truck activities for the peak day, compared to average daily conditions.

PCAC-AQ-31. Please see the response to comment PCAC-AQ-28. Use of one hour of outbound train activity in the acute modeling analysis for each hour of the year is conservative. This is the case, as year 2010 proposes only 308 train trips, which equates to a total of 308 annual hours of line haul locomotive operation in the Project rail yard.

PCAC-AQ-32. It is acknowledged that many citizens live, work, play, and go to school in the same adjacent communities. However, determining these combined exposure scenarios experienced by an individual requires specific locations/durations for each receptor type, which becomes very speculative. Hence, the Project HRA used widely accepted health

impact analysis methods by focusing on impacts experienced by individual receptor types. These methods produce very conservative results.

PCAC-AQ-33. Please see response to comment NRDC-7. The Project HRA used a credible source for recreational breathing rates, as found in the USEPA *Exposure Factors Handbook* (USEPA 1997). This breathing rate is about 3.3 times greater than the residential breathing rates used in the Project HRA and it is deemed adequate for this analysis.

PCAC-AQ-34. The methodology for conducting the visual impact assessment is summarized in Section 3.1.4.1.2 and more fully described in Technical Appendix F. For a visual impact to be adverse, features of the landscape must be altered, introduced, made less visible, or be removed, such that the resultant effect on public views is perceptibly uncharacteristic, out of place, discordant or distracting. An impact may also occur where views are physically interrupted or blocked; where public access to recognized views is diminished or blocked; or where there is an inconsistency with regulations set forth to protect the quality of aesthetics and visual resources.

By the criteria and methodology applied to the assessment, the Project would introduce no perceptibly uncharacteristic features to the critical public views analyzed. Access to historically available viewing positions would not be blocked, nor would recognized views be obstructed. Finally, as there would be no adverse visual impacts, the Project would be consistent with regulations protecting the quality of visual resources in the vicinity of the Project site. To summarize, while there would be changes that would be visible, there would be no adverse impact and, therefore, no substantial reduction in visual quality. Hence, there would be no significant visual impacts.

PCAC-AQ-35. Ambient noise measurements conducted in April and October of 2002 provide a conservative representation of baseline noise levels. As discussed in Section 3.9.2.2.1, vehicular traffic on the roadway network increased slightly from 2002 to 2003. The incremental increase in vehicular traffic between 2002 and 2003 would mean that noise levels in April 2002 would, if anything, be slightly lower than at the baseline time period established in December 2003, providing a conservative baseline for determining a change in noise levels which could result from the proposed Project. Additional spot noise measurements could be made, but there is no reason to believe that existing noise levels would be found to be lower than baseline noise levels presented in the Draft EIS/EIR. The additional spot noise measurements would not change the findings in the noise study.

PCAC-AQ-36. Noise measurements in the Wilmington area were concentrated along “C” Street on or immediately in front of the residences located there. The measurements were made at the homes. Source measurements along the Harry Bridges Boulevard corridor were also made in order to facilitate the traffic noise modeling. The measurement locations were selected to characterize noise levels where the sensitive receivers are located. Atmospheric conditions were not considered in the selection of noise measurement locations.

PCAC-AQ-37. The question of the relevance of the measurements at the Evergreen Terminal was posed to the Port of Los Angeles staff prior to utilizing the data in the Draft EIS/EIR. The Port staff concluded that these measurements were representative of the current and proposed container terminal equipment.

PCAC-AQ-38. Groundwater and onshore soils impacts have been evaluated with respect to several general parameters, including groundwater quality, groundwater quantity, and soil contaminants. The impact of the proposed Project on each of these parameters has been evaluated with respect to the significance criteria listed in Draft EIS/EIR Section 3.6.4.2. The assessment of impacts is also based on regulatory controls and on the assumptions that the proposed Project would include the following:

An individual NPDES permit for storm water discharges or coverage under the General Construction Activity Storm Water Permit would be obtained for the proposed Project.

The contractor would prepare a Spill Prevention, Control, and Countermeasure (SPCC) Plan and an Oil Spill Contingency Plan (OSCP), which would be reviewed and approved by the California Department of Fish and Game Office of Spill Prevention and Response, in consultation with other responsible agencies. The SPCC Plan would detail and implement spill prevention and control measures to prevent oil spills from reaching navigable waters. The OSCP would identify and plan as necessary for contingency measures that would minimize damage to water quality and provide for restoration to pre-spill conditions.

All contaminated soil and groundwater occurring as a result of oil spills related to the proposed Project would be remediated, in accordance with LAHD lease conditions and all federal, state, and local regulations.

In accordance with standard LAHD lease conditions, the Terminal operator would implement a source control program, which provides for the inspection, control, and cleanup of leaks from aboveground tank and pipeline sources, as well as requirements related to groundwater and soil remediation.

Mitigation measures for dealing with potentially contaminated soil and groundwater encountered during proposed Project construction are specified in Section 3.6.4.3, Impacts and Mitigation, of the Draft EIS/EIR. Potential impacts to surface water and marine water quality are addressed in Section 3.13, Water Quality, Sediments, and Oceanography. Therefore, no revisions to Section 3.6, Groundwater and Soils, are needed.

Port of Los Angeles Port Community Advisory Committee
EIR Subcommittee

Sept 23, 2007

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Re: EIR Subcommittee comments regarding systemic flaws in the Draft TraPac EIS/EIR(Corps file Number 2003-01142-SDM)

The EIR Subcommittee has reviewed the June 2007 Draft EIS/EIR for the Berths 136-147 [TraPac] Container Terminal Project (SCH # 2003104005). We have a number of concerns. We appreciate the opportunity to submit comments on this DEIR.

Several things stand out in this large document. There are many useful features in this DEIR, however the committee views it as fundamentally flawed.

We note with concern that despite the spending of millions of dollars of public money (the Port's funds are public money) , major errors in the had to be corrected within days of its release. ("Errata: Executive Summary July 2, 2007). This does not inspire confidence on the part of an apprehensive public.

As in previous POLA Environmental Impact Reports, there emerges a picture of a systematic, programmatic effort to underestimate the impacts of the project. Of course with systematically underestimated impacts, needed mitigation is minimized. As examples (discussed below) Ship Calls and potential cargo through put appear to be seriously underestimated, while rail capacity may be overstated leading to more than anticipated truck trips. Many off port impacts are simply ignored.

(We request that a document previously prepared by and for our Subcommittee , "Review of Previous Environmental Documents", S. Genis, August 2004, on file at POLA, be made a part of the Public Record on this matter.)

To be built, the project must be properly and completely analyzed in order for all negative impacts to be understood and mitigated.. The present DEIR fails to do this.

PCAC-EIR-1

PCAC-EIR-2

PCAC-EIR-3

PCAC-EIR-4

PCAC-EIR-4

The committee notes with alarm that the projected “residential cancer risk” in Wilmington from this project is larger than the “occupational cancer risk” . This ominous finding alone suggests this is a very dangerous project for surrounding communities.

Notice of Preparation

The Notice of Preparation for the proposed project was initially circulated in 2003. However, a “Special Notice” was then circulated in early 2006. The “Special Public Notice” was apparently designed to supplement the Notice of Intent/Notice of Preparation (NOI/NOP) previously circulated for an earlier project in October 2003. As described in 2003, the project would have occupied Berths 136-147. Project elements included 62 acres of additional backlands for a total of 238 acres or backlands, a 705 foot wharf, dredging, railroad grade separations at Neptune Avenue and Avalon Boulevard, relocation of Harry Bridges Road, and construction of a sound barrier along the relocated road. As described in the Special Notice, the project was later expanded to include Berths 136-149, placement of 1.2 million cubic yards of fill, elimination of 10 acres of water at the Northwest Slip, an increase in total backlands to 251 acres, elimination of the proposed grade separations, and ramp improvements at Harry Bridges Road/John Gibson Boulevard and the Harbor Freeway (I-110). The current project would provide 243 acres of backlands and entail 800,000 cubic yards of fill.

PCAC-EIR-5

We remain concerned that rather than issue a revised NOI/NOP, a “Special Notice” was issued instead. Clearly the scope of the project has increased beyond that originally contemplated. The 2003 NOI/NOP clearly stated that “There would be no loss of waters of the United States.” The currently proposed project would result in the loss of ten acres of waters of the United States in addition to five acres included in the project area that will be examined in a separate environmental document. That alone would clearly demand recirculation of all required notices. The increase in backlands would be over twenty percent greater than originally proposed, with total backlands five percent greater than originally proposed. A stated goal in the 2003 NOI/NOP was to increase cargo handling capacity. Ramping improvement at Harry Bridges and I-110 were also new elements.

Any one of these changes on its own would have generated a need for additional environmental documentation. Taken together, they demanded that a new NOI/NOP be circulated. It is clear to the Subcommittee that, regardless of what it was called, the “Special Notice” must actually serve as a re-circulated NOI/NOP. We think a new NOI/NOP should have been circulated.

In accordance with Section 15082 of the Guidelines for Implementation of the California Environmental Quality Act (CEQA), a Notice of Preparation must include a description of the project and the probable environmental effects of the project. The “Special Notice” described the project primarily in terms of contrast to the project proposed in October 2003, leaving some elements in question. It also raised additional questions. As noted in the NOI/NOP for the Berths 136-147 project published in the Federal Register on October 27, 2003 (Volume 68, Number 207), 238 acres of backlands would have been provided. The 2006 notice referenced a project with 244 acres of backlands. Was another, third notice, circulated for a project at the

Berths 136 et al location for a 244-acre project more closely resembling the currently proposed project?

PCAC-EIR-5

Lack of Comprehensive Planning

The Subcommittee continues to be concerned about the lack of comprehensive planning for both the proposed project and the Port as a whole. In accordance with Section 15125(d) of the CEQA Guidelines, an EIR must identify any inconsistencies between a proposed project and adopted planning programs. This is important in order to assure that future on- and of-port infrastructure will be adequate for future needs. However, local planning programs for the Port consist primarily of bland platitudes and are so out of date as to be nonfunctional and non-existent.

Section 65302 of the Government Code requires that local agencies identify both land use type and land use intensity in the land use element of a general plan, the function of which is fulfilled by the Port of Los Angeles Community Plan, last comprehensively revised in 1982. In accordance with Section 65302, the land use element must then be coordinated with other general plan elements addressing such factors as circulation, safety, noise, housing, and open space. The local plans must be coordinated with regional plans such as the Regional Transportation Improvement Plan and the Air Quality Management Plan.

PCAC-EIR-6

Without some degree of certainty as to the magnitude of future uses, it is impossible to coordinate future infrastructure with future needs. The failure of POLA to address growth in a comprehensive manner has lead directly to our current critical problems in local and regional circulation systems and harmful levels of air pollution.

The Subcommittee is aware that POLA has stated its intent to prepare a Port Master Plan. However, little progress has been made to that end. We are concerned that by the time a new Master Plan is prepared and adopted, it will be moot due to the numerous projects approved on a piecemeal basis in the preceding years. It is the position of the Subcommittee that additional projects should not be approved on a piecemeal basis, but only as part of a comprehensive plan for the entire port.

Lack of Notification to Surrounding Communities?

Multiple phone calls made to the offices (Planning, Public Works, City Manager) of the City of Rancho Palos Verdes in late July 2007 revealed they claimed that they had not received a copy of the DIER. Is it possible other surrounding communities or public agencies were not sent copies of this DEIR or not properly notified? Is there a problem with lack of notification of surrounding cities?

PCAC-EIR-7

Cumulative Impacts

The Subcommittee/Working Group evaluated a sample of past EIRs and determined that there exists in the port area an unmitigated backlog of cumulative impacts, especially with regard to

PCAC-EIR-8

Air Quality, Traffic and off-port community impacts. Therefore, evaluation of cumulative impacts and development of effective mitigation measures is a particular priority for the PCAC.

As stated in Section 15355(b) of the CEQA Guidelines:

The cumulative impact from several projects is the change in the environment which results from the incremental impact of the project when added to other closely related past, present, and reasonably foreseeable probable future projects. Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time.

Thus, if a past or present project is used as a baseline for environmental purposes, the impacts from the past or present project must be included in assessment of cumulative impacts.

The Committee is concerned that small, incremental changes have occurred at Port facilities without environmental analysis or mitigation resulting in unmitigated impacts on the surrounding community. Unfortunately, the list of projects included for cumulative analysis purposes in the DEIR appears to include only those major projects for which formal environmental documentation has been or will be performed, even though POLA continues to process numerous ADPs without preparation of a CEQA document.

PCAC-EIR-8

Even in those cases where environmental documentation has been processed, often no significant impact is found to occur. Analyses of cumulative impacts must include all projects, whether or not an EIR or other formal environmental documentation was prepared. The Committee recognizes that where an impact is negligible, a project would not be considered to result in a significant cumulative impact. However, an impact which is less than significant may be far from negligible.

It is not enough that impacts are minimized in an individual project. Even if the impacts of individual projects have been mitigated to a level of insignificance, a significant cumulative effect may still occur.

We are concerned that leases have been structured in a manner that allows for substantial increases in activities absent any formal action by POLA which would trigger the requirement for environmental documentation. This has ranged from increased hours of operation encouraged through the Pier Pass program to increases in cruise line activity. We are disappointed that POLA has chosen to abdicate responsibility and accountability in these cases.

We note that the baseline utilized for CEQA analyses in this EIS/EIR is 2003. POLA throughput in 2003 was 7,178,940, increasing to 8,469,853.00 in 2006, an 18 percent increase. It is not clear how or if this increase was included in analyses of cumulative impacts. Failure to include the 1.3 million TEU increase between 2003 and 2006 in analyses of cumulative impacts in the EIS/EIR will increase the backlog of unmitigated impacts sustained by the community. Likewise, increases in cruise activity must be included in analyses of cumulative impacts as well.

PCAC-EIR-9

Off Port Impacts

The committee has heard consistent repeating patterns of complaints about impacts occurring off port land that go far beyond issues of air quality and traffic congestion. It is clear that port related activities have cumulatively resulted in blight in communities such as Wilmington. Yet this DEIR is silent as to any analysis of how this project would contribute to blight or what needs to be done to prevent and mitigate this.

As an example of an off Port impact that is damaging to a neighborhood, a committee member, Mr Skip Baldwin brought to our attention documentation of a facility in Wilmington that generates negative impacts on a neighborhood, and is off port land but conducts Port related activity. It has been directly authorized by the Port of Los Angeles. The activities and thus the negative impacts of this facility can be reasonably expected to be intensified by the project that is envisioned in the DEIR.

This is the trucking container yard/warehousing operation at 1026 N. McFarland Ave, Wilmington CA, operating under a Foreign Trade Zone, under agreement with the City of L.A. , Harbor Dept. We attach the documentation for this as “Attachment A” (Includes map, Mr. Baldwin’s letter, a copy of the agenda of Special Meeting of Los Angeles Board of Harbor Commissioners Sept 1 2004 to authorize this, and copies of 5 photographs showing piles of containers directly across the street from peoples homes.)

This is an example of a negative impact related to Port activity that has occurred off Port land , but sanctioned explicitly by the Board of Harbor Commissioners. Of course, there is much other similar activity occurring without explicit BOHC approval, but all this off Port land activity is a result of the presence of the Port.

PCAC-EIR-9

Large trucks over 6000 lb gross weight must use prohibited City streets in a residential area to access this facility. (A fully loaded container may weigh up to 72,000 lbs.)

Ms. Lucy Mejia presented to the Committee photographs of a 40 foot shipping container being unloaded on a city street in Wilmington on July 14, 2007 with Port police standing by. She stated that the police did not insist on removing the truck nor did they take other actions despite the illegal presence of a tractor trailer with a shipping container on a neighborhood street.. See “Attachment B” copies of Ms. Mejia’s photos.

Mr. Art Goodwin from ACTA mentioned another problem facility at a recent PCAC meeting. This is known as “Truckers Transit”

It is reasonable to assert that activities at these and other similar facilities located off port , but doing port related activities that contribute to blight, will be intensified by this project. We request formal analysis within this EIR as what are the present sites in the City of Los Angeles of this sort of off Port land Port related activity, the impacts of this activity and how the proposed project will affect that activity. Wilmington has been especially negatively impacted by this off Port land activity.

We request mitigation measures to reduce the impact of these off Port land activities that do

PCAC-EIR-9

occur and will intensify as a result of Port operations at the proposed project.

We assert that off port impacts will worsen as a result of this project. These types of off port impacts that cumulatively result in blight need further analysis and meaningful mitigation.

Mitigation Measure MM-2 states: “Truck Traffic Enforcement. Port Police shall increase enforcement of prohibition against truck traffic within Wilmington.” In light of attachment A., Mitigation Measure MM LU-2 looks like an absurd example of “this time its going to be different,we promise!” Especially since said neighborhood truck traffic was essentially sanctioned by the Board of Harbor Commissioners.

Wilmington residents are demanding enforcement of existing laws now. This enforcement should not be offered as some future “Mitigation Measure”.

Project Description

We note that the text in the DEIR refers to extra lanes and unspecified modifications to the C-Street/I-110 Freeway on ramps. We were dismayed to not see these proposed modifications in the project description or diagrams. Instead they appear as alleged “mitigations”. We assert that any modifications to this freeway on-ramp should have been in the project description. This is not a mitigation it is a project element. We wonder if this is an example of hidden project elements or improper segmentation of this project?

Further, we note that since Interstate 110 seems to be a Federal Highway, any modification to an on ramp would logically be a Federal Action. This should be subject to an approval /permit process by some Federal agencies beyond the POLA’s and the Army Corps of Engineers jurisdiction such as the D.O.T. or the Federal Highway Administration. The DEIR is silent on this but should address this issue.

The project description also fails to mention the addition of one new Eastbound lane on Harry Bridges Blvd. This is found as a “mitigation measure”. This is a project element. It should have been included in the project description. This is an inaccuracy in the project description. The DEIR is silent as to when this lane would be added.

How does this extra lane affect traffic and noise impact assessments in this DEIR?

Referring to page 2-61 We note that this project does not “disconnect cargo growth from emission increases” and is therefore not consistent with the San Pedro Bay Clean Air Action Plan.

We assert that the City of Los Angeles needs a new General Plan before this project is attempted. Our understanding is that the City of L.A. General Plan is out of date/’expired” as of 2002. The City of Los Angeles General plan is an “applicable plan” in relation to this project.

PCAC-EIR-10

Project Segmentation

As noted in the project description, placement of fill to create a five acre area integral to the proposed project is being examined under a different environmental document currently in process. We are concerned that analyses will minimize the full impact of the proposed project by chopping what is essentially one project into several pieces to be analyzed separately.

Section 2.4.4.1 Phase I Projects Completed by 2015 states in part regarding Dredging at Berth 144-147 “Clean material would be considered for disposal at the Pier 400 disposal site or at an EPA approved ocean disposal site...” The Committee wonders if disposal of dredging material at the Pier 400 site actually represents improper segmentation of another project? Is this a “running start” on another project to create more land near Pier 400? Is this the beginning of a “Pier 500” or some such similar project as has been repeatedly rumored in the community to take the place of the lost “Pier 400 Energy Island”?

We wonder if the Anchorage Road disposal site can handle all the material that is “unsuitable for uncontrolled ocean disposal”? If not, where will it go and how will it get there?

PCAC-EIR-11

Project Operations

The project description indicates that throughput would reach its maximum in 2025, yet this does not appear to reflect actual maximum capacity of the built out facility. The project description indicates that throughput would be 1,747,500TEUs (twenty foot equivalents) in 2015 increasing to 2,389,000 by 2025. This throughput forms the basis for numerous analyses in the EIS/EIR including analyses of impacts on traffic, air quality, and noise. It is thus essential that the project be implemented in a way that insures that the estimate of ultimate throughput will ultimately be proven accurate.

While the Subcommittee had expressed concerns regarding the lack of information regarding project operations under the project description in environmental documents, the EIR for Berth 206-209 was a great step forward in this regard, providing such basic operational information such as anticipated use of rail and right up front work shifts. The Subcommittee is disappointed that this EIS/EIR appears to be a step back. These factors are critical in assessing future impacts and should be an inherent part of the approved project to be monitored and managed so that increased impacts due to any changes may be addressed.

The project description contains no information as to how activity will be split. It is not until well into the EIS/EIR, on page 23 of Section 3.10, that one finds that cargo will be split 80 percent day shift, 10 percent night shift, and 10 percent hoot shift in 2015; and 60 percent day shift, 20 percent night shift, and 20 percent hoot shift in 2038. It is not clear if this includes any weekend shifts. In any case, it would appear that the facility would not be operating at full

PCAC-EIR-12

capacity full time. Even allowing down time for maintenance, it does not appear that maximum capacity would be reached with the shift split outlined in the EIS/EIR.

Does POLA intend to cap throughput at the projected 2025 level, even if demand exceeds the projected amount? POLA has repeatedly prepared environmental documents for projects with estimated throughputs that are repeatedly exceeded, leading to a backlog of unrecognized, unanalyzed and unmitigated impacts on the surrounding community. How will POLA ensure that throughput does not exceed EIS/EIR estimates? What steps will POLA take to ensure that any additional impacts are fully mitigated?

PCAC-EIR-12

The Subcommittee has already grappled with the issue of increased cargo throughput in what had been considered the off hours. The Pier Pass program, for example, encourages greater activity in evenings and at night. While this can reduce peak hour traffic congestion, extended hours of operation also increase potential throughput and associated impacts. The increase in operations occurred without any formal BOHC action which would constitute a project under CEQA and was therefore not subject to environmental review.

It is possible and, based on past performance, highly likely that TEUs projected in the EIS/EIR would be exceeded. The EIS/EIR must examine actual maximum throughput that could physically occur absent any further action by the Board of Harbor Commissioners.

Potential Underestimation of Actual Maximum Throughput

Total capacity of the facility is likely to be seriously underestimated. Given the above mentioned projections to split the cargo throughput 80% on dayshift and 10% each on night and hoot shifts in 2015 and 60% on dayshift with 20% each on night and hoot shifts by 2038, it would appear that the facility would not be operating at anywhere near full capacity anywhere near fulltime. Yet the DEIR is peppered with references that anticipate a future full bore 24hour day/7day week/365 day year style of operation to meet projected demand at the port, such as “The analysis showed that all terminals are expected to be operating at maximum capacity.” (from the DEIR 2.1.2)

PCAC-EIR-13

What might be the full capacity of this project ? Our analysis shows it would be possible to have a throughput of up to **4,194,000 Annual TEUs in 2015 versus only 1,747,500 anticipated in the DEIR!** Likewise, we estimate a possible **4,300,200 TUEs in 2025 to 2038 versus only 2,389,000 anticipated in the DEIR!**

These throughputs would be 4.7 to 4.8 times larger than the CEQA baseline of 891,976 TEUs . They would be 2.4 to 1.8 times larger than anticipated in the DEIR for 2015 and 2025-38 respectively.

How we got these numbers: **The key is the underutilized night and hoot shifts.**

For 2015: If we assume that the DEIR is correct and 80% of the total TEUs can be moved in one of the three eight hour periods of the day (dayshift) , that would represent the real 8 hour maximum potential throughput . It would mean that 1,398,000 TEU/year are moved on the day

shift. (0.80 X 1,747,500 Total DEIR Projected TEUs= 1,398,000 annual TEU moved on day shift) We have two more underutilized shifts. If their through puts were maximized to match day shift throughputs we would have 2 more shifts processing 1,398,000 TEU each per year. Thus: 1,398,000 TEU/shift X 3 shifts = 4,194,000 TEU

For 2025-2038: If we assume DEIR is correct and 60% of the total TEUs can be moved in the day shift, that would represent the real eight hour maximum throughput in that future era. It would mean that this max 8 hour throughput would be 1,433,400. (Interestingly this is very close to the max assumed annual 8 hour shift throughput noted for 2015.) (2,389,000 DEIR Projected Annual TEUs for 2025 to 2038 X 0.60= 1,433,400 annual TEU moved on the day shift) Thus : 1,433,400 TEU/shiftX 3 shifts = 4,300,200TEU

Even if dayshift through put is underestimated in this DEIR, the other 2 shifts offer huge potential for unanticipated and unmitigated increases in cargo volume. **Even if the estimates above are not reached, there is a very real potential for gross underestimation of throughput, impacts and needed mitigation.**

The Subcommittee is thus concerned that actual operating conditions at the Trapac facility may eventual evolve in a manner which results in unanticipated increased impacts to the surrounding community. Staff has offered reassurances that all assumptions regarding project operations up to thirty years in the future are reliable and that our concerns are unfounded. i.e. “This time it is different.”

However, past estimates of future throughput have consistently been exceeded. Indeed, the May 1997 West Basin Transportation Improvements Program EIR then states that “Actual increases have greatly exceeded forecasts,” when discussing the cargo increase forecast in the 2020 Plan (which was adopted in 1992-only 5 years earlier) which was based on extensive studies of anticipated cargo demand. Even the most recent forecasts for the Phase I China Shipping project were exceeded in only a few short years. History has way of repeating itself.

Throughput comparison vs other facilities also suggest throughput estimates may be low.

.The DEIS/DEIR states that annual throughput at the facility will be 2,389,000 by 2038, or 9,831 TEUs per acre. This is well below the 19,070 annual TEUs per acre currently achieved at Kwai Tsing (Hong King) and 24,582 annual TEUs per acre achieved at Singapore. The China Shipping DEIS/EIR indicates that each crane would move 25 to 40 TEU per hour, equating to 2,628,000 to 4,204,800 TEU per year, exceeding estimates in the pending DEIS/EIR

We thus request that all operational assumptions regarding maximum cargo, number of ship calls, gate calls, truck trips, rail calls, and so forth be stipulated in POLA’s contract with Trapac.

Any increase in activity levels above that analyzed in the DEIS/EIR and stipulated in the contract would then be subject to further review. Due to staff’s high level of confidence in operating forecasts utilized in the DEIS/EIR, this should not be a problem. As maintained by staff, the activity levels forecast in the DEIS/EIR would never be exceeded, so including them in

PCAC-EIR-13

PCAC-EIR-14

the Trapac contract would merely reiterate a fact of life.

PCAC-EIR-14

We further request that the DEIR analyze the full potential impact of running all 3 shifts at full capacity. Analysis should describe needed mitigation.

Potential for Underestimation of Ship Calls

Ship calls are known to contribute approximately 55% of all port related air pollution. (From POLA June 2004 Port-Wide Baseline Air Emissions Inventory -full text of this to be included in these comments by reference)) . Underestimation of ship calls would thus significantly underestimate the project's impacts on air pollution.

In the DEIR ship calls are estimated to increase by only 25% from 2003 to 2015 but TEU throughput is estimated to increase by 96% with number of containers per ship call will be 191% of 2003's numbers. How does this miraculous minimization of ship call numbers occur?

PCAC-EIR-15

This is all based on the assumptions that planned larger ships that can carry more cargo will be built in the next 8 years and that these ships will frequently call at this facility. The ship size assumptions may be wildly overoptimistic, leading to a large underestimation of ship call numbers and a convenient underestimation of attendant ship call impacts.

What happens if these ships aren't built in the next 8 years, for whatever reason, say an economic downturn? What happens if these big ships don't call in the numbers assumed in the DEIR? Won't we have more ship calls if anticipated freight volume is achieved? The DEIR should analyze this possibility and its attendant impacts. Does the present analysis contain the implicit assumption the new large capacity ships-if they do get built- will somehow preferentially call at this facility?

The 2015 estimated number of ship calls is estimated at 279 in one area of the document but 309 in another area of the document- an 11% discrepancy. Which is the real number?

We assert that projected ship call number estimates are most likely low and this allows underestimation of potential impacts.

Potential Overestimation of Rail Capacity

PCAC-EIR-16

Rail capacity appears to be overestimated. This would lead to an underestimation of the number of truck trips on our freeways that this facility will generate as well as an underestimation of the total air pollution. (Rail transport being less polluting per ton-mile than trucks.) For example one area of the document says the rail yard will handle 374,551 containers annually whereas another area of the DEIR says max train capacity is 231,000 containers per year. (2 trains per day X 330 containers/train X 350 days per year=231,000). These contradictory assertions are contained in the same paragraph (!) [lines 25-33 page ES-15] Somehow we are missing 141,331 containers which would most likely have to leave the port by truck. This would give 410 more truck trips per day. Also, this does not figure in the inbound truck trips required to pickup these.

It appears that truck and train idling time estimates are unrealistically low, again minimizing anticipated operational impacts and needed mitigations.

PCAC-EIR-16

Community Impacts

The Subcommittee is concerned that Wilmington will be further cut off from the water by the proposed berm. We are insulted that the EIS/EIR analyses address visual impacts with the cavalier attitude that views in the area have always been the degraded views of what is essentially a massive, multi-story industrial park and are therefore not important.

We submit that POLA activities over the past couple of decades have led to a significant, adverse impact on views from the surrounding community, as container freight has come to dominate port activities. Cranes have multiplied like hormone-enhanced rabbits. Cranes have also become larger and larger as have vessels. We note that while the proposed project would eliminate one crane, the new cranes would increase from 50 gauge to 100 gauge. Moderately sized, picturesque cruise ships have been replaced by floating high-rises. Cargo vessels have also dramatically increased in size, reaching Panamax and then Post Panamax proportions. Container stacking has also degraded views, both on and off port lands. This has led to a cumulative, significant, adverse impact that must not be dismissed.

PCAC-EIR-17

The Draft EIR/EIS claims (ES.5.2.3) that the Project will have no significant impacts under both CEQA and NEPA in the area of Aesthetics and Visual Resources. The Subcommittee disagrees with this assessment. We note that this project will have substantial negative aesthetic and visual impacts and will further contribute to worsening of already severe cumulative impacts in this regard.

Air Quality

The Subcommittee concurs with the comments submitted by the Air Quality Subcommittee of the Port Community Advisory Committee.

PCAC-EIR-18

We request that a document titled “Health Effects of Diesel Exhaust Air Pollution” August 28, 2003, prepared by the Air Quality Subcommittee of the Port of Los Angeles Port Community Advisory Committee (on file at POLA) be made a part of the public record on this matter.

Section 7 Socioeconomics and Environmental Quality

While it may be laudable to have included a section on the economics of this project, this section is entirely devoted to the possible positive benefits of the *project* with *no meaningful analysis of the actual costs to society of this project*. The issue of externalized costs that will be attributable to this project is avoided entirely. As it stands now this section reads as if it were written by a fervent advocate of the project. To achieve balance the socioeconomic costs-the downside- must also be recognized and analyzed. Thus this section requires major revision. At present this section is not informational, but merely conclusory through avoidance of inconvenient facts.

PCAC-EIR-19

Dr. Jon Haveman , an economist, in a 2004 report for the Public Policy Institute of California concluded that when all externalized costs are considered ports are not necessarily an economic good. We request that this report titled “California’s Global Gateways’ be included in the public record on this matter.

We also request inclusion, by reference, in the Public Record on this matter the following additional documents pertinent to the issues of externalized costs and negative economic impacts of goods movement as well as health, safety and infrastructure damage issues,

1. “Externalized Costs of Shipping” article by Paul Rosenberg, Random Lengths News Sept 21-Oct. 4, 2007.
2. ‘Paying With Our Health, The Real Cost of Freight Transport in California” Pacific Institute, Natural Resources Defense Council, 2006, ISBN: 1-893790-14-2
3. “Sick of Soot, Reducing the Health Impacts of Diesel Pollution in California” D. Anair , P Monahan Union of Concerned Scientists , June 2004 www.ucusa.org
4. “Exhausted by Diesel” Gina Soloman, M.D. (lead author) Natural Resources Defense Council, May 1998

These amply demonstrate that a significant economic downside exists.

Another way to look at this downside is to consider a few facts presented in this DEIR in relation to what other public agencies have said about the costs of two project generated pollutants alone: We calculate that in 2015, NOX and PM10 pollution will cost California the deaths of 21 citizens that year at a monetary cost of \$157.5 million!

[From table 3.2-22 we note that the project will generate 17,691 lb NOX and 1243 lb. PM10 average per day in 2015.. Annualized, these are 3229 tons NOX and 227 tons PM10 respectively. During the process that generated the No Net Increase Task Force Report, we learned that CARB uses factors of 669 tons NOX per death and 227 tons PM10 . These factors yield 2015 project NOX and PM10 related deaths of 4.8 and 16.2 –total 21 deaths. We also learned that the US EPA values one such death at \$6 million 2000 dollars and \$8million 2020 dollars. Thus the interpolated value on one such death in 2015 would be \$7.5 million. 21 deaths X \$7.5 million per death gives \$157.5 million!]

Twenty one deaths due to operations of this project in one year!

How many deaths for the “lifetime” of this project? It would appear this will be several hundred deaths of California citizens. We do not envy the task of those who will ultimately approve this project, despite pretenses that alternatives have been meaningfully evaluated.

This of course is only one small piece of a much larger picture of massive externalized costs that go completely unacknowledged in this DEIR. We wonder if the decision makers realized

PCAC-EIR-19

PCAC-EIR-20

the true costs involved, would they be willing to sacrifice the lives of their fellow citizens for this project?

PCAC-EIR-20

Additional Concerns

The Subcommittee is continuing to review the EIS/EIR and looks forward to submitting more comprehensive comments in the future. However, the EIS/EIR is a very large document, many years in the making. We note that notice regarding release of the document was made just prior to a holiday and many local residents are currently on vacation. The limited time available for public review limits the ability of the Subcommittee and the general public to adequately evaluate the document and the proposed project.

PCAC-EIR-21

Port Staff has stated that they have met with small groups of “selected stakeholders” to review this project and DEIR. We remain concerned that this is the antithesis of the open and public process called for by CEQA.

PCAC-EIR-22

The Subcommittee has had extensive input from the public on this EIR and others regarding the rather unique EIR process at work here in which the Port functions as the Developer, the Lead Agency, Reviewing Agency and ultimately the Approving Agency (via the Board of Harbor Commissioners) for its projects. We are concerned that there is a lack of meaningful outside oversight in this process.

We are gravely concerned over the possible use of Overriding Considerations by the BOHC to grant approval for this project.

PCAC-EIR-23

Despite all the convenient falsely low numbers, incorrect assumptions favoring the Port and minimized or ignored impacts, especially off port impacts, at the end of the day the Board of Harbor Commissioners will still most likely have to use a Statement of Overriding Considerations to approve this massive expansion project. Such an action would seem to be in direct conflict with stated purpose number 2 of this project “to comply with the Mayor’s goal for the Port to increase growth *“while mitigating the impacts of that growth on the local communities and the Los Angeles region.”* (Italics ours)

PCAC-EIR-24

Simply stated: Impacts that are unacknowledged and systematically underestimated will not be mitigated.

Thank you,

John G. Miller, M.D. FACEP
Chairman EIR Subcommittee , Port of Los Angeles Community Advisory Committee.

PCAC EIR Subcommittee, September 23, 2007

PCAC-EIR-1. Thank you for your comment.

PCAC-EIR-2. The CEQA Baseline for the Project is equal to the conditions of the Berths 136-147 Terminal at the time of the release of the CEQA Notice of Preparation, or October 19, 2003. CEQA Guidelines section 15125, subdivision (a), provides:

“An EIR must include a description of the physical environmental conditions in the vicinity of the project, as they exist at the time the notice of preparation is published, or if no notice of preparation is published, at the time environmental analysis is commenced, from both a local and regional perspective. This environmental setting will normally constitute the baseline physical conditions by which a lead agency determines whether an impact is significant.”

CEQA case law holds that, where facts in the record show that activities were occurring at a project site prior to environmental review, it may be “misleading and illusory” to describe baseline conditions as if those activities were not occurring. (See *Fairview Neighbors v. County of Ventura*, 70 Cal.App.4th 238, 243 (1999) (upholding baseline for evaluation of conditional use permit to expand existing mining operations as including levels of truck traffic actually achieved under prior approvals). Additionally CEQA provides for the environmental baseline to include all uses that actually existed during the baseline period, regardless of whether those activities are alleged to have exceeded prior approvals. See, e.g., *Fat v. County of Sacramento*, 97 Cal.App.4th 1270, 1277-1281 (2002); *Riverwatch v. County of San Diego*, 76 Cal.App.4th 1428, 1451-1453 (1999).

The Draft EIS/EIR adequately describes the conditions during 2003. In 2003, the terminal had 176 acres, received 246 annual ship calls, and handled 891,976 TEUs per year.

PCAC-EIR-3. Thank you for your comment. The report is incorporated by reference.

PCAC-EIR-4. Comment noted. The higher residential risks are due to a longer exposure duration evaluated for this receptor type compared to occupational receptors. Operation of the proposed Project and several of the alternatives result in lowered residential risk in the Wilmington Community (Draft EIS/EIR figure 3.2-2) as well as a decrease in sensitive, Student and recreational receptors relative to the year 2003 (Table 3.2-30). This was accomplished despite projected increases in container throughput.

PCAC-EIR-5. As discussed in the March 7, 2006 Special Notice, in the time between the October 2003 NOI/NOP and preparing the Draft EIS/EIR, there were some project changes for the EIS/EIR. These changes came about in response to community opposition to the Project as proposed in the NOP/NOI. No new potentially significant impacts were found as a result of the changes. For example, changes included adding seven acres of terminal area, which would result in some additional traffic and air quality impacts. However, air quality and traffic were identified as potentially significant impacts in the 2003 NOP/NOI. Therefore, air quality and traffic impacts were analyzed as part of the Draft EIS/EIR. Some changes may have also resulted in fewer impacts than anticipated as part of the 2003 NOP/NOI. For example, eliminating the noise buffer between Harry Bridges Boulevard and “C” Street and instead building a 25-acre landscaped area is anticipated to result in fewer impacts than discussed in the NOP/NOI. All project changes were discussed and analyzed in the EIS/EIR.

In regards to Water Quality Impacts, the October 2003 NOP/NOI included the following:

8f. HYDROLOGY AND WATER QUALITY - Otherwise substantially degrade water quality?

[Less Than Significant Impact] – Construction of waterside improvements and construction of wharfs would have impacts on waters. Construction permits would be required from the RWQCB and the USACE to perform work. Operations would be designed not to degrade the water quality and will be evaluated in the EIR.

Impacts to water quality as a result of construction were therefore analyzed in the Draft EIS/EIR. Additionally, the “there would be no loss of waters to the U.S.” in the NOP/NOI was referring to loss of waters as a result of wharf construction at Berth 145.

PCAC-EIR-6. There are no inconsistencies between the proposed Project and either the Port Master Plan or the City’s General Plan. The Port Master Plan and the Port Element of the City’s General Plan address general cargo land uses (container operations) as a permitted short and long term preferred use in Master Planning Area 5, the Wilmington District of the Port Master Plan. Additionally, the proposed Project is consistent with the Wilmington – Harbor City Community Plan which seeks to coordinate Port related land use development with the Wilmington community by providing adequate buffers and transitional uses between the Wilmington community and the Port. The Harry Bridges Buffer Project addresses this issue.

The Proposed container terminal is a continuation of an existing operation that is consistent with the Port’s Master Plan. Section 3.8 (Land Use) discusses related land use plans, including the City of Los Angeles General Plan (Draft EIS/EIR Section 3.8.3.3), the Port Master Plan (Draft EIS/EIR Section 3.8.3.5) and the Wilmington Community Plan (Draft EIS/EIR Section 3.8.3.6). As discussed in the Draft EIS/EIR, the proposed Project would require a Master Plan Amendment for the 10-acre fill in the Northwest Slip, and construction of the 30-acre buffer would require modification of the Wilmington-Harbor City community plan from industrial uses to open space/recreations and roadway uses. It should be noted that the Wilmington Community Plan includes objectives which promote these changes: “*land acquisition program should develop adequate buffers, landscaping and transitional uses between the Port and the Community*” and “*Upgrade the circulation system,.....to divert Port-related traffic away from adjacent residential and commercial areas*” (Draft EIS/EIR p. 3.8-17). Both of these objectives are consistent with construction of the 30-acre buffer and reconstruction of Harry Bridges Blvd.

Further, Table 2-5 and Section 3.8.3.9 discuss the southern California Association of Governments (SCAG) Regional Comprehensive Plan. In regards to transportation and air quality regional planning, the Port participates in Regional Planning by submitting cargo projections to SCAG which are incorporated into the Regional Transportation Plan, which forms the basis for the Air Quality Management Plan prepared by the South Coast Air Quality Management District. In addition, the proposed Project would not generate population migration into the area or create a demand for new housing units, and this would be consistent with the SCAG Growth Management Plan.

PCAC-EIR-7. The City of Rancho Palos Verdes is on the Port’s standard mailing list. A copy of the Draft EIS/EIR and all notices were mailed to the City on June 29, 2003 as part of the Draft

EIS/EIR distribution. The Port has also received a comment letter from the City of Rancho Palos Verdes suggesting that the City did receive the Draft EIS/EIR and had adequate time to review the document.

PCAC-EIR-8. The EIS/EIR describes existing conditions in 2003 in accordance with CEQA requirements. The existing conditions capture the effects of past projects to the extent that they were still active in 2003 or resulted in long-term changes to the environment. In addition, the results of monitoring activities, for example air quality or traffic monitoring conducted by the Port, incorporate the effects of ongoing operations regardless of whether or not they originally required CEQA documentation, were approved as an ADP, or otherwise. In addition, each resource specialist reviewed changes that might have occurred subsequent to the 2003 CEQA baseline date and, if relevant to the analysis, identified the change in the EIS/EIR. The analysis of the proposed Project, by utilizing the 2003 CEQA baseline year, produces a result, which represents a larger increment of change attributable to the proposed Project than would be the case if 2006 had been analyzed. In effect, it is a more conservative analysis in the sense that it attributes the potential impacts to the proposed Project, making them potentially subject to Project-related mitigations as opposed to "embedding" these impacts in the baseline and making them part of the cumulative analysis.

The comment also questions specifically whether increased cruise terminal trips between 2003 and 2006 are included in the analysis. The 2007 Air Quality Management Plan (AQMP) (which addresses attainment of the NAAQS within the SCAB) referenced in the cumulative air quality analysis includes the present effects of past projects as well as effects of present and reasonably foreseeable future projects, including any expansion of cruise-related trips or any other types of vessel trips.

PCAC-EIR-9. Please see response to comment NRDC-50. The EIS/EIR discusses environmental quality and blight in Sections 7.2.2 and 7.3.2 including off-site impacts from container storage and truck use in neighborhoods. As described in Section 7.3.2.2, the proposed Project would provide expanded and reconfigured backlands that would provide additional on-site container storage capacity and minimize the contribution of the proposed Project to the demand for offsite storage. Granting of Foreign Trade Zone (FTZ) status is not a permit to operate. It merely infers certain tax benefits to a permitted operator. The facility would operate regardless of its FTZ status. It is beyond the scope of the EIS/EIR to discuss individual container storage operations throughout the area, however, the EIS/EIR does acknowledge that the Ports of Los Angeles and Long Beach contribute to the proliferation and use of offsite storage (Draft EIS/EIR Section 3.8.4.3) which is permitted under the jurisdiction of other municipalities (e.g., City of Los Angeles and City of Carson). Mitigations LU-1 and LU-2, which address additional truck signage and additional enforcement of truck traffic in Wilmington, would help to minimize truck impacts in neighborhoods adjacent to the Port. With respect to the comment on Mitigation Measure LU-2, this is the first time that the Port has included a truck traffic enforcement mitigation in an EIR. If the mitigation is approved, it will become part of a required Mitigation Monitoring program. Mitigation Measure LU-2 has been clarified as follows:

Mitigation Measure LU-2: Truck Traffic Enforcement. Port police will increase patrols to further enforce the prohibition against truck traffic that might enter residential streets from the designated truck routes adjacent to the Port. The Port Police will prepare a quarterly report on truck traffic enforcement actions.

PCAC-EIR-10. As discussed in Section 3.10.3.1.5, the Port is currently planning a number of transportation projects slated for the West Basin area including improvements to freeway ramp/arterial interchanges along SR-47 and I-110. These projects were developed as part of the ongoing *Port of Los Angeles Roadway Transportation Study (Roadway Study)*. The *Roadway Study* has not been finalized, but several of the transportation projects contained in the study have been reviewed by Caltrans. Caltrans is the agency that owns, operates, and controls these transportation facilities. Thus, implementation of any improvements at those locations must be approved by Caltrans before they can proceed.

As discussed under Impact TRANS-2 in the Draft EIS/EIR, the related projects discussed in Section 3.10.3.1.5 were assumed as part of the analysis. However, because the Port may not have direct control over the schedule, if the related projects are not constructed in the timeframe assumed, the improvements would become mitigation measures applied to the proposed Project. This process ensures the transportation projects are constructed in the timeframe necessary to mitigate any potential impacts.

Interstate 110 is a state highway, not a federal highway, and therefore is controlled by Caltrans.

As discussed under Impact TRANS-2 in the Draft EIS/EIR, the additional through-lane on Harry Bridges would not be implemented by 2038 and only if regional growth projects increase as anticipated by 2038. Because this lane will not be built until 2038 and only in response to a potential future impact, it is not considered part of the proposed Project.

In regards to the stated inconsistency between the proposed Project and the Clean Air Action Plan, the Port respectfully disagrees with the comment. As presented in Chapter 3.2, with implementation of the proposed mitigation measures, emissions and health risk are reduced below baseline levels. Therefore the Project is consistent with the CAAP's goal to "disconnect cargo growth from emission increases."

In regards to the General Plan issue, there are no inconsistencies between the proposed Project and either the Port Master Plan or the City's General Plan. The Port Master Plan and the Port Element of the City's General Plan addresses general cargo land uses (container operations) as a permitted short and long term preferred use in Master Planning Area 5, the Wilmington District of the Port Master Plan.

PCAC-EIR-11. As discussed in Section 2.2.4.1 of the Draft EIS/EIR, the creation of the 5-acre fill is a separate project being analyzed as part of the Channel Deepening Project SEIS/EIR because the fill necessary for the land creation is being generated as part of Channel Deepening. As discussed further, construction to improve this land for container terminal operations and all operations on this land as part of the whole TraPac project is being analyzed in this Draft EIS/EIR. The submerged dredge material storage site adjacent to Pier 400 was created as part of the Channel Deepening Project to avoid disposing of the material at an off-shore disposal site (i.e., LA-2 or LA-3) and provide a source of material that could be used for future fills either adjacent to Pier 400 or at another permitted location. Any future landfill in the harbor would require full disclosure in accordance with CEQA and NEPA, a Master Plan Amendment, and permits issued pursuant to the Clean Water Act.

Anchorage Road Disposal site does have capacity for the dredge material assumed in the proposed Project.

- PCAC-EIR-12.** As discussed in Section 1.1.2, the maximum capacity of a terminal is based on site-specific modeling of the physical and operating parameters. That number is a function of the terminal's configuration, berth length, backland area, the ratio of berth length to backland area, and the number and types of equipment it uses. Achieving the maximum capacity of terminals, which is the high end of a realistic operating range, requires that none of the various components of a terminal is a constraint to the movement of cargo through the terminal. As further discussed, this document analyzed the maximum throughput that could be physically accommodated by the terminal. Market demand is expected to increase throughput over the term of the Project until this maximum physical capacity is reached. This capacity is reached in 2025 and is controlled by the available berth space. In 2025, the terminal will be berth limited, meaning there will not be enough additional berth space to accommodate additional ships and throughput will remain steady.

It is possible that operational improvements may eventually increase the capacity of the throughput projections assumed as part of the proposed Project, but at present, such improvements are speculative for technical, economic, or social reasons. However, should new feasible technology become available that would increase Port capacity beyond that anticipated, improvements to implement the technology would require discretionary actions and environmental evaluation in accordance with CEQA in order to evaluate potential environmental effects.

- PCAC-EIR-13.** Please see response to comment PCAC-EIR-12. The throughput presented in the document is correct. As throughput grows, more gate movements would be distributed to the night and hoot shift. Currently, infrastructure (such as the highway network) and employee levels can handle the majority of gate movements during the day hours. However, although expected future upgrades to both on- and off-Port infrastructure and additional employees, would add additional capacity, the gate would become more congested during these hours shifting the additional throughput to the night and hoot shifts. Most cargo would continue to move through the gate during the day because warehouses and other cargo end users are expected to operate primarily during the day. To ensure cargo can be handled and moved through the gate at night, the Port and industry groups are exploring operational changes both at the Port and with end users. For example, PierPASS, is a new program that implements financial disincentives to the movement of containers during peak hours (3:00 a.m. to 6:00 p.m., Monday through Friday). While this project assumes 24/7 operation in the future, the terminal, rail facilities, distribution centers and warehouses, and retailers are not expected to operate at full capacity during the night and hoot shifts.

Although individual container terminals do operate today at different throughput-per-acre levels, and will continue to do so in the future, it is speculative to predict which terminals, if any, will process throughput at slightly higher or lower densities. Terminals that operate at higher densities than their competitors do so with significantly increased operational costs. These increased costs can seldom be passed on to customers in the extremely competitive container shipping business. It is

unreasonable to assume that, over time, a terminal will be able to maintain significantly denser, and correspondingly more expensive, operations than its competitors.

In addition, this point is essentially moot for the Berths 136-147 Terminal, since the 2005 projection (which is higher than actual throughput) was determined empirically from 2002 data, and the 2025 projection was governed by the terminal capacity. All of the interim years were determined by straight-line projections between 2005 and 2025. The Mercer demand forecast turned out not to be a factor at all in the Berths 136-147 Terminal throughput projections. As provided in Draft EIS/EIR Section 1.1.3, the estimated approximate 10,000 TEUs per acre used in this assessment is very aggressive for a non-transshipment terminal and exceeds existing terminal operations by 3,000 to 5,000 TEUs per acre.

PCAC-EIR-14. Please see response to comments NRDC-1 and PCAC EIR-12. Additionally, as discussed in Section 1.1.3, the projected throughput of 10,000 TEUs is a very aggressive assumption for a non-transshipment port. A transshipment port, which exist in Asia, is one that receives cargo from barges or other ships for transshipment to another port, whereas at the Port, all import and export cargo comes/goes to/from inland destinations

PCAC-EIR-15. Ship calls utilized in the EIS/EIR represent a reasonable estimate (see Draft EIS/EIR Appendix I). The annual ship calls presented in Chapter 2 of the Draft EIS/EIR are derived with the use of a single average cargo capacity vessel for each Project year. To better simulate the real world, the air quality analysis expanded these data into a fleet of vessels with cargo capacities that are expected to frequent the Project terminal in the future. The estimation of these adjusted ship visits roughly stayed within 10 percent of the average values developed by the Port (309 as a starting point, then adjusted to 279, or a difference of 9.7 percent). It should also be noted that over the last inventory period for the Port, larger and fewer ships are calling at the Port and world wide orders for container ships show large ships being constructed. This is consistent with projections utilized in the EIS/EIR. No changes to the document are required.

PCAC-EIR-16. As noted, there was an error on page ES-16 of the Draft EIS/EIR. As discussed in Section ES.3.2.5, the on-dock rail yard could handle approximately 700,000 TEUs annually. However, the rail yard is assumed to handle approximately 4 double stacked unit trains on average a day, not 2 as reported in the Draft EIS/EIR. The EIS/EIR has been modified.

PCAC-EIR-17. This comment consists of four issues: 1) Wilmington will be further cut off from the water by the Harry Bridges Buffer Area; 2) it is inappropriate to use as a Baseline for the analyses December 2003; 3) the new cranes would increase from 50-gauge to 100-gauge in size; and 4) the Project would have substantial negative aesthetic and visual impacts that would worsen already severe cumulative impacts.

Issue 1 Response

The comment suggests that the Harry Bridges Buffer Area would negatively impact Wilmington's access to the water. "C" Street marks the southern limit to the residential area within Wilmington. Port lands intercede between this street and the West Basin, the waters nearest the community. Under current (Baseline) conditions, the community of Wilmington has no access—either physically or visually—to the water surface of the West Basin. The Harry Bridges Buffer Area would have no potential for further

blocking access. Please note that the Port may not try to cure past environmental harms by imposing measures or project conditions that go beyond the scope of the impacts created by the proposed project (*Dolan v. City of Tigard* (1994) 512 U.S. 374; *Nollan v. California Coastal Comm'n* (1987) 483 U.S. 825).

Furthermore, the Harry Bridges Buffer Area would substantially improve the aesthetic quality of the area adjacent to the south side of "C" Street. The existing visual conditions for views to the south from this street would improve from Visual Modification Class 4 to Class 1 (Section 3.1, Aesthetics/Visual Resources). This would represent a substantial beneficial impact. The preliminary design of the buffer has been coordinated with the community.

The next nearest body of Port water is Slip 5, south of Banning's Landing Community Center. The Center offers Wilmington physical and visual access to Port waters that would not be affected by the Project. The Port and the community are also developing plans for improved access to the waterfront through the Avalon Corridor Project which would create commercial and recreational opportunities for the Wilmington Community.

The Port appreciates the sentiment regarding the EIS/EIR's treatment of existing visual conditions. This and all comments will be considered by the decisionmakers. Please note that, as discussed in Chapter 3.2, this EIS/EIR uses a baseline of 2003, consistent with the release of the NOP/NOI (released October 22, 2003). CEQA Guidelines section 15125, subdivision (a), provides:

"An EIR must include a description of the physical environmental conditions in the vicinity of the project, as they exist at the time the notice of preparation is published, or if no notice of preparation is published, at the time environmental analysis is commenced, from both a local and regional perspective. This environmental setting will normally constitute the baseline physical conditions by which a lead agency determines whether an impact is significant."

Further, CEQA case law holds that, where facts in the record show that activities were occurring at a project site prior to environmental review, it may be "misleading and illusory" to describe baseline conditions as if those activities were not occurring (*Fairview Neighbors v. County of Ventura*, 70 Cal.App.4th 238, 243 (1999) (upholding baseline for evaluation of conditional use permit to expand existing mining operations as including levels of truck traffic actually achieved under prior approvals). Additionally CEQA provides for the environmental baseline to include all uses that actually existed during the baseline period, regardless of whether those activities are alleged to have exceeded prior approvals. See *Fat v. County of Sacramento*, 97 Cal.App.4th 1270, 1277-1281 (2002); *Riverwatch v. County of San Diego*, 76 Cal.App.4th 1428, 1451-1453 (1999). Therefore, it is appropriate for the EIS/EIR to compare the potential impacts of the proposed Project against baseline conditions.

Additionally, please note that the Port may only impose mitigation measures and other project conditions that bear a reasonable relationship to the significant impacts that would occur if the proposed Project is approved. The Port may not try to cure past environmental harms by imposing measures that go beyond the scope of the impacts created by the proposed Project. (See *Dolan v. City of Tigard* (1994) 512 U.S. 374; *Nollan v. California Coastal Comm'n* (1987) 483 U.S. 825.)

The Draft EIS/EIR acknowledges that the two 50-gauge cranes in place during the Baseline period would be replaced with two 100-gauge cranes. Please note that the Port of Los Angeles exhaustively investigated the use of low-profile cranes for container terminals to potentially reduce the overall height of container cranes, thereby lessening the potential for adverse aesthetic effects of the taller A-frame cranes, as explained in Section 2.4.2.3 and Section 3.1.4.3.1 of the Draft EIS/EIR. Please see response to comment RPV-1 for a discussion of this investigation and its conclusion that use of such cranes would not reduce the potential for overall aesthetic impacts and was found to be associated with safety issues due to the increased weight of the cranes.

With respect to the comment regarding the size of harbor craft and container stacking, please note that the Draft EIS/EIR acknowledges that Port operations have completely transformed the original natural setting to create a landscape that is highly engineered and is visually dominated by large-scale man-made features. (Section 4.2.1.) The cumulative impact analysis considers the contribution of these past operations to the existing setting (Draft EIS/EIR 4-20) and concludes that, given the context of the distinctive marine industrial character of the working port, the Project's less than significant aesthetics/visual resources impacts would not be cumulatively considerable.

The PCAC EIR Subcommittee's disagreement with the visual impact conclusions of the TraPac Draft EIS/EIR is noted and will be reviewed and considered by decisionmakers prior to making a final determination on the proposed Project.

PCAC-EIR-18. Comment noted. The document has been added to the public record.

PCAC-EIR-19. The EIS/EIR addresses socioeconomic effects as required under NEPA (i.e. employment, population, and housing) and agreed to by the Port. Neither NEPA nor CEQA require that a cost-benefit analysis be prepared for the proposed Project. The EIS/EIR includes a detailed Health Risk Assessment in Appendix D, which is summarized in Section 3.2 Air Quality. Operation of the proposed Project and several of the alternatives would result in lowered residential risk in the Wilmington community (Draft EIS/EIR figure 3.2-2) as well as a decrease in sensitive, student and recreational receptors relative to the year 2003 (Table 3.2-30). Thank you for the list of references. They will become part of the public record through inclusion of the comment and response in the Final EIS/EIR.

PCAC-EIR-20. See the response to comment PCAC-EIR-19. Table 3.2-23 represents unmitigated peak daily emissions. Table 3.2-25 shows that in 2015 when mitigation measures are in place, all criteria pollutants fall below 2003 levels. NO_x for instance is reduced by 7,438 pounds per day over 2003 levels.

PCAC-EIR-21. Thank you for your comment. On July 31, the comment period was extended to a total of 90 days. Please note that CEQA comment periods are never less than 30 days and only under special circumstances extend beyond 60 days.

PCAC-EIR-22. Informally meeting with small groups of stakeholders can be a very effective way of understanding stakeholder concerns over a project. This process is now part of our stakeholder outreach and included parties such as the PCAC EIR Subcommittee, NRDC, Andrea Hricho with the University of Southern California, AQMD, CARB, ILWU, HAIC, and PMSA. This does not replace the normal/formal CEQA process. The Los Angeles Harbor Department is the lead agency for the processing of CEQA

documents for projects within the Harbor District. This is not a unique function and similar to the roles of lead agencies in most municipalities in the State.

PCAC-EIR-23. As provided for in CEQA Guidelines section 15093, “*CEQA requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits of a proposed project against its unavoidable environmental risks when determining whether to approve the project.*” (Also see Public Resources Code section 21081.) If the Board of Harbor Commissioners elects to approve the proposed Project or project alternatives (other than the No Project) it would require a statement of overriding considerations associated with significant unavoidable impacts identified in the Final EIR.

PCAC-EIR-24 See response to comment PCAC-EIR-24. The proposed project is consistent with the Mayor’s goal for the port to increase growth “*while mitigating the impacts of the growth on the local communities and the Los Angeles region.*” Operation of the proposed Project and several of the alternatives result in lowered residential risk in the Wilmington Community (Draft EIS/EIR figure 3.2-2) as well as a decrease in sensitive, student and recreational receptors relative to the year 2003 (Table 3.2-30). In addition, for the mitigated project, all criteria pollutants are reduced (Draft EIS/EIR Table 3.2-25). This is accomplished even with the anticipated growth. It should also be noted on a broader level that the Port has also adopted the Clean Air Action Plan which calls for a 45% reduction in emissions over the next 5 years.

Coalition For A Safe Environment

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Port of Los Angeles (POLA), Los Angeles Harbor Department
Dr. Ralph G. Appy, Director
Environmental Management Division
425 S. Palos Verde St., San Pedro, CA 90733-0151
310-732-3497

July 31, 2007

U.S. Army Corps of Engineers (USACOE)
Los Angeles District, Regulatory Division
ATTN: Dr. Spencer D. MacNeil
P.O. Box 532711, Los Angeles, CA 90053-2325
805-585-2152

Re: Berths 136-147 Container Terminal
Draft Environmental Impact Report/Environmental Impact Statement
SCH No. 2003104005, ADP No. 030127-020

Su: TraPac Container Terminal Expansion Project Public Comments

The TraPac Terminal Draft Environmental Impact Report/EIS fails to address and mitigate the numerous negative environmental, public health, public safety, truck & train traffic, aesthetics, economic and community impacts of the Ports day-to-day business activities.

The Coalition For A Safe Environment (CFASE) has attended numerous Port of Los Angeles/U.S. Army Corps of Engineers public hearing and public meetings where numerous Port of Los Angeles and City of Long Beach Harbor residents and organizations have commented on the problems they are experiencing and what type of mitigation was needed.

The TraPac DEIR/EIS fails to include numerous problems identified and the recommended mitigation measures:

CSE(A)-1

1. The DEIR/EIS fails to acknowledge that the existing Port of Los Angeles TraPac Container Terminal was built illegally and that the Port of Los Angeles and U.S. Army Corps of Engineers intentionally failed to prepare an EIR/EIS for the terminal per the California Environmental Quality Act (CEQA) and National Environmental Protection Act (NEPA). The POLA, USACOE's and California Coastal Commission illegally approved this Port project in violation of CEQA, NEPA and the California Public Trust Doctrine.

The POLA/USACOE has failed to mitigate the past and current negative environmental, biological resources, public health, public safety, traffic congestion, aesthetic, community, economic and cumulative impacts that have been verbally stated and submitted in writing and the recommended mitigation verbally stated and submitted in writing at previous Port public hearings and public meetings. The proposed mitigation measures fail to completely address or include all recommendations and requests verbally stated and submitted in writing by our organization and the public.

The DEIR/EIS states that it uses a 2003 baseline when in fact it should be using a 1991 or earlier era baseline on the land area prior to the construction of the TraPac Container Terminal.

CFASE requested and requests that the POLA/USACOE's immediately prepare an EIR/EIS for the existing TraPac Container Terminal and mitigate all past and current TraPac Container Terminal negative impacts prior to requesting approval for the current proposed DEIR/EIS. CFASE recommends that POLA/USACOE immediately approve beginning construction of the Wilmington Waterfront Development Buffer Project both Phase I and Phase II as partial mitigation for the existing TraPac Container Terminal.

2. The TraPac DEIR/EIS fails to adequately mitigate the past, current and proposed increasing toxic air pollution impacts to Port of Los Angeles Wilmington, San Pedro, Harbor City residents, neighboring West Long Beach residents, Port goods movement transportation corridor residents and distribution center residents.

The Port of Los Angeles contributes a minimum of 25% of all toxic air pollution in the Harbor area causing significant short term and long term public health problems to Port of Los Angeles Harbor, City of Long Beach, transportation corridor and distribution center residents.

CFASE requested and requests that the Port of Los Angeles and U.S. Army Corps of Engineers purchase and install free air purification systems in every residential home, school, hospital, clinic, community center, daycare center, convalescent home, library, recreational facility, business and public use buildings.

3. The TraPac DEIR/EIS fails to mitigate the past, current and proposed increasing public health impacts to Port of Los Angeles Wilmington, San Pedro, Harbor City residents, neighboring West Long Beach residents, Port goods movement transportation corridor residents and distribution center residents.

A recently completed UCLA Medical Center/Harbor General Hospital Wilmington Children's Asthma Study disclosed that 23.9% of all children in Wilmington have asthma and the current asthma rate of children in Long Beach is 19.3 %. CFASE based on the California Air Resources Board Emission Reduction Plan for Ports & International Goods Movement in California report estimates that a minimum of 3 Port of Los Angeles Harbor area residents die every day due to Port toxic air pollution. The Port of Los Angeles contributes a minimum of 25% of all toxic air pollution in the Harbor area causing significant short term and long term

public health problems to Port of Los Angeles Wilmington, San Pedro, Harbor City, City of Long Beach, transportation corridor and distribution center residents.

The Port of Los Angeles and its business tenants has deprived numerous residents and children the right to live a normal and healthy life. The Port contributes and causes a significant amount of toxic air, land and water pollution which is known to cause cancer and numerous other temporary and permanent public health problems and disabilities.

The Port failed to notify Harbor residents, dock workers and the public of the life and health threatening nature of its business activities. The Port failed to provide to the public governmental agency, medical and scientific public health study information that it knew existed that could assist the public in preventing & minimizing health impacts, seeking health care and assist the public in participating in the Port public hearing and meeting process where they could make public comments on the negative impacts of the ports business activities on public health and request mitigation.

CSE(A)-3

The Port of Los Angeles has depended solely on the information obtained in the included Health Risk Assessment, which contains unverified and incomplete information. The Port has failed to conduct any public health survey studies of Harbor residents, transportation corridor and distribution center residents to determine its public health impacts and the number of residents impacted.

The Port has failed to provide any medical financial assistance to the public or impacted families who have identified themselves at previous Port of Los Angeles public hearings and meetings.

CFASE requested and requests that the Port of Los Angeles and U.S. Army Corps of Engineers conduct a door-to-door Public Health Survey of all residents within a five radius to determine a public health baseline.

CFASE requested and requests that the Port of Los Angeles and U.S. Army Corps of Engineers establish an annual \$ 50 million Public Health Care Trust Fund.

CSE(A)-4

4. The TraPac DEIR/EIS fails to mitigate the past, current and proposed expansion increased noise impacts to Port of Los Angeles Wilmington, San Pedro, Harbor City residents, neighboring West Long Beach residents, Port goods movement transportation corridor residents and distribution center residents.

Port of Los Angeles trains blow their horns as they cross railroad and public street crossings. Port train noise has been increasing every year and the current DEIR/EIS proposes increases in container traffic significantly which will increase train noise. The issue is not only the ear piercing loudness of the train noise but the frequency and hours.

CSE(A)-5

Since adopting the Pier Pass Program trains are now running almost 24hrs. a day. Local residents and children are having problems falling asleep and sleeping undisturbed with train whistles, wheels braking, train cars connecting and wheels squealing on tracks can be heard

almost every couple of hours and sometimes every hour. In addition, trains passing cause ground vibration which shakes houses, breaks house foundations, cracks patio floors, weakens house framing, doors and windows.

Port trains travel up the Watson rail yard in the middle of Wilmington residential areas and west between Lomita Blvd. in Wilmington and Sepulveda in Carson where they cross Avalon Blvd. near homes and apartments. They also stop traffic for 30 minutes or more while passing at grade level. Most trains tracks are old and do not have continuous smooth welding joints which cause a continuous noise. Older locomotives trains also cause more engine start-up and operation noise.

An increase in cruise ships voyages also contributes to more cruise ships horns blasting when they arrive and leave the Port which also impacts local residents rest and peaceful times.

CSE(A)-5

Local Harbor residents bordering the Port terminals can hear the loading and unloading of containers. It was also reported this year not too long ago that at 10:00pm at night a container was dropped and the sound could be heard resonating throughout the community at night. Older Port equipment causes more noise.

Harbor residents, I-710 Long Beach Freeway and I-110 Harbor Freeway residents have had to endure increasing noise from passing trucks carrying port containers and cargo. Children attending classes during the day are disturbed by the truck noise. Older trucks also cause more noise.

CFASE requested and requests that the Port of Los Angeles and U.S. Army Corps of Engineers sound proof every residential home, school, hospital, clinic, daycare center, convalescent home, library, community center, recreational facility, business and public use building.

CSE(A)-6

CFASE requested and requests that the Port of Los Angeles and U.S. Army Corps of Engineers replace the current Harbor fleet of diesel fuel locomotive engines, the Alameda Corridor BNSF & UP rail lines with a "O" or near "O" noise intermodal and cargo rail systems with alternative green technology. CFASE has specifically recommended Electric Trains, Electric Rail, Mag-Lev, Linear Induction and underground Gravitational Systems.

CSE(A)-7

5. The TraPac DEIR/EIS fails to mitigate the past, current and proposed expansion increased Port of Los Angeles impacts on global warming and climate change. Port Harbor residents and south coast air quality management district residents are experiencing increased temperatures and heat exposure contributing to increased public respiratory health problems, cardio-pulmonary diseases, premature death, inability of our children to study in school & home comfortably, inability of our residents to work comfortably and deprivation of our quality of life.

CFASE requested and requests that the Port of Los Angeles and the U.S. Army Corps of Engineers to purchase and install free air conditioning & heating systems in every residential

home, school, hospital, clinic, daycare center, convalescent home, community center, library, business, recreational facility and public use building.

CSE(A)-7

6. The TraPac DEIR/EIS fails to mitigate the past loss to Wilmington residents of their rights to have access and recreational use of a coastal beach, tidelands and wetlands. The Port has deprived Wilmington residents of any aesthetic coastal vistas, beach front homes, waterfront seashore restaurants & shops, resorts, golf courses or hotel construction on the beach. There is no place in Wilmington where residents can go fishing or catch uncontaminated fish.

TraPac Container Terminal tall cranes deprive Wilmington residents of their rights to have and view the natural beauty of San Pedro Bay. Wilmington residents live as close as 200' to the ocean yet have no coastal tidelands, wetlands or bay view. The Port has destroyed and eliminated 100% of all Wilmington's coastal tidelands, wetlands and biological habitats.

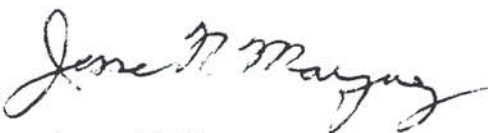
CFASE and Wilmington residents have identified the land that is north of the Consolidated Slip known as Leeward Bay as one wetlands restoration site. This would require the Port to remove the DAS import car parking lot. Why should prime coastal tidelands and wetlands property be used as a parking lot, when cars can be parked anywhere. Land north of the lot has been and is currently for sale. Port property is leased at below market rates.

CSE(A)-8

CFASE, Wilmington residents and Cal Poly Pomona students have identified approximately 100+ acres of land owned by the Port of Long Beach in the City of Los Angeles/Port of Los Angeles area as a second wetlands restoration project area. This would require the Port of Los Angeles, U.S. Army Corps of Engineers and/or the City of Los Angeles to negotiate the purchase of this property.

CFASE requested and requests that the Port and the U.S. Army Corps of Engineers mitigate these losses by establishing a minimum annual \$ 25 million Environmental & Biological Restoration Trust Fund.

Environmental Justice For All,



Jesse N. Marquez

Executive Director

Coalition For A Safe Environment A, July 31, 2007

CSE(A)-1. A complete environmental justice analysis was completed for the Project. This comment suggests that the Draft EIS/EIR fails to address numerous environmental issues associated with the Port's daily operations. The Draft EIS/EIR incorporates programmatic, project-specific, and cumulative analyses for all environmental issue areas that would potentially be impacted by the proposed Project, including those in the project vicinity. The Draft EIS/EIR has appropriately evaluated the Project's environmental effects and identified mitigation measures and reasonable alternatives to avoid significant environmental impacts (CEQA Guidelines Sections 15121(a) and 15362, CEQ Regulations 40 CFR 1502.15).

CEQA Guidelines Section 15125 (a) states,

“An EIR must include a description of the physical environmental conditions in the vicinity of the project, as they exist at the time the notice of preparation is published, or if no notice of preparation is published, at the time environmental analysis is commenced, from both a local and regional perspective. This environmental setting will normally constitute the baseline physical conditions by which a lead agency determines whether an impact is significant.”

The Draft EIS/EIR appropriately represents the existing setting and assesses potential project impacts on the environment by evaluating the changes in the existing physical conditions in the affected area as they exist at the time the notice of preparation was published. Furthermore, the permitting history of the Project site is not an environmental issue, and therefore is outside the scope of the EIS/EIR. Concerns regarding the site's permitting history will be considered by the Board of Harbor Commissioners during Project review. The appropriate beginning baseline for the proposed Project is the time of issuance of the Notice of Intent/Notice of Preparation for the proposed Project, which was issued in 2003. CEQA case law holds that, where facts in the record show that activities were occurring at a project site prior to environmental review, it may be “misleading and illusory” to describe baseline conditions as if those activities were not occurring. (See *Fairview Neighbors v. County of Ventura*, 70 Cal.App.4th 238, 243 (1999) (upholding baseline for evaluation of conditional use permit to expand existing mining operations as including levels of truck traffic actually achieved under prior approvals). Additionally, CEQA provides for the environmental baseline to include all uses that actually existed during the baseline period, regardless of whether those activities are alleged to have exceeded prior approvals. See, e.g., *Fat v. County of Sacramento*, 97 Cal.App.4th 1270, 1277-1281 (2002); *Riverwatch v. County of San Diego*, 76 Cal.App.4th 1428, 1451-1453 (1999). Therefore, no revisions to the Final EIS/EIR are required.

CSE(A)-2. It is the Port's/USACE's goal to apply mitigation to the source of emissions in order to reduce health effects from proposed projects. The Draft EIS/EIR incorporates all feasible mitigation measures (i.e., Mitigation Measures AQ-1 through AQ-18B) that reduce toxic air pollution impacts from proposed construction and operational emission sources that are capable of being accomplished in a successful manner within a reasonable period of time, taking into consideration economic, environmental, legal, social, and technological factors (CEQA Guidelines Section 15364). Through application of mitigation measures, operation of the proposed Project and several of the alternatives result in lowered residential risk in the Wilmington community (see Draft EIS/EIR Figure 3.2-2) as well as a decrease in sensitive, student and recreational receptors relative to the year 2003 (Table

3.2-30). In addition, Tables 3.2-25 and 3.2-26 show that with mitigation all criteria pollutants are reduced below levels in 2003. In addition, the Port has approved the CAAP which will reduce air pollution by 45 percent over the next five years. Therefore, no revisions to the Final EIS/EIR are necessary.

CSE(A)-3. Please see response to comment CSE(A)-2. The Draft EIS/EIR adequately discloses potential environmental impacts associated with proposed construction and operational activities associated with the proposed Project pursuant to CEQA Guidelines Section 15126, which requires an EIR to “identify and focus on the significant environmental effects of all phases of a proposed project.”

The comment correctly notes that the project health risk assessment (HRA) is based on the HRA data included in Draft EIS/EIR Appendix D. The project HRA relies upon methods developed by the California Office of Environmental Health Hazard Assessment and have been reviewed and approved by the CARB and SCAQMD. The association of air pollution with health effects has been documented in the Draft EIS/EIR (see Draft EIS/EIR Table 3.2-1).

CSE(A)-4. As provided in response to comment CSE(A) 1-3, the Port has provided mitigation to minimize pollution sources that would reduce operational emissions below levels in 2003.

CSE(A)-5. The comment does not identify a specific concern regarding the adequacy of the EIS/EIR. The Draft EIS/EIR incorporates all feasible mitigation measures (i.e., Mitigation Measures NOI-1a through NOI-1h) that would reduce daytime construction noise levels at sensitive receptors at the new Pier A rail yard and along “C” Street to the greatest extent feasible, which are capable of being accomplished in a successful manner within a reasonable period of time, taking into consideration economic, environmental, legal, social, and technological factors (CEQA Guidelines Section 15364). As provided for in the Draft EIS/EIR, operations of the proposed Project would not result in a substantial increase in noise in the residential areas of Wilmington and the live-aboards in the marinas near the rail yard (Draft EIS/EIR Section 3.9.1) and would not increase vibration. Further, operational noise levels are also less than cumulatively considerable (Draft EIS/EIR Section 4.2.9.4), which takes into account the proposed Project noise levels added on to ambient (existing) levels of noise such as might occur from the Watson Yard and cruise terminal.

It should be noted that Pier Pass Program is a truck program and does not involve trains. The Watson Yard does not handle containerized cargo and is not associated with the proposed. The cruise terminal is also not associated with the proposed Project.

CSE(A)-6. Implementation of electric trains, electric rail, maglev, linear induction, and underground gravitation systems relates to regional goods movement infrastructure and are outside the scope of this EIS/EIR. Implementation of these systems is not necessary or financially feasible at the project specific level.

CSE(A)-7. Draft EIS/EIR Mitigation Measure AQ-6, Alternative Maritime Power (AMP), would substantially reduce greenhouse gas (GHG) emissions from proposed vessel berthing activities. Draft EIS/EIR Mitigation Measure AQ-10, Vessel Speed Reduction Program (VSRP), also would reduce GHG emissions from proposed vessels between the outer boundary of the SCAQMD waters and the Ports precautionary area, a distance of about

40 nm. Furthermore, operation of the requested air conditioning and heating systems is not recommended, as it would increase GHG emissions and contribute to climate change. Therefore, no revisions to the Final EIS/EIR are necessary.

CSE(A)-8. See response to comment CSE(A)-1 regarding past impacts. The Port has provided increased public access to the waterfront from the Wilmington community with the Banning's Landing Project and is presently working with the community to expand public waterfront access and uses through development of the Avalon Corridor Project. The comment regarding the existing condition that Wilmington residents cannot view the waterfront is correct. The elevation of the Wilmington community and the Berths 136-147 Terminal is very similar and containers block waterfront views. However, waterfront visibility would be enhanced should the Board of Harbor Commissioners elect to approve the proposed Project or alternative and construct the Harry Bridges Buffer. There would be elevated vista points for the public to have enhanced views.

The proposed Project does not have impacts that require mitigation of wetlands, and has habitat credits in existing mitigation banks that would totally mitigate the 10-acre fill in the Northwest Slip (see Draft EIS/EIR Table 3.3-4). The Port has considered opportunities for habitat mitigation in the Harbor District and found no viable opportunities in Wilmington for projects that would replace habitat under existing mitigation requirements. The site adjacent to the Consolidated Slip would be used for Port development including relocation of the Pier A railyard as part of the Project. However, the Port is in the initial planning stages for the land adjacent to Anchorage Road regarding its future use and will consider optional uses for this site. Pier A West, which is owned by the Port of Long Beach is presently undergoing remediation and will likely be used by the Port of Long Beach in the future for container operations. Assuming the Port and the USACE were interested in purchasing this site, the land is not for sale. Since implementation of the Clean Water Act, the Port has accounted for habitat loss and provided on-site or off-site compensatory mitigation for permanent loss of marine habitat in coordination with federal and state resource agencies. In accordance with the California Coastal Act, the Port has been designated an essential element of the national maritime industry (PRC Section 30701), and the Port is responsible for modernizing and construction necessary facilities to accommodate deep-draft vessels and the demands of foreign and domestic waterborne commerce and other traditional and water dependent facilities in order to preclude the necessity for developing new ports elsewhere in the state (Draft EIS/EIR Table 205). As a result, the Port gives priority for development of shoreline for maritime purposes as opposed to habitat creation.

Coalition For A Safe Environment

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September 26, 2007

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Re: Berths 136-147 Container Terminal
Draft Environmental Impact Report (DEIR)/
Draft Environmental Impact Statement (DEIS)
SCH No. 2003104005
ADP No. 030127-020

Su: TraPac Container Terminal Expansion Project Public Comments

The Coalition For A Safe Environment wishes to submit the following Berths 136-147 TraPac Container Terminal Expansion Project Draft EIR/Draft EIS Public Comments:

1. The DEIR/DEIS Section 5.1 Environmental Justice Environmental Justice Analysis does not comply with Executive Order 12898, Council on Environmental Quality (CEQ) *Guidance for Environmental Justice Under NEPA* (CEQ, 1997), nor consistent with California law regarding Environmental Justice as claimed in the DEIR/DEIS Section 5.1. The DEIS/DEIR fails to include and identify all negative and cumulative environmental, public health, public safety, biological resources and traffic impacts, assess technologies, equipment and alternatives than can mitigate the numerous significant negative impacts that were identified in Public Comments during the NOP/NOI Public Comment Period and as identified in this written Public Comment.

CSE(B)-1

It is an insult to Environmental Justice Communities and a violation of the U.S. Civil Rights Act, Clean Air Act, Clean Water Act, NEPA and CEQA that the USACOE and the POLA's have failed to mitigate all negative environmental, public health, public safety, biological resources and traffic impacts.

CSE(B)-1

As a result of the USACOE and POLA being unable to mitigate the projects significant negative and cumulative impacts and the Port of Los Angeles's failure to invest in and incorporate existing, new and emerging technologies that would prevent the need for expansion, the Coalition For A Safe Environment requests that the Berths 137-147 TraPac Container Terminal Expansion Project DEIS/DEIR be denied and rescinded.

2. The DEIR/DEI Section 5.2 Environmental Justice fails to include, identify and assess all Environmental Justice "affected communities" and cities. The DEIR/DEIS must identify all port, bordering port, transportation corridors, intermodal facilities, railroad yard facilities, rail road tracks, distribution centers and off-port property communities and cities that are impacted by the Port of Los Angeles TraPac Container Terminal currently and in the future.

CSE(B)-2

The DEIR/DEIS failed to include as a minimum: Wilmington-Watson Yard, Watson Railroad Tracks that travel north through the City of Carson, Wilmington-California Cotton Fumigation Facility, Wilmington-Valhalla Dredging Barge docked in Consolidation Slip/Leeward Bay Marina, Carson-Harbor Price Container Inspection Facility, Carson & Long Beach ICTF Facility, Alameda Transportation Corridor, I-710 Long Beach Freeway, I-110 Harbor Freeway, UP Railroad Yard and BNSF Railroad Yard in East Los Angles & Commerce and including the Riverside/San Bernadino Distribution Centers.

3. The DEIS/DEIS Section 5.3 Environmental Justice fails to comply with Executive Order 12898, U.S. EPA, State of California, City of Los Angeles and South Coast Air Quality Management District in that it does not achieve environmental justice, does not adequately identify, address and mitigate disproportionately high and adverse human health or environmental effects of its programs, policies and activities on minority populations and low-income populations as claimed in the DEIR/DEIS Section 5.3.

CSE(B)-3

The USACOE and POLA fail to disclose in the DEIR/DEIS that the current existing and operating TraPac Container Terminal was approved and built illegally. No EIR/EIS was ever prepared in violation of NEPA, CEQA and Executive Order 12898. No EIR/EIS can legally be approved for an expansion project, when no primary EIR/EIS was ever prepared and approved. The current DEIR/DEIS must be denied and rescinded until an EIR/EIS is prepared for the existing TraPac Container Terminal.

CSE(B)-4

The USACOE's and POLA failed to conduct a public health survey of the "affected communities" and establish a public health baseline of impacted Environmental Justice Communities public health problems and premature deaths in order to establish a valid Health Risk Assessment (HRA) and as a result have significantly under-estimated public health impacts and premature deaths.

CSE(B)-5

Wilmington and other Environmental Justice “affected communities” have not received a fair treatment or meaningful involvement with respect to the development, implementation and enforcement of environmental laws, regulations and policies. The USACOE and POLA in every instance has never found one adequate mitigation to significantly reduce its past, current and future environmental, public health, public safety, biological resources and traffic impacts.

The USACOE and POLA prevented “meaningful involvement” by notifying the EJ Communities of public hearings in English and Spanish on a small postcard. The USACOE and POLA failed to adequately describe the massive expansion of the Trapac Container Terminal and the extent of its environmental, public health, public safety, biological resources and traffic impacts on EJ Communities. They made no special effort to improving accessibility of public meetings, crucial documents and notices. Developed no effective public participation strategies and did not seek to overcome linguistic, cultural, institutional, geographic barriers to participation.

The USACOE and POLA released a 6,000+ page DEIR/DEIS which is impossible for the average EJ Community member and resident to interpret without significant technical and legal assistance. The allocated public comment period is inadequate time for the public to review and prepare meaningful public comment. A minimum six months public comment time should have been allocated and technical consultants should have been made available to attend community meetings and provide one-on-one assistance in English and Spanish.

CSE(B)-6

Wilmington and other Environmental Justice “affected communities” have not had “fair treatment” and have borne a disproportionate share of the negative environmental consequences resulting from industrial, municipal and commercial operations or the execution of federal, state, local and tribal programs and policies. EJ Communities have the highest cancer, non-cancer risks and public health impacts. The USACOE and POLA failed to disclose in the DEIR/DEIS that they knew and had possession of governmental, scientific and medical research studies that disclose the high cancer risk and numerous significant public health impacts of its business operations and the increased risk and significant impacts of expansion construction.

The USACOE and POLA failed to acknowledge and disclose its off-port and its tenants off-port significant negative impacts such: as an outdoor container fumigation facility that is fence-line to Wilmington residents that uses the internationally banned highly toxic methyl bromide, which also happens to be colorless and odorless, the operation of a container inspection facility in the City of Carson which borders Wilmington which has already had a bomb scare, the cancer clusters from Particulate Matter (PM) exhaust from port diesel trucks along the Long Beach I-710 Freeway Corridor, public exposure to lead, toxic chemicals, mosquito viruses etc. from container storage yards throughout the Harbor EJ Community and continuous exposure to noise from trucks, trains and ships.

CSE(B)-7

CSE(B)-8

The USACOE and POLA failed to allow “meaningful involvement” by limiting and with-holding significant environmental, public health, public safety, traffic impacts information, scope of project, off-port property impacts and establishing unreasonably limiting public comment time.

CSE(B)-9

The USACOE and POLA failed to prepare an EIR/EIS for the current illegally operating TraPac Container Terminal as requested by the EJ Organizations and the EJ Community during the NOP/NOI Public Comment period.

CSE(B)-10

The USACOE and POLA failed to include and adopt any mitigation that would significantly reduce negative environmental, public health, public safety, biological resources and traffic that were requested and recommend by EJ Organizations and the EJ Community.

CSE(B)-11

The USACOE and POLA has ignored all EJ Community concerns, objections, requests, recommendations and failed to include mitigation to address and prevent significant negative “disproportionate high and adverse impacts” on EJ Communities.

The USACOE and POLA failed to identify and seek out EJ Community organizations to facilitate their involvement and made no special effort to consult with affected EJ Community organizations in order to discuss problematic issues, review proposed mitigation, discuss land use and technology alternative recommendations and resolve significant negative impacts.

CSE(B)-12

The DEIR/DEIS does not comply with California Government Code Sections 65041-65049 and Public Resources Code Sections 71110-71116 for the reasons stated previously. The USACOE and POLA did not nor proposes the enforcement of all health and environmental statutes. They have in fact withheld public health data that identified significant public health risks and increasing public health problems.

CSE(B)-13

The USACOE and POLA failed to request Public Health Agency, Public Health Organization, Medical Hospital/Center and Academic Institutions assistance and participation to prevent and mitigate significant public health issues. The USACOE and POLA failed to establish a Public Health Care Trust Fund as requested or allocate any funds for assisting EJ Community families and residents with past and current health problems and premature deaths. They failed to assist in medical care, medicines, medical equipment, special medical needs, retraining costs or burial expenses.

CSE(B)-14

The USACOE and POLA in collusion with the City of Los Angeles, California State Lands Commission and other state and federal agencies intentionally withheld information, misrepresented information and failed to act upon issues that would have significant and long lasting impacts on EJ Communities and the public. The USACOE, POLA and the City of Los Angeles intentionally failed to comply with state and city planning, zoning and permitting requirements or request study or investigations of non-compliance.

The Ports and Goods Movement activities allowed significant increases in public health problems, the murder of innocent residents, increasing public exposure to toxic and hazardous chemicals & substances, an increase in public safety hazards, an increase in public insurance,

public health care, transportation infrastructure, emergency response & priority response, policing & enforcement, environmental mitigation costs, illegal transfer & use of public funds (Pier 400 change from Energy Island to a private Maersk Container Terminal), allowed an illegal Conflict of Interest in decision making by Port Board of Harbor Commissioners (hiring of an industry executive ie. Larry Keller who allowed the illegal transfer & use of public funds & illegal change in land use), various illegal land use changes, illegal land uses, failure to enforce safe distances from public exposure to toxic chemicals (ie. methyl bromide) and substances (ie. Particulate Matter, NOX, SOX and VOC's) eliminated on-port property fumigation facilities which forced tenants to seek & contract with a third party company located fence-line to Wilmington residents and children, allowed toxic & hazardous chemicals to be released into the air near residents, illegal transfer & storage of toxic and contaminated soils (Alameda Corridor soil & Port dredgings allowed to dry uncovered in open areas), allowed blight to occur in EJ Communities (ie. failure to enforce policy & regulations & failure to impose requirements and restrictions on tenants & failure to notify City of Los Angeles & bordering Cities planning departments of toxic & hazardous activities) (almost every Port related activity in an EJ Community is a trash magnet, aesthetic eye sore & traffic congestion source) (port owned properties were allowed to deteriorate to keep nearby property values low in order to acquire adjacent properties at low cost), the Port of Los Angeles causes the loss of city land for future community economic development (the Port purchases off-port city property to expand its port related activities instead of modernizing & automating its business operations) and the Port fails to incorporate its off-port land purchase plans into the Port Master Plan and City of Los Angeles Master Plan and Community Plans in order to by-pass and circumvent public review, public notification, public comment and the NEPA/CEQA process (the Port owns hundreds of acres of off-port & off-tidelands properties in the City of Los Angeles) and the Port has intentionally failed to approve and allocate funds for Wilmington economic and community redevelopment (the current Wilmington Waterfront Development Project should be approved as a stand-alone mitigation project and not contingent upon the Berths 136-147 TraPac Container Terminal DEIR/DEIS being approved).

CSE(B)-14

The South Coast Air Quality Management District (SCAQMD) has failed to enforce adopted Environmental Justice policies, recommend & require technologies and mitigation that would eliminate or minimize Environmental Justice Communities impacts. In fact, in one previous Port of Los Angeles EIR the SCAQMD dropped the ball and failed to assign someone to review the EIR. It was the Coalition For A Safe Environment inquiry that discovered this.

CSE(B)-15

4. The DIER/DEIS in Section 7 SocioEconomic & Environmental Quality contains incomplete information and missing information that contribute to a total understanding of the negative SocioEconomic and Environmental Quality impacts on Environmental Justice Communities and the public.

CSE(B)-16

The DEIR/DEIS fails to disclose that the Port of Los Angeles plans to invest over \$ 700 million in redevelopment projects in San Pedro and only \$ 120 million in the EJ Community of Wilmington. The Port has full authority to approve and begin construction of the Wilmington Waterfront Development Project without it being tied to the Berths 136 147 TraPac Expansion Project DEIR/DEIS.

The DEIR/DEIR discusses the SocioEconomic impacts and refers to the number of employment reaching 5,433 for the expansion, but fails to mention the thousands of jobs lost as a result of Port of Los Angeles management and the Board of Harbor Commissioners being politically influenced by container shipping companies to increase container storage backlands.

This has resulted in the Port eliminating and not investing in previous more diversified marine business activities such as fishing companies, canning companies, ship building, repair & maintenance companies etc., which created more than 100X more employment per acre than container storage space. This has caused a higher unemployment rate than in the past 20 years in Wilmington. We estimate that the Port is currently in a net deficit of employment of over 5,000 from the 1960's. Another point of information is that the California Employment Development Dept. changed the eligibility requirements formula about 5-7 years ago which eliminated prior eligible applications, the result being that the current method of reporting fails to include thousands of people who can no longer apply, yet are unemployed.

The Environmental Justice Communities and organizations during the NOP/NOI public comment period requested and recommended several other potential Port related business activities to diversify the Ports business activities and employment opportunities. Specific businesses recommended were the establishment of a salt water fishery, ocean water reclamation facility, seaside village with restaurants & tourist shops, recreational boat sales & repair etc.. This would create higher employment by including both high paying union jobs with lower paying positions requiring less technical skills.

The DEIR/DEIS discusses Environmental Quality impacts but fails to discuss the numerous quality of life issues identified during the NOP/NOI public comment period. The DEIR/DEIS discusses numerous redevelopment activities which have contributed to improvements in the quality of life, but the bottom line is that there has been very little improvement.

The DEIR/DEIS discusses blighted areas in a legal regulatory context and in an alleged non-regulatory context as a community perception, but fails to realize and identify that Port of Los Angeles and Goods Movement Transportation Corridor EJ Communities have been past, present and future victims of racial profiling, racial discrimination and racial classism in violation of Environmental Justice policies, NEPA, CEQA and the U.S. Civil Rights Act. This has been identified at past NOP/NOI public hearings and public comment periods, yet the USACOE and POLA failed to hire expert legal and cultural consultants to help identify, address and mitigate these issues.

Air quality in the Port of Los Angeles Harbor Community is the worst of any Port in the United States. Truck, train & ship traffic congestion is the worst of any Port in the United States. There are numerous container storage yards and diesel truck sales & repair lots located in residential areas.

There has been no significant community redevelopment in Wilmington in the last 50 years, outside of the new Wilmington Senior Citizens Center, replacement Library, Banning's Landing

and a recent gymnasium there has been no other major new public building, community center, commercial or retail redevelopment. The only major redevelopment that has occurred has been the Wilmington Industrial Park which has benefited Port tenants which use the services of California Cotton Company which fumigates containers outdoors and releases methyl bromide a highly toxic chemical.

The DEIR/DEIS fails to disclose that the 112+ acres located south of Consolidated Slip and owned by the Port of Long Beach in Wilmington was offered to the Port of Los Angeles and that it was recommended by the City of Los Angeles that they purchase the property for Wilmington waterfront recreational development and as part of the Wilmington-Harbor City Community Plan, but the Port of Los Angeles took a racist policy position and opinion and did not do so since Wilmington was Hispanic, low income and did not deserve any waterfront recreational use or investment. The DEIR/DEIS fails to disclose that the Wilmington EJ Community requested that the Port of Los Angeles purchase the 112 acres owned from the Port of Long Beach for Wetlands Restoration. This would be a quality of life and community improvement.

CSE(B)-20

The Wilmington EJ Community further requested that the DAS import car parking lot which is located north of Consolidated Slip also be a Wetlands Restoration Project site and as an "Alternative Land Use," which was ignored and not considered by the Port of Los Angeles. The Port of Los Angeles did however, find another alternative land use for the import car parking lot by now declaring that it wants to build a rail road car staging area there. This would be a quality of life and community improvement.

The DEIR/DEIS discusses the Wilmington open storage interim control ordinance and the new cargo container and open storage regulations as if it had a participatory roll, when in fact it was Wilmington residents protesting the Port of Los Angeles container sprawl in Wilmington and demanding that the City of Los Angeles investigate and change existing regulations and zoning requirements. If Wilmington residents had not used its political power the Port would have supported more container storage yards to be opened and there would be more toxic exposure, more safety impacts, community blight, aesthetics loss, land loss and traffic congestion.

CSE(B)-21

The emphasis on Port related businesses discourages other clean and varietal businesses from wanting to invest, relocate or open in Wilmington. Light commercial industries do not like being near heavy industries, heavy truck traffic congestion areas, dilapidated streets, close to toxic & hazardous chemical industries, working and living in air polluted communities.

5. The DEIR/DEIS in Section 3.3 Biological Resources contains incomplete and incorrect information and fails to include requested mitigation recommendations that would offset significant and negative Biological Resources impacts. The DEIR/DEIS fails to disclose that the USACOE and Port of Los Angeles have allowed the destruction and loss of over 95% of all natural wetlands. In Wilmington a waterfront community in San Pedro Bay, all wetlands have been destroyed and lost. The DEIR/DEIS fails to mention that at one time in the past

CSE(B)-22

Berths 136 – 147 the TraPac Container Terminal was a pristine California coastal tidelands and wetlands area.

CSE(B)-22

The DEIR/DEIS claims a CEQA Baseline of December 2003 which is a significant error, the Port should be using a Baseline of approximately 1985/1987 which is a year prior to the illegal construction of the existing TraPac Container Terminal. The USACOE and POLA failed to prepare an EIR/EIS as required by CEQA and NEPA law. State and Federal Endangered Species and their habitats could have and probably did exist and would have been identified if an EIR/EIS had been prepared. These Endangered Species and their habitats have now been lost, damaged and destroyed during construction and after operation of the TraPac Container Terminal.

CSE(B)-23

The DEIR/DEIS discloses that 9.5 acres of the new Northwest Slip landfill would be created by permanently destroying existing Inner Harbor coastal water, biohabitats and residual San Pedro Bay natural geologic coastline. It further states that the loss would be significant but mitigable loss of marine habitat and essential fish habitat.

CSE(B)-24

The DEIR/DEIS fails to disclose that currently the Machado Lake in Wilmington is connected to the West Basin where the Port wants to fill-in to create container storage backlands via an underground pipeline. It further fails to state that at one time in the past there was an above ground river stream connection that allowed coastal tides to rise and flow into Machado Lake. This also created a direct inland wetlands area that traveled as far as 5 miles inland into the City of Carson. This is evidenced by the wetlands area north of Machado Lake and north of Pacific Coast Highway and north along the Los Angeles Harbor Freeway I-110.

CSE(B)-25

The DEIR/DEIS states that the "Mitigation of the filling of 9.5 acres of Inner harbor would require credit from either the Bolsa Chica Mitigation Agreement or the Outer Harbor Mitigation Bank." This is unacceptable, Wilmington EJ Community residents and organizations have requested at numerous past and recent public hearings and meetings that all Port of Los Angeles Biological Resources Mitigation be performed and offset within the City of Los Angeles communities of Wilmington, San Pedro and the San Pedro Bay. It was stated by Board of Harbor Commission President David Freeman at a public board meeting that he supported funding Biological Resource Mitigation Projects within the Port of Los Angeles and Port of Long Beach Harbors.

The Wilmington EJ Community never agreed to the 100% elimination of all natural wetlands in Wilmington so that the Port of Los Angeles could expand its international trade activities. The USACOE and POLA never disclosed to the public that it was their intent to destroy all wetlands in Wilmington and the USACOE and POLA failed to disclose that "Alternative Land Use Projects" could be submitted, approved and constructed.

CSE(B)-26

The USACOE prior to the construction of the TraPac Terminal illegally allowed construction to occur in the North Harbor without Mitigating the significant negative Biological Resources impacts, which resulted in the ultimate total destruction and loss of all existing natural California Coastline, Wetlands, wildlife, aquatic life and habitats in Wilmington.

The USACOE and Port of Los Angeles further failed to protect, preserve or restore Biological Resources when they colluded to allow the TraPac Container Terminal to be illegally constructed without an EIR/EIS. This prevented public participation and an opportunity to recommend and request Biological Resources Mitigation in Wilmington and San Pedro.

SCE(B)-26

The Coalition For A Safe Environment since 2001 has requested that the Port of Los Angeles DAS import car parking lot which is located north of Consolidated Slip and adjacent to the Leeward Bay Marina be a comprehensive Wetlands Restoration Project mitigation site and an "Alternative Land Use." Although the import car parking lot is currently an asphalt/cement paved parking lot, it is our desire to remove the top surface it until it reaches the water line and restore it to its original wetlands condition. The DEIR/DEIS fails to disclose this as Biological Resources Mitigation and as a CEQA/NEPA "Alternative Land Use." The Port of Los Angeles has now however, determined and presented that this land be used as new on-dock rail road staging area.

The Coalition has photographed the Consolidated Slip area birds, plant life and some water shell life. We have photographs of a peregrine falcon sitting on the fence and landing in the DAS import car parking lot across Leeward Bay Marina. Other birds photographed include: snowy white egret, a nesting tree area and blue egret. In past visits we have also seen the California Brown Pelican in the water and shoreline.

CSE(B)-27

The DEIR/DEIS fails to disclose that the Coalition For A Safe Environment and Cal. Poly Pomona students have requested that the Port of Los Angeles purchase approximately 112+ acres located south of Consolidated Slip and owned by the Port of Long Beach in Wilmington for Wetlands Restoration. The property was offered to the Port of Los Angeles by the owner Union Pacific railroad and it was recommended by the City of Los Angeles that the port of Los Angeles purchase the property for Wilmington waterfront recreational development and as part of the Wilmington-Harbor City Community Plan, but the Port of Los Angeles took a racist policy position and opinion and did not do so since Wilmington was Hispanic, low income and did not deserve any waterfront recreational use or investment.

The DEIR/DEIS fails to consider and mitigate aerial deposition of air pollutants on the Inner Harbor Waters. The DEIR/DEIS fails to include tests and calculations of the amount of air pollutants from ship, train, truck, vehicle and equipment exhaust such as PM, NOX, SOX, VOC's and truck brake dust that will land on the water and the extent of its dispersion. The DEIR/DEIS fails to mitigate past, current and future aerial deposition on Inner Harbor waters.

CSE(B)-28

The DEIR/DEIS states that there is no feasible mitigation currently available to deter non-native species being introduced into the Harbor that could disrupt local biological communities, is not true. The POLA can require that ships have mandatory periodic cleaning of their hulls, propellers and anchors. POLA can require that cleaning logs be maintained and presented upon demand when entering the San Pedro Bay and POLA. POLA can prohibit ships from dumping trash or ballast within the U.S. territorial waters. POLA can require that records be maintained and presented upon demand prior to entering San Pedro Bay and the POLA.

CSE(B)-29

6. The DEIR/DEIS Section 3.9 Noise contains incomplete and incorrect information and fails to include requested mitigation recommendations that would offset significant and negative noise impacts. The first problem is in the definition of noise and existing noise standards. When viewed under an Environmental Justice and the U.S. Civil Rights Act perspective noise must be reevaluated and mitigated in all of its forms. Part of the noise impacts in EJ Communities is not just the loudness but the non-stop noise generation from numerous sources emanating from the Port of Los Angeles and along the Goods Movement Transportation Corridors.

Wilmington residents have no cessation of noise, it is continual 24hrs. 7 days a week. One cannot sit on their front porch, under a tree in the back yard, watch television, listen to a radio or children do their homework in peace.

Annoying and disturbing are sounds of train horns/whistles, wheels braking, wheels squealing around turns, engines idling, engines acceleration, gunning engines and interlocking locking train cars. Trains also cause the ground to vibrate and houses to shake, walls to shake and many things to rattle.

Annoying and disturbing truck sounds are engine ignition, acceleration, gunning, idling, street braking, frequent accidents, driving through residential neighborhoods and driving past residents homes on new truck routes to get to off-Port property related and indirect business activities.

Examples include the Price Harbor container inspection facility in the City of Carson. Trucks now drive down Figueroa Street, Lomita Blvd. and Wilmington Ave. to get there. Trucks drive down Broad Ave., Avalon Blvd. and Anaheim Street to get to the California Cotton Company in Wilmington in order to have Port containers fumigated outdoors with the highly toxic and world banned methyl bromide.

Annoying and disturbing are cranes loading and unloading containers and the occasional dropping of containers which resonates for miles.

Annoying and disturbing are ship and cruise ship horns.

Annoying and disturbing are the increasing police sirens and helicopters protecting the Port of Los Angeles and the number of dignitaries getting helicopter tours which pass through and over Wilmington.

Wilmington residents are tired of non-stop Port and Goods Movement noise.

The Pier Pass Program did not benefit Wilmington it only allowed noise and other environmental impacts to continue 24/7.

The DEIR/DEIS proposes construction work week hours that extend to 9:00pm at night and work on weekends, this is unacceptable. Residents come home from work and want to

3E(B)-30

3E(B)-31

relax, students need quite time to study and children need to go to sleep per their schedule not based when construction stops.

The construction and operation of the proposed off-dock train staging area adjacent to Leeward Bay Marina will emit additional noise that currently does not exist. Wilmington Leeward Bay Marina live-on-board boat residents do not want additional noise. Recently the POLA has provided docking space for dredging barges in Consolidated Slip. One named Valhalla obviously has a crew living on-board because they have the barges engines running 24/7 probably to provide electricity. The sound from the barge is loud, annoying and disturbing.

The DEIR/DEIS fails to include any scientific or medical studies that research continuous noise as described above. The USACOE and POLA have not sponsored any of these types of studies to determine their short and long term health impacts and quality of life impacts.

The DEIR/DEIS references a noise study performed in April 2002. This data is outdated and cannot be included in this DEIR/DEIS because Port of Los Angeles container handling and Goods Movement has grown over 45%.

The DEIR/DEIS mentions noise monitoring but fail to describe who will monitor, how many will be hired to monitor, what experience or training they must have, how they will monitor, what hours they will monitor, what criteria they will monitor, what authority do they have to stop noise & minimize noise, what penalties, sanctions and fines will be imposed and how can residents call & file a complaint, what type of incident reports will they prepare and how fast will someone get back to a residents complaint.

The DEIR/DEIS fails to provide adequate noise mitigation. The fact is that residents hear constant noise and we request that all resident homes, schools, convalescent care facilities, senior citizen centers, senior housing projects, public buildings etc. should all be sound proofed at the Port of Los Angeles expense.

The truth is that rarely is construction equipment and port equipment ever muffled. The DEIR/DEIS fails to make it mandatory the use of muffling methods, fails to identify what types of muffling technology is available and there appropriate application.

The DEIR/DEIS fail to state who will monitor the muffling installation, how they will monitor its proper use, what authority do they have to stop noise & minimize noise, what penalties, sanctions and fines will be imposed and how can residents call & file a complaint, what type of incident reports will they prepare and how fast will someone get back to a residents complaint.

Solid fences, block wall or brick fences provide little to no effective sound proofing.

The Port of Los Angeles shall establish a mitigation fund to pay for the temporary relocation and expenses of residents that border construction areas that request this option.

CSE(B)-31

CSE(B)-31

It is requested that the Port of Los Angeles establish an approved list of acceptable construction equipment and Port operating equipment that emit minimum noise.

CSE(B)-32

The DEIR/DEIS fails to mitigate the increase in Goods Movement Railway Corridor and Alameda Corridor train noise due to the TraPac Container Terminal expansion. It has been requested at numerous Port and Goods Movement public hearings, public meetings, governmental agency taskforces and committees that the entire Alameda Corridor and Railway Corridors be converted to near noiseless Alternative Intermodal Transportation Technologies.

The DEIR/DEIS failed to research and assess Alternative Intermodal Transportation Technologies such as electric trains, electric rail, mag-lev, linear induction, gravitational and tunnel transportation technologies.

A above ground tunnel or underground gravitation transportation system could easily be Wilmington's and the public choice of intermodal systems because there would be no noise, no vibration, no aesthetic impact, no diesel fuel locomotive exhaust fumes to smell, no PM, SOX, NOX and VOC's released into the air and no future land use impacts. While the cost would be more, the benefits offset the costs. The key is let the public make the choice.

CSE(B)-33

7. The DEIR/DEIS Section 3.8 Land Use contains incomplete and incorrect information and fails to include requested mitigation recommendations that would offset many additional significant and negative past, current and future land use impacts.

The Coalition For A Safe Environment (CFASE) would first like to acknowledge the POLA inclusion of the "Land Buffer" between Harry Ridges Road and " C " Street. CFASE endorses, supports and applauds the Port of Los Angeles for this excellent project mitigation measure. CFASE believes that this mitigation should be a stand-alone EIR and encourages POLA to vote and approve this project.

CFASE does not support or approve of any new TraPac Container Terminal On-Ramp or Off-Ramp to the Los Angeles Harbor I110 Freeway. CFASE believes that all intermodal cargo should use one of the requested and recommended Alternative Non-Fossil Fuel Intermodal Transportation Systems.

CSE(B)-34

The USACOE and POLA have failed to follow the California Coastal Act of 1976 policies which include:

"Provide for maximum public access to and recreational use of the coast consistent with private rights and environmental protection."

Wilmington residents have been denied this benefit, due to the failure of USACOE and POLA to include projects and mitigation that would allow public access to beach front and coastal tidelands or restore beach front and coastal tidelands. POLA has also intentionally limited the size of Leeward Bay Marina which prevents current and future Wilmington resident generations which are now predominantly Hispanic and low income from having the

opportunity to purchase, rent, lease, use and live aboard recreational boats. There is also no boat ramp in Wilmington to provide access to San Pedro Bay.

CSE(B)-34

“Protect marine and land resources-including wetlands, rare and endangered habitat areas, environmentally sensitive area, tide pools, and stream channels.”

The USACOE and POLA have intentionally destroyed all natural wetlands and habitats in Wilmington and none exist today. The current POLA DAS import car parking lot does not have to be located on what was once prime beach front, tidelands and wetlands property. The POLA could have easily purchased property north of Anaheim Street in the past and can do so at this present time.

The USACOE and POLA have had the option to propose projects, restore wetlands and habitats in Wilmington but have failed to do so. CFASE and Wilmington residents have requested at every past Port of Los Angeles public hearing, public meeting and at numerous Board of Harbor Commissioner meeting that the Port initiate a Wetlands Restoration Program. CFASE has requested and identified two potential areas for Wetlands Restoration Projects, the DAS import car parking lot which is empty over 50% of the time during the year and previously described in this public comment and the Port of Long Beach property owned in Wilmington.

CSE(B)-35

The USACOE and POLA have a legal obligation to consider these “Alternative Land Uses” and they have the authority to approve Wetlands Restoration Projects in Wilmington. CFASE has attached a copy of the comprehensive Cal Poly Pomona Wetlands Restoration Plan Proposal for the Port of Long Beach owned property in Wilmington. A similar plan can also be designed for the DAS import car parking lot.

“protect the scenic beauty of the coastal landscape.”

The USACOE and POLA have never developed the Port Master Plan or allowed public participation in planning for the protection of the aesthetic and scenic beauty of the San Pedro Bay coastal landscape. Wilmington has no scenic views of the coastal landscape at all, all scenic views are obstructed by stacks of containers and towering cranes. Wetlands Restoration is the proper mitigation to begin this process for recreating a once natural coastal landscape and meet legal mandates.

CSE(B)-36

8. The DEIR/DEIS fails to mitigate the past, current and proposed increasing public health impacts to Port of Los Angeles Wilmington, San Pedro, Harbor City residents, neighboring West Long Beach residents, Port goods movement transportation corridor residents and distribution center residents.

A recently completed UCLA Medical Center/Harbor General Hospital Wilmington Children’s Asthma Study disclosed that 23.9% of all children in Wilmington have asthma and the current asthma rate of children in Long Beach is 19.3 %. CFASE based on the California Air Resources Board Emission Reduction Plan for Ports & International Goods Movement in California report estimates that a minimum of 3 Port of Los Angeles Harbor area residents die

CSE(B)-37

every day due to Port toxic air pollution. The Port of Los Angeles contributes a minimum of 25% of all toxic air pollution in the Harbor area causing significant short term and long term public health problems to Port of Los Angeles Wilmington, San Pedro, Harbor City, City of Long Beach, transportation corridor and distribution center residents.

CSE(B)-37

The Port of Los Angeles and its business tenants has deprived numerous residents and children the right to live a normal and healthy life. The Port contributes and causes a significant amount of toxic air, land and water pollution which is known to cause cancer and numerous other temporary and permanent public health problems and disabilities.

The Port failed to notify Harbor residents, dock workers and the public of the life and health threatening nature of its business activities. The Port failed to provide to the public governmental agency, medical and scientific public health study information that it knew existed that could assist the public in preventing & minimizing health impacts, seeking health care and assist the public in participating in the Port public hearing and meeting process where they could make public comments on the negative impacts of the ports business activities on public health and request mitigation.

CSE(B)-38

The Port of Los Angeles has depended solely on the information obtained in the included Health Risk Assessment, which contains unverified and incomplete information. The Port has failed to conduct any public health survey studies of Harbor residents, transportation corridor and distribution center residents to determine its public health impacts and the number of residents impacted.

The Port has failed to provide any medical financial assistance to the public or impacted families who have identified themselves at previous Port of Los Angeles public hearings and meetings.

CSE(B)-39

CFASE requested and requests that the Port of Los Angeles and U.S. Army Corps of Engineers sponsor and conduct a door-to-door Public Health Survey of all residents within a five radius of Berths 136 – 147 TraPac Terminal to establish a Public Health Baseline, determine an accurate Health Risk Assessment and appropriate Public Health mitigation.

CFASE has recently completed a door-to-door Public Health Survey of Wilmington residents who live with the first five blocks of the TraPac Terminal and 329 completed a survey questionnaire. The following is a brief summary of some of the findings:

- a. 47 or 14.3 % have Asthma
- b. 28 or 8.5 % have Bronchitis
- c. 42 or 12.7 % have Sinusitis
- d. 2 or .6 % have Emphysema
- e. 6 or 1.8 % have Hay Fever
- f. 4 or 1.2 % have COPD
- g. 16 or 4.8 % have Laryngitis
- h. 49 or 14.8 % use an Inhaler

transportation environmental, air pollution, noise, traffic congestion, community blight, land loss, economic development loss and aesthetic public impacts. The Trust Fund shall pay for the research & development, prototype building, design and construction of Alternative Non-Polluting Non-Fossil Fuel Intermodal Transportation Systems Technologies. The Mitigation Trust Fund shall pay for the immediate electric conversion of the Alameda Train Transportation Corridor as the first priority project until a new comprehensive regional non-fossil fuel system is adopted.

CSE(B)-39

CFASE requests the adoption of the Port of Los Angeles proposed Clean Air Action Plan - Truck & Driver Employee Concessionaire Plan.

CSE(B)-40

CFASE requests that the Port of Los Angeles Board of Harbor Commissioners approve a \$ 540 per container tariff/fee to mitigate Berths 136 - 147 TraPac Container Terminal environmental, public health, public safety, biological resources, community economic and transportation impacts. The \$ 540 is based on the Prof. John Husing, Economic Analysis that was presented to the Port of Los Angeles and the Port of Long Beach as part of the San Pedro Bay Clean Air Action Plan.

9. CFASE has attached the following documents as part of our Public Comment:

- a. CFASE NOP/NOI Public Comment
- b. Wilmington Air Tracer Study
- c. Cal Poly Pomona Students Wilmington Habitat Restoration Proposal
- d. Cal Poly Pomona Students Reconnecting Wilmington Supplemental Handout
- e. USC Students Alternative POLA TraPac Marine Terminal Freeway Connection
- f. USC Alternative Non-Polluting Intermodal Transportation Systems
- g. CFASE Port Communities Bill of Rights
- h. CFASE National Environmental Justice Advisory Committee Public Comment 3 pg.
- i. CFASE National Environmental Justice Advisory Committee Public Comment 12 Pg.
- j. 403 Signed Wilmington Resident Public Comment Letters

CSE(B)-41

Environmental Justice For All,



Jesse N. Marquez

Executive Director

Coalition For A Safe Environment B, September 26, 2007

- CSE(B)-1.** A complete environmental justice analysis was completed for the Project. The Environmental Justice evaluation was carried out consistent with Council on Environmental Quality (CEQ) Guidance for Environmental Justice under NEPA (see Draft EIS/EIR Section 5.1). There is no specific requirement to assess Environmental Justice under CEQA. Draft SEIS/SEIR identified disproportionate effects on minority and low-income populations for four resources: air quality; cultural resources; noise; and transportation (see Table 5-3). Mitigation applied to these resource areas, would not reduce resource impacts to less than significant. A number of mitigation measures were identified in Draft EIS/EIR Section 3.2 Air Quality that would reduce emissions and related health effects for the proposed Project and would, for example, reduce residential cancer risk to below 2003 levels (CEQA baseline) (see Draft EIS/EIR Figure 3.2-2) and would reduce sensitive, student and recreational receptor health risk below 2003 levels (Draft EIS/EIR Table 3.2-30). Mitigation measures were also provided that would reduce possible incursions of trucks into Wilmington from truck routes adjacent to the Project site/Port. Other resource areas, including aesthetics, biological resources, geological resources, groundwater and soils, hazards and hazardous materials, land use, marine transportation, utilities and public services, and water quality were evaluated and found to either have no unavoidable significant impacts in the context of CEQA/NEPA or such impacts were found to not result in disproportionate effects on minority and low-income populations. Through the CAAP, the Board is investing at least \$100,000 million dollars toward the truck programs and is investing millions of dollars in consideration of advanced technology including electric drayage trucks, hybrid tugs, shore-side power infrastructure, and alternative energy (e.g. solar power). The Board of Harbor Commissioners will consider these issues in its deliberation over whether to approve the proposed Project.
- CSE(B)-2.** The description of the environmental setting for Environmental Justice (Section 5.2) considers the nature of likely Project impacts and addresses the associated geographic areas. Those areas are identified in Table 5-1 and Figures 5-1 and 5-2. The proposed Project would not affect operations at the Wilmington-Watson Yard and Watson Railroad Tracks. With respect to the Wilmington-California Cotton Fumigation Facility, cotton is not transported via container and therefore this facility would not be affected by the Project. The proposed Project would not result in increased activity at the Carson-Harbae Price Container Inspection Facility, which serves a very small percentage of cargo coming for both the Ports of Los Angeles and Long Beach. The Wilmington Valhalla Dredging Barge is docked in Consolidation Slip/Leeward Bay Marina and would not be used in connection with the TraPac Terminal. Increases in noise from construction of transportation facilities and noise from truck and rail trips on associated freeways and rail facilities are evaluated in the Draft EIS/EIR. Also, the evaluation of air quality impacts addresses truck and rail trips in the South Coast Air Basin which includes the Port and surrounding areas and extends east into portions of Riverside and San Bernardino counties.
- CSE(B)-3.** See response to comment CSE(B)-1. The EIS/EIR evaluation of environmental justice complies with applicable regulatory requirements as described in Draft EIS/EIR Chapter 5.
- CSE(B)-3.** The EIS/EIR evaluation of environmental justice complies with applicable regulatory requirements. The comment does not identify specific human health or environmental

effects that have not been addressed and therefore can not be addressed with more specificity.

- CSE(B)-4.** Please see response to comment CSE(A)-1. The Draft EIS/EIR appropriately represents the existing setting and assesses potential Project impacts on the environment by evaluating the changes in the physical conditions in the affected area as they existed at the time the Notice of Preparation was published. Furthermore, the permitting history of the Project site is not an environmental issue, and therefore is outside the scope of the EIS/EIR.
- CSE(B)-5.** See response to comment CSE (B)-1 above in regards to health effects of the proposed Project. As described in Section 3.2 (Air Quality) and Appendix D-3, and discussed under Impact AQ-6, the HRA included an estimate of cancer risk, chronic hazard index, and acute hazard index for the CEQA and NEPA baselines, which were used as the basis for calculating each of these health impacts for the proposed Project. The EIS/EIR cites data from the *Multiple Air Toxics Exposure Study (MATES-II)* conducted by the South Coast Air Quality Management District (2000), which estimated the existing cancer risk from toxic air contaminants in the South Coast Air Basin. In addition, the EIS/EIR identifies the presence of elevated cancer risk in the vicinity of the two Ports based on the *Diesel Particulate Matter Exposure Assessment Study for the Ports of Los Angeles and Long Beach* (California Air Resources Board 2006).
- CSE(B)-6.** See the response to comment USEPA-9. Draft EIS/EIR Chapter 5, Environmental Justice includes a description of public outreach to affected communities (see Section 5.5, Public Outreach, Section 5.5.1, Alternative Forms of Distribution, and Section 5.5.2, Spanish Translation). In addition, Appendix B presents outreach efforts to the PCAC throughout the Draft EIS/EIR process. The Port has provided the opportunity for affected communities, individuals, organizations, and groups to participate in the EIS/EIR process by providing public notifications about preparation and availability of the EIS/EIR. The Port has held public hearings, public meetings, and committee meetings to inform the public about the Project, the alternatives, and the associated impacts. Meetings were held in evening hours and in the Wilmington community close to the areas most effected by the Project. The Draft EIS/EIR is available at local libraries, at the Port offices, and on-line. Public comment time on the Draft EIS/EIR was extended from 45 to 90 days in response to requests from the public. CEQA review times can be no less than 30 days and no more than 60 days except under unusual circumstances. In addition, meeting notifications and the Draft EIS/EIR Executive Summary were made available in Spanish as well as English due to the large Hispanic population adjacent to the Port, and simultaneous translation services and translators were provided to facility meetings. Public notices were placed in a number of newspapers, including La Opinion and English and Spanish postcards were mailed to all addresses in San Pedro and Wilmington. Also refer to the response to comment CSE(B)-5 regarding disclosure of information related to health risk in the Draft EIS/EIR.
- CSE(B)-7.** Off-site impacts of the proposed Project from container storage and truck use of neighborhoods are addressed in Section 7.3.2.2, Socioeconomics and Environmental Quality and in Section 3.8, Land Use. Air quality impacts from truck trips on the freeways in the vicinity of the Port are evaluated in Section 3.2, Air Quality. Noise impacts from operations of the proposed Project are addressed in Section 3.9, Noise. Methyl Bromide is not utilized in the operation of the proposed Berth 136-147 Container

Terminal and operation of the Container Inspection Facility would not change as a result of the proposed Project.

- CSE(B)-8.** This comment incorrectly asserts that the Port limited public involvement in the environmental review process. The Port acknowledges the complexity of the Draft EIS/EIR, and in response to public concerns regarding the Draft EIS/EIR, the Port extended the public comment period to 90 days pursuant to CEQA Guidelines Section 15105(a) that states, “The public review period for a draft EIR shall not be less than 30 days nor should it be longer than 60 days except under unusual circumstances.” In addition, as the Draft EIS/EIR demonstrates full disclosure of the project’s environmental impacts, EIS/EIR is consistent with the provisions of CEQA Guidelines Section 15126.2 and CEQ Regulations 40 CFR 1502.16(a)(b). The public outreach process is described in Section 5.5, Public Outreach. See response to comments USEPA-9 and CSE(B)-6. Therefore, no revisions to the Final EIS/EIR are necessary.
- CSE(B)-9.** Please see response to comment CSE(A)-1. The Draft EIS/EIR appropriately represents the existing setting and assesses potential Project impacts on the environment by evaluating the changes in the existing physical conditions in the affected area as they exist at the time the Notice of Preparation was published. The Berths 136-147 Terminal has been operating since before NEPA and CEQA became law.
- CSE(B)-10.** In addition to responding to public comments by altering the Project to reduce impacts to the Wilmington community by providing the Harry Bridges Boulevard Landscaped Area, the EIS/EIR identifies a number of mitigations that would reduce significant impacts related to public health (Mitigation Measures AQ-6 through AQ-12), noise (NOI-1a through NOI-1h), traffic impacts (TRANS 1-7) and biological resources (Mitigation Measures BIO-1).
- CSE(B)-11.** The Port has provided opportunities for meaningful public involvement during preparation of the EIS/EIR. The public outreach process is described in Section 5.5, Public Outreach. Also see response to comment CSE(B)-6. *Draft* EIS/EIR Table 3.2-1 provides a summary of adverse effects associated with air pollutants.
- CSE(B)-13.** See response to comment CSE(A)-2 for discussion health impacts and mitigation. The Draft EIS/EIR has been prepared in accordance with requirements of NEPA and CEQA and provides a thorough disclosure of the environmental effects of the proposed Project and five alternatives. The Port has taken many steps on both a Port-wide and project-specific basis to mitigate air quality and related public health impacts and continues to seek feasible ways to reduce public health impacts. The EIS/EIR identifies mitigation measures (AQ-6 through AQ-12) which address for example, use of AMP, fleet modernization for on-road trucks, and ship fuel improvement program, as well as several other mitigations. The Port coordinates with the Office of Environmental Health Hazard Assessment (OEHHA) with respect to health issues at the Port and methodologies used in connection with the HRA. Draft EIS/EIR Table 2-5 includes a discussion of conformance with applicable statutes, plans, policies, and other regulatory requirements. In addition, various technical sections in the Draft EIS/EIR further discuss compliance with plans (see Draft EIS/EIR Section 3.8 for discussion of compliance with land use plans).
- CSE(B)-14.** The comment addresses items that are largely outside of the scope of the EIS/EIR. With regard to the Wilmington Waterfront Development Project, the EIS/EIR does not identify

this project as mitigation for impacts of the Project. The Wilmington Waterfront Development Program and the Wilmington Waterfront Master Plan (Avalon Corridor Development Project) are described in Section 7.2.2.3, Socioeconomics and Environmental Quality, and are actions that can be carried forward independent from this Project. However, the Harry Bridges Buffer is a portion of the proposed Project and would be considered along with the proposed Berth 136-147 container terminal expansion. This 30-acre parcel was purchased and restored with Port funds, totaling approximately \$46 Million for use as part of the adjacent TraPac Terminal. The Port is now proposing to convert this area into a landscaped buffer between the terminal and Harry Bridges Blvd. at a cost in excess of \$40 Million. In addition, while not related to this Project, the Avalon Corridor Development Project, which will provide access to the Waterfront and promote commercial development along Avalon Blvd., will also utilize, in part, lands purchased by the Port.

CSE(B)-15. The comment addresses another project which is outside of the scope of this EIS/EIR. Therefore, no revision to the EIS/EIR is necessary.

CSE(B)-16. The status of the Wilmington Waterfront Development Program and the Wilmington Waterfront Master Plan (Avalon Corridor Development Project) are described in Section 7.2.2.3, Socioeconomics and Environmental Quality. The EIS/EIR does not identify these waterfront planning and development actions as mitigation for impacts of the project. Planning for the improvement of the Harry Bridges Buffer Area was conducted as part of the Berths 136-147 process, for land owned by the Port. The Avalon Boulevard Corridor Project had yet to be fully developed and key development issues, including land ownership, land use, and zoning constraints have not yet established. Therefore, that project would proceed with a master planning study, and then continue through its own environmental document and into design and construction. It is independent of this Project. Disclosure of the cost of projects or mitigation measures is not required under CEQA or NEPA.

CSE(B)-17. The objectives and purpose and need for the Project are described in Sections 2.3.1 and 2.3.2. Briefly, the overall purpose of the proposed Project is to increase and optimize the cargo-handling efficiency and capacity of the Port at Berths 136-147 in the West Basin to address the need to optimize Port lands and terminals for current and future containerized cargo handling. Also see Section 2.5.2.9, Non-shipping use of the Terminal, which describes why non-shipping uses of the site were not carried forward for analysis in the EIS/EIR. Other proposed Project purposes include establishing needed container-handling facilities that would maximize the use of existing waterways and that would integrate into the overall use of the Port. The basic purpose of the proposed Project is maritime trade, which is a water-dependent activity. Increased employment is one benefit of the Project. While other types of land uses such as those mentioned in the comment have occurred and may occur in the future at the Port, changing market and economic conditions, along with other external economic factors have contributed to changing the mix of water-related uses at the Port over time. Regarding unemployment levels, techniques used by government agencies to estimate unemployment are beyond the scope of the EIS/EIR.

CSE(B)-18. The EIS/EIR includes issues raised during the NOP/NOI public comment period. As described in response to comment CSE(B)-14, the Avalon Corridor Project is designed to provide for commercial development as a link between the Wilmington community and the waterfront. The Draft EIS/EIR addresses a variety of issues that affect quality of life

by discussing 13 resource topics in Chapters 3 and 4 (e.g., air quality and related health risk, land use, and transportation/circulation) as well as other economic and social issues in Socioeconomics and Environmental Quality (Chapter 7). Chapter 5, Environmental Justice, describes minority and low-income communities that could be affected by the proposed Project and the alternatives and identifies disproportionate environmental and health effects and any related mitigations. See response to comment CSE(G)-6 for outreach efforts.

CSE(B)-19. The Port's effects on air quality, traffic congestion, and off-site land uses (and on effects not mentioned in the comment, such as jobs and income) relative to other Ports in the United States, whether greater than or less than other Ports, does not have a bearing on the impacts of the proposed Project and alternatives that are the subject of this EIS/EIR. The EIS/EIR evaluates impacts of the proposed Project and alternatives relative to a baseline and environmental setting that would be directly or indirectly affected by the Project.

CSE(B)-20. See response to comment CSE(A)-8 for information on Pier A West parcel and use of the area to the west of Consolidated Slip. Discussion of the projects mentioned in the comment that were previously proposed but not carried out by the Port is not within the scope of the EIS/EIR.

CSE(B)-21. Comment noted regarding participation of Wilmington residents in promoting changes to open storage regulations. It is true that certain types of businesses may be more attracted to the vicinity of the Port while other types of businesses may prefer locating in other areas with different land uses and characteristics. The container storage areas in Wilmington are not owned or operated by the Port or Port customers and are within the jurisdiction of the City of Los Angeles. Recent controls and limitation implemented by the City of Los Angeles on container storage in Wilmington apply to these offsite facilities (see Draft EIS/EIR Section 3.8.4.3.1.2 for a discussion of this issue.).

CSE(B)-22. Please see response to comment CSE(A)-1. Section 3.8 of the Draft EIS/EIR includes mitigation for biological impacts of the proposed Project. The amount of salt marsh (wetland) lost due to past projects was stated as unknown, although it was undoubtedly substantial. Such losses would be considered significant under today's environmental regulations. However, since the proposed Project (and alternatives) would not impact any wetlands, it would not add to cumulative impacts on this habitat. Therefore, an in-depth discussion of past wetland losses is not necessary to complete the cumulative analysis, and no revisions to the Final EIS/EIR are required.

The baseline used for the proposed Project is the correct one based on CEQA (see response to NRDC-4). The purported illegal construction of the existing TraPac Terminal noted in the comment is not within the scope of the EIS/EIR. Additionally, please note that the Port may only impose mitigation measures and other project conditions that bear a reasonable relationship to the significant impacts that would occur if the proposed Project is approved. The Port may not try to cure past environmental harms by imposing measures that go beyond the scope of the impacts created by the proposed Project. (See *Dolan v. City of Tigard* (1994) 512 U.S. 374; *Nollan v. California Coastal Comm'n* (1987) 483 U.S. 825.)

CSE(B)-23. The Draft EIS/EIR describes the impacts of filling the Northwest Slip as a permanent loss of 9.5 acres of EFH in Impact BIO-2a and of marine habitat in Impact BIO-5 for the

proposed Project. This impact is described as significant and mitigable as noted in the comment. The impact analysis, however, does not mention anything about the loss of “residual San Pedro Bay natural geologic coastline.” The area proposed to be filled in the Northwest Slip has man-made shore on all sides with no “natural” shoreline remaining. Therefore, no revisions to the Final EIS/EIR are required.

CSE(B)-24. If the drainage pipe referenced in the comment discharges into Northwest Slip, that pipe would be extended to the edge of the proposed Northwest Slip fill so drainage would be maintained. Thank you for the historical information about the connection of Machado Lake to the ocean. However, addressing the past loss of that connection and its effects on Machado Lake and wetlands is not related to the Project and, thus, is not within the scope of this EIS/EIR.

CSE(B)-25. See response to comment CSE(A)-8 regarding mitigation projects in Wilmington and response to comment CSE(B)-22 regarding past impacts. The currently available mitigation bank credits are used as mitigation for the proposed Project in this EIS/EIR because no other mitigation is currently available. As noted in the comment, future mitigation projects may be completed in Wilmington, San Pedro, and the San Pedro Bay. However, no such projects are currently under construction or approved by the regulatory agencies (e.g., U.S. Fish and Wildlife Service, California Department of Fish and Game, National Marine Fisheries Service, or USACE) as mitigation for landfill impacts in the Port. It would be speculative to assume that such mitigation would be available for the proposed Project at this time. Therefore, no revisions to the Final EIS/EIR are required.

Discussion of the loss of natural wetlands in Wilmington due to past Port projects is not within the scope of this EIS/EIR.

CSE(B)-26. Please see response to comment CSE(B)-22. The comment does not present a specific concern regarding the adequacy of the Draft EIS/EIR analysis. The permitting history of the Project site is not an environmental issue, and therefore is outside the scope of the EIS/EIR. Concerns regarding the site’s permitting history will be considered by the Board of Harbor Commissioners during project review. Therefore, no revisions to the EIS/EIR are required.

The CEQA Baseline for the Project is equal to the conditions of the Berths 136-147 Terminal at the time of the release of the CEQA Notice of Preparation, or October 19, 2003. CEQA Guidelines Section 15125 (a), provides:

“An EIR must include a description of the physical environmental conditions in the vicinity of the project, as they exist at the time the notice of preparation is published, or if no notice of preparation is published, at the time environmental analysis is commenced, from both a local and regional perspective. This environmental setting will normally constitute the baseline physical conditions by which a lead agency determines whether an impact is significant.”

CEQA case law holds that, where facts in the record show that activities were occurring at a project site prior to environmental review, it may be “misleading and illusory” to describe baseline conditions as if those activities were not occurring. (See *Fairview Neighbors v. County of Ventura*, 70 Cal.App.4th 238, 243 (1999) (upholding baseline for evaluation of conditional use permit to expand existing mining operations as including levels of truck traffic actually achieved under prior approvals). Additionally CEQA

provides for the environmental baseline to include all uses that actually existed during the baseline period, regardless of whether those activities are alleged to have exceeded prior approvals. See, e.g., *Fat v. County of Sacramento*, 97 Cal.App.4th 1270, 1277-1281 (2002); *Riverwatch v. County of San Diego*, 76 Cal.App.4th 1428, 1451-1453 (1999).

The Draft EIS/EIR adequately describes the conditions during 2003. In 2003, the terminal had 176 acres, received 246 annual ship calls, and handled 891,976 TEUs per year.

- CSE(B)-27.** See response to comment SCE(A)-8 regarding mitigation sites and uses of Port lands. The Port has reviewed various locations in Wilmington as potential mitigation sites. However, the area to the West of Consolidated Slip is proposed for use as a relocation site for the Pier A Rail Yard and not available as a mitigation site.

Thank for you the information about bird use in the Consolidated Slip area. This water area would not be affected by the proposed Project.

- CSE(B)-28.** Please see response to comment CSE(A)-2. The proposed mitigations also would reduce aerial deposition of Project emissions to Port waters to below those generated by the existing terminal operations in year 2003. Effects of aerial deposition of pollutants into harbor waters addressed in Draft EIS/EIR Section 3.13 (Water Quality, Sediments, and Oceanography). Therefore, no revisions to the Final EIS/EIR are required.

- CSE(B)-29.** The statement in the Draft EIS/EIR that no feasible mitigation currently available for introduction of invasive species via vessel hulls means that no proven technology or regulations are currently in place to prevent the transport of invasive species on vessel hulls. The document mentions that new technologies are being explored and could be implemented in the future. Mandatory periodic cleaning of vessel hulls, rudders, propellers, and any other underwater structures has several economic deterrents that currently make it an impractical and ineffective way to prevent the transport of invasive species to the Port. To be even partially effective, the vessel hulls would need to be cleaned immediately prior to loading cargo and leaving the port of origin, and the vessel could not stop at any other ports on the way to Los Angeles. Without regular inspections at the cleaning locations, there would be no way to verify that the hulls were actually cleaned because it would be cheaper to pay for fake papers than to pay for the actual cleaning. Furthermore, the time required for the cleaning would reduce the time that shippers would be making money transporting cargo. The Port does not have the authority to require foreign vessels to clean their hulls immediately before leaving for Los Angeles nor the means to verify that the cleaning actually took place.

The discharge of trash and ballast water within the Port are already prohibited by the Port, and existing ballast water regulations require vessels to submit records regarding ballast water management. Therefore, no revisions to the Final EIS/EIR are required.

- CSE(B)-30.** The proposed Project includes the construction of a Harry Bridges Buffer Area to separate port-related noise sources from the Wilmington District. This is a component of the Project and, therefore, technically cannot be considered as a mitigation measure, but in reality, provides for a permanent reduction in potential port-related noise in the Wilmington District of Los Angeles. The Port is a large industrial complex with numerous noise sources and these sources are and have historically been a component of community noise in the residential neighborhoods surrounding the Port. While, as noted

above, the Project includes a significant component that would minimize any long-term increases in noise from Port-related activities to these neighborhoods, there will nonetheless continue to be audible sounds generated from the Port. Proposed construction hours coincide with the allowable construction hours set forth in the City of Los Angeles Municipal Code. The noise impact analysis utilizes the threshold set forth in the L.A. CEQA Thresholds Guide, the Noise Ordinance contained in the Los Angeles Municipal Code, and other guidelines based on a community's response to changes in the noise environment. The noise analysis includes noise estimates from the Project added to baseline noise in the area (see Draft EIS/EIR Section 3.9.2). The justification for baseline ambient noise measurements conducted in April and October 2002 are clearly presented in the Draft EIS/EIR. These data provide a conservative representation of baseline noise conditions for the assessment of noise impacts.

- CSE(B)-31.** See response to comment CSE(B)-30. Draft EIS/EIR Section 3.9 includes a discussion of noise relative to the container terminal construction and operation and development and operation of the relocated Pier A Rail Yard. The EIS/EIR identified significant noise from construction of the buffer area and construction of the relocated Pier A Yard (Draft EIS/EIR p. 3.9-31). Noise monitoring was not recommended as a noise mitigation measure. Noise mitigation measures were included where noise impacts were identified. Construction equipment observed at the Berth 100 project was fitted with mufflers and the measured noise levels were consistent with adequately muffled equipment. Normally, when a piece of construction is poorly or inadequately muffled, the noise of that piece of equipment is substantially higher than levels reported in literature and clearly identifiable. The suggestion that the residents be provided with a contact to issue a complaint about construction noise is a good one. The Port of Los Angeles shall clearly post the telephone number where complaints regarding construction-related disturbance can be lodged and proper steps taken to determine the source of the complaint and a remedy. Construction noise barriers can provide a substantial reduction in construction noise, particularly for the major construction activities such as grading and excavation that occur at or below ground level (see Draft EIS/EIR Section 3.9.2.1.4). All noise mitigation measures would be included in the construction specifications for the project and would be enforced by the Construction Manager who has the authority to require the contractor to replace noisy equipment, cease operation, or redirect construction. The Draft EIS/EIR evaluated potential noise increases along the railway corridor and along the roadways due to the TraPac Terminal expansion.
- CSE(B)-32.** The noise impacts from the Project along these transportation corridors are insignificant, so no mitigation is necessary. Use of alternative technologies would require implementation of such a system throughout the regional goods movement chain and is beyond the scope and feasibility of the proposed Project.
- CSE(B)-33.** The Harry Bridges Blvd. is an element of the proposed Project and is included in the Berth 136-147 Container Terminal Project. The Draft EIS/EIR adequately identifies the environmental setting, discloses potential environmental impacts associated with proposed construction and operational activities, and describes all feasible measures that could minimize significant adverse impacts pursuant to CEQA Guidelines Sections 15125, 15126, and 15126.4(a)(1), and CEQ Regulations 40 CFR 1502.15 and 40 CFR 1502.16(h). Therefore, no revisions to the EIS/EIR are necessary. It is not feasible to implement alternative technology for regional goods movement at the project-specific level.

- CSE(B)-34.** Chapter 8 of the Coastal Act of 1976 requires that commercial ports prepare a port master plan and that the plan be adopted by the port governing body. The Port has a California Coastal Commission certified Port Master Plan which addresses Coastal Act Chapter 8 policies, relating to ports and Chapter 3 policies relating to public access opportunities. The Port has provided increased public access to the waterfront from the Wilmington community with the Banning's Landing project and is presently working with the community to expand public waterfront access and uses through the Wilmington Waterfront Master Plan (Avalon Corridor Development Project).
- CSE(B)-35.** Please see response to comments CSE(A)-8 and CSE(B)-22. Draft EIS/EIR Table 2-5 describes applicable sections of the California Coastal Act which provide that "*...the Port is an essential element of the national maritime industry and is responsible for modernizing and construction necessary facilities to accommodate deep-draft vessels .in order to preclude the necessity for developing new ports elsewhere in the state.*" See response to comment CSE(B)-34.
- CSE(B)-36.** The Port has prepared and adopted a Port Master Plan, as required by the Coastal Act of 1976 that has been certified by the California Coastal Commission. The process of developing the Port Master Plan provides for public participation. The comment regarding the existing condition that Wilmington residents cannot view the waterfront is correct. The elevation of the Wilmington community and the Berths 136-147 Terminal is very similar and containers block waterfront views. However, waterfront visibility would be enhanced when the Harry Bridges Boulevard Buffer Project is completed. There would be elevated landforms and vista points for the public to have potential enhanced views over the stacked containers.
- CSE(B)-37.** Please see response to comment CSE(A)-3.
- CSE(B)-38.** Please see response to comment CSE(A)-3.
- CSE(B)-39.** Please refer to response to comments CSE(A)-2 and CSE(A)-3. The Port and USACE share the concerns expressed in regard to adverse health effects in the area. As part of the EIS/EIR, extensive health risk assessments were completed and mitigation applied to reduce health effects to below 2003 levels.
- CSE(B)-40.** Your comment is acknowledged and will be forward to the Board of Harbor Commissioners.
- CSE(B)-41.** The Ports of Los Angeles and Long Beach are presently considering container fees associated with the CARP. Documents provided will become part of the public record.

San Pedro and Peninsula Homeowner's Coalition

Member Associations

*Averill Park - Casa Verde Estates - Leland Park - Palisades
Palos Verdes Shores - Peck Park/Holy Trinity - Pt. Fermin - Rolling Hills Riviera
San Pedro Homeowners United - South Shores - Vista Del Oro - Westmont No.4*

September 26, 2007

Dr. Spencer D. MacNeil, Commander
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Los Angeles, CA 90053-2325

Dr. Ralph G. Appy, Director of Environmental Management
Port of Los Angeles
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San Pedro, CA 90731
ceqacomment@portla.org

Re: Berths 136-147 [TraPac] Container Terminal Project (Corps File Number 2003-01142-SDM)

Dear Dr. MacNeil and Dr. Appy:

The San Pedro & Peninsula Homeowner's Coalition has spent its most intensive study on the "Aesthetics" component of the Tra Pac Project EIR. While we have reviewed the entire document, we have well understood that there are many qualified organizations specialized in the areas of air quality, water quality, traffic analysis etc. who are commenting on those aspects. We appreciate, respect and endorse all of their comments. Our Coalition has signed onto their respective letters in total approval.

In this letter of comment, we (the Coalition) have focused primarily on the issue that we believe may fall below the radar screens of those not immediately "facing" the aesthetic situation as our residents are.

1) Aesthetic Findings of the Tra Pac EIR

We find the overall analysis of Aesthetics is deficient and Baseline Unacceptable

The baseline for aesthetic comparison uses a beginning date of December 2003. Conveniently, that is after the placement of a number of the Terminal's largest gantry cranes implemented through the Coastal Permitting Authority of the Port, and not subject to any public environmental review process. These particular cranes are the very worst obstructers of views of the Vincent Thomas Bridge. Wonderful Views of that bridge were once enjoyed from the most traveled corridor into the Community, the 110 Frwy. Assessing the Terminal's growth and its impacts without consideration of those cranes and their effect on the environment makes this entire Aesthetics Review a cruel ruse. The

SPPHA-1

SPPHA-1

baseline is totally unacceptable to our Community, and needs to incorporate a baseline **prior** to implementation of any terminal equipment and/or growth actions that have not been subject to formal public environmental review. Only then can true aesthetic impacts from this terminal's growth be properly evaluated.

SPPHA-2

- 2) There is continual minimization of the 110 Fwy as not being designated as (pg 3.1-7) a "scenic route or highway", and a discounting of it's significance since the proposed project is "not proximate to attractions". Both of these statements are seen as "false" to our membership.

The 110 Fwy, with, or without, designation IS, in fact, a scenic route and is the ONLY route which is taken by tourists and residents alike traveling any real distance to and from San Pedro and Wilmington. It is the official "entryway" into San Pedro and suffers greatly from industrial blight created over time by unfettered Terminal industrial growth.

On particular days, thousands of tourists drive this route to the cruise terminal which is less than 1/2 mile from the Tra Pac site. To say that Tra Pac is not "proximate" is incorrect at best. The route is also traveled by those tourists visiting the Maritime Museum, Muller House, and various Ports O'Call sites.

The 110 Fwy entryway is also now on the tourist route for the famous Trump Golf Course. Mr. Trump, himself, has also commented on the negative impression for those traversing this route. Unfortunately for him, there is no other route that makes sense to travel.

SPPHA-3

- 4) We again find the minimization of one of the most significant features and landmarks in our Community, The Vincent Thomas Bridge.

Noting repeatedly that this Bridge has not been declared a "historic landmark", the analysis downplays the significance of the obstruction of views of the Bridge. It also points out that the addition of new cranes at this Terminal will do little to further destroy remaining views since so much damage (done by Tra Pac's earlier crane replacements) has already transpired. Another glaring example of the disingenuous intent of aesthetic analysis by ignoring implementation of these earlier cranes.

SPPHA-4

- 5) Views from both the Shields Drive and Via Cordova neighborhoods are seen by us as "highly sensitive". Although yet again minimized (pg 3.1-44) by indicating that most homes are not facing the project site, these vistas and views of the little remaining blue water have been appreciated daily by neighbors throughout the course of a day. For many, it has been the **only** reminder that they live in a coastal community.

6) The Lighting aspects of this terminal expansion are deficient as well.

Considering that the Ports of Los Angeles and Long Beach have already been identified by the Dark Skies Association as “one of the brightest spots on the planet” as seen from space, the addition of even more lights without removing others is a given problem. It continues to add to the issue of light pollution and glare already being experienced. Current studies are also connecting increased night light with reduced production of melatonin and it’s connection to cancer.

Also, the increased rail activity on this terminal will also produce more light being generated by trains.

SPPHA-5

7) SILHOUETTE REQUIREMENT

It is a common practice in a number of coastal communities to “silhouette” a project site so that the public better understands the magnitude of it. It is our recommendation that the Port begin the practice of doing this. The addition of larger ships, gantry cranes, buildings, etc. in this expansion plan cannot fully be understood until the scale of it is witnessed by the public for comment. This practice should be begin immediately.

SPPHA-6

NO MITIGATION OFFERED TO OFFSET AESTHETIC BLIGHT

As witnessed yet again, the aesthetic thefts are continuing to be ignored by the Port in it’s unbridled expansion plans.

The communities of both San Pedro and Wilmington have surrendered much of the integrity of their communities because of the port. We will no longer remain silent.

The comments of “Scenic America” are well taken in their response to the Tra Pac EIR.

“While it is understandable to cite the area’s industrial purpose as part of a description of the existing environment, this description must, necessarily, also include and account for the community context of the various neighborhoods surrounding the Port. The visual character of these areas should not be ignored nor the quality of life for these communities sacrificed simply because they lie geographically juxtaposed.”

SPPHA-7

The most simple of considerations and concessions to offset visual blight, such as moving to underground lines, creation of more soft green areas, attempts to minimize obstruction of landmarks, offsetting damage by enhancing other areas of the community, finding ways to reduce light emissions, aggressively

SPPHA-7



researching ways to reduce crane impacts with alternatives types, etc., have been stonewalled by a unbridled ambition to “grow” the industrial footprint. There most certainly are ways to assist the Community in their attempts to preserve aesthetic qualities. We are not witnessing any attempt to do that in this Aesthetic Environmental Review. It is simply another illustration of the Port taking more away with one hand and offering an obscene gesture to the Community with the other. That will no longer be tolerated.

Sincerely,

Andrew Mardesich
President

San Pedro and Peninsula Homeowner's Coalition, September 26, 2007

SPPHA-1. As discussed in Chapter 3.2, this Project uses a CEQA baseline of 2003, consistent with the release of the NOP/NOI (released October 22, 2003). CEQA Guidelines Section 15125 (a), provides:

“An EIR must include a description of the physical environmental conditions in the vicinity of the project, as they exist at the time the notice of preparation is published, or if no notice of preparation is published, at the time environmental analysis is commenced, from both a local and regional perspective. This environmental setting will normally constitute the baseline physical conditions by which a lead agency determines whether an impact is significant.”

CEQA case law holds that, where facts in the record show that activities were occurring at a project site prior to environmental review, it may be “misleading and illusory” to describe baseline conditions as if those activities were not occurring. (See *Fairview Neighbors v. County of Ventura*, 70 Cal.App.4th 238, 243 (1999) (upholding baseline for evaluation of conditional use permit to expand existing mining operations as including levels of truck traffic actually achieved under prior approvals). Additionally CEQA provides for the environmental baseline to include all uses that actually existed during the baseline period, regardless of whether those activities are alleged to have exceeded prior approvals (e.g., *Fat v. County of Sacramento*, 97 Cal.App.4th 1270, 1277-1281 (2002); *Riverwatch v. County of San Diego*, 76 Cal.App.4th 1428, 1451-1453 (1999)). Please also see response to comment PCAC-EIR-17.

SPPHA-2. Although the 110 Harbor Freeway has not been officially designated as a “scenic route or byway,” the Port, in the EIS/EIR, recognizes the highway’s role as a primary “gateway” to the Port that offers the first impression of the area (EIS/EIR Section 3.1.2.1.2.). Views from the Harbor Freeway have been considered to be of critical importance to the aesthetics/visual resources assessment. Please note that the criteria used to determine the visual sensitivity of a particular view are common to the discipline of visual impact assessment and reflect those used by federal agencies charged with managing and protecting visual resources (please see Technical Appendix F, Table F-1). By those criteria, there are no substantial indications that sensitivity from the Harbor Freeway is highly sensitive. To reiterate:

- This highway is not officially designated by any state or local agency as a scenic highway, nor is it locally or regionally recognized as a scenic route or byway;
- Though providing primary access to sites of recreational and cultural interest, the segment potentially affected by the Project is not proximate to those attractions, nor does the freeway lead directly to them. From Viewing Position 1 to the turnoff to State Highway 47 (Vincent Thomas Bridge) or to Harbor Boulevard, the distance is 2.72 miles. After exiting the highway, one must travel more than 1.5 miles further to reach the nearest tourist attraction: the World Cruise Center (please see Figure 3.1); and
- The freeway primarily serves commuter traffic; those commuting to work are not considered to be primarily concerned over aesthetics and visual resources while traveling to and from work.

Nevertheless, views from the highway were considered equally with those of other critical public views evaluated. For example, Viewing Positions 1 and 2 are representative of views from the Harbor Freeway (See EIS/EIR, Figure 3.1-2.). As the assessment notes in Section 3.1.2.1.2.1:

“...the freeway carries high volumes of traffic, is a major entry to the Port, and some traffic is tourist- and recreation-oriented. There are a number of waterfront attractions accessed by this highway (the World Cruise Center, Catalina Terminal, Maritime Museum, Ports O’Call Village, Cabrillo Marina, and Cabrillo Beach, among other attractions). The highway provides most of these visitors with their first views of the Port landscape...for the factors noted, views from the Harbor Freeway have been given consideration in this impact assessment.”

SPPHA-3. The importance of the Vincent Thomas Bridge. The Port agrees that the Vincent Thomas Bridge is an important visual resource. Although it was noted in the assessment that this bridge has not been declared a “historic landmark,” it was also pointed out that it has been designated as the City of Los Angeles’ official welcoming monument for the Port (Section 3.1.2.1.2.1):

“...Also, one of the most important landmarks in the Port—the Vincent Thomas Bridge—may be seen in the distance from the freeway, albeit to a very limited degree. Although it is not an historic landmark, the bridge has been designated by the City of Los Angeles as its official welcoming monument for the Port (City of Los Angeles 1995)....”

Obstruction of views of the Vincent Thomas Bridge from the Harbor Freeway. The Port agrees with the commenter to the extent that the three existing westernmost cranes along Berths 136-139 do intercede in views of the Vincent Thomas Bridge, as seen from Viewing Position 1 (please refer to Figure 3.1-2, which clearly designates which cranes in view are those of the TraPac Terminal). However, the proposed Project would result in the elimination of one of these three cranes, thereby improving, to a slight degree, the view of a small part of the Vincent Thomas Bridge. In the subject view, the cranes that are most responsible for obstruction of the views of the bridge are those of other container terminals.

However, the obstruction of views is specifically assessed relative to Impact AES-1, which addresses “substantial, adverse effects on a scenic vista” (Section 3.1.4.2.1 CEQA Criteria). The *City of Los Angeles CEQA Thresholds Guide* addresses Impact AES-1 under the heading of “Obstruction of Views.” Therefore, as applied to the visual impact assessment, Impact AES-1 addresses the degree to which the proposed Project’s features interfere with a scenic vista, either by obstructing it or interfering with public access to it.

Among the *Thresholds Guide* specific concerns is the nature and quality of recognized or valued views and the extent of obstruction. Accordingly, for this assessment the following definition is applied:

“Recognized or Valued: The City of Los Angeles through its General Plan and Elements has listed, designated or in some manner explicitly or implicitly addressed a view or feature in a plan, policy or objective for its aesthetic or visual resource value; or, the potentially affected view is demonstrably high in quality, and its value inferred from how the area from which the view occurs is used (a recreation site, informal but well-used scenic turnout, a tourist attraction, historic or archeological site, etc.)”

By the above definition, the views from the Harbor Freeway are not “recognized or valued.” The City of Los Angeles has not designated or addressed the views from the Harbor Freeway in plans, policies, or objectives relative to its aesthetic or visual resource value. Neither is the potentially affected view demonstrably high in quality, due to the context of incongruous land uses in which it is seen, as discussed below. Therefore, it is not treated in the assessment as a “scenic vista.” As a result, the obstruction of views in terms of Impact AES-1 does not apply to views from the freeway. However, the impact on freeway-based views is assessed relative to Impact AES-3, which addresses adverse effects on visual character and/or quality of a site and its surroundings. An obstruction of a view would affect visual character and/or quality.

Existing Visual Condition and the Effect of TraPac Terminal Features. The context for views from the Harbor Freeway is the complex of features comprising the Port environment. TraPac Terminal features pre-dating the CEQA Baseline 2003, referred to in the comment as “the prior growth of the terminal and installation of its cranes...” are part of the established character of that environment and have not lessened visual quality in terms of that context. The assessment rates the existing visual condition as moderately low in quality. However, this rating is not due to Port features or, more specifically, to the crane placements at the TraPac Terminal. “Port features are highly congruent and coherently arranged..., but the Port is seen in conjunction with its greater context. The sequence of views [traveling south along the highway] leading up to views of the Port includes a variety of land uses...differing in character from that of the Port....The historic development of the Port and areas beyond its periphery has created a mosaic of visually incompatible land uses [that compete for attention]...and the existing daytime visual condition is rated as Visual Modification Class 3.”

This means that, while views of the Port and its environs are moderately low in quality, further unfavorable contrast is possible which could result in an adverse impact. However, as stated in Section 3.1.4.3.1.3 (Impact AES-3) relative to Harbor Freeway views, “...the proposed Project-caused changes visible from the freeway would not meaningfully contrast with the established setting.... This is due either to their unobtrusive position within the visual field, being outside of a normal range of vision, or their congruent nature and scale relative to features characterizing their context.” Please see response to comment SPPHA-1.

SPPHA-4. The Port agrees that views from the Shields Drive and Via Cordova residential areas are highly sensitive, as are views from any residential area (see Technical Appendix F, Table F-1). As stated in Section 3.1.2.1.2.4 (Views from San Pedro and Rancho Palos Verdes) relative to Shields Drive: “Although the proposed Project site is distant and views that include it are few, such views are treated as critical. The Shields Drive neighborhood is closer to the proposed Project site than any other in San Pedro, and the view of the Port from there that was specifically evaluated is unobstructed, panoramic and elevated, factors that enhance the potential for the proposed Project site’s being seen from the residences along the north and east periphery of the neighborhood.”

Regarding the analysis of the number of homes in these neighborhoods that would be exposed to views of the proposed Project features, this was done to determine the most critical views to analyze in detail. As noted below, views from Shields Drive were judged to be more critical than those from the Via Cordova neighborhood, the Project being significantly closer and more exposed to view. This amounts to a worst-case analysis—greatest exposure, closest view. If the Project would not adversely affect Shields Drive

views, then it would also not affect the views from Via Cordova since the latter are at greater distances from the Project and Project exposure is less.

Regarding the neighborhood in the vicinity of Via Cordova (and Channel Street), compared to other residential areas within San Pedro and Rancho Palos Verdes at similar or higher elevations, this neighborhood is second to the Shields Drive neighborhood in proximity to the project. However, from Via Cordova and Channel Streets, the proposed Project site is minimally exposed to view and is distant, and views from this area are therefore not considered to be among the most critical residential views compared to the panoramic, unimpeded and elevated view from Shields Drive.

- SPPHA-5.** Section 3.1.4.3.1 describes features of the proposed Project that would be within public view and, specifically, changes to backland lighting that would occur if the Project were implemented. Where the existing lighting does not meet current POLA standards, fixtures would be replaced during proposed Project construction with more efficient lamps. The existing and replacement lamps would both be high pressure sodium lights at 1000 watts per fixture. However, the new lamps would be 20 percent more efficient than the existing lamps, as they do not waste input energy by producing non-useable light in the form of glare (Section 3.12, Utilities and Public Services). By design, both replacement and new lighting would result in reduced levels of off-site illumination attributed to the operation of the Berths 136-147 container terminal, relative to 2003 CEQA Baseline conditions. POLA engineering will demonstrate that a reduction in off-site illumination would occur by measuring offsite light levels at strategic points prior to implementing the Project lighting plan and comparing the illumination to lighting measured at the same points after the Project is completed.

As discussed above, the Draft EIS/EIR analyzed the Project's anticipated impact on nighttime light and glare and determined that the design of new and replacement high-mast lighting and directional floodlights at the Berths 136-147 Terminal would result in the reduction of light emissions relative to off-site receptors (see Section 3.1.4.3.1). As the Project would reduce light emissions, it would have no potential to incrementally contribute to ambient nighttime light from Port operations. CEQA specifies that "[a]n EIR should not discuss impacts which do not result in part from the project evaluated in the EIR" (CEQA Guidelines § 15130(a)(1)). Therefore, the cumulative impact analysis correctly concluded that the Project would not have an adverse cumulative impact on existing light and glare conditions.

According to the methodology and criteria applied, the proposed Project would cause no adverse light and glare impacts (Impact AES-4). Section 4.2.1 (Cumulative Impacts: Aesthetics and Visual Resources) concludes that, in the absence of adverse impacts, the Project's aesthetics/visual resources impacts on light and glare would not be cumulatively considerable.

- SPPHA-6.** There is no requirement to use what the comment calls the "silhouette" approach to portray the magnitude of visual impacts. The accepted practice for aesthetics and visual resources impact assessments is to prepare three-dimensional computer generated models ("simulations") of the Project integrated into images of the specific critical public views assessed. Such simulations of Project features are presented in Figures 3.1-20 – 23, and these accurately portray the visual effects for public review.

The concept of the “silhouette” approach will be forwarded to the decisionmakers for their review and consideration.

SPPHA-7. Please see response to comments SA-1 and NRDC-42 for a discussion of how and where the Draft EIS/EIR discusses and analyzes visual impacts in the context of the adjoining communities, including their residential neighborhoods.

Please note that “blight” is a legal definition under the Community Redevelopment Law (Cal. Health and Safety Code § 33030 et seq.). As explained in the Land Use section of the Draft EIS/EIR under the Environmental Setting section entitled “Redevelopment Areas in the Proposed Project Vicinity” (Section 3.8.2.2), there are three redevelopment areas in the vicinity surrounding the proposed Project site: the Los Angeles Harbor Industrial Center Redevelopment Project area, the Pacific Corridor Redevelopment Project area, and the Beacon Street Redevelopment Project area (See Draft EIS/EIR p. 3.8-5).

Please also note that the Harry Bridges Boulevard Buffer Area represents a substantial “green area.” Please see Section 2.4.2.5 of the EIS/EIR’s Project Description for a complete description of the Buffer Area. Furthermore, the Project would not obstruct views of landmarks (see response to comment SPPHA-3). Additionally, the Project would reduce light emissions (see response to comment SPPHA-5). With respect to cranes, the Port of Los Angeles exhaustively investigated the use of low-profile cranes for container terminals to potentially reduce the overall height of container cranes, thereby lessening the potential for adverse aesthetic effects of the taller A-frame cranes, as explained in Section 2.4.2.3 and Section 3.1.4.3.1 of the Draft EIS/EIR. Please see response to comment RPV-1 for a discussion of this investigation and its conclusion that use of such cranes would not reduce the potential for overall aesthetic impacts and was found to be associated with safety issues due to the increased weight of the cranes.

Under CEQA, all significant impacts are to be mitigated to the fullest extent feasible. However, by the methodology and criteria applied, it was concluded that the proposed Project and alternatives would not cause adverse visual impacts and, therefore, the impacts would be less than significant and not require mitigation.

September 26 2007

U.S. Army Corps of Engineers, Los Angeles District
Regulatory Division
ATTN: Dr. Spencer D. MacNeil
P.O. Box 532711
Los Angeles, CA 90053-2325

Los Angeles Harbor Department
c/o Dr. Ralph G. Appy
425 S. Palos Verdes Street
San Pedro, CA 90731

Subject: Comments of the Northwest San Pedro Neighborhood Council Board to the Berth 136-137 Container Terminal Draft Environmental Impact Statement (EIS) Environmental Impact Report (EIR)

Dear Drs. Appy and MacNeil,

We the elected Board of the Northwest San Pedro Neighborhood Council provided the comments below to the Berth 136-137 Container Terminal Draft Environmental Impact Statement (EIS) Environmental Impact Report (EIR). Given the proximity of the proposed project to Northwest San Pedro, and the Warehouse Distribution Center located east of North Gaffey we have developed the attached comments for your review and consideration.

NWSP-1

General Comments

1. There are significant unmitigated air quality, noise, and traffic impacts from the proposed project. Some impacts, especially traffic west of Harbor Boulevard and on Interstate 110, were not even considered.
2. All aspects of the project should meet and exceed the requirements of the San Pedro Bay Clean Air Action Plan, and No Net Increase Policy adopted by the Board of Harbor Commissioners.
3. During implementation of the project construction and operation the Port needs to evaluate air quality, noise and transportation impacts to test the modeling and basis for the mitigations proposed. Should actual air quality, noise, or transportation impacts be greater than estimated in the DEIR/DEIS/DIES then the Port should propose and perform additional mitigations to reduce the impacts to acceptable levels.

NWSP-2

NWSP-3

Specific Comments - Air Quality

1. **Environmental Impact AQ-1, AQ-2: Construction would produce unmitigated emissions that exceed South Coast Air Quality Management District (SCAQMD) emission significance thresholds.**

The amount of emissions from construction of the proposed project is unacceptable. The Port should explore additional opportunities to lower the pollutant emissions.

During construction of the proposed project, there will be significant unmitigated emissions of VOCs, NOx, Sox and PM₁₀ and PM_{2.5}. The listed mitigation measures consist of many items that are related to terminal operations and not construction. More specific air quality mitigations for construction emissions need to be included as part of the DEIR/DEIS/DEIS and future construction specifications. Specifically, all construction equipment: should:

- Use low sulfur diesel fuel
- Limit idling times
- Use diesel particulate filters
- Evaluate use of electrical or natural gas equipment on-site where feasible.

In addition, we would expect that specific construction mitigations would be included on all Port projects to achieve no net increase in emissions and possibly a net reduction.

2. **Environmental Impact AQ-3: The proposed project and the project alternatives will result in operational emissions that exceed 10 tons per year of VOCs and SCAQMD thresholds of significance.**

According to the analysis in the DEIR/DEIS/DIES analysis it will be 2038 before daily and annual impacts for VOCs, NOx and PM₁₀, PM_{2.5} will be reduced to a less than significant impact. We understand that technical challenges exist in reducing air quality impacts. However a 30 year time frame to meet a less than significant impact is too long. The standard that operational emissions should be evaluated against should be the 2001 baseline and SCAQMD thresholds. The Port and COE should evaluate measures that will reduce air quality impacts and emissions over a much shorter time period.

NWSP-4

NWSP-5

3. **Environmental Impact AQ-17: There should be periodic review and application of new technology and regulations.**

As part the project construction and operation the Port needs to include a post-project validation system that implements new technologies to reduce air quality impacts as soon as possible and take advantage of advances in air pollution control technologies. In addition, a formal review should be done every year to evaluate the state of the emissions control industry and how new technologies and devices could be applied to Port projects.

NWSP-6

4. **Table 3.2.1 identifies property damage as one of the adverse impacts of ozone and sulfates generated by the operation of the project, but does not include mitigation for property damage.**

The DEIR/DEIS identifies property damage as one of the impacts from ozone and sulfates but does not specify or estimate the types of property damage nor does it propose a mitigation measure for property damage.

NWSP-7

Property damage for air emission could be mitigated by property damage reimbursements. A property damage fund should be established as part of the proposed project construction and operation. A system to evaluate property damage from ozone and sulfates should be initiated as part of the Berth 136 – 147 project to reduce these impacts. This evaluation should make a quantitative assessment as to what extent operations within the Port can damage real property and property values in the surrounding community.

5. **In Section 3.2.4.8.2, the DEIR/DEIS identifies small particle emissions as significant, adverse, and unavoidable.**

There is a difference between having an unavoidable result and an unmitigated impact. If it is true that small particle emissions are unavoidable, these impacts can be mitigated by more aggressive emissions control and mitigations. Among the mitigation that should be considered is by evaluating air quality within home and office spaces in the impacted areas. Based on analysis of the indoor air quality the Port can evaluate the need to supply air purifiers and other improvements for indoor air spaces impacted by small particle emissions from the Port.

NWSP-8

NWSP-9

6. **We have reviewed the comments prepared by the Air Quality Subcommittee of the Port Community Advisory Committee and support these comments. A copy of that document is included as Attachment A.**

NWSP-10

Specific Comments related to Transportation/Circulation

1. Figure 3.10-2 “Proposed Project Trip Distribution”.

The project will generate 1.88 million truck trips annually. Of these, 714,400 [38%] will use the 110 Freeway and another 714,400 will use Alameda Street. The impact of these large numbers on freeway congestion has not been evaluated in the DEIR/DEIS.

A comparison should be done of increase to the existing baseline traffic on the 110 Freeway and on Alameda Street. Further, additional efforts should be made to reroute the increased truck traffic onto the related proposed ACTA Alameda Flyway to see if the predicted 5%-8% truck traffic diversion onto that Flyway can be increased.

NWSP-11

2. The “Related Proposed Project Trip Generation” list is incomplete.

The TraPac DEIR/DEIS lists 27 “Related Proposed Project Trip Generation” projects in Table 3.10-2. In a Draft EIR covering roughly the same area, Ponte Vista Development on Western Avenue listed 174 Related Proposed Projects. That list is located at and can be read at <http://cityplanning.lacity.org/eir/PonteVista/DEIR/Draft%20EIR%20Section%20IV.J%20Transportation%20and%20Traffic.pdf>. Persons who commented on the Ponte Vista DEIR/DEIS identified an additional 26 related projects that should have been included with that DEIR and should be evaluated as part of the Berth 136 -147 DEIR. The list of projects considered by the Ponte Vista DEIR and comments is included as Attachment B.

The Port should evaluate the impact of all related projects since cumulative impact of the proposed Berth 136 -147 and the overall growth in the area will have a direct impact on congestion traffic in the Harbor Area and Interstate 110.

NWSP-12

3. The DEIR/DEIS does not assess any traffic impacts west of the 110 Freeway.

The DEIR/DEIS does not evaluate truck traffic from the proposed project west of the 110 Freeway. Given the location of the Port of Los Angeles Distribution Center on North Gaffey Street at Westmont and the number of trucks that currently use the facility; we believe that the DEIR document does not accurately reflect traffic counts on North Gaffey from Channel

Street to Westmont Street.

Attachment C shows the Port of Los Angeles Distribution Center in relation to the TraPac Terminal (Berths 136 – 147). The Distribution Center Buildings are the light gray west (left) of the 110 Freeway. As can be seen, they occupy approximately as large an area as the Berths 136 - 147 terminal. Truck traffic on N. Gaffey, Channel Street will surely increase with implementation of the proposed project.

NWSP-12

As mitigation for the increase, we suggest that the Port evaluate additional on and off ramps to serve the Distribution Center as part of the West Basin Transportation Improvement program.

Specific Comments to Section 3.1 Aesthetics/Visual Resources

1. The addition and expansion of Berth 136 -147 terminal facilities will add to the visual impact of utility poles and additional “cross-arms” on existing poles. This impact should be mitigated by putting all utilities underground along Gibson and Bridges. In addition to under grounding utilities along the boundary of the terminal landscaping should be placed along the perimeter of the facility to reduce the visual impacts. Attachment D depicts an area along Pacific Street with the above ground utilities removed. Under grounding of the utilities along Harry Bridges would mitigate the aesthetic impact of the Berth 136 – 147 project.

NWSP-13

2. The number and concentration of cranes within the proposed project area has reduced the aesthetics and visual resources of the surrounding area. This should be mitigated by adopting a crane painting program using a painting scheme designed to blend the cranes into the background. This could be adopted by way of Tariff provision. This is a limited cost item since the cranes have to be painted periodically anyway for maintenance.

NWSP-14

3. Knoll Hill should be developed as a public access/buffer area to separate Port industrial uses from residential areas.

These comments have been reviewed and approved by the following members of the Northwest San Pedro Neighborhood Council and residents listed below.

NWSP-15

Dan Dixon, President NWSPNC

Diana Nave

Bonnie Easley

George Thompson

Jody James

Craig Goldfarg

Mollie Abatello

Barbara Schach

Philip Nicolay

Mary Hamlin

Pat Nave

John Greenwood

Attachment A

**Comments to the Berth 136 – 147 Container DEIR/DEIS from
the Air Quality Subcommittee of the Port Community Advisory
Committee**

DRAFT

September 19, 2007

U.S. Army Corps of Engineers, Los Angeles District
Regulatory Division
ATTN: Dr. Spencer D. MacNeil
P.O. Box 532711
Los Angeles, CA 90053-2325

Los Angeles Harbor Department
c/o Dr. Ralph G. Appy
425 S. Palos Verdes Street
San Pedro, CA 90731

Subject: Comments Submittal for the 2007 Berth 136-147 Container EIR/EIS from the Air Quality Subcommittee of the Port Community Advisory Committee

Dear Dr. Appy and Dr. MacNeil,

We appreciate the opportunity to submit comments regarding the Subject Project Environmental impacts and hereby state our opposition to the Proposed Project due to the current unhealthful conditions in the affected community identified as a Federal non-attainment area for Air Quality, and due to the failures listed in the sections SUMMARY COMMENTS and SPECIFIC COMMENTS, below.

SUMMARY COMMENTS

1. The Mitigation Measures listed for the Proposed Project require revision to, at a minimum, ensure compliance and consistency with all applicable Measures stated in the FINAL 2006 San Pedro Bay Ports Clean Air Action Plan (CAAP) and on the schedule required in the CAAP. As noted in SPECIFIC COMMENTS, several highly crucial CAAP measures are not currently listed for implementation or are scheduled for implementation at dates that undermine the CAAP.
2. We are gravely alarmed that the Port proposed the Project with the statement that the air quality impacts are "considered significant, adverse, and unavoidable" after the proposed mitigation measures have been applied. We have higher expectations that the Port and the City of Los Angeles will demonstrate greater regard for Public Health. We recommend that the Port pursue/require mitigation efforts for the Project beyond compliance with the CAAP and if projected emissions still create residual significant air quality impacts after full application of all feasible mitigation measures, we recommend 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. Such actions are necessary so that air quality impacts from the Project can be reduced to a level less than significant and so that Overriding Considerations is not invoked on Air Quality.
3. The Proposed Project requires revision to include a legally binding agreement (e.g., lease re-opener clause, specifically stated plan, etc.) with the terminal operator to perform a periodic re-evaluation for the following two actions/purposes:
 - a. As the CAAP was adopted with yearly review required, we request that the Project remain consistent with the CAAP and include such periodic review as a lease requirement. Specifically, the CAAP includes the Technology Advancement Program (TAP), which will likely yield technologies or other improvements not currently identified. We recommend that the potential benefit of the TAP be reflected in the Project EIR/EIS by explicitly requiring future adoption of newly proven technologies or operational methodologies which offer improved or increased mitigation as such alternatives become available (e.g., cleaner fuels, add-on equipment, operational changes).

- b. For verification that throughput Projections stated in the Final EIR/EIS are not exceeded and, where throughput projections are exceeded, additional mitigation is required.
4. The Mitigation Measures listed for the Construction phase of the Project require revision to implement EPA standards for on-road and off-road vehicles and equipment as noted in SPECIFIC COMMENTS.
5. We request that the emissions for the No Project Alternative be adjusted to reflect the reductions that would result through CAAP implementation to provide a more accurate basis for comparison of the No Project Alternative with the Proposed Project. Currently, the incremental CEQA project impacts are inappropriately calculated in the EIR/EIS by subtracting the current operation's impacts from the increased health impacts associated with the fully-developed Proposed Project. A more accurate depiction of the Proposed Project would define the baseline condition as the No Project alternative with the application of all mitigation strategies (i.e., provide a determination as to how clean the current operation can reasonably be made) and compare the mitigated No Project Alternative to the fully-developed Proposed Project, thereby providing the maximum predicted incremental impact.
6. We request that final approval of the Proposed Project be authorized only after adoption of the San Pedro Bay Standards addressing toxic air contaminants and state/federal criteria air quality standards and after confirmation that the Proposed Project will not violate the adopted Standards. We note that the Board of Harbor Commissioners' November 2006 adoption of the CAAP included commitment to the establishment of such San Pedro Bay Standards through cooperation between the Ports and Regulatory Agencies, expected to be completed in the coming months, and that the authorization of the Proposed Project provides opportunity to demonstrate the Port's commitment to the Clean Air Action Plan and the adherence to cooperatively established Standards. Given that adoption of the standards will occur in the coming months, the Final EIR/EIS can be prepared as a parallel effort and can be modified in a timely fashion to ensure consistency.

SPECIFIC COMMENTS (applicable to referenced CAAP Section)

Executive Summary

The future year numbers for Ship Calls, TEUs, Truck and Rail Trips, as presented in Table ES-1, are based on capacity calculations for berths 136-147. These numbers require verification for correctness and the respective assumptions forming the basis of the calculations must be explicitly stated. In particular, the following issues must be addressed:

- On page 3.10-23, statement is made, "...it is expected that the gate moves would be distributed as follows: 80 percent day shift, 10 percent night shift, and 10 percent hoot shift in 2015; and 60 percent day shift, 20 percent night shift, and 20 percent hoot shift in 2038." The associated total annual throughputs presented in Table ES-1 are projected to be 1,747,500 TEUs in 2015 and 2,389,000 in 2038. In fact, if all three shifts were operated at the day shift levels, the total annual throughputs would be 4,194,000 TEUs in 2015 and 4,300,200 TEUs in 2038 (dayshift level times three), resulting in far greater numbers of ship, rail and truck trips and their respective emissions.
- Annual rail trips appear to be higher than would be calculated using the rail capacity data presented in the draft EIR. This has the effect of underestimating emissions because truck trips (and their higher per TEU emissions) would be under predicted because TEUs not shipped on rail would be shipped by truck.

As actual annual TEUs, Ship Calls, Truck Trips, and Rail Trips may differ from the Final EIR/EIS projections, we recommend that the lease for the Proposed Project include a requirement for

periodic measurement of actual TEUs/Calls/Trips and where throughput projections are exceeded, additional mitigation is required.

Chapter 3.2: Air Quality

Operational Mitigation Measures

Measure MM AQ-9, Fleet Modernization for On-Road Trucks, requires revision to ensure consistency with the CAAP and the concession-approach Clean Trucks Program announced by the Port on April 12, 2007. As shown in the following table, the EIR's currently stated phase-in of USEPA 2007 emission standards applicable to heavy-duty diesel trucks entering Berths 136-147 falls drastically short of the schedule presented in the April 12 Program announcement.

	MM AQ-9	April 12 Clean Trucks Program
Implementation Date	Cumulative Percentage of Trucks Meeting 2007 Stds	Cumulative Percentage of Trucks Meeting 2007 Stds
By January 1, 2008	15%	14%
By January 1, 2009	30%	47%
By January 1, 2010	50%	90%
By January 1, 2011	70%	99%
By January 1, 2012	90%	100%
By January 1, 2013	100%	

Furthermore, the adopting statement by the Board of Harbor Commissioners requires establishment of, "...a program that restricts the operation of trucks that do not meet the clean standards established in the Plan." The Program was further detailed in the April 12 announcement as follows:

- Ban pre-1989 trucks from port service by 1/1/08
- Ban 1989-1993 trucks from port service by 1/1/09
- Ban unretrofitted 1994-1998 trucks from port service by 1/1/10
- Ban unretrofitted 1999-2003 trucks from port service by 1/1/11
- Ban unretrofitted 2004-2006 trucks from port service by 1/1/12

Specific lease provisions should be established that incorporate the ban schedule above.

Measure MM AQ-11, Low Sulfur Fuel (LSF) in Ships, requires revision to ensure consistency with the CAAP. The EIR's currently stated phase-in of LSF (maximum sulfur content of 0.2 percent) in Ocean Going Vessels of 10% in 2009, 20% in 2010, 50% in 2012, and 100% in 2015 fails to satisfy the CAAP milestones applicable to the same LSF measures applicable to OGVs.

The CAAP requires that the Measures OGV3, applicable to Auxiliary Engines, and OGV4, applicable to Propulsion Engines, shall be implemented through lease requirements (as new leases are established or existing leases are revised) and/or through a tariff to be implemented by third quarter 2007. Specifically, OGV3 and OGV4 require that immediately upon lease renewal, all ocean going vessels utilizing the leased facilities must burn $\leq 0.2\%$ S MGO within the current VSR program boundary of

20 nm. In the first quarter of 2008, the requirement is expanded to the 40 nm boundary. The schedule in the draft EIR would not require all OGV to comply until seven years after the date established in the CAAP 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%.

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 15% in 2008, 25% in 2010, 50% in 2012, and 95% in 2015 fails to satisfy the CAAP milestones applicable to the same slide valve measure applicable to OGVs.

The CAAP requires that the Measure OGV5 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 draft EIR would not require all OGVs to comply (a maximum of 95% of ships must comply) and the 95% level is not achieved until seven years after the date established in the CAAP, resulting in a substantial shortfall in the emission reductions promised in the CAAP.

(In comparison, note that the draft EIR/EIS for China Shipping required slide valve technology on 70% of the ships serving the terminal by 2007 and 100% by 2010.)

Measures MM AQ-7 and AQ-8, Yard tractors and all other diesel-powered terminal equipment, as written on page 191 of the EIR, appear to basically comply with CAAP measure CHE-1. However, the description of the requirements for yard tractors on page 62 and 66 is silent about existing yard tractors, an apparent typographical error, and should be corrected.

Measure MM AQ-13, New Vessel Builds - Controls Technologies, must be expanded to include specific control requirements of 90% for PM, NOx and SOx and a clear description of how the measure would be enforced by the lease agreement.

Measure MM-AQ14, Clean Rail Yard Standards, while identifying possible "cleanest locomotive technologies," is vague in describing exactly how the measure will be enforced. Specific language must be included in the lease to require percent reduction requirements or numerical emission standards reflecting the referenced "cleanest" technologies and when they will be achieved.

The Project EIR/EIS currently includes no measures applicable to Harbor Craft, which represent a sizeable percentage of total Port particulate matter pollution. The EIR/EIS requires revision to include mitigation measures consistent with the Clean Air Action Plan Measure HC1 which is to be implemented through lease requirements.

Specifically, lease requirements for TraPac should be established which require:

- By 2008, all harbor craft servicing TraPac shall meet the EPA Tier 2 standards for harbor craft;
- By 2011, all previously re-powered harbor craft servicing TraPac will be retrofitted with the most effective CARB verified NOx and/or PM emissions reduction technologies; and
- On availability of Tier 3 engines, within five years all harbor craft servicing TraPac will be re-powered with Tier 3 engines.

Construction Mitigation Measures

Measure MMAQ-2, Fleet modernization for On-Road Trucks, allows for 2007 model year or 1994 model year + CARB Level 3 Particulate filter on-road heavy-duty diesels. Construction emissions from on-road trucks in Phase I (2008-2015) can be substantially reduced by requiring the entire fleet of on-road trucks used for construction and/or to convey material to or from the site to meet the following hierarchy of requirements:

1. Meet the 2010 on-road emission standard for NO_x (0.2 g/bhp-hr) and for PM (0.01 g/bhp-hr); or
2. If infeasible (not commercially available) for all on-road trucks used for construction activities to meet the 2010 standard, such trucks shall use LNG (exceeding 2007 on-road standard for NO_x and PM).
3. If infeasible (not commercially available) for on-road trucks to use LNG, such trucks shall at least meet the 2007 standard of 1.2 g/bhp-hr for NO_x and 0.01 g/bhp-hr for PM.
4. Only if the above approaches are determined to be infeasible (not commercially available), use of 2003 or later model year trucks retrofitted with the highest level of CARB-verified NO_x and PM control devices is recommended.

During Phase II (2015-2025), only heavy duty trucks meeting the 2010 standards should be used since the trucks will have already been available for five years.

Measure MMAQ-3, Fleet Modernization for Construction Equipment, requiring Tier 2 on-road emission controls in Phase 1, is not as aggressive (and public-health conscientious) as possible. Emissions from construction equipment in Phase I (2008-2015) can be substantially reduced by requiring the following hierarchy of requirements:

1. Use of on-road engines that meet the 2010 emission standards for NO_x and PM.
2. If the use of on-road engines that meet the 2010 standard is infeasible (not commercially available), use of LNG (exceeding 2007 on-road standard for NO_x and PM).
3. If LNG is infeasible (not commercially available), use of on-road engines that meet the 2007 emission standards for NO_x and PM.
4. If the use of on-road engines that meet the 2007 NO_x and PM on-road standards is infeasible (not commercially available), use of off-road engines that meet the EPA Tier 3 off-road emission standard in combination with verified diesel emission controls (VDECs) that will provide the greatest reduction in NO_x and PM.
5. Only if the above approaches are determined to be infeasible (not commercially available), then the use off-road engines that meet the EPA Tier 2 standards in combination with the use of emulsified, ultra low sulfur fuel is recommended for all off-road equipment.

Technical Comments

P3.2-3, line 11 – An important component of PM is the photochemical (secondary) formation of PM in ambient air in and downwind of primary Port emissions. This downwind occurrence is unambiguously related (though not wholly attributable) to Port emissions through the release of sulfur, VOCs, PAHs, combustion exhaust, and other

airborne contaminants. Control of sulfur emissions, for example, at the Port, offer dual-edged benefits in air quality, through reductions in direct sulfur dioxide emissions AND reductions in subsequent (downwind) particulate sulfate production. In that sense, ozone is NOT unique as a secondary photochemical pollutant associated with Port operations.

P 3.2-5, lines 6 through 8 – Particulate matter is bi-modal in annual mass maxima, with a slightly higher winter peak than summer. This is understood to be the result of two slightly differing phenomena. Summertime photochemistry accounts for a significant portion of the observed PM (which is produced by secondary particle formation, using the ultraviolet energy of the summer sunlight). During the winter months, low inversions and cooler weather limit atmospheric dispersion and provide conditions conducive to gas-to-particle condensation and phase shifts, resulting in higher PM levels than those directly assignable to primary emissions alone. Therefore, describing wintertime PM as “inert” is inaccurate, misleading, and should be corrected.

P3.2-5, line 13 – Air pollutant monitoring is a means of assessing air quality, NOT a direct method of air quality improvement.

P3.2-14, Table3.2-5 – How is it that Ships are such a relatively small category contributor to total PM (25%) in this listing of 2003 emissions? In contrast, the 2001 port-wide emission inventory identified the contribution of ocean-going vessels to PM10 emissions as 55%.

P3.2-43, line 21 – Why do “unmitigated” emission calculations use 2.7% (27000 ppm) sulfur residual fuel for predictions and presentation, but much cleaner fuels (500 ppm sulfur fuel or 15 ppm sulfur fuel) for other alternative applications? Is the Port implying that ANY cleaning of sulfur from fuels is “mitigation” and that internationally, other fuel sources will remain at 2.7%? This would seem to run counter to recent international observations, SECA areas, and other activities.

P3.2-97, line 24 – The implication here seems to be that the C-R function may not be appropriate for the Port because non-California cities were primarily used in the Krewski et al study cited. If this is a substantive concern on the part of Port staff, a revised analysis, by Jerrett, using data from Southern California only, was performed and found a higher relative risk value than that determined by Krewski et al for the 63 US cities investigated. This issue was discussed in the preparation of the 2007 SCAQMD AQMP, where the decision was made to ignore the specific California value and use the national value.

P3.2-97, line 33 – This sentence is confusingly worded – how can a change in concentration be below the ambient concentration? By definition, the outdoor concentration is the ambient concentration.

Chapter 4 Cumulative Analysis:

P4-32, line 36 - The 2007 SCAQMD AQMP predicts attainment for ozone in 2023/24 (not 2020).

P4-39, line 18 (Section 4.2.2.8, Cumulative Impact AQ-7, Potential conflict with applicable AQMP) – The contribution of emissions from this project will impact the timing and ability of the AQMP to achieve needed reductions for attainment, so how can the conclusion be reached that the impact is “less than cumulatively considerable”? The proposed explanation is that the Port has provided SCAG with cargo forecasts for AQMP development, so the AQMP, by definition, accounts for Project development. This would seem to be circular reasoning, in that the ability of the AQMP to achieve attainment by any given date will be a function of the cumulative emissions and identified control strategies available to offset them, so additional emissions (from additional projects) would seem, by definition, to cumulatively affect the timely and successful implementation of the AQMP.

Appendix D3: Health Risk Assessment

pD3-4, para2 – With respect to diesel-fired external combustion boilers, how is considerations of DPM only (1 chemical) more conservative than consideration of individual TAC emissions (16 chemicals)? Given that “boiler emissions” are later determined to be responsible for almost 40% of the CEQA residential cancer risk, simplifying assignments of this exposure category should be well-documented, supported, and carefully considered.

pD3-7, para2 – The idling time assumption for line-haul locomotives assumes a value of 1 hour, compared to 1.9 hours previously used. Has this idling reduction time (contained in the CARB-Railroad MOU) actually become a part of routine operations (can the reduced idling time be currently verified for operations today)?

pD3-9, Item 2, Terminal Equipment – Increasing average hourly terminal operations by 25% to simulate peak activities seems very low, when peak activities would seemingly multiplicatively increase average operations. On what basis was the 25% assumption value selected?

pD3-9, Item 3, Trucks – If 10% ADT is assigned to each hour from 0600 to 1800m doesn't that make 120% (not to mention the additional 60% from the 5% assignment from 1800 to 0600)? What does it mean to use a value of 180% of the ADT?

pD3-9, Item 4, On-Dock rail-yard – assumption is one hour of activity, but how does this compare with current use(s) and the MOU?

P.D3-20, Table D3-5, Receptor Type – While it may be true that “Students” would “only” be exposed for 6 hours, 180 days at school, their lifetime exposure would be an additive sum of time spent at school (6 hours, presumably) AND at home (18 hours, per the simplifying assumptions used herein). The calculations used in this health risk assessment would therefore seem to systematically under-predict exposure for identified groups (students, recreational, occupational) because the calculations do not seem to account for the total 24hr period for these sub-populations.

P. D3-20, Table D3-5, Exposure Assumptions Notes, #4 – The recreational breathing rate of 3.2 m³/hr (or 3200 liters per hour, or ~53 liters per minute) does not seem especially conservative for two hours of effort; this is only five times resting ventilation rate. Aerobic exercise (such as running and cycling) can routinely involve exercise at ten times resting ventilation rates for extended periods of time.

Non-Air Quality Comments

Chapter 3.1: Aesthetics

Claim is “no significant changes”, but this seems a surprising conclusion given the three-fold expansion of the operations, the re-alignment of Harry Bridges Boulevard (and the resulting recreational area/buffer), the wharf extensions, and the crane replacements.

Chapter 3.9: Noise

Several questions are raised by the presented Noise information including the questions listed below.

1) Measurements made during 2002 are certainly of value, but were possibly made prior to the completion and current level of operations at the China Shipping Terminal. In this regard, the current noise levels may differ from those previously reported because the level of current operations is significantly greater, the area under active use is significantly larger, and the topological surface (berms, working areas, ground

slope and shapes) are potentially substantively different from the physical reality during the measurements of 2002. Are more current measurements available, or can a few spot measurements be made to provide a comparison/adjustment factor to current configurations and intensity of usage?

2) The measurements provided in the Wilmington area appeared to be generally at the terminal fence-line. Was a specific determination made that measurements back at homes and playing fields would be lower and less relevant, or that the topography was sufficiently flat and open such that noise would dissipate in a predictable manner with increasing distance? How do the noise measurement locations fit with the predominant wind trajectories for the area around the proposed terminal?

3) Comparisons are made in On-Site Operations, p.3.9-33, to 1990 measurements for container operations in the Port of Los Angeles, a period when two Evergreen vessels were being unloaded and four gantry cranes were in use. Is this a realistic and appropriate comparison for typical terminal operations noise, seventeen years later, with much more activity, and somewhat different equipment?

Control of removed landfill or sediment

The EIR/EIS requires revision to include specific plans for the control of removed landfill or sediment such that landfill disposed during construction is controlled in a manner that protects Public Health and ensures adequate coverage and handling of disposed toxic material.

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 of Los Angeles 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; Air Quality Subcommittee Members; Port Community Advisory Committee Members

Attachment B

**Table of Proposed Projects included as Comment
to the Ponte Vista DEIR**

3.10 The list of “other projects” is incomplete. The impacts of the following additional traffic generators should be added to Table IV.J-9, List of Related Projects and the impacts assessed.

-China Shipping Terminal Development, Berth 97-109 to handle 1.5 million TEUs per year requiring a total of **3,720 daily truck trips** and up to 950 annual round trip rail movements.

-TRAPAC Expansion at Berths 136-149, from 176 acres to 251 acres and resulting increase in truck trips

-New L.A. City Fire station at Gaffey and Miraflores

-Greatly expanded L.A. City Harbor Area Police Headquarters, jail, and community room on John S. Gibson Blvd.

-Relocated and greatly expanded Animal Shelter and community room at Gaffey and Miraflores

-Union Pacific ICTF Facility (PCH & Sepulveda/Alameda)

-St. Peters Episcopal Church, currently requesting a zoning variance to operate a child care for 66 infants, toddlers and pre-school children at 1648 W. 9th Street

-The new Henry’s Market at Western and Park Western, which replaced a very underutilized market

-Impact of foreign trade zone designation for Port of LA Distribution Center at Gaffey and Westmont

-Two new mausoleums being built at Green Hills Memorial Park

-Starbucks/T-Mobile planned for 422 S. Gaffey

-Additional residential units:

366-74 W. 8 th (Sepia Homes)	20 units
327 N. Harbor Blvd, (Sepia)	60 units
407 N. Harbor Blvd, (Sepia)	42 units
1200 S. Beacon St.	140 rental units
Habitat for Humanity	16 units, Santa Cruz/Palos Verdes
Habitat for Humanity	8 homes in Wilmington
534 Eubank	10 units
1160 W. 11 th Street	13 attached homes
Union Ice Expansion 901 East E St.	85,000 sq ft
525 E. “E” St.	Truck Parking and Dispatch facility
Potential Industries, 701 E. # St	40,000 sq feet
Electronic Balancing, 600 E. D St	24,000 sq feet
Marymount College student housing	320 students – Palos Verdes Dr. North

Three additional corrections should be made to Table IV .J-9:

Map No. 16, Rolling Hills Preparatory School should show the projected enrollment of 900 students, 140 faculty, and 62 dwelling units

Bridge to Breakwater listed at 1.1 million square feet – was 3.8 million square feet in the project description (new NOP may modify this);

Two new cruise ship berths and several new parking structures have since been proposed and should be included.

Attachment D

Photograph Looking South along Front Street and Gibson Blvd.



Same Picture with Above Ground Utilities Removed



Photograph Looking North along Pacific Street



Same Picture with Above Ground Utilities Removed



Northwest San Pedro Neighborhood Council, September 26, 2007

- NWSP-1.** Thank you for your comment. Please see response to comment NWSP-10 below.
- NWSP-2.** Mitigation Measures AQ-1 through AQ-24 in the Draft EIS/EIR represent feasible means to reduce air pollution impacts from proposed construction and operational emission sources. The Final EIS/EIR has accelerated implementation of some mitigation measures proposed in the Draft EIS/EIR, as discussed in more detail in the responses to comments SCAQMD-7 through SCAQMD-24. The Project would comply with all applicable CAAP measures. The CAAP supersedes those of the NNI process.
- NWSP-3.** As part of the MMRP, the Port would monitor all mitigation measures,
- NWSP-4.** Thank you for your comment. The following mitigation measures have been amended in the Final EIS/EIR:

Mitigation Measure AQ-2: Fleet Modernization for On-Road Trucks. All on-road heavy-duty diesel trucks with a gross vehicle weight rating (GVWR) of 33,000 pounds or greater used on-site or to transport materials to and from the site shall comply with USEPA 2007 on-road PM emission standards and be the cleanest available NOx for Phase I. In addition, for Phase II construction (post January 2015), all on-road heavy-duty diesel trucks with a gross vehicle weight rating (GVWR) of 33,000 pounds or greater used on-site or to transport materials to and from the site shall comply with year 2010 emission standards where available. Trucks hauling materials such as debris or fill shall be fully covered while operation off Port property.

Mitigation Measure AQ-3: Fleet Modernization for Construction Equipment. All off-road diesel-powered construction equipment greater than 50 hp, except derrick barges and marine vessels, shall meet the cleanest off-road diesel emission levels available but no greater than Tier 2 emission standards for projects starting construction prior to December 2011. Tier 3 emission standards shall be applied to projects starting construction between December 2011 and January 2015. The contractor could meet Tier 3 equivalent PM10 emission limits through the use of new or repowered engines designed to meet Tier 2 PM standards and/or the use of CARB approved diesel particulate traps, achieve the Tier 2 emission standards in Phase 1 construction and Tier 4 emission standards in Phase 2 construction, as defined in the USEPA Non road Diesel Engine Rule (USEPA 1998 and 2004). Equipment not designated Tier 23 by the manufacturer may achieve the emissions requirement by retrofitting the equipment with an CARB Verified Diesel Emission Control System (VDECS) and/or by the use of an CARB verified emulsified fuel. For Phase II construction (post 2015), equipment shall meet the Tier 4 emission standards where available. In addition, construction equipment shall incorporate, where feasible, emissions savings technology such as hybrid drives and specific fuel economy standards.

In addition, the following construction mitigation measure has been added to the Final EIS/EIR:

Mitigation Measure AQ-25: Special Precautions near Sensitive Sites: All construction activities located within 1,000 feet of sensitive receptors (defined as

schools, playgrounds, daycares, and hospitals), shall notify each of these sites in writing at least 30 days before construction activities begin.

The above mitigation measures, plus Mitigation Measures AQ-1, AQ-4, AQ-5, and AQ-18A in the Final EIS/EIR represent all feasible means to reduce air pollution impacts from proposed construction emission sources.

NWSP-5. The Project air quality analysis evaluates the difference between Project operational emissions in years 2007, 2015, 2025, and 2038 and the CEQA Baseline year of 2003. Implementation of Mitigation Measures AQ-6 through AQ-12 would reduce average and peak daily Project operational emissions to less than the CEQA Baseline daily emissions by year 2015.

NWSP-6. Mitigation Measures AQ-17 and AQ-18B provide a process to consider new or alternative emission control technologies in the future. Additionally, the Port would add the following measure to the lease to insure compliance with Mitigation Measure AQ-17:

As partial consideration for the Port's agreement to issue the permit to the tenant, tenant shall implement not less frequently than once every 7 years following the effective date of the permit, new air quality technological advancements, subject to the parties mutual agreement on operational feasibility and cost sharing which shall not be unreasonably withheld.

Approval of the Project is dependent upon an acceptable Mitigation Monitoring and Reporting Program (MMRP) that identifies all feasible measures to reduce Project air quality impacts. The Port and Project terminal operator will comply with the MMRP for the life of the lease, or 30 years.

NWSP-7. One can infer from the Draft EIS/EIR that an increase in emissions from the Project could damage property in some unquantifiable way. Implementation of the proposed mitigations would reduce adverse effects from Project air emissions, including those associated with property damage.

NWSP-8. As shown in Table 3.2-36 of the Draft EIS/EIR, the proposed Project with mitigation results in a net reduction of PM10 and PM2.5. Therefore additional mitigation is not warranted.

NWSP-9. Thank you for your comment.

NWSP-10. Refer to response to comment CADOT-2 for a discussion of the CMP analysis prepared for the Project. See responses to comments OC-4 and NWSP-12 regarding trip distribution. Distribution of Project traffic to surrounding roadways and freeways used the most logical/reasonable trip distribution patterns and are based on the 2004 Port Origin-Destination Study. The purpose of the traffic study is to assess the potential impacts of the project based on anticipated operating parameters, not to increase traffic diversion to alternative routes.

NWSP-11. The analysis used the adopted Port Travel Demand Model that accounts for regional growth in the area, and it includes related project development since they are inherently built into the regional socioeconomic (population, housing and employment) forecasts.

Regional background (ambient) traffic growth was estimated using data from the Port Travel Demand Model which covers all related proposed project traffic growth via the regional population and employment forecasts. Background traffic growth occurs as a result of regional growth in employment, population, schools, and other activities. To determine the appropriate growth rates, the growth in non-port trips was determined using data from the Southern California Association of Governments (SCAG). SCAG forecast data for 2005, 2015, and 2030 were compared to existing data. It should be noted that most of the related projects are covered by the growth forecasts of the Port Travel Demand Model. Other projects that are not included in the SCAG Regional Travel Demand Forecasting Model were thus separately accounted for in the local area model. All Ports of Long Beach and Los Angeles container and non-container terminal traffic growth are included in the Port Travel Demand Model. Smaller related projects such as many of those listed in the Ponte Vista development are fully accounted for by the regional socioeconomic projections contained in the SCAG regional model and applied in the Port Travel Demand Model.

- NWSP-12.** The Project is not anticipated to result in additional truck traffic to roadways west of the I-110 Freeway. As noted in response to comment OC-4, most project related traffic is oriented to rail intermodal yards and warehouse/distribution businesses located farther to the north along I-110, I-710, and other regional routes (based on the 2004 comprehensive port truck driver origin/destination survey). That survey identified the origin and destination of several thousand port trucks over a several day period. Daily operations of the POLA Distribution Center and the Trapac Terminal are independent of each other and have no reciprocal effect on each other. Trips to and from the Los Angeles distribution Center would occur regardless of the proposed Project; they would come from other container terminals and other businesses throughout the region. Those trips are the result of the operation of the Distribution Center, not of the proposed Project. No other truck traffic is anticipated on Gaffey Street or other streets west of the Project site as the vast majority of all trips to the west would be on the freeway system. Therefore no analysis or evaluation of impacts from Project truck traffic is required on the arterial or local streets directly west of the Project site. Truck traffic would not increase on North Gaffey as a result of the development of the proposed Project.
- NWSP-13.** New onsite utility lines (water, wastewater, storm drains, and electrical lines) would be constructed to serve the proposed container terminal operations; the relocation and/or extension of some existing utility lines would also occur. These new utilities would tie into the existing utility lines that currently serve the proposed Project site. Therefore, no new offsite utility lines, crossbars, or poles would be required.
- NWSP-14.** The visual conditions to which the commenter refers form the Baseline for the Aesthetics/Visual Resources Impact Assessment and are not a result of the Project. Please note that, as discussed in Chapter 3.2, this EIS/EIR uses a baseline of 2003, consistent with the release of the NOP/NOI (released October 22, 2003) and with CEQA Guidelines section 15125(a).

CEQA case law holds that, where facts in the record show that activities were occurring at a project site prior to environmental review, it may be “misleading and illusory” to describe baseline conditions as if those activities were not occurring. (See *Fairview Neighbors v. County of Ventura*, 70 Cal.App.4th 238, 243 (1999) (upholding baseline for evaluation of conditional use permit to expand existing mining operations as including

levels of truck traffic actually achieved under prior approvals). Additionally CEQA provides for the environmental baseline to include all uses that actually existed during the baseline period, regardless of whether those activities are alleged to have exceeded prior approvals. See, e.g., *Fat v. County of Sacramento*, 97 Cal.App.4th 1270, 1277-1281 (2002); *Riverwatch v. County of San Diego*, 76 Cal.App.4th 1428, 1451-1453 (1999). Therefore, it is appropriate for the EIS/EIR to compare the potential impacts of the proposed Project against baseline conditions.

Additionally, please note that the Port may only impose mitigation measures and other Project conditions that bear a reasonable relationship to the significant impacts that would occur if the proposed Project is approved. The Port may not try to cure past environmental harms by imposing measures that go beyond the scope of the impacts created by the proposed Project. (See *Dolan v. City of Tigard* (1994) 512 U.S. 374; *Nollan v. California Coastal Comm'n* (1987) 483 U.S. 825.)

No significant impacts to aesthetic resources were identified regarding any aspect of the Project, including the changes to the existing gantry cranes. Therefore, no mitigation measures are required.

- NWSP-15.** The juxtaposition of industrial land uses and residential areas in the Project vicinity is an existing visual condition that is the Baseline for the Aesthetics/Visual Resources Impact Assessment and not an effect attributable to the Project requiring mitigation in the form of developing Knoll Hill as a “buffer area.” Please also see response to comment NWSP-14.