

September 17, 2007

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

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.

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.

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