

**RESPONSES TO COMMENTS ON
ADDITIONAL COMMENT LETTERS
RECEIVED ON THE FEIR**

**Southern California International Gateway
(SCIG) Project**

**Environmental Impact Report (EIR)
(ADP NO. 041027-199 / SCH NO. 2005091116)**

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Responses to Comments

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2 The public comment and response process for the Recirculated Draft Environmental Impact Report
3 (RDEIR) is described, and the public comments and lead agency's responses to comments are set forth in
4 Chapter 2 of the FEIR. The SCIG Final Environmental Impact Report (FEIR) was distributed to agencies
5 on February 22, 2013 and posted on the LAHD website on February 22, 2013. Although there is no
6 formal public comment and response process required under CEQA for the FEIR, the LAHD received 4
7 public comment letters and one comment form letter individually signed by 126 parties on the FEIR
8 between February 22, 2013 and March 6, 2013, and LAHD has prepared responses to these comments to
9 address the environmental issues raised. The manner and terminology used in these responses are
10 consistent with the explanation in FEIR Section 2.3 Responses to Comments.

11 **Commenter Letter F1: Caltrans**

12 **Response to Comment F1-1:**

13 See the responses to comments R89-72, R90-30, and R45C-48-4. The RDEIR properly
14 analyzes the changes in train and truck trips attributable to the proposed Project. Please
15 see Master Response 1, Baseline and Master Response 3, Hobart. The RDEIR's
16 projections of container activity at Hobart after the Project is implemented are reasonable
17 and supported by substantial evidence. An EIR is allowed to "make reasonable
18 assumptions based on substantial evidence about future conditions without guaranteeing
19 that those assumptions will remain true." (Pub. Resources Code, § 21080 (e); *City of Del*
20 *Mar v. City of San Diego* (1982) 133 Cal.App.3d 401, 412; *Environmental Council of*
21 *Sacramento v. City of Sacramento* (2006) 142 Cal App.4th 1018,1036) Thus CEQA does
22 not require an agreement to cap container throughput at Hobart to guarantee the accuracy
23 of EIR projections of container activity at Hobart.

24

25

1 Comment Letter F2: NRDC**2 Response to Comment F2-1:**

3 The commenter claims that the “Port is leveraging all current and future federal and state
4 funding against the SCIG project” and therefore it is subject to the Civil Rights Act and
5 California Government Code Section 11135. The LAHD strongly disagrees with all of
6 these allegations. The commenter provides no evidence to support the claim. As Master
7 Response 11 discusses, the SCIG project is 100% funded by BNSF Railway and no
8 federal or state money is being used or leveraged. Contrary to the assertion of the
9 commenter, California Government Code §11135 does not apply to the SCIG project or
10 the RDEIR. In addition, the comments do not raise issues of deficiencies of the content
11 of the RDEIR or DEIR under CEQA.

12 Response to Comment F2-2:

13 The RDEIR used information provided by the applicant, BNSF, to develop reasonable
14 assumptions for the operation of the SCIG facility. The facility, as described in REDEIR
15 sections 2.4.1 and 2.4.4.1 and in the supporting memoranda from BNSF, incorporates a
16 novel design that is specifically intended to reduce truck trips through efficient
17 scheduling and the entirely stacked operation of the facility. The commenter is not
18 correct that a drayage truck dropping off a container at the SCIG facility “will have to go
19 somewhere afterwards, whether it is attached to a chassis or not.” The design of the
20 facility is such that incoming trucks would be scheduled to receive an outbound container
21 after dropping off their inbound containers. The RDEIR used reasonable assumptions for
22 developing the truck-trip-to-lift ratio based on information provided by the project
23 applicant, who represent the experts on the design and operation of railyards. A public
24 agency can make reasonable assumptions based on substantial evidence about future
25 conditions without guaranteeing that those assumptions will remain true. (Pub. Resources
26 Code, § 21080(e); *City of Del Mar v. City of San Diego* (1982) 133 Cal.App.3d 401,
27 412.)

28 The BNSF will work with intermodal marketing companies (IMC), vessel carriers, and
29 trucking companies to coordinate inbound and outbound drayage to maximize dual
30 transactions, such that bobtail trips will be minimized. The BNSF services are typically
31 arranged and contracted by IMC or ocean carriers for store-door movements. Also, since
32 SCIG is designed as a grounded operation to handle international cargo, and is located
33 only four miles from the ports (as opposed to 24 miles for Hobart), coordination between
34 the marine terminals and SCIG for container deliveries will be more precise with less
35 variability than the movements to Hobart. To help facilitate these dual transactions,
36 SCIG is designed as a grounded operation (i.e. the containers rest on the ground rather
37 than on a wheeled chassis), with sufficient room for the ground stacking area and the
38 truck unloading area to be located adjacent to the tracks. The proximity of the tracks to
39 such ground stacking and truck unloading areas allows lift equipment to execute more
40 lifts directly from the truck chassis/ground stacking area to the rail car and vice versa.
41 The efficiency of this design and operational ability maximizes the opportunities for
42 trucks to carry loaded containers on both legs of their trips to and from the facility,
43 minimizing bobtail moves (i.e. truck trips without a loaded container). Hobart, on the
44 other hand, is currently a wheeled operation (i.e. the containers are placed in a parking
45 space on a wheeled chassis away from the track and require transportation within the
46 facility between the tracks and parking spaces by internal hostler trucks) rather than a
47 grounded operation, and serves different markets than would SCIG.

Response to Comment F2-3:

The commenter's assertion that the FEIR is "pretending" that the proposed Project would not free up space for transload cargo at Hobart misrepresents the document. FEIR Chapter 2 (Master Response 3, Hobart, as well as the responses to Comment R89-73, Comment R90-10, and Comment R146-20) explicitly addresses this point, explaining that Hobart and other intermodal facilities currently handle all transload cargo demanding rail transport. As Master Response 3, Hobart, states, "If SCIG is built, therefore, transload and domestic cargo would continue to be drayed to Hobart from facilities throughout the region -- there is no hidden reservoir of cargo-generating facilities in some unknown location that would suddenly spring into action as a result of the Project to alter the trip distribution of domestic/transload drayage trucks." The commenter does not explain why capacity freed up at Hobart would in any way change either the volume of transload cargo or its trip distribution, and in the absence of any data to that effect, the analysis in the FEIR is adequate under CEQA.

The commenter's statement that the Port is relying on a memorandum from BNSF with respect to future capacity at Hobart also misrepresents the FEIR. In fact, as stated in the RDEIR (Section 5.4.1, Alternative 1: No Project), the Port conducted an independent analysis (referenced as AECOM 2012) that concluded that Hobart could, with modest physical and operational changes, accommodate future intermodal demand at least through 2020. The commenter's statement that the SCIG facility is not needed because Hobart could accommodate the anticipated volumes of cargo ignores the stated objectives of the Project (FEIR Section 1.4.2). In fact, as explained in FEIR Chapter 2 (Response to Comment R90-22), accommodating future demand is only one of the Project's objectives. Other objectives include reducing truck miles traveled on regional freeways, emphasizing environmentally sound rail transport of cargo, and providing shippers with comparable options for cargo transport. Accordingly, the fact that SCIG's capacity is not needed in the short term is not determinative, because providing additional capacity is not the only project objective. Other important project objectives include: reduction of vehicle miles traveled; increased use of the Alameda Corridor for efficient and environmentally sound transportation to destinations inland and outside the region; maximizing the direct transfer of cargo from port to rail with minimal surface transportation, congestion and delay; providing shippers, carriers and terminal operators with comparable options for Class 1 railroad service from near-dock intermodal rail facilities; and providing infrastructure improvements consistent with the California Goods Movement Action Plan. Furthermore, the EIR's treatment of Hobart in the baseline and in the impact analyses is appropriate, as described in FEIR Chapter 2 (Master Response 3, Hobart). The commenter's characterization of that treatment as "sleight-of-hand" does not explain why that treatment is inappropriate, specifically why Hobart should be accounted for in analyses of projected future emissions.

Response to Comment F2-4:

The commenter's statement that the FEIR includes only one mitigation measure with a firm deadline, the sweeping measure on-site at the SCIG facility, is incorrect. The FEIR also includes an operational mitigation measure requiring drayage trucks calling on the SCIG facility to be "low-emission" and to achieve a 95% reduction in diesel PM emissions beyond the EPA's cleanest standards for model year 2007 trucks (see MM AQ-8 in RDEIR Section 3.2.4.3). Phase-in of low-emissions trucks under MM AQ-8 would occur over a 10-year period with specific deadlines for the phase-in.

Response to Comment F2-5:

The commenter suggests that MetroLink's ordering of 10 Tier 4 passenger locomotives for 2015 delivery requires that LAHD must similarly dictate to BNSF a specific schedule for implementing Tier 4 locomotives in a freight application. The commenter misrepresents the ramifications of MetroLink's ordering of Tier 4 passenger locomotives; of the 10 locomotives in the agreement, only 3 demonstration units will be delivered by fall of 2015. Indeed, as the RDEIR acknowledges in the regulatory setting section of the air quality analysis (see RDEIR Section 3.2.3), the EPA's emissions standards for locomotives will require locomotive manufacturers to manufacture and sell Tier 4 locomotives by 2015 and it is fully expected that BNSF and other Class 1 railroads will begin to purchase these locomotives as part of their new purchases (similar to MetroLink's order for new Tier 4 locomotives). The EPA rulemaking does not require the railroads to purchase and use Tier 4 locomotives at a particular rate, and the RDEIR air quality analysis uses the EPA's forecasted fleet mix (including the fraction of the fleet meeting Tier 4 locomotive emissions standards) for purposes of assessing air quality impacts. In any case, the MetroLink local passenger rail situation is very different from the case of a nationwide freight railroad company. MetroLink operates a relatively small fleet of passenger locomotives confined entirely to Southern California, and therefore can guarantee that Tier 4 locomotives would be operating in the South Coast air basin. BNSF operates a fleet of thousands of locomotives, most of them devoted to heavy freight operations, on a nationwide network characterized by long-haul, interstate traffic. Individual locomotives operate throughout that network, and requiring that only a subset of them (the Tier 4 units) be allowed at one particular facility in California (SCIG) would require BNSF to alter its basic operating practices in ways that raise issues of federal preemption.

MetroLink as the passenger rail operator may order Tier 4 locomotives, and the commenter is correct that BNSF as the freight rail operator may also order Tier 4 locomotives. However, the commenter is incorrect that LAHD may mandate a specific implementation schedule for Tier 4 locomotives purchase by BNSF due to principles of federal preemption. The 1998 and 2005 Railroad Agreements between BNSF, Union Pacific and the California Air Resources Board (CARB) acknowledged that the railroads "... are federally regulated and that aspects of state and local authority to regulate railroads are preempted" and on that basis the parties entered into consensual agreements to achieve emissions reductions by locomotives. (CARB, 1998, Memorandum of Mutual Understandings and Agreements; CARB, 2005, ARB/Railyard Statewide Agreement) Recognition of federal rail preemption necessitating state and local agencies reaching agreements with the railroads rather than imposing regulation, was also repeated in the CARB Board Resolution directing its Executive Officer to negotiate with the railroads for the proposed "Proposed Actions to Further Reduce Diesel Particulate Matter at High Priority California Railyards" (2010 Commitments). CARB Board Resolution 10-29, June 24, 2010. (<http://www.arb.ca.gov/railyard/commitments/Resolution%2010-29%20June%2024%202010%20Final%20-%20Signed.pdf>)

PC AQ-12 San Pedro Bay Ports CAAP Measure RL-3 is not quantifiable or feasible at this time and is not considered mitigation under CEQA to reduce an identified impact. Tier 4 locomotives are expected to utilize a new, untested technology that simply does not currently exist at a size adequate for line-haul locomotive engines. Under even the most optimistic scenario, there will only be a limited number of prototype high horsepower Tier 4 locomotives operating in California for field testing in 2013. It is infeasible to commit in advance to purchase and deploy locomotives by a date certain

1 when those locomotives have not yet been designed, tested, or deployed. PC AQ-12 is
2 clear that “[i]mplementation of the RL-3 goal for introduction of the locomotives calling
3 at SCIG while on port properties would be based on the commercial availability of
4 operationally proven Tier 4 locomotives in 2015 and *any adjustment in that date will*
5 *require equivalent adjustment in the goal achievement date.*” RDEIR, Section 3.2.5
6 (emphasis added). PC AQ-12 takes into account the necessity to adjust the goal
7 achievement date if certain key assumptions, such as the commercial availability of
8 operationally proven Tier 4 locomotives by 2015, are not met. In addition, PC AQ-12 is
9 clear that the emission reduction sought by the RL-3 emissions goal “may also be
10 achieved by BNSF’s reduction in air emissions anywhere in the South Coast Air Basin
11 equivalent to the RL-3 goal for locomotives calling at SCIG while on port properties
12 through *any other alternative means.*” RDEIR, Section 3.2.5 (emphasis added). This
13 provides necessary flexibility in meeting the project condition, without which the project
14 condition would be infeasible. Therefore PC AQ-12 is appropriate as a project condition
15 and not a mitigation measure under CEQA.

16 The comment does not describe what “other ways to reduce locomotive and long-haul
17 emissions” the commenter would like the EIR to consider; accordingly, no further
18 response is necessary.

19 **Response to Comment F2-6:**

20 Based upon information contained in the Draft Program EIR for the Port of Los Angeles
21 Master Plan Update (February 2013) the commenter implies that the RDEIR analysis has
22 neglected to evaluate a reasonable range of alternatives. NRDC’s comments include:

23 In the Draft Program EIR, the Terminal Island On-Dock Rail Redevelopment Project is
24 described as “Redevelopment and expansion of on-dock rail on Terminal Island” as
25 being in the conceptual planning stage, meaning that it has not been rejected as
26 infeasible.

27 The Draft Program EIR also mentions the “Increased On-Dock Rail Usage, Port of Los
28 Angeles and Port of Long Beach” described as “ACTA, Port, and Port of Long Beach
29 program with shipping lines and terminal operators to consolidate intermodal volume
30 of neighboring terminals to create larger trains to interior points, thereby reducing
31 need for truck transportation.”

32 The FEIR response to comments (R92-6) state the Port is currently not creating new land
33 for the Pier 500 Project, however the Draft Program EIR describes the Pier 500
34 Project as being in the conceptual planning process, and the Terminal Island Land
35 Use Plan states in its summary that the three planning options assume that Pier 500 is
36 created by adding fill south of Pier 400.

37 The Terminal Island On-Dock Rail Redevelopment Project and the Increased On-Dock
38 Rail Usage Program are in the conceptual planning stage. These projects concepts are
39 intended to supplement existing on-dock rail services at existing cargo terminals.

40 Additional on-dock railyards, as an approach to avoiding a near-dock railyard, are
41 evaluated in Chapter 5, Alternatives. As discussed in Section 1.1.5.3 and Appendix G4 of
42 the FEIR, additional on-dock rail capacity or use beyond those mentioned in Table 1.2
43 cannot be achieved. Hence, the use of solely additional on-dock railyards is not a viable
44 alternative. The Ports have maximized the size of planned and proposed on-dock
45 railyards and support rail infrastructure via detailed master planning, preliminary
46 engineering, and final design for some of the infrastructure. Detailed rail system
47 simulation (Parsons, 2006 and 2012) has determined that the rail network within the Ports

1 will reach capacity with forecasted operations from existing and planned on-dock
2 facilities by 2035, even with implementation of all planned rail improvement projects.
3 Accordingly, additional on-dock facilities would not yield higher capacity or greater
4 utilization of rail transport. See Master Response 6, On-Dock Rail.

5 The PMPU considered the long term land use and facility improvements for Terminal
6 Island and considers Pier 500 an “other” project since there are not sufficient details
7 known about the project for it to be considered a proposed project. The Draft Program
8 EIR states that sufficient details are not known about the “other” projects, such as the Pier
9 500 Project, to support even a programmatic evaluation of potential impacts. The FEIR
10 response to comment R92-6 is accurate in stating that the Port is not currently creating
11 new land for the Pier 500 project.

12 Although not stated in the PMPU or the Draft Program EIR, a major obstacle for the Pier
13 500 Project is the construction of a 200-acre fill. The biological impacts due to the loss of
14 productive marine habitat and impacts of dredging to supply fill material could be
15 mitigated to less than significant by the application of mitigation fill credits, however the
16 Port does not currently have adequate fill credits for such a project.

17 Finally, the RDEIR (Section 5.1.3.2.5) described that the fundamental reason why
18 building new landfill for a railyard was considered infeasible is that any substantial
19 increase in rail traffic on Terminal Island, where such a landfill would have to be built,
20 would overwhelm the rail connections to the mainland.

21 **Response to Comment F2-7:**

22 The FEIR’s description of the I-710 DEIR (FEIR Chapter 2, Response to Comment
23 R156-14) is accurate: only two of the build alternatives assume trucks with zero tailpipe
24 emissions (Alternatives 6B and 6C). The basis for the commenter’s statement that “the
25 revised EIR/EIS for the I-710 will include three alternatives, all of which include zero
26 emissions vehicles” is unclear, especially since the commenter provides no reference. I-
27 710 Corridor Project advisory meetings in late January, 2013,
28 (http://www.metro.net/projects_studies/I710/images/i710_TAC_Jan_2013_next_steps.pdf)
29 discussed possible next steps in the CEQA/NEPA process, but there has been no
30 official decision on whether the DEIR/DEIS will be revised or re-circulated, much less
31 official decisions on alternatives for any succeeding documents. Any characterization of
32 future revisions and/or alternatives as to preferred and/or chosen alternatives is
33 speculative, and the No-Project Alternative (with no zero-emission freight corridor) could
34 always be chosen (or simply occur if the I-710 Corridor Project is not approved and
35 built). The SCIG EIR’s analysis reflects the implementation of known, approved and/or
36 foreseeable regulations and projects, consistent with CEQA [§15126.6(e)(2)]. Reliance
37 on the implementation of a proposed project that is likely to be revised and/or re-
38 circulated is not consistent with CEQA. The I-710 Plan is not adopted. Under CEQA,
39 draft plans need not be evaluated (*Chaparral Greens v. City of Chula Vista* (1996) 50
40 Cal.App.4th 1134) nor used as the basis for other projects (*County of Amador v. El*
41 *Dorado County Water Agency*, 76 Cal. App. 4th 931).

42 **Response to Comment F2-8:**

43 With respect to SCAG’s consideration of zero-emissions technologies, the commenter
44 quotes from the RTP as if it demonstrates that SCAG has concluded that zero-emissions
45 cargo movement technology is feasible. The quoted material says no such thing. Instead,
46 it uses the terms “promising approach,” “now being demonstrated,” and “could provide,”

1 rather than stating that there is a currently feasible zero-emissions technology ready to be
2 deployed in the Southern California goods movement system. The FEIR acknowledges
3 that zero-emissions technologies are promising: RDEIR Section 5.2.2 and FEIR Chapter
4 2 (Master Response 7, ZECMS) describe the multi-pronged approach the ports are taking
5 to participate in demonstrating those technologies in the heavy-duty environment in
6 which they would be deployed. PC AQ-11 Zero Emissions Technologies Demonstration
7 Program specifically requires BNSF to work with the LAHD to advance zero emission
8 technologies including contribution of match funding of up to \$3 million to the zero
9 emission truck demonstration project and agreeing to an expeditious phase in of zero
10 emission drayage trucks and technologies following determination of technical and
11 commercial feasibility made by the Ports of Los Angeles and Long Beach Boards of Harb
12 or Commissioners. Furthermore, the commenter quotes only a portion of but not the full
13 text of MM AQ-9 Periodic Review of New Technology and Regulations. Specifically,
14 the MM AQ-9 measure requires: “As partial consideration for the Port agreement to
15 issue the permit to the business, the business shall implement not less frequently than
16 once every five (5) years following the effective date of the permit, new air quality
17 technological advancements, subject to mutual agreement on operational feasibility and
18 cost sharing, which shall not be unreasonably withheld.” The support of the ports has
19 been crucial in bringing electric and hybrid truck technology to the pilot demonstration
20 stage. In that respect, the ports have been instrumental in the “greater advancements in
21 technology” that the commenter mentions. In fact, the project itself represents an
22 advancement in technology, as it would employ advanced equipment and operational
23 practices that clearly would make it the cleanest intermodal railyard, on a pounds of
24 emissions per container basis, in California.

25 **Response to Comment F2-9:**

26 MM AQ-9 requires that if a review of new technology and regulations identifies new
27 technology that is feasible in terms of cost, and technical and operational feasibility, that
28 the Port work with the project applicant to implement the technology. As explained in
29 FEIR Chapter 2 (Response to Comment 74-9), it is not feasible to require that the
30 technology be implemented in a specific time frame, as suggested by the commenter.
31 Depending on the technology, many operational and cost factors may need to be
32 accounted for in the introduction of the technology, and these cannot be known in
33 advance of the technology review. It would be infeasible for the RDEIR to require a
34 specific schedule for their implementation when the technologies themselves, though
35 they may be promising, are unproven for use in the proposed Project at this time. See
36 Master Response 4, Feasibility of Mitigation Measures, and Master Response 7, ZECMS.

37 **Response to Comment F2-10:**

38 The commenter is incorrect that the project will increase ozone emissions. As
39 demonstrated in RDEIR Section 3.2.4.3, the proposed Project is projected to decrease
40 emissions of ozone precursors (NO_x and VOC) relative to the CEQA baseline. The
41 commenter’s claim that the “million new diesel truck trips per year that the SCIG project
42 will create” will add to the PM_{2.5} load in the South Coast region ignores the fact that the
43 SCAQMD, in the draft 2012 AQMP, has already accounted for growth at the Ports and
44 has not indicated that additional controls are needed to achieve attainment of the PM_{2.5}
45 NAAQS. In addition, the commenter refers to new truck trips at the Project site as
46 “diesel truck trips” which misrepresents the RDEIR and specifically ignores mitigation
47 measure MM AQ-8 Low Emission Drayage Trucks. This mitigation calls for 90% of
48 trucks serving the facility by 2026 to meet a performance standard of 95% reduction in

1 DPM emissions below those of the cleanest diesel PM emission standards for trucks (i.e.
2 the EPA model year 2007 on-road heavy duty truck standards). Trucks meeting the
3 requirements of MM AQ-8 were modeled as, and expected to be, natural gas trucks, not
4 diesel trucks. However MM AQ-8 could be met through any other technology including
5 electric trucks, fuel cell trucks, hybrid trucks or other technologies. Regardless of the
6 technology used, these trucks will not represent “one million new diesel truck trips” as
7 the commenter suggests, the large majority of these trucks will use alternative, low-
8 emission technologies.

9 With regard to the Project assisting in the attainment of ‘black box’ goals in part through
10 MM AQ-9 and MM AQ-10, see the Response to Comment F3-9, above. The commenter
11 suggests that these mitigation measures are “illusory and toothless” but does not provide
12 substantial evidence that new technologies would not be implemented under these
13 mitigation measures.

14 Finally, the commenter claims that the Project would “violate the federal Clean Air Act
15 and cannot be legally approved” as a result of the exceedances of CEQA criteria pollutant
16 concentration thresholds under impact AQ-4 (see RDEIR Section 3.2.4.3). The
17 commenter is incorrect. The exceedances do not violate the federal Clean Air Act. Only
18 projects that fall under 42 USC§ 7506 could potentially violate the Clean Air Act. The
19 SCIG project does not require any federal action. Therefore, there is no violation of the
20 Clean Air Act.

21 In addition, under CEQA, the lead agency can still approve the project by making a
22 finding of overriding considerations that acknowledge the Project’s other benefits (Public
23 Resources Code Section 21081; CEQA Guidelines Section 15093). The Board will
24 consider the Findings of Fact and Statement of Overriding Considerations submitted as
25 Transmittal 2 to the Board report, which if adopted by the Board, provide the legal basis
26 for approval. The RDEIR analysis shows that the Project offers broad regional benefits
27 relative to the No Project by removing truck trips primarily on I-710 that would have
28 traveled a much longer 24-mile distance to the Hobart Yard and replacing them with a
29 cleaner, more efficient rail yard located only 4 miles from the ports. This offers regional
30 emissions and traffic benefits, among others. Although the proposed Project has some air
31 quality pollutant concentration exceedances, the Port-related sources are meeting or
32 exceeding the standards that the Port has set under the Clean Air Action Plan (including
33 the AQMP backstop targets) deemed by agency consensus to contribute the Port
34 industry’s fair share to regional attainment of ambient air quality standards.

35

1 **Comment Letter F3: Senator Lieu**

2 **Response to Comment F3-1:**

3 Thank you for your comment. The RDEIR analysis assumes that Fast Lane would
4 continue most of its operations on Fast Lane’s existing 24.5 acres that would not be taken
5 by the Project; the 4.5-acre alternate site offered to Fast lane would only replace the 5.5
6 acres of Fast Lane property lost to the Project. Fast Lane’s remaining 24.5 acres that is
7 not affected by the Project could be used to continue Fast Lane’s operations in
8 combination with the relocation sites offered, if Fast Lane chose to do so, but Fast Lane is
9 not required to use the offered alternate sites. The RDEIR environmental analysis did not
10 specify exactly what activities would occur on what sub-portions of Fast Lane’s overall
11 property, but rather modeled reasonable activity assumptions across all of Fast Lane’s
12 overall property. Please see the SCIG Final Environmental Impact Report (FEIR)
13 Responses to Comment Letters R91 and R139, and Master Response 8, Displaced
14 Businesses, which explains why the disposition of the displaced businesses is not a
15 CEQA issue and therefore does not need to be resolved in the EIR (Public Resources
16 Code § 21091(d); CEQA Guidelines § 15204(a)).

17

1 **Comment Letter F4: Coalition for Clean Air**

2 This comment letter contains comments from 126 individuals; each comment is identical
3 and therefore all of the comments are responded to in a single response below.

4 **Response to Comment F4-1:**

5 Thank you for the comment. Please refer to Master Response 5, Alternatives, and Master
6 Response 6, On-Dock Rail which discuss the evaluation of Project Alternatives including
7 alternate sites and on-dock railyards.

8

1 **Comment Letter F5: Henry Hernandez**

2 **Response to Comment F5-1:**

3 Thank you for your comment. The comment is noted and is hereby part of the Final EIR,
4 and is therefore before the decision-makers for their consideration prior to taking any
5 action on the SCIG project. The comment is general and does not reference any specific
6 section of the DEIR or RDEIR, therefore no further response is required. (Public
7 Resources Code §21091(d); CEQA Guidelines §15204(a)).

8

1 **Comment Letter F6: South Coast Air Quality Management District**

2 **Response to Comment F6-1:**

3 The commenter quotes exceedances of criteria pollutant concentrations as multiples
4 above the thresholds using results from the RDEIR. It is noted that these are peak
5 impacts, that do not occur at the quoted levels throughout the extent of the isopleth
6 defining the impact. In addition, the analysis conducted was extremely conservative, and
7 as noted in the responses to comments R116-17.

8 The commenter also notes that only one mitigation measure was analyzed in the RDEIR
9 for particulate emissions. This is not true, the RDEIR analyzed mitigation measure MM
10 AQ-8, low-emission drayage trucks which requires 90% of the drayage trucks serving the
11 facility by 2026 to meet a 95% reduction in DPM exhaust emissions below those of the
12 cleanest on-road heavy-duty truck emissions standards (i.e. the EPA model year 2007 on-
13 road heavy duty truck emissions standards. These were modeled as, and expected to be,
14 LNG trucks or another comparable technology. These trucks already demonstrate lower
15 emissions than those of the model year 2007 on-road heavy-duty trucks, but the RDEIR
16 analysis conservatively did not take credit for those additional PM reductions. It is
17 expected that these trucks would generate an additional benefit for PM emissions.

18 **Response to Comment F6-2:**

19 The FEIR contains a response to this same issue in Comment R156-4, which explains
20 why project condition PC AQ-12 is appropriate as a project condition and not a
21 mitigation measure under CEQA. The Commenter does not like this response but
22 responds with its own unsubstantiated opinion. A lead agency may adopt the
23 environmental conclusions reached by the experts that prepared the EIR even though
24 others may disagree with the underlying data, analysis, or conclusions. Laurel Heights
25 Improvement Assn'n v. Regents of Univ. of Cal. (1922) 47 Cal.3d 376, 408. When
26 approving an EIR, an agency does not need to resolve a dispute among experts about the
27 information in the EIR. Disagreement among experts does not make an EIR inadequate.
28 (CEQA Guidelines Section 15151.) The lead agency is free to reject criticism from an
29 expert or a regulatory agency on a given issue as long as its reasons for doing so are
30 supported by substantial evidence. Laurel Heights Improvement Assn'n v. Regents of
31 Univ. of Cal. (1922) 47 Cal.3d 376, 408. California Native Plant Society v. City of
32 Rancho Cordova (2009) 172 Cal.App.4th 603, Association of Irrigated Residents v.
33 County of Madera (2003) 107 Cal.App.4th 1383,1397.
34
35

36
37 Further, the RDEIR acknowledges in the regulatory setting section of the air quality
38 analysis (see RDEIR Section 3.2.3), the EPA's emissions standards for locomotives will
39 require locomotive manufacturers to manufacture and sell Tier 4 locomotives by 2015
40 and it is fully expected that BNSF and other Class 1 railroads will begin to purchase these
41 locomotives as part of their new purchases. The EPA rulemaking does not require the
42 railroads to purchase and use Tier 4 locomotives at a particular rate, and the RDEIR air
43 quality analysis uses the EPA's forecasted fleet mix (including the fraction of the fleet
44 meeting Tier 4 locomotive emissions standards) for purposes of assessing air quality
45 impacts. BNSF operates a fleet of thousands of locomotives, most of them devoted to
46 heavy freight operations, on a nationwide network characterized by long-haul, interstate
47 traffic. Individual locomotives operate throughout that network, and requiring that only a

1 subset of them (the Tier 4 units) be allowed at one particular facility in California (SCIG)
2 would require BNSF to alter its basic operating practices in ways that raise issues of
3 federal pre-emption.
4

5 The commenter is incorrect that LAHD may mandate a specific implementation schedule
6 for Tier 4 locomotives upon BNSF, at specific rates requested by the commenter at 25%
7 by 2018 and 95% by 2020, due to principles of federal preemption. The 1998 and 2005
8 Railroad Agreements between BNSF, Union Pacific and the California Air Resources
9 Board (CARB) acknowledged that the railroads "... are federally regulated and that
10 aspects of state and local authority to regulate railroads are preempted" and on that basis
11 the parties entered into consensual agreements to achieve emissions reductions by
12 locomotives. (CARB, 1998, Memorandum of Mutual Understandings and Agreements;
13 CARB, 2005, ARB/Railyard Statewide Agreement) Recognition of federal rail
14 preemption necessitating state and local agencies reaching agreements with the railroads
15 rather than imposing regulation, was also repeated in the CARB Board Resolution
16 directing its Executive Officer to negotiate with the railroads for the proposed "Proposed
17 Actions to Further Reduce Diesel Particulate Matter at High Priority California
18 Railyards" (2010 Commitments). CARB Board Resolution 10-29, June 24, 2010.
19 ([http://www.arb.ca.gov/railyard/commitments/Resolution%2010-
20 29%20June%2024%202010%20Final%20-%20Signed.pdf](http://www.arb.ca.gov/railyard/commitments/Resolution%2010-29%20June%2024%202010%20Final%20-%20Signed.pdf))

21
22 **Response to Comment F6-3:**

23 The FEIR's master response (Master Response 7, ZECMS) does not "commit" to 100%
24 zero emissions trucks by 2020. Instead, that accomplishment is stated as a "goal". The
25 comment is making a leap of faith in asserting that zero-emissions trucks can be deployed
26 "in a reasonable time." As explained in the master response, zero-emissions trucks are
27 being tested, but it is still not clear whether and when they will be found capable of
28 moving cargo containers in the heavy-duty, 24-hour-a-day (FEIR Master Response 7:
29 "To date, no zero emission technologies that meet the ports' need for container transport
30 have completed a small-scale demonstration, and thus zero emission technologies are
31 considered technologically infeasible. "). The District's comment actually acknowledges
32 that zero-emissions trucks are in the research phase and provides no evidence that those
33 projects will prove the viability of zero-emissions trucks. Thus, the District's
34 characterization of zero-emissions trucks as capable of being "deployed in a reasonable
35 time" is inaccurate, and the District's "[belief] that the first generation of zero-emission
36 trucks will be available within the next five years" does not constitute proof of feasibility.
37 Requiring, at this time, that zero-emissions trucks be deployed by a date certain would
38 ignore the reality of the current and anticipated state of the technology and could commit
39 the project to achieving the unachievable. The EIR instead includes mitigation measures
40 (MM AQ-9 and MM AQ-10) that commit BNSF and LAHD to reviewing zero-emissions
41 technologies on a five-year cycle and implementing them as they are proven feasible.
42 Furthermore, the EIR includes as a project condition (PC AQ-11), a zero-emissions
43 technology demonstration program that establishes goals and periodic review every two
44 years leading to the advancement and eventual deployment of zero emission
45 technologies.
46

47 The commenter's contention that MM AQ-9 and MM AQ-10 are not enforceable is
48 incorrect. In fact, the LAHD that the Project proponent adhere to the requirements of

1 those measures which are to participate in the review of zero emission technologies as
2 determined to be feasible. As explained above, the LAHD has determined that currently
3 there are no feasible zero emission freight movement systems, and therefore the
4 requirements in MM AQ-9 and MM AQ-10 to review the feasibility of technologies and
5 implement them as they become available (on a 5-year cycle or sooner) are entirely
6 appropriate. Furthermore the EIR does not take credit for any emission reductions from
7 ZECMS.

8
9 **Response to Comment F6-4:**

10 Contrary to the commenter's assertion, the Port provided all emissions calculations and
11 air quality modeling files upon the request of the commenter. This is going beyond the
12 requirements of CEQA. In order to fulfill the requirements of CEQA, the document
13 provided extensive documentation on the analysis in RDEIR Section 3.2, Chapter 5, and
14 Appendices C1, C2, and C3 which include the findings of impacts, and detailed
15 documentation of the methodologies and supporting data used in the air quality and
16 health risk analysis of the Project and Alternatives. The RDEIR technical analysis was
17 developed by air quality and health risk modeling experts at ENVIRON Corporation who
18 have years of experience conducting these types of analyses, including having conducted
19 air quality and health risk analysis of railyards for the California Air Resources Board
20 (CARB). The commenter asserts that responses were not provided to the commenter's
21 February 2012 letter on the Draft EIR. The notice for the RDEIR pursuant to CEQA
22 guidelines section 15088.5 (f) (2) explicitly indicated that for revised chapters that were
23 recirculated, commenters must submit new comment letters on these chapters. In fact,
24 the commenter did submit these letters.

25
26 In previous comments provided by AQMD, AQMD states it is unable to verify
27 calculations and that "there are thousands" of sources for which the District was unable to
28 "correlate the data" in the files provided. AQMD did not provide a list of where it could
29 not correlate its data; instead AQMD only provided specific examples where it believed
30 that calculations used in the AQ analysis did not "correlate" or where not reported
31 correctly. In the example AQMD described in their RDEIR comment letter, the response
32 to the comment provided information that demonstrated that the calculations did
33 correlate. Furthermore, the specific examples described are representative of the types of
34 modifications done for other sources, given that a consistent methodology was used
35 throughout the AQ assessment; therefore, the specific example is illustrative of what was
36 done throughout. For the additional comments provided by AQMD on the FEIR, a
37 response is provided that further demonstrates that the calculations correlate. The
38 responses to the only details provided by AQMD on instances where it could not
39 "correlate" that AQ data; show that the Port's analysis was internally consistent and did
40 correlate within the AQ analysis.

41
42 **Response to Comment F6-5:**

43
44 The FEIR includes detailed responses to comments on the non-recirculated chapters of
45 the DEIR and the recirculated chapters in the RDEIR. In addition when an RDEIR
46 comment letter specifically stated that the commenter incorporated their previous DEIR
47 comments by reference, the FEIR includes responses to those as well. The SCAQMD in
48 their November 2012 RDEIR comment letter did not incorporate their previous comment

1 letters by reference (pursuant to CEQA guidelines section 15088.5(f)(2)). All of the
2 revised air quality and health risk analysis data requested by the commenter for the
3 RDEIR analysis was provided.

4
5 **Response to Comment F6-6:**
6

7 The RDEIR properly utilized the CEQA definition of feasible under Section 15364; i.e.
8 the experts (including the LAHD's commissioned report by TIAX, 2012) indicated that
9 ZECMS were not currently available nor would it be available within a reasonable
10 amount of time. However the LAHD is committed to implementation of ZECMS as
11 demonstrated through the mitigation measures MM AQ-9 (Review of New Technology
12 and Regulations) and MM AQ-10 (Substitution of New Technology), the Project
13 Condition PC AQ-11 (Zero Emission Technologies) requiring a zero emission
14 demonstration program, and extensive ongoing projects to bring ZECMS into port-wide
15 applications. In addition, no emissions or air quality credit was taken for these measures
16 in the RDEIR analysis. In fact, the TIAX, 2012 experts' analysis of the feasibility of zero
17 emission truck technologies (cited in the RDEIR) explicitly stated that it is unknown over
18 what time frame these electric trucks would be available based on in-use testing being
19 conducted by the Port and truck manufacturers:

20
21 "While progress has been made in each category, several key unknowns lead to the
22 conclusion that further testing and demonstration of Balqon's prototype battery electric
23 truck is necessary. In particular, the lack of a real-world demonstration over an extended
24 period of time makes it impossible to assess the viability of the on-road battery electric
25 truck in drayage operation. For these reasons, it is not possible in this report to estimate
26 the timing of large-scale commercial viability for this vehicle without further information
27 and testing. To produce the information needed to determine the viability of the Balqon
28 battery electric truck in large-scale drayage operations."
29

30 **Response to Comment F6-7:**
31

32 The EIR used appropriate baselines for the health risk assessment, the analysis of
33 regional criteria pollutant emissions, and traffic. The baselines selected are consistent
34 with CEQA requirements and current case law.

35 Using existing conditions as the baseline is appropriate for the proposed Project air
36 quality analysis because, in part, the analysis is based on comparison of the baseline with
37 construction emissions and with operational emissions at several discrete points in time
38 for specific analysis years.

39 The RDEIR assesses whether, at a specific point in time, concentrations of pollutants will
40 be greater than or less than concentrations that the existing conditions baseline, and the
41 magnitude of this difference. It is neither reasonable nor clear how a floating Baseline
42 approach would be used for this assessment, and use of a floating Baseline would not
43 provide useful impact information for decision-makers and the public.

44 If a floating emissions scenario were somehow evaluated for the Baseline for purposes of
45 the criteria air pollutant concentration impact assessment, there would be no clear peak
46 emissions defined and any resulting selection of annual emissions would not represent
47 existing peak emissions for purposes of conducting the evaluation. Similarly, it is not
48 clear how a floating 24-hour emissions period would be defined and which period would

1 be selected for use in the incremental pollutant concentration impact assessment, nor
2 would this represent existing conditions.

3 The mass emissions' analysis was also done correctly, evaluated at specific impact
4 analysis years (i.e. specific points in time) to determine whether, in that year, the daily
5 emissions are above or below the mass emissions in the existing conditions baseline and,
6 if they are above, by how much they exceed CEQA significance thresholds). This is the
7 fundamental analysis required under CEQA and was analyzed in AQ-1 and AQ-3 for
8 construction and operational emissions respectively. (See RDEIR Section 3.2.4.3.)

9 It would not make sense to evaluate project impacts against multiple baselines for
10 multiple analysis years and this is not the industry standard for conducting such an
11 analysis, nor would this be consistent with regulatory guidance (see the Master Response
12 for Regulations).

13
14 **Response to Comment F6-8:**

15
16
17 The commenter erroneously states that the Port improperly limits its own legal authority.
18 The commenter's reference to the Association of American Railroads v. South Coast Air
19 Quality Management District case, which held that rules adopted by the commenter were
20 preempted from regulating rail, proves the point made in response R156-18. Commenter
21 states that the Ninth Circuit held that if the rules had been approved by EPA into the State
22 Implementation Plan, they would not generally be preempted. However no State
23 Implementation Plan measure exists to require Tier 2 locomotives or above emissions
24 levels to exclusively be used by BNSF. What the commenter has requested is not
25 required by the State Implementation Plan adopted by the EPA, and therefore, they have
26 proven the LAHD's point

27
28 The commenter is correct that the LAHD is currently defending a lawsuit pending before
29 the United States Supreme Court, brought by the American Trucking Associations (ATA)
30 claiming federal preemption under the trucking deregulation statute, the Federal Aviation
31 Administration Authorization Act (FAAAA). The LAHD is raising as a defense to the
32 action, that it is acting as a market participant and exempt from preemption under the
33 FAAAA. However, federal preemption analysis requires a fact-specific analysis,
34 involving among other factors, the nature of the commercial interests of LAHD being
35 advanced, the strength of the nexus between those commercial interests and the
36 proprietor activity being proposed, and the terms of the preemptive statute itself. The
37 State of California through the California Air Resources Board, regulates air emissions of
38 trucks through its rules (See, Drayage Truck Rule, State Truck and Bus Rule), while
39 LAHD's restrictions on truck access to its non-public port property are undertaken as
40 owner of the property and as a market participant. Commenter is incorrect in claiming
41 that because LAHD's restrictions on truck access qualify under the market participant
42 doctrine, that LAHD is a market participant for all purposes, regardless of the proprietary
43 action being proposed and the preemptive statute at issue.

44
45 **Response to Comment F6-9:**

1 The commenter is repeating an erroneous position that has been advanced by other
2 commenters and has been refuted both in the RDEIR and the FEIR, namely that capacity
3 freed up at Hobart would be filled by domestic and transloaded cargo that would
4 miraculously appear from nowhere or that the Hobart Yard would operate well below
5 capacity. As the RDEIR (Section 5.2) and the FEIR (Master Response 3, Hobart,
6 responses to comments 133-16, R156-25, and R146-6) explain, Hobart accepts direct
7 marine cargo (somewhat less than half Hobart's total volume), domestic cargo, and
8 transloaded cargo from both the ports and from various sources in Southern California.
9 Hobart is not currently operating at capacity, which shows that there is no domestic or
10 transloaded intermodal cargo that is not being served. Neither this commenter nor the
11 others who have put this theory forward have provided any evidence that there is some
12 hidden reservoir of cargo that is not able to find space on intermodal trains, and the
13 evidence in the EIR (e.g., Master Response 3, Hobart) clearly shows that there is not. As
14 the RDEIR explained, the growth in domestic and transloaded cargo that is shown in the
15 RDEIR (e.g., Appendix G4) will occur regardless of SCIG, and is thus properly not
16 included in the EIR's analysis. The EIR does consider the "whole of the project," and the
17 commenter's attempt to make the project responsible for regional growth and changes in
18 the goods movement patterns of domestic and transloaded cargo is inconsistent with
19 CEQA.

20 As stated in Response to Comment R156-25 and Master Response 3, Hobart, there is no
21 requirement under CEQA for a project to take responsibility for every change in the
22 environment that will occur whether or not the Project is built, only for those changes that
23 would not occur but for the project. The SCIG project would only change transport of
24 direct international cargo between the Ports and Hobart, and it is appropriate under
25 CEQA that its EIR only analyzes changes in the transport of that cargo.

26
27 **Response to Comment F6-10:**

28 The applicant has indicated that the operational efficiency of the facility would be
29 disrupted by restricting the ability of incoming trains to use the San Pedro Branch line
30 north of Sepulveda Boulevard. .

31
32 **Response to Comment F6-11:**

33 The maximum offsite receptor for the mitigated project (i.e., 1-hour NO_x concentration =
34 1,157 ug/m³) discussed by the commenter in comment F6-11 is located on Fastlane's
35 property. Receptors falling inside the SCIG and tenants boundaries were treated as onsite
36 receptors. Therefore, the maximum 1-hour NO_x concentration at an offsite receptor (i.e.,
37 1,002 ug/m³) was selected and the concentration was converted to 1-hour NO₂
38 concentration for the reports. For the conversion, an 80% NO₂:NO_x conversion factor
39 was applied to the modeled 1-hour NO_x concentrations. Therefore, 80% x 1,002 ug/m³
40 = 802 ug/m³. This 1-hour NO₂ concentration matches what is reported in Appendix C2.
41 The discrepancy of 1-hour NO₂ concentration found in Table 3.2-32 of the AQ chapter is
42 a typographic error and is not an error with the modeling or calculations. The correct
43 value is 802 ug/m³. This does not alter the findings of the impact.

44
45 **Response to Comment F6-12:**

46 In the example cited, the commenter describes that the emission calculation spreadsheets
47 provided with the EIR show a value of 36.308 lb/day for the Cal Cartage Cargo Handling
48 Emissions, for the year 2035. In fact, the peak emissions from this source for the No

1 Project occur in 2014, and are equal to 262.74 lb/day. This value is equal to the value
2 that the commenter expects to find (237.7 lb/day, based on the database cited in the
3 comment) times a peaking factor of 1.1, used to estimate peak daily and peak hourly
4 emissions based on peak annual emissions, with minor differences due to rounding.
5 Therefore, the two sources of information are consistent, and this consistency is
6 representative of other modeled sources, for which emissions were used in the air
7 dispersion modeling following the same methodology.

8
9 **Response to Comment F6-13:**

10 The RDEIR adequately addressed cumulative impacts and there is no requirement under
11 CEQA that the EIR analyze quantitatively the combined impacts of SCIG and ICTF. The
12 information needed to analyze the proposed ICTF project has not been provided as the
13 environmental analysis of that document is ongoing.

14
15
16 **Response to Comment F6-14:**

17 The SCAQMD comment letter notes that student exposures are not appropriately
18 conservative in that they assume that exposures of students are limited to 6 years,
19 6hours/day and 180 days a year. This issue has been brought up before in comment
20 letters and responded to by the LAHD in the FEIR. These student exposure parameters
21 are consistent with the POLA HRA Protocol for evaluating student receptors.
22 Importantly, all school locations within a one- mile radius of the project site were
23 evaluated both as student populations and as sensitive receptors. The exposure
24 assumptions for sensitive receptor populations are identical to those for residents, and
25 assume that individuals are exposed 24 hours a day, 350 days a year for 70 years. By
26 evaluating school locations in this manner i.e., as sensitive receptors, the FEIR accounts
27 for the possibility that students may attend schools in the area impacted by project
28 emissions for longer periods of time. The impacts at the maximally-impacted sensitive
29 receptor presented in chapter 3.2 on page 3.2-87 (unmitigated project) and 3.2-95
30 (mitigated project) represent the maximum impact or increment and are inclusive of these
31 student receptors. The absolute risk at the maximally-impacted sensitive receptor under
32 the mitigated project is 9.7×10^{-6} (9.7 in a million). The impacts at all other modeled
33 sensitive and student locations would be less than this value.

1 **Comment Letter F7: Andrea Hricko, USC**

2 **Response to Comment F7-P1-1:**

3 The commenter states that the FEIR does not cite studies from USC or UCLA on asthma and
4 lung function in children exposed to traffic pollution, and that the FEIR fails to mention the
5 words “lung function” at all. While the FEIR does not explicitly discuss traffic-related
6 respiratory impacts on children, there are extensive discussions of the respiratory impacts of
7 exposure to elevated levels of traffic-related pollutants, as documented below. Further, the
8 discussions in the FEIR include reference to a UCLA study as well as a specific citation from
9 a USC researcher who demonstrated lung function deficits in adolescents living near
10 freeways.

11
12 The Air Quality Section of the FEIR addresses impacts on the lung and respiratory system
13 from multiple traffic-related pollutants, although the term “pulmonary” is often used instead
14 of lung. For example, Section 3.2, Table 3.2.1 (page 3.2-5) addresses the possible adverse
15 effects from criteria pollutants if they are present above air quality standards. Under ozone
16 (O₃) the Table 3.2.1 notes “pulmonary function decrements” are one of the possible
17 consequences of exposure. Further, various pulmonary or respiratory diseases (including
18 asthma) are cited as a potential result of excess exposures to carbon monoxide, nitrogen
19 dioxide, sulfur dioxide, and both PM₁₀ and PM_{2.5}. Page 3.2-11 discusses the potential
20 health effects of ultrafine particulates (UFPs), noting that UFPs can impact pulmonary and
21 cardiac function. That same section cites a UCLA (2012) study that linked UFPs to impacts
22 on cardiovascular health.

23 The discussion of the health effects of PM (Section 3.2, starting on page 3.2-84) states that
24 “Children, the elderly, and the ill are believed to be especially vulnerable to adverse health
25 effects of PM₁₀ and PM_{2.5}.” That discussion also notes that studies have established a strong
26 correlation between the inhalation of ambient PM and an increased risk of mortality from
27 heart and/or lung disease, and goes on to note that asthma onset or exacerbation of existing
28 disease have also been linked to PM exposure. The studies cited in support of these
29 statements include that of Gauderman et al. (2007) who documented pulmonary function
30 deficits in adolescents (10-18 years of age) that lived near freeways. Dr. Gauderman is a
31 researcher at USC, and is affiliated with the Keck School of Medicine of USC.

32 We also note that numerous PM-associated morbidity endpoints identified in POLAs
33 methodology for evaluating PM-attributable morbidity and mortality (POLA, 2011) included
34 a number of respiratory diseases, with adolescent age groups explicitly considered for these
35 morbidity end points. Those endpoints that include adolescents are acute bronchitis, asthma
36 emergency room visits, asthma attacks, lower respiratory symptoms, and hospital admissions
37 for asthma. While the FEIR determined that the assessment of morbidity and mortality was
38 not required given that PM_{2.5} exceedances impacted only non-residential areas (as per
39 POLA, 2011), inclusion of adolescents in the assessment methods for PM-attributable effects
40 provides additional support for the fact that the Port did consider the potential for project-
41 related emissions to affect asthma and other respiratory diseases in children.

42 **Response to Comment F7-P1-2:**

43 The commenter misrepresents the DEIR. The Draft EIR estimated that transload to rail
44 volume amounted to 1.12 million TEUs in 2008, or 7.8% of total TEU throughput of 14.33
45 million TEUs. (Table 1-2, page 1-21 of DEIR.) As previously explained in the Response to
46 Comment No. 133-13, the commenter confuses percentage of total throughput and percentage
47 of loaded imports. Loaded imports are approximately one-half of total throughput, meaning

1 that transload to rail as a percentage of imports was estimated at about 16% in the DEIR.
2 Since the DEIR was prepared, the new transload study by Cambridge Systematics, Inc. and
3 Starboard Alliance LLC determined that the transload to rail volume was approximately 1.9
4 million TEUs in 2010 or 27% of loaded imports and about 13.5% of total throughput. (Table
5 1-2, page 1-22, FEIR.)
6

7 The SCIG will transfer marine containers (most are 40 feet in length) from truck to rail and
8 vice-versa. This market is known as Inland Point Intermodal (IPI), in which the container
9 moves intact without any transloading of its contents to larger containers. The transload
10 volume represents a different market segment of intermodal traffic. The transload volume
11 plus “pure domestic” volume will go to Hobart Yard regardless of whether the SCIG is built
12 or not. Transloading of cargo from 40-foot marine containers to 53-foot domestic containers
13 occurs at many different warehouse facilities throughout Southern California. 53-foot
14 containers are trucked to various rail yards (including Hobart). Some trucks carrying 53-foot
15 containers use I-710, but many use other freeways in the region to get to the rail yards. Those
16 containers are not related to SCIG – as described in the FEIR (Master Response 3, Hobart).
17 They will occur whether or not SCIG is built.
18

19 The SCIG will take a million trucks carrying marine containers (IPI traffic) off the I-710
20 freeway that otherwise would have gone to Hobart. The trucks carrying 53-foot domestic
21 containers filled with transloaded port cargo will go to Hobart whether or not SCIG is built.
22 The SCIG project will not cause a change in transloaded cargo.
23

24 **Availability of August 2012 Draft Report and December 2012 Final Report:**

25 The FEIR includes a reference to a Transloading Report prepared by Cambridge Systematics
26 and Starboard Alliance as a joint port project for the Ports of LA and Long Beach in
27 December, 2012. We’d like to answer a process question we received from a member of the
28 public this week regarding an August draft version and the December final version of this
29 Transloading Report.
30

31 Appendix G4 of the Recirculated Draft SCIG EIR, which was released in September 2012,
32 used transloading data supplied by Cambridge Systematics. The data and tables in the
33 document were provided to anyone who requested it. At that time, Cambridge and Starboard
34 were preparing the Transloading Report and had provided a “final draft” of the report to the
35 ports’ staff in August. Because it was still being reviewed, the August draft report should
36 not have had the “final” stamp on it. POLA staff did have a few questions and input for the
37 consultants and the Final Report was not completed and published until December 2012.
38 When POLA received a request in October for copies of the Transloading Report, POLA
39 responded that it was not yet a final report for release, which was an accurate statement.
40 After POLA received the Final Report in December, it was cited in the Final EIR and is
41 available to the public.
42

43 Last week, on Wednesday February 27th, the Port of Los Angeles staff learned, for the first
44 time, that Long Beach staff, had assumed that Los Angeles had completed its review and the
45 August report was final due to the erroneous “Final” stamp on its cover, sent the August draft
46 to a third party. Although POLA does not usually release draft documents that are
47 superseded by final versions, if POLA staff had known that POLB had released the August
48 draft, it would have made that version available as well but with the explanation that it was a
49 draft. The draft and final versions of the report are very similar and the findings do not
50 change.

1

2 **Response to Comment F7-P1-3:**

3 The SCIG will not accept transload cargo. Transload cargo will continue to go to Hobart
4 Yard and other rail yards.

5

6

7

1 **Comment Letter F8: ILWU Locals 13, 63 and 94**

2 **Response to Comment F8-1:**

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Thank you for your comment. The comment is noted and is hereby part of the Final EIR, and is therefore before the decision-makers for their consideration prior to taking any action on the SCIG project. The comment is general and does not reference any specific section of the DEIR or RDEIR, therefore no further response is required. (Public Resources Code § 21091(d); CEQA Guidelines § 15204(a)).

1 **Comment Letter F9: OWI Specialized**

2 **Response to Comment F9-1:**

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Thank you for your comment. The comment is noted and is hereby part of the Final EIR, and is therefore before the decision-makers for their consideration prior to taking any action on the SCIG project. The comment is general and does not reference any specific section of the DEIR or RDEIR, therefore no further response is required. (Public Resources Code § 21091(d); CEQA Guidelines § 15204(a)).

Comment Letter F11: Andrea Hricko**Response to Comment F11-1:**

Thank you for your comment. The comment is noted and is hereby part of the Final EIR, and is therefore before the decision-makers for their consideration prior to taking any action on the SCIG project. The comment is general and does not reference any specific section of the DEIR or RDEIR, therefore no further response is required. (Public Resources Code § 21091(d); CEQA Guidelines § 15204(a)).

Response to Comment F11-2

While the FEIR does not explicitly discuss traffic-related respiratory impacts on children, there are extensive discussions of the respiratory impacts of exposure to elevated levels of traffic-related pollutants, as documented below. Further, the discussions in the FEIR include reference to a UCLA study as well as a specific citation from a USC researcher who demonstrated lung function deficits in adolescents living near freeways.

The Air Quality Section of the FEIR addresses impacts on the lung and respiratory system from multiple traffic-related pollutants, although the term “pulmonary” is often used instead of lung. For example, Section 3.2, Table 3.2.1 (page 3.2-5) addresses the possible adverse effects from criteria pollutants if they are present above air quality standards. Under ozone (O₃) the Table 3.2.1 notes “pulmonary function decrements” are one of the possible consequences of exposure. Further, various pulmonary or respiratory diseases (including asthma) are cited as a potential result of excess exposures to carbon monoxide, nitrogen dioxide, sulfur dioxide, and both PM₁₀ and PM_{2.5}. Page 3.2-11 discusses the potential health effects of ultrafine particulates (UFPs), noting that UFPs can impact pulmonary and cardiac function. That same section cites a UCLA (2012) study that linked UFPs to impacts on cardiovascular health.

The discussion of the health effects of PM (Section 3.2, starting on page 3.2-84) states that “Children, the elderly, and the ill are believed to be especially vulnerable to adverse health effects of PM₁₀ and PM_{2.5}.” That discussion also notes that studies have established a strong correlation between the inhalation of ambient PM and an increased risk of mortality from heart and/or lung disease, and goes on to note that asthma onset or exacerbation of existing disease have also been linked to PM exposure. The studies cited in support of these statements include that of Gauderman et al. (2007) who documented pulmonary function deficits in adolescents (10-18 years of age) that lived near freeways. Dr. Gauderman is a researcher at USC, and is affiliated with the Keck School of Medicine of USC.

We also note that numerous PM-associated morbidity endpoints identified in POLAs methodology for evaluating PM-attributable morbidity and mortality (POLA, 2011) included a number of respiratory diseases, with adolescent age groups explicitly considered for these morbidity endpoints. Those endpoints that include adolescents are acute bronchitis, asthma emergency room visits, asthma attacks, lower respiratory symptoms, and hospital admissions for asthma. While the FEIR determined that the assessment of morbidity and mortality was not required given that PM_{2.5} exceedances impacted only non-residential areas (as per POLA, 2011), inclusion of adolescents in the assessment methods for PM-attributable effects provides additional support for the fact

1 that the Port did consider the potential for project-related emissions to affect asthma and
2 other respiratory diseases in children.
3

4 5 **Response to Comment F11-3** 6

7 As fully described in the FEIR (Master Response 3, Hobart and Response to Comment
8 R146-20), the EIR's treatment of transloading is appropriate. The Commenter does not
9 like this response but responds with its own opinion. A lead agency may adopt the
10 environmental conclusions reached by the experts that prepared the EIR even though
11 others may disagree with the underlying data, analysis, or conclusions. *Laurel Heights*
12 *Improvement Assn'n v. Regents of Univ. of Cal.* (1922) 47 Cal.3d 376, 408. When
13 approving an EIR, an agency need to resolve a dispute among experts about the
14 information in the EIR. Disagreement among experts does not make an EIR inadequate.
15 (CEQA Guidelines Section 15151.) The lead agency is free to reject criticism from an
16 expert or a regulatory agency on a given issue as long as its reasons for doing so are
17 supported by substantial evidence. *Laurel Heights Improvement Assn'n v. Regents of*
18 *Univ. of Cal.* (1922) 47 Cal.3d 376, 408. *California Native Plant Society v. City of*
19 *Rancho Cordova* (2009) 172 Cal.App.4th 603, *Association of Irrigated Residents v.*
20 *County of Madera* (2003) 107 Cal.App.4th 1383, 1397.
21

22 **Response to Comment F11-4** 23

24 Please refer to Response to Comment F7-P1-3.
25

26 **Response to Comment F11-5** 27

28 The EIR responded to the commenter's previous comment regarding activities at the
29 Sheila facility (Master Response 3, Hobart, and Response to Comment R146-9). The
30 commenter provide no basis for that statement "twice as many locomotives" would be
31 serviced at Sheila, and no such statement or information appears in the EIR. The
32 relationship of the Sheila facility to the Project is fully explained in the RDEIR (Section
33 2.4) and the FEIR (Master Response 3, Hobart). The Commenter does not like the
34 responses but responds with its own opinion. A lead agency may adopt the
35 environmental conclusions reached by the experts that prepared the EIR even though
36 others may disagree with the underlying data, analysis, or conclusions. *Laurel Heights*
37 *Improvement Assn'n v. Regents of Univ. of Cal.* (1922) 47 Cal.3d 376, 408. When
38 approving an EIR, an agency need to resolve a dispute among experts about the
39 information in the EIR. Disagreement among experts does not make an EIR inadequate.
40 (CEQA Guidelines Section 15151.) The lead agency is free to reject criticism from an
41 expert or a regulatory agency on a given issue as long as its reasons for doing so are
42 supported by substantial evidence. *Laurel Heights Improvement Assn'n v. Regents of*
43 *Univ. of Cal.* (1922) 47 Cal.3d 376, 408. *California Native Plant Society v. City of*
44 *Rancho Cordova* (2009) 172 Cal.App.4th 603, *Association of Irrigated Residents v.*
45 *County of Madera* (2003) 107 Cal.App.4th 1383, 1397.
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47 **Response to Comment F11-6** 48

49 Responses are provided below. See Response to Comment F7-P1.

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RESPONSES TO ORAL COMMENTS FROM FINAL EIR BOARD MEETING

Several commenters addressed the need for additional mitigation. The FEIR includes all mitigation measures that are "feasible" as that term is defined in CEQA. Please see Master Response 4 regarding feasibility of mitigation measures.

Cancer cases resulting from the project

Table 3.2-33 in chapter 3.2 (page 3.2-87) shows the predicted maximum health impacts associated with the unmitigated project. The absolute risk at the residential MEI is 31 in a million (31×10^{-6}) and the floating baseline incremental cancer risk is 20 in a million (20×10^{-6}). The absolute risk at the student receptor is 2.2 in a million (2.2×10^{-6}) and the floating baseline incremental risk is 1.9 in a million (1.9×10^{-6}).

Table 3.2-35 in chapter 3.2 (page 3.2-95) shows the predicted maximum health impacts associated with the mitigated project. The absolute risk at the residential MEI is 9.8 in a million (9.8×10^{-6}) and the floating baseline incremental cancer risk is 0.2 in a million (0.2×10^{-6}). This risk value is not in exceedance of the significance threshold of 10 in a million. The absolute risk at the student receptor is 0.9 in a million (0.9×10^{-6}) and the floating baseline incremental risk is 0.6 in a million (0.6×10^{-6}).

Schools in both in Los Angeles and Long Beach were included in the assessment and are shown in Table 3.2-6 (page 3.2-17 to page 3.2-18) and Figure 3.2-1 (page 3.2-16).

Contacting of existing tenants

LAHD Real Estate contacted all existing tenants in March 2009 to discuss potential alternate sites that they would move to due to the SCIG project.

Truck Trips per Day:

8,200 truck trips per day: Traffic analysis for peak month traffic is 7,255 per day. Note: this exceeds the 24 hour SCIG lifting capacity. (The Speaker rounded up from 8,155 total trips per day which included 900 employee auto trips).

Regarding turning the Terminal Island into a park:

It would require closing TI Freeway that is not within the jurisdiction of the LAHD. Caltrans is the responsible agency for the vacation of state highway.

Regarding proximity to residency:

The statement that the Project would cause activity within 20 feet of residences and schools was accounted for in the RDEIR. As RDEIR Figures C3.4-1 and C3.4-2 show, there are locomotive activities along San Pedro Branch Line north of Sepulveda Blvd. The closest resident to this activity is approximately 20 feet and within 20 to 50 feet of Stephens Middle School property; these locations were accounted for in the RDEIR analysis as shown in Figures C3.3-1 and C3.3-2, respectively.

Regarding including buffer park between SCIG and schools and residences:

The comment requests that the Project include a buffer park between the SCIG facility and the schools and residences of West Long Beach. As the EIR makes clear (e.g., Figure 2-3), the area between the SCIG facility's eastern boundary and the western boundary of the West Long Beach community is fully occupied by infrastructure, including cargo-related businesses, the SCE right-of-way, a rail line, and the Terminal Island Freeway. Since there is no available space for a buffer park, space would have to be provided by eliminating one or more of those existing uses; previous comments on the EIR and RDEIR have suggested vacating the Terminal Island Freeway. As described in the FEIR (responses to comments R89-2 and R114-6), there are no significant impacts of the proposed Project that would be mitigated by the suggested buffer greenbelt/park. The EIR identifies feasible mitigation for significant impacts. The concept advanced by the comment and other comments on the RDEIR is not sufficiently developed to conclude that such a program would actually achieve mitigation, and would thus represent improperly deferred mitigation for this project. (See *Center for Sierra Nevada Conservation v. County of El Dorado* (2012) 202 Cal.App.4th 1156. [to be considered adequate, a fee program must, at some point, be reviewed under CEQA]). In addition, the proposed buffer park would of necessity be located on property owned by the City of Long Beach and likely Caltrans. The LAHD has no jurisdiction over property owned by the City of Long Beach and could not require the project proponent to implement a buffer park project.

Regarding Job Loss

The EIR has addressed the issue of the loss or displacement of jobs as a result of the Project. As the FEIR (Master Response *, Displaced Businesses) explains, the LAHD has determined that there would be no job losses from the displacement of existing businesses. Any job losses related to specific businesses would be replaced by competing businesses that provide similar services, and would not result in a permanent loss of jobs in the region. In any event, this issue is not relevant to the adequacy of the document. Under CEQA and the CEQA Guidelines, economic effects without any demonstrated physical effect on the environment are not environmental impacts and need not be discussed in an EIR. (Pub. Res. Code §21080(e)(2); CEQA Guidelines §§15064(e), 15064(f)(6), 15358(b), and 15382.) Commenters have not submitted any evidence that physical impacts to the environment will result if potential job losses occur. (Pub. Res. Code §21080(e)(2)).

Noise: Schools 20 feet from project components

Recommended 12 ft and 24 ft high soundwalls. For the SCIG Project, the Terminal Island area soundwall above 12 ft in height would be increasingly less effective in reducing noise with increasing height.

Short soundwalls recommended

The EIR findings indicate that there were no significant noise impacts within interior spaces with windows in either the open or closed positions. Soundproofing homes was considered but would require a noise survey and evaluation of every residence. Building modifications in the form of installing dual glazed windows, increased insulation, sound proof doors, HVAC, attic and roof modifications would involve costs ranging from \$25k to upwards of \$50k per residence depending on the condition of each structure. Providing sound insulation would not provide additional noise reduction at outdoor spaces that are exposed to project generated noise.

Noise evaluation is deficient.

The noise analysis was performed consistent with Industry Standards and meets CEQA guidelines.

Will SCIG help us compete with Panama Canal?

The key to competing with the Panama Canal is providing the infrastructure and level of service that importers and exporters need to move cargo efficiently. The SCIG would provide 1.5 million lifts per year in intermodal rail capacity for Inland Point Intermodal (IPI) traffic. This component of port traffic that is considered “discretionary” and therefore subject to diversion to other West Coast gateways. The SCIG will help maintain the POLA’s and POLB’s competitiveness relative to these alternative gateways.

Why not electrify the Alameda Corridor?

This is not within the jurisdiction of the LAHD

BNSF doesn’t need the project because Hobart could be expanded to handle all volume.

Issues related to Hobart are discussed in Master Response 3 starting on page 2-16 of the RDEIR. Hobart’s capacity could be increased with the implementation of wide-span gantry cranes. But it is clearly preferable from an environmental point of view to load Inland Point Intermodal (IPI) containers as close to the ports as possible. The SCIG will provide needed lift capacity and will significantly reduce the number of trucks travelling to Hobart Yard.

Re: Bicyclist Commuter:

The SCIG Truck route does not use the I-710 Freeway north of Anaheim Street and would not pass through the Pacific Coast Highway/Santa Fe Avenue intersection.

Commenters claimed only sweeping mitigation is implemented

The statement is incorrect. SCIG also considers the Low Emissions Drayage Trucks mitigation measure (MM AQ-8).

Impacts in the City of Carson

Traffic: Employee auto trips to and from the project site are included in the traffic analysis of the proposed Project. Trips associated with off-site drayage truck servicing are not a part of the proposed Project as those trips are unrelated to the operation of the proposed Project and would occur regardless of the proposed Project.

Noise: Response: The EIR adequately addressed noise impacts in the City of Carson in Section 3.9.4.3 Impacts and Mitigation, under NOI 10 through NOI 13. The findings of the EIR found that noise associated with the project would be less than significant at the nearest noise sensitive receivers in Carson to the SCIG Project.

AQ: The RDEIR AQ analysis did include residents in City of Carson as shown in Figure C3.3-1. No incremental health risks exceeded the thresholds of significance for either residents, workers, recreational receptors, students or sensitive receptor populations for the Mitigated Project as shown in Table 3.2-35. Given that the residents of City of Carson are farther away than the maximum receptor locations reported in Table 3.2-25, the estimated incremental health risks would be less than these maximum values reported in this table.

Noise evaluation is deficient.

The noise analysis was performed by experts and consistent with Industry Standards and meets CEQA requirements.

Comment by Allen Fishel. Will noise increase or decrease near the scig site and around the 710?

Response: Traffic noise associated with the Project would experience a net decrease along the 710 Freeway as a result reduced truck trips. Construction noise adjacent to the project site would be reduced to a less than significant level with implementation of mitigation measures. Operations would be reduced to a less than significant level with Mitigation Measure MM NOI 1 and MM NOI 3. However, a nighttime noise impact would be unavoidable at one location under the extreme circumstances when max SCIG operations occurring during the middle of the night coincide with extremely low ambient noise levels.

C 100 Christine Petit – Noise is Detrimental

Response: The noise and potential health effects associated with the SCIG project was adequately evaluated and assessed in the EIR. Traffic and Construction noise would not result in significant noise impacts upon implementation of noise mitigation measures MM NOI 1, 2 and 3. Operations noise would not cause a significant noise impact in the nearby community, with exception of an unavoidable nighttime noise impact at Receptor R30, residences on Webster. This impact would only occur when maximum operations coincide with extremely low ambient background noise during the extremely late night and early morning hours.

One commenter asserted that the EIR should have adopted the Balgon and Vision trucks as mitigation. That comment was also submitted by the same commenter on the RDEIR. The FEIR (Master Response 7, ZECMS and Response to Comment R143-8) responded with an analysis of why those technologies are considered infeasible. The Commenter does not like this response but responds with its own opinion. A lead agency may adopt the environmental conclusions reached by the experts that prepared the EIR even though others may disagree with the underlying data, analysis, or conclusions. *Laurel Heights Improvement Assn'n v. Regents of Univ. of Cal.* (1922) 47 Cal.3d 376, 408. When approving an EIR, an agency need to resolve a dispute among experts about the information in the EIR. Disagreement among experts does not make an EIR inadequate. (CEQA Guidelines Section 15151.) The lead agency is free to reject criticism from an expert or a regulatory agency on a given issue as long as its reasons for doing so are supported by substantial evidence. *Laurel Heights Improvement Assn'n v. Regents of Univ. of Cal.* (1922) 47 Cal.3d 376, 408. *California Native Plant Society v. City of Rancho Cordova* (2009) 172 Cal.App.4th 603, *Association of Irrigated Residents v. County of Madera* (2003) 107 Cal.App.4th 1383, 1397.

One commenter demanded that the Port conduct a Health Impact Assessment (HRA), instead of the Health Risk Assessment included in the EIR. This comment repeats the commenter's comment on the RDEIR. The FEIR responded to that comment (Master Response 9, HIA and Response to Comment R143-13). The Commenter does not like this response but responds with its own opinion. A lead agency may adopt the environmental conclusions reached by the experts that prepared the EIR even though others may disagree with the underlying data, analysis, or conclusions. *Laurel Heights Improvement Assn'n v. Regents of Univ. of Cal.* (1922) 47 Cal.3d 376, 408. When approving an EIR, an agency need to resolve a dispute among experts about the information in the EIR. Disagreement among experts does not make an EIR inadequate. (CEQA Guidelines Section 15151.) The lead agency is free to reject criticism from an expert or a regulatory agency on a given issue as long as its reasons for doing so are supported by substantial evidence. *Laurel Heights Improvement Assn'n v. Regents of Univ. of Cal.* (1922) 47 Cal.3d 376, 408. *California Native Plant Society v. City of Rancho Cordova* (2009) 172 Cal.App.4th 603, *Association of Irrigated Residents v. County of Madera* (2003) 107 Cal.App.4th 1383, 1397.

Several commenter have also requested the establishment of a mitigation grants program or "community benefits funding". Most of the comments call for general public benefits appears to be designed to provide general, public benefits, but not designed to mitigate project impacts. Under CEQA, proposed mitigation measures must be related to the impacts identified in the EIR and proportional in nature and extent to those impacts. See Pub. Resources Code §

21002; CEQA Guidelines § 15370; see generally *Nollan v. California Coastal Commission*, 483 U.S. 825, 834-37 (1987) (condition requiring a dedication of property *along* a beach rather than *to* the beach did not address the harm at issue and was therefore invalid); *Dolan v. City of Tigard*, 512 U.S. 374, 391 (1994) (mitigation must be related in “rough proportion” both “in nature and extent” to the impact of the proposed development); *Ehrlich v. City of Culver City*, 12 Cal. 4th 854 (1996) (California Supreme Court applied *Nollan* and *Dolan* to mitigation fees; “[t]he amount of such fee...must be tied ... to the actual impact”)