CENTER *for* BIOLOGICAL DIVERSITY

VIA OVERNIGHT MAIL w/ATTACHMENTS

Dr. Ralph Appy, Director Environmental Management
Port of Los Angeles
425 South Palos Verdes Street
San Pedro, CA 90731

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

Re: Comments on DEIR/S for Berths 136-149 Container Terminal Expansion Project, State Clearinghouse No. 2003061153

September 24, 2007

Dear Dr. Appy:

These comments are submitted on behalf of the Center for Biological Diversity ("Center") on the Draft Environmental Impact Report/Environmental Impact Statement ("DEIR/S") for the Berths 136-149 Container Terminal Expansion Project ("Project"), State Clearinghouse No. 2003061153. The Project includes a series of proposed improvements to Berths 136-147 that would significantly expand the container terminal operations of the Port of Los Angeles. By expanding Port shipping capacity, the proposed expansion would generate significant amounts of greenhouse gases, primarily though increases in ship, truck, and rail traffic. According to the DEIR/S, even with proposed mitigation, the Project would add close to 400,000 annual metric tons of carbon dioxide equivalent greenhouse gases per year into the atmosphere. Such a sizable injection of greenhouse gases into the environment would severely frustrate California's mandate to reign in and reduce existing greenhouse levels. Additional alternatives should be considered and feasible mitigation adopted to reduce the Project's significant contribution to global warming.

The Center is a non-profit conservation organization dedicated to the protection of native species and their habitats through science, policy, and environmental law. The Center's Climate, Air, and Energy Program works to reduce U.S. greenhouse gas emissions to protect biological diversity, our environment, and public health. We work to educate the public about the impacts of climate change on our world and the animals and plants that live in it and to build the political will to enact solutions. The Center has over 35,000 members throughout California, including Los Angeles. Center members will be directly impacted by the Project.

The Project as proposed will have numerous substantial impacts on the

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environment due to its nature, size, and location. This letter primarily focuses on the Center's concern that the DEIR/S significantly understates the greenhouse gas emissions generated by the Project by limiting the consideration of transportation-related emissions generated by the Project to those produced within the boundaries of California and by failing to mitigate the Project's global warming impacts to the extent feasible as required under the California Environmental Quality Act ("CEQA"), Cal. Pub. Res. Code § 21000 *et seq.*, 14 Cal. Code Regs. § 15000 *et seq.* ("Guidelines"). In addition, the NEPA analysis conducted by the United States Army Corps of Engineers ("USACE") establishes an improperly high emissions baseline and fails to identify the Project's greenhouse gas contribution as significant under NEPA.

A revised DEIR/S must be prepared to remedy the DEIR/S' deficiencies. Only by circulating a corrected document can the public, decision makers and affected agencies be adequately informed of the environmental repercussions of the Project.

I. THE DEIR/S FAILS TO ADEQUATELY SET FORTH THE THREAT OF GREENHOUSE GAS EMISSIONS

The DEIR/S' treatment of global warming impacts stumbles at the starting gate by providing an exceedingly cursory summary of the present and future impacts of global warming to California and the world. In order to conform to the informational mandates of NEPA and CEQA and properly inform the public and decision makers of the significance of the Project's contribution to greenhouse gases, the DEIR/S must first adequately discuss the threat posed by greenhouse gas emissions. *See, e.g., Laurel Heights Improvement Ass'n v. Regents of Univ. of Cal.* ("Laurel Heights I"), 47 Cal.3d 376, 392 (1988) (EIR is intended "to demonstrate to an apprehensive citizenry that the agency has, in fact, analyzed and considered the ecological implications of its action."); Guidelines § 15151 (requiring an EIR be detailed, complete, and reflect a good faith effort at full disclosure); 42 U.S.C. § 4332(C). A discussion of climate change impacts need not be lengthy, but should, at a minimum, convey the magnitude of the threat posed by global warming to humans and the environment.

To more accurately convey the severity of the impacts of global warming, the DEIR/S should be revised to include numerical estimates of the extent of projected impacts. For example, in lieu of the vague statement that greenhouse gas emissions will lead to a "significant" reduction in winter snow pack, the DEIR/S should clarify that loss for the Sierra snowpack is estimated to be between 30-90%, depending on the extent to which emissions are reduced now and in the near future. (Our Changing Climate, Assessing the Risks to California, A Summary Report from the California Climate Change Center (2006) (attached)).

Additional impacts projected for California by the end of the century include:

- Temperature rises between 3-10.5°F;
- 6-30 inches or more of sea level rise;
- 2-4 times as many heat wave days in major urban centers;
- 2-6 times as many heat-related deaths in major urban centers;
- 1.5-5 times more critically dry years;
- 25-85% increase in days conductive to ozone formation;

- 3-20% increase in electricity demand;
- 10-55% increase in the expected risk of large wildfires;
- 7-30% decrease in forest yields (pine);

(*Id.*) By providing details as to the ranges of proposed impacts, and indicating that the higher-range of impact estimates are projected if greenhouse gas emissions continue to increase under a "business as usual" scenario, decision-makers and the public will be better informed of the magnitude of the climate crisis and the urgency with which it must be addressed.

II. THE DEIR/S GROSSLY UNDERSTATES THE LEVEL OF EMISSIONS RESULTING FROM THE PROJECT

A. The DEIR/S Improperly Excludes Indirect Emissions Generated Outside California as a Result of the Project

In calculating the emissions generated by the Project, the DEIR/S only includes emissions from the portion of travel that is within California borders from sources that travel out of California (ships, trucks, and line haul locomotives). (DEIR/S at 3.2-48.) Emissions generated outside California are excluded on the grounds that the California Climate Action Registry (CCAR) "has not developed a protocol for determining the operational or geographic boundaries" for some emission sources, such as ships, that are not owned or operated by the Port. (*Id.*)

The DEIR/S' reliance on the CCAR is misplaced because the CCAR does not dictate the scope of CEQA or NEPA's impact analysis. CEQA and NEPA require the analysis of *all* direct and indirect effects on the environment caused by the project. *See* 40 C.F.R. Guidelines 1508.8; Guidelines § 15064(d). An indirect impact is a physical change in the environment that is not immediately related to the project but that is caused indirectly by the project. Guidelines § 15064(d)(2). Although caused by the project, an indirect or secondary impact is removed in time or distance but is still reasonably foreseeable. Guidelines § 15358(a)(2). Here, expansion of Berths 136-147 will result in foreseeable increases in the number of annual ship calls, truck trips, and rail trips. Moreover, if not already available, the origin/destination of the additional ships, trucks, and trains traveling to the Port as a result of its expanded facilities can be Port extrapolated from existing trip data. Because the full trip length from these transportation modes is reasonably foreseeable, it must be incorporated into the DEIR/S' emissions calculations.

Notably, neither CEQA nor NEPA define the environment in terms of political boundaries. To the contrary, NEPA "is clearly not limited to actions of federal agencies that have significant environmental effects within U.S. borders." *Environmental Defense Fund v. Massey*, 986 F.2d 528, 536 (D.C. Cir. 1993); 42 U.S. C. § 4332(2)(F) (requiring all federal agencies to "recognize the worldwide and long-range character of environmental problems," and promote international cooperation in solving environmental challenges."); 42 U.S.C. § 4321 (NEPA is intended to "encourage productive and enjoyable harmony between *man and his environment*" as well as to "promote efforts which will prevent or eliminate damage to the environment and *biosphere.*") (emphasis added). Cal. Pub. Res. Code § 21002.1(a) (requiring

that an EIR "identify the significant effects on the environment of a project."). Like NEPA, nothing in CEQA limits its focus to environmental effects occurring within California. Rather, CEQA examines effects to "ecosystems," the boundaries of which are in no way influenced by state lines. *See* Guidelines § 15358(a)(2). Indeed, as CEQA is "to be interpreted in such manner as to afford the fullest possible protection to the environment within the reasonable scope of the statutory language" the DEIR/S' narrow interpretation of indirect environmental effects flies in the face of CEQA's foremost principles. *Laurel Height Improvement Ass'n v. Regents of University of California*, 47 Cal.3d 376, 404 (1988). Accordingly, the DEIR/S should be revised to include greenhouse gas emissions from all sources resulting from implementation of the Project. Such an inventory should include all indirect effects from additional ship, truck, rail, and automobile traffic resulting from the project, regardless of where such emissions occur.

B. The NEPA Baseline Adopted by USACE Is Flawed

The DEIR/S is fundamentally flawed because USACE improperly conflates the NEPA Baseline with the No Action Alternative. Section 1.5.5.1 of the DEIR/S states:

> The NEPA baseline condition for determining significance of impacts is primarily dependent on the "No Federal Action" condition, which is defined by examining the full range of construction and operational activities the applicant could implement and is likely to implement absent a permit from USACE. In this project the NEPA Baseline coincides with the No Federal Action scenario, and the two terms will be used interchangeably throughout this document. The No Federal Action/NEPA Baseline includes all of the construction and operational impacts likely to occur absent a USACE permit (e.g., air emissions and traffic likely to occur without issuance of permits to modify wharves or dredge). The determination is based on direct statements and empirical data from the applicants, as well as the judgment and experience of USACE.

USACE's merger of the environmental baseline with the No Action Alternative has a significant effect on the emissions estimates under NEPA. In the DEIR/S' CEQA analysis, which properly uses a baseline set at a fixed point in time, the baseline is 305,073 metric tons of carbon dioxide equivalent emissions. (DEIR/S at 3.2-102.) Using USACE's interpretation of NEPA, the NEPA baseline is almost 2/3 higher, at 498,977 metric tons. By adopting this significantly higher baseline, USACE improperly minimizes Project impacts.

Like CEQA, the NEPA baseline is set at a fixed point in time, and does not assume future growth absent the requested federal permit. *See* "The NEPA Book: A step-by-step guide on how to comply with the National Environmental Policy Act" by Ronald Bass, Albert Herson, and Kenneth Bodgan, 2001 Solano Press Books at 99; *American Rivers v. Federal Regulatory Energy Comm'n*, 201 F.3d 1186 (1999). CEQ Regulations first require an EIS to describe the "Affected Environment," which is then used as a basis to compare various alternatives, including the No Action Alternative. CEQ Regs. §§ 1502.14, 1502.15. Because the "Affected Environment" is the baseline, not the future

assumptions incorporated into the No Action Alternative, the NEPA baseline should be revised to be consistent with the CEQA baseline used in the DEIR/S.

USACE's adoption of the No Action Alternative baseline is further flawed because the DEIR/S provides no discussion of the factors and assumptions used by USACE to develop the NEPA baseline. By failing to elaborate on the "direct statements and empirical data" as well as "the judgment" of USACE, the DEIR/S falls short of its informational purpose.

III. THE PROJECT'S IMPACT ON GLOBAL WARMING IS ALSO SIGNIFICANT UNDER NEPA

While the Los Angeles Harbor Department ("LAHD") properly determined that annual greenhouse gas emissions from the Project are significant under CEQA because they exceed baseline emissions, USACE refuses to acknowledge the significance of the Project's greenhouse gas contribution under NEPA on the grounds that there are no adopted greenhouse gas significance thresholds. (DEIR/S at 3.2-36). USACE's failure to find that the Project's greenhouse gas emissions are a significant impact is fundamentally flawed. Neither NEPA, CEQ guidelines, nor USACE NEPA Regulations require quantitative thresholds of significance in order to discuss the environmental impacts of a proposed project. By substantially increasing California's existing emission levels, the Project threatens the successful implementation of the California Global Warming Solutions Act (AB 32, 2006), which requires reductions in current levels of greenhouse gases in California. *See* 40 C.F.R. § 1508.27(10) (factor in significance determination includes whether action threatens to violate federal, state, or local law or requirements); *see also* Executive Order S-3-05 (June 1, 2005) (setting greenhouse gas emissions reduction targets for California); Control of Emissions From New Highway Vehicles and Engines, 68 FR 52922 (September 8, 2003) (affirming EPA's recognition of climate change and the need to reduce greenhouse gases).

In addition, the Project's greenhouse gas emissions will indisputably have a cumulatively significant impact on global climate change. 40 C.F.R. § 1508.27(7). Climate change is a classic example of a cumulative effects problem; emissions from numerous sources combine to create the most pressing environmental and social problem of our time. These sources may appear insignificant when considered individually, but assume threatening dimensions when considered collectively with other sources with which they interact. The solution to climate change lies not in any one single action, but in systematically reducing emissions from all possible sources. Indeed, despite NEPA's mandate to examine cumulative impacts and the obvious application of cumulative impacts to global warming, USACE fails to conduct a cumulative impacts analysis of the Project's greenhouse gas emissions. USACE's failure to consider the significant cumulative impacts of the Project on global warming renders the EIS inadequate.[1]

[1] LAHD acknowledges the cumulative nature of global warming but determined that the Project's emissions were already significant on a project-level basis. Because USACE did not find the Project's impacts were significant on a project-level basis, it must proceed with a cumulative impacts analysis.

IV. ADDITIONAL FEASIBLE MITIGATION MEASURES MUST BE ADOPTED TO ELIMINATE THE PROJECT'S GREENHOUSE GAS CONTRIBUTION

Mitigation of a project's significant impacts is one of the "most important" functions of CEQA. *Sierra Club v. Gilroy City Council*, 222 Cal.App.3d 30, 41 (1990). Under CEQA, feasible mitigation measures must be adopted that will avoid or substantially lessen significant environmental effects. Pub. Res. Code § 21002. As presented in the DEIR/S, proposed mitigation would reduce annual Project emissions from 468,116 metric tons of carbon dioxide equivalent greenhouse gases to 394,372 metric tons. While the mitigation measures adopted by the Port to reduce greenhouse gas emissions are an important first step, much more can be done to reduce the significance of this impact. Indeed, absent further mitigation, the sizable annual emissions resulting from the Project will frustrate achievement of California's mandate to reduce emissions under AB 32 and Executive Order S-3-05. With its potential to influence the environmental performance of the shipping sector, an industry that is largely unregulated and contributes more greenhouse gases than most Annex I countries to the Kyoto Protocol, LAHD/USACE are in a unique position to have considerable impact on global warming and fully mitigate the Project's global warming impacts.

In *Air Pollution Greenhouse Gas Emissions from Ocean-going Ships: Impacts, Mitigation Options and Opportunities for Managing Growth*, the International Council on Clean Transportation provides a detailed analysis of potential mitigation a port can adopt to reduce greenhouse gas emission from the shipping sector. This report (hereinafter referred to as the "ICCT Report") is attached to these comments. Measures suggested therein are incorporated below.

Additional mitigation measures include:

Incorporation of Efficiency/Low Emission Standards Into New Vessel Construction: MM AQ-13 calls for all new vessel builds to incorporate NO_x and PM control devices. This mitigation measure should also incorporate criteria for low-emission/high efficiency vessels to reduce greenhouse gases generated by these ships to the extent feasible. Additional standards can include:

- Efficiency in ship design. Optimizing the shape of the hull to minimize resistance can lead to improved efficiency of 5-20%. Choosing the right propeller type can provide additional efficiency gains of 5-10%. ICCT Report at 54.
- All new vessels should also have engine rooms designed with enough space to allow for new retrofit technologies and include equipment to utilize shore-side power.
- Requiring the use of alternative fuels.
- Where applicable, the use of diesel electric pod-propulsion, which has been demonstrated in cruise and ferry applications to reduce power requirements by approximately 10-15%. (*Id.*; *see also* Kleiner, The Shipping Forecast, Nature Vol. 339 (Sept. 2007) (describing efficiency measures) (attached))
- Incorporation of emerging technologies, such as solar panels and diesel-

electric systems into vessel design as these technologies become available.
- Implementation of fuel economy standards by vessel class and engine.
- Use of non-greenhouse gas refrigerants were applicable.

Incorporation of Efficiency/Low Emissions Standards Into Fleet Modernization of On-Road Trucks: According the DEIR/S, trucks are far and away the largest contributor of greenhouse gases resulting from the Project. MM AQ-9 should be modified to incorporate criteria for low-emission/high efficiency on-road trucks. Criteria can include:

- Use of biodiesel, hybrid technology, and specific fuel economy standards.
- A mitigation fund to assist in increasing the efficiency/decreasing emissions of trucks that serving the port.

Incorporation of Efficiency/Low Emissions Standards Into Construction and Operation Equipment: MM AQ-3, MM AQ 7 and MM AQ 8 should be modified to incorporate criteria for low-emission/high efficiency criteria for construction and operation equipment. Criteria can include the use of biodiesel, hybrid technology, and specific fuel economy standards.

Environmentally Differentiated Port Fees Based on Vessel Greenhouse Gas Emissions: The ICCT Report discusses market-based mechanisms that impose variable fees designed to reward low-emissions and/or high efficiency vessels (and conversely penalize high-emissions and/or low-efficiency vessels). *See* ICCT Report at 56-64. A fee program has been implemented with a good deal of success in Sweden. Environmentally differentiated port dues would provide a significant incentive for large shipping companies to invest in emission control technologies for new and existing vessels and substantially reduce the greenhouse gases generated as a result of the Project.

Limitations/Controls on Use of Greenhouse Gas Refrigerants: Fluorinated and chlorinated hydrocarbons are still used as cooling agents in refrigerated vessels. Hydrofluorocarbons (HFCs) are highly potent greenhouse gases. Because some HFC's have a global warming impact of close to 12,000 times that of carbon dioxide, even small reductions in HFC emissions can have a large impact.

It is estimated that 50 percent of HFCs on a ship are released to the air during operation and that an additional an additional 15 percent are emitted during maintenance. ICCT Report at 34. To reduce HFC emissions, the Port should evaluate the following mitigation measures:

- Requiring all ships using the Port to use alternative refrigerants. \
- Use of environmentally differentiated fees for vessels that use alternative refrigerants. Fees should be set at a rate significant enough to encourage a switch to alternative refrigerants.
- A mitigation fund to assist ships in switching to alternative refrigerants.
- Requiring periodic leak inspections for ships, trucks, and trains that use

HFC refrigerants.

- Providing refrigerant servicing at the Port to ensure that HFC's are recovered during servicing.

In addition, an excerpt from the Environmental Protection Agency's *Global Mitigation of Non-CO_2 Greenhouse Gases* that specifically addresses HFCs and potential mitigation is attached. While the DEIR/S' estimate of emissions from refrigerant leaks is relatively low, the DEIR/S improperly limits its analysis to leaks occurring within California, not the entire trip length.

Preferential Contracting with Cleanest Carriers. To the extent the Port contracts with third parties, much like environmentally differentiated port dues, preferential contracting with cleanest carriers can provide incentives for additional greenhouse gas reductions. In addition, by only contracting with the cleanest carriers, the Port will reduce the emissions resulting from the Project.

- An examination of preferential contracting and environmentally differentiated fees should extend to the use of rail over trucks as a means of transport.

Vessel Speed Reduction Program: MM AQ-10 calls for speed reductions of 12 knots within 40 nautical miles of Point Fermin. (DEIR at 3.2-104). Please explain if the proposed program would maximize GHG reductions and/or if additional reductions are feasible if the program is extended beyond Point Fermin or if vessel speed is further reduced. In additional several whale deaths outside Los Angeles have recently been attributed to ship strikes. (*See* L.A. Times, Whale Death Attributed to Ship Strike (attached)). A revised EIR/S should analyze this potential impact and evaluate whether speed reduction should also be considered for areas trafficked by whales to prevent additional whale deaths.

Increased Use of Renewable Power for Electricity Generation: 47% of the Port's electricity comes from coal (DEIR/S at 3.2-104), which emits higher amounts of greenhouse gas emissions per unit of energy that any other source of electricity. The feasibility of generating additional on-site renewable electricity generation should be explored as well as a higher percentage of off-site renewable electricity, either from LADWP or independent sources of renewable energy.

- Specifically, the Port should examine the feasibility of expanding MM AQ-22, which calls for solar panels on the main terminal building, to the construction of solar panels on other Port buildings. Solar panels can also be built over parking lots, thereby generating both sustainable energy and shade.

Use of Low-Sulfur Fuel or Biofuels: Mitigation can include: 1) requiring the use of ultra low-sulphur diesel fuel (<15 ppm) in all on-board auxiliary engines, boilers, and compatible main engines; 2) requiring the use of low-sulphur marine gas oil (MGO) with a sulphur content of in all other main engines; 3) restricting the availability at Port facilities of fuels which do not meet ultra-low sulphur

standards for diesel or MGO; 4) providing financial incentives and technical assistance to international ocean-going shippers to install slide valves and other pollution-reducing devices on existing marine engines; 5) financial incentives and technical assistance to international shippers to use biofuels rather than fossil-fuels in all new engines; 6) requiring the use of fuel-borne catalysts in diesel, MGO, and other fuels to reduce particulate emissions.

Use of Recycled Materials: Use of recycled materials will lessen the greenhouse gas footprint of the Project. The DIER/S should commit the Project to using recycled materials in the construction and operation phases of the Project.

After all greenhouse gas emissions are calculated and reduced as much as possible, carbon "credits" and other voluntary market-based carbon-trading options are available to offset unmitigated emissions from the Project. A mitigation fund can be used to assist in reducing the greenhouse gas emissions from the trucks and ships that utilize the port and provide energy efficient retrofits to existing Port buildings as well as buildings in the surrounding area.

V. THE PROJECT'S OBJECTIVES AND RANGE OF ALTERNATIVES TO THE PROJECT CONSIERED IN THE DEIR/S IS INADEQUATE

The evaluation of alternatives in the "heart" of the EIS. 40 C.F.R. § 1502.14. NEPA requires that the preparing agency "[r]igorously explore and objectively evaluate all reasonable alternatives" to the proposed action. *Id.*; *Citizens for a Better Henderson v. Hodel*, 768 F.2d 1051, 1057 (9th Cir. 1985) (EIS must consider "every" reasonable alternative). To ensure that a full range of alternatives are considered, the preparing agency must not have unduly narrow project objectives. *City of Carmel-by-the-Sea v. United States Department of Transportation*, 123 F.3d 1142, 1155 (9th Cir. 1997). Similarly, a proper analysis of alternatives is essential to comply with CEQA's mandate that significant environmental damage be avoided or substantially lessened where feasible. Cal. Pub. Res. Code § 21002. The goal of the analysis is to determine whether there are alternatives to a proposed project that have fewer environmental impacts, yet still meet some, though not necessarily all, of the project's objectives. *See, e.g.*, Guidelines § 15126.6. The DEIR/S falls short of the meaningful evaluation of alternatives demanded by both CEQA and NEPA.

The discussion of Alternative 4, which includes construction of an "Omni Terminal" such as that currently operated at Berths 174-181, does not accurately reflect how that alternative could meet Project objectives. The DEIR/S states at 2-45: "It is assumed that one-third of the Omni terminal would be used for container cargo, one-third for automobile off-loading/transport, and one-third for break-bulk use." (parentheticals omitted). Setting such rigid limits to Omni terminal capacity ignores the versatile nature of an Omni terminal, which can accommodate a wide range of cargo types and volumes. The terse and insufficient description of the possible capabilities of an Omni terminal and the ways it can be optimized to accommodate larger proportions of containerized cargo renders the discussion of this alternative inadequate.

Additionally, Alternative 3, the Reduced Wharf alternative, which is the Environmentally Preferred Alternative under USACE's NEPA analysis, is rejected because it

does "not meet the need to optimize Port land and terminals for future cargo volumes because the resulting terminal would be capable of handling less cargo than the other two alternatives." However, the need to "optimize" Port facilities is not a Project objective for LAHD or USACE. LAHD's objectives to "provide a portion of the facilities needed to accommodate the projected growth in the volume of containerized cargo," "increase growth while mitigating the impacts of that growth on the local communities," and to "comply with the Port's Strategic Plan to maximize the efficiency and capacity of terminals while raising environmental standards through application of all feasible mitigation measures," can all plausibly be met by means of Alternative 3. *See* DEIR at 2-9. Likewise, USACE's purpose to "Construct sufficient berthing and infrastructure capacity to accommodate foreseeable increases in containerized cargo" does not require selection of the Alternative with the greatest cargo throughput.

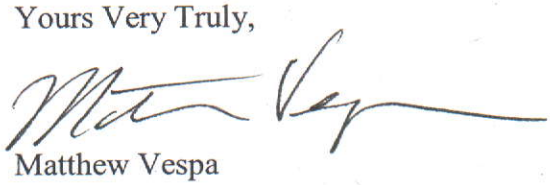
One possible alternative to the Project not discussed in the DEIR/S is the termination of the current holdover lease at berths 136-149 with TraPac, Inc. Forming a new lease with TraPac or some other contractor would allow the implementation of additional environmental controls developed by LAHD that are not part of the current lease. *See* DEIR/S at 2-46. When combined with proposed project components or other project alternatives, forming a new lease would plausibly allow Project objectives to be met with fewer environmental impacts than the proposed project. This and other additional reasonable alternatives that would reduce the proposed project's environmental impacts from greenhouse gases should be considered before USACE or LAHD take any action in furtherance of the Project.

CONCLUSION

For the reasons set forth above, the Center requests that LAHD prepare and recirculate a revised EIR/S that complies with CEQA and NEPA. The Center is concerned that the proposed Project, without further mitigation measures or more fully explored alternatives, risks causing irretrievable and irreparable environmental harm throughout its projected operation. Considering the severe environmental consequences of unmitigated climate change and its effects on public health and welfare and environmental quality, LAHD and USACE should take dramatic action to proactively reduce greenhouse gas emissions from this and other Projects under consideration

Please do not hesitate to contact Matthew Vespa at 415-436-9682 x 309 or mvespa@biologicaldiversity.org if you have any questions regarding these comments. The Center for Biological Diversity wishes to be placed on the mailing/notification list for all future environmental decisions regarding this Project. We look forward to working with the Los Angeles Harbor Department and the Army Corps of Engineers now and in the future to reach our shared goals of reducing greenhouse gas emissions and protecting biological diversity, public health, and our environment. Thank you for your time and consideration of our concerns.

Yours Very Truly,



Matthew Vespa

ATTACHED LITERATURE

Cayan, et al. 2007. Our Changing Climate: Assessing the Risks to California. California Climate Change Center. Available at: http://www.climatechange.ca.gov/biennial_reports/2006report/index.html

Chawkins, Whale Death Attributed to Ship Strike, Los Angeles Times, Sept. 23, 2007.

International Council on Clean Transportation, Air Pollution and Greenhouse Gas Emissions from Ocean-going Ships: Impacts, Mitigation Options and Opportunities for Managing Growth (2007)

Kleiner, The Shipping Forecast, Nature Vol. 449, p. 272-273 (Sept. 20, 2007)

United States Environmental Protection Agency, Global Mitigation of Non-CO_2 Greenhouse Gases, EPA 420-R-06-005 (2006) (excerpts)