Appendix A

Notice of Preparation

Notice of Preparation (NOP) of a Draft Supplemental Environmental Impact Report and Public Scoping Meeting for the Berths 97-109 [China Shipping] Container Terminal Project

This Notice of Preparation (NOP) is to inform responsible and trustee agencies, public agencies, and the public that the City of Los Angeles Harbor Department (LAHD) will be preparing a Draft Supplemental Environmental Impact Report (Supplemental EIR) for the Berths 97-109 [China Shipping] Container Terminal Project (proposed Project). This document supplements the Berths 97-109 [China Shipping] Container Terminal Project Final Environmental Impact Statement/Environmental Impact Report (FEIS/FEIR) certified by the City of Los Angeles Board of Harbor Commissioners on December 18, 2008, which is incorporated herein by reference (LAHD and USACE 2008).

The proposed Project consists of the continued operation of the China Shipping (CS) Container Terminal at Berths 97-109 in the Port of Los Angeles. China Shipping operates the CS Container Terminal at Berths 97-109 under a lease agreement (Permit No. 999) between China Shipping (North America) Holding Co., Ltd. and LAHD. China Shipping has requested that certain mitigation measures that were analyzed in the FEIS/FEIR (USACE and LAHD 2008) be reviewed and possibly revised. LAHD has also proposed that certain mitigation measures be reviewed and possibly revised based on feasibility, effectiveness, and other factors. If changes to the identified mitigation measures are recommended as a result of the analysis in the Supplemental EIR, the Board of Harbor Commissioners would exercise its independent discretion to determine if modifications to the mitigation measures are appropriate and would direct the execution of an amended Permit No. 999 with China Shipping. Details of the proposed Project are provided below in Section 2.

Pursuant to the California Environmental Quality Act (CEQA), the LAHD will serve as the lead agency for the preparation of a Supplemental EIR for its consideration of the proposed Project within its jurisdiction. Pursuant to CEQA Guidelines Section 15163, a supplement to an EIR need only contain the information necessary to make the previous EIR adequate for the project as revised. The Supplemental EIR shall be given the same kind of notice and public review as is given to a draft EIR under Section 15087, and may be circulated by itself without recirculating the previous draft or final EIR.

The LAHD has prepared, as part of this NOP, an Environmental Checklist in support of the Supplemental EIR documentation to identify the resource areas to be reanalyzed, in accordance with the current City of Los Angeles Guidelines for the Implementation of the California Environmental Quality Act of 1970, (Article I); the State CEQA Guidelines (Title 14, California Code of Regulations); and the California Public Resources Code (Section 21000, et seq.). The Supplemental EIR will contain only the information necessary to make the previously approved 2008 FEIR adequate for the proposed project, as revised. When the agency decides whether to approve the project, the decision-making body, in this case the Board of Harbor Commissioners and LAHD, shall consider the previous EIR as revised by the supplemental EIR and shall make findings under Section 15091 for each significant effect shown in the previous EIR as revised (CEQA Guidelines Section 15163(e)).

The CEQA Environmental Checklist is attached to this NOP for public review and comment. Public comments on the NOP should be submitted to the LAHD by October 19, 2015.

Scoping Meeting

The LAHD will conduct a public scoping meeting for the proposed Project. The purpose of the scoping meeting is to solicit and receive public comment and input regarding the appropriate scope and content in the preparation of the Supplemental EIR. Participation in the public meeting by state and local agencies and other interested organizations and persons is encouraged. This meeting will be conducted in both English and Spanish. Members of the public who wish to communicate and listen entirely in Spanish are encouraged to attend this meeting. The meeting time and location is as follows:

October 7, 2015
6:00 p.m.–8:00 p.m.
at the Board Room
Harbor Administration Building
425 S. Palos Verdes St
San Pedro, CA 90731

See Figure 1 for a map of the meeting location. The scoping process is intended to provide the LAHD with information the public feels is necessary to establish the appropriate scope for preparing the environmental analysis in the Supplemental EIR. Please submit your comments, input, suggestions for project alternatives, and any other pertinent information that may enable us to prepare a comprehensive and meaningful Supplemental EIR for the proposed Project.

Public Comment at the Scoping Meeting:

During the public scoping meeting, anyone wishing to make a statement will be allocated a certain amount of time to provide information on the proposed Project. The amount of time each person is allowed will depend on the number of people who sign up to speak at the public hearing. At this time, we estimate that individuals will be given three (3) minutes to provide their comments verbally. We encourage interest groups to designate an official spokesperson to present the group's views, and will allocate a larger amount of time to official representatives of such groups upon request.

Written Comments:

Written and email comments to the LAHD will be received through 5:00 pm on October 19, 2015.

Written comments: Please send written comments to:

Christopher Cannon, Director
Environmental Management Division
Los Angeles Harbor Department
425 S. Palos Verdes Street
San Pedro, CA 90731

Email Comments: Please send email comments to:

ceqacomments@portla.org

Comment letters sent via email should include the commenter's mailing address in the body of the email, and the project title "Berths 97-109 Container Terminal Project SEIR" in the email subject line.

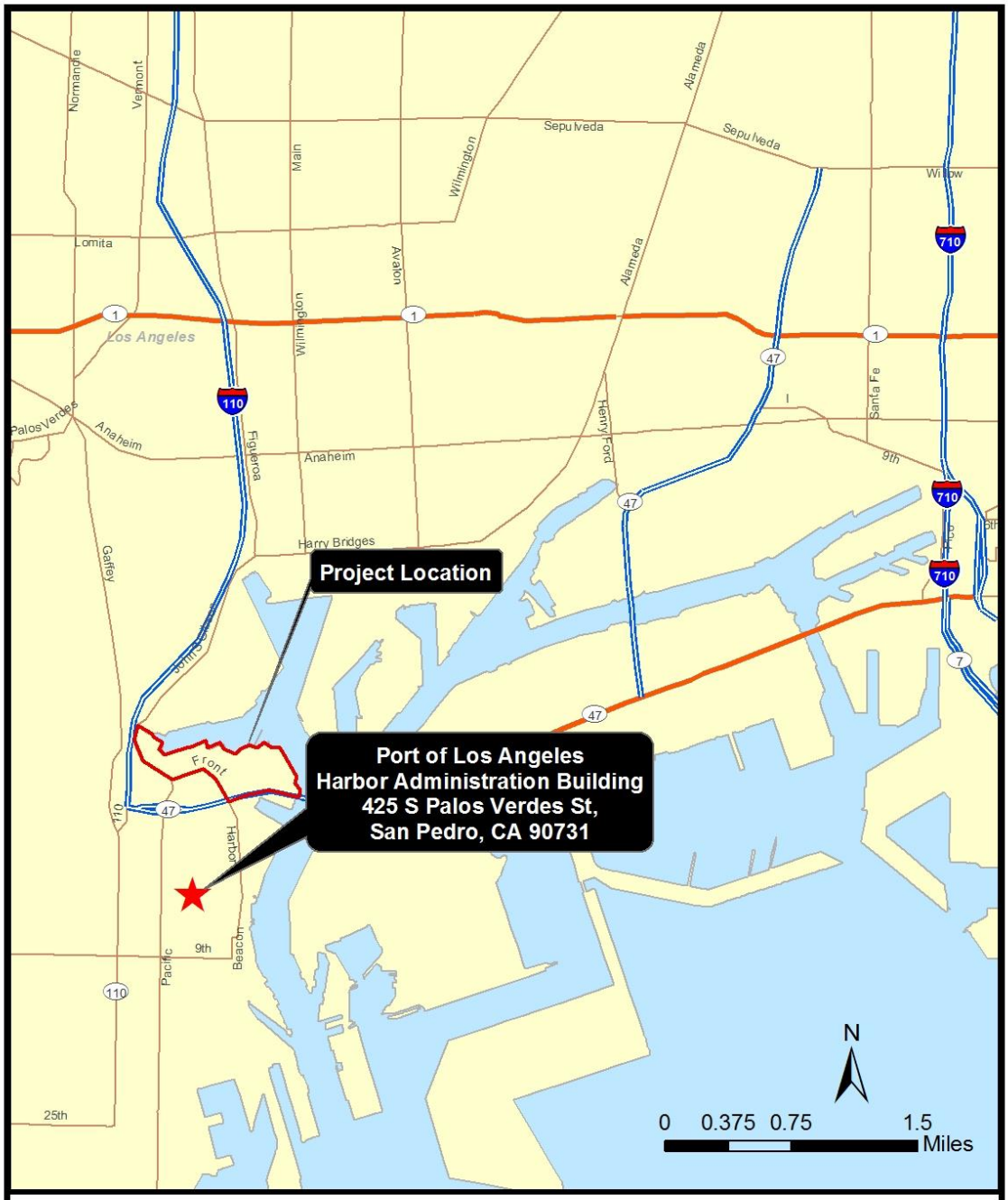

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Figure 1
Scoping Meeting Location
Berths 97- 109 [China Shipping]
Container Terminal Project

SUPPLEMENTARY INFORMATION:

1.0 Project Overview and Background

1.1 Project Overview

The LAHD administers the Port under the California Tidelands Trust Act of 1911 and the Los Angeles City Charter. The LAHD develops and leases Port property to tenants who operate the facilities. The Port encompasses 7,500 acres and 43 miles of waterfront and provides a major gateway for international goods and services. With 23 major cargo terminals, including dry and liquid bulk, container, breakbulk, automobile, and passenger facilities, the Port handled about 176 million metric revenue tons of cargo in fiscal year 2013/2014 (July 2013–June 2014) (POLA 2015). In addition to cargo business operations, the Port is home to commercial fishing vessels, shipyards, and boat repair facilities, as well as recreational, community, and educational facilities.

The Supplemental EIR will evaluate potential impacts of the continued operation of the CS Container Terminal under new and/or modified mitigation measures (the proposed Project), as described in more detail in Section 2 below. Operation of the CS Container Terminal has been considered in previous environmental documents (LAHD 1997, USACE and LAHD 2008). China Shipping and LAHD are proposing re-evaluation of, and possible revisions to, certain mitigation measures that were analyzed in the FEIS/FEIR, based on the feasibility of some of the mitigation measures, the availability of alternative technologies, and other factors warranting re-analysis of mitigation measures.

1.2 Project Background

The CS Container Terminal at the proposed project site (Berths 97-109) is operated by China Shipping under a lease agreement (Permit No. 999) between China Shipping (North America) Holding Co., Ltd.) and LAHD. China Shipping operates two berths and a container yard, and shares the on-dock West Basin Intermodal Container Transfer Facility with the adjacent Yang Ming terminal at Berths 121-131.

The Los Angeles Board of Harbor Commissioners certified the Berths 97-109 [China Shipping] Container Terminal Project FEIS/FEIR for the construction and operation of the CS Container Terminal Project in 2008 (LAHD and USACE 2008). The 2008 FEIS/FEIR incorporated a number of mitigation measures into the CS Container Terminal Project to address significant construction and operational impacts, particularly those related to aesthetics, air quality, noise, and transportation. Construction, which was divided into three phases, was largely completed by 2013 (two terminal buildings have yet to be constructed).

The proposed project site (Figure 1) is within the Port of Los Angeles Community Plan area in the City and County of Los Angeles, California. The site is near the community of San Pedro and is approximately 20 miles south of downtown Los Angeles (Figure 2). The site is generally bounded on the north by the Yang Ming container terminal; on the east by the West Basin, Main Channel, and Pier A; on the south by the World Cruise Center and State Route 47; and on the west by Pacific Avenue, Front Street, and the community of San

RAMBOLL ENVIRON

Figure 2
Regional Location Map
Berths 97-109 [China Shipping]
Container Terminal Project

Pedro. Land uses in general vicinity of the proposed project site support a variety of cargo handling operations, including container, liquid bulk, and dry bulk; commercial fishing and seafood processing; a power plant (Harbor Generating Station); Port administration and maintenance facilities; maritime support uses; and recreational and residential uses.

2.0 Description of the Proposed Project

The proposed Project involves the continued operation of the CS Container Terminal under new and/or modified mitigation measures compared to those set forth in the 2008 FEIR. If changes to the mitigation measures are recommended as a result of the Supplemental EIR, the Board of Harbor Commissioners will consider amending Permit No. 999 for CS's operations at Berths 97-109 accordingly.

The 2008 FEIS/FEIR adopted 52 mitigation measures to reduce significant construction and operational impacts in the areas of aesthetics, air quality, biology, cultural resources, geology, ground water, noise, public services, and transportation. Most of these measures have either been completed or will be completed within the time period for implementation. These completed or to be completed mitigation measures are outside of the scope of the proposed Project and will not be further considered in the Supplemental EIR.

There are 11 mitigation measures, however, that have not yet been fully implemented for various reasons. For some of these, related to air quality (AQ-9, AQ-10, AQ-15, AQ-16, AQ-17, AQ-20 and AQ-23), China Shipping has requested that the mitigation measure be reviewed and possibly revised based on feasibility, the availability of alternative technologies, and other factors. LAHD has also proposed that certain mitigation measures related to air quality (AQ-23), noise (NOI-2) and transportation (TRANS-2, TRANS-3, TRANS-4 and TRANS-6) be re-evaluated based on feasibility, effectiveness, and other factors.

Table 1 summarizes the mitigation measures included in the proposed Project as candidates for review.

Table 1. Summary of 2008 FEIR mitigation measures for the CS Container Terminal to be reviewed

Mitigation Measure	Description
AQ-9	Alternative Maritime Power (AMP) for 100% of vessels
AQ-10	100% compliance with 40-nm Vessel Speed Reduction Program
AQ-15	Liquefied petroleum gas (LPG) Yard Tractors/0.015 g/hp-hr PM
AQ-16	Emissions standards for yard equipment at Berth 121-131 rail yard
AQ-17	Emissions standards for yard equipment at Berths 97-109 terminal
AQ-20	LNG-powered drayage trucks (70% through 2017, 100% in 2018 and thereafter)
AQ-23	Throughput tracking to verify EIR assumptions
NOI-2	Noise walls and soundproofing of noise-sensitive structures
TRANS-2	Modify Alameda St/Anaheim St by 2015
TRANS-3	Modify John S Gibson Blvd/I-110 N/B ramps by 2015

Mitigation Measure	Description
TRANS-4	Modify Fries Ave/Harry Bridges Blvd by 2015
TRANS-6	Navy Way and Seaside Ave by 2030

As the table shows, a number of the measures, in the areas of air quality (including greenhouse gases), noise, and transportation, have not yet been fully implemented. The Supplemental EIR will re-evaluate the resource areas in which mitigation measures have yet to be implemented (air quality, greenhouse gas, ground transportation, and noise), and will recommend changes in the mitigation measures as appropriate. Changes could include elimination of measures that have proven to be clearly infeasible, addition of replacement measures to address those impacts, and revision of measures that have proven problematic to implement in order to achieve comparable results.

For TRANS-3, TRANS-4 and TRANS-6, recent intersection operating conditions analyses conducted by the Port for several other projects have determined that these locations are generally currently operating at, or are projected to operate in the future at, a very good level of service (LOS) B or better, without these mitigation measures. For TRANS 2 the intersection of Alameda Street/Anaheim Street is projected to operate at LOS C in the Year 2017. Thus, mitigation would not be needed at this time. However, LAHD will reassess these locations in the Supplemental EIR to determine if and when any mitigation measures would be needed.

3.0 Environmental Issues

Because the Supplemental EIR is intended to serve as a supplement to the previously certified 2008 Final EIR, impacts and conditions presented in the previous EIR will serve as the primary base of comparison for the analysis. Issues identified as potentially significant or requiring further analysis under CEQA are described in the attached CEQA Environmental Checklist Form. Additional issues may be identified during the scoping process.

Not all of the environmental topics included in the CEQA Guidelines for the Initial Study Checklist will be addressed in the attached checklist or the Supplemental EIR. Certain topics are excluded because (a) the previous EIR concluded that there were no significant impacts associated with those topics, (b) that the mitigation measures proposed in the 2008 Final EIR have been implemented and/or completed, (c) that the mitigation measures are in progress and would mitigate impacts of the proposed project to a less-than-significant level, and/or (d) the level of significance is unchanged from that described in the 2008 Final EIR and any modification to the mitigation measures is not expected to affect that finding. Accordingly, the Supplemental EIR will not re-analyze or recirculate biology, cultural resources, geology, groundwater and soils, hazardous materials, land use, marine transportation, public services, recreation, utilities, and water quality, consistent with CEQA Guidelines Section 15163.

Environmental Checklist Form

1. Project Title:	Berths 97–109 [China Shipping] Container Terminal Project
2. Lead Agency Name and Address:	**CEQA Lead Agency:** Los Angeles Harbor Department Environmental Management Division 425 S. Palos Verdes Street San Pedro, CA 90731
3. Contact Person and Phone Number:	**CEQA Lead Agency:** Chris Cannon, Director of Environmental Management (310) 732-3675
4. Project Location:	China Shipping Container Terminal 2050 John S. Gibson Blvd San Pedro, CA 90731
5. Project Sponsor's Name and Address:	Los Angeles Harbor Department Engineering Division 425 S. Palos Verdes Street San Pedro, CA 90731
6. Port Master Plan Designation:	General/Bulk Cargo (Non Hazardous Industrial and Commercial)
7. Zoning:	[Q]M3-1
8. Description of Project:	The proposed Project would continue to operate the China Shipping (CS) Container Terminal at Berths 97-109 in the Port of Los Angeles under new and/or modified mitigation measures compared to those set forth in the 2008 FEIR. Additional details are provided in Section 2.0.

Environmental Factors Potentially Affected:

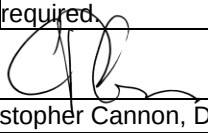
The environmental factors checked below would potentially be affected by this proposed Project (i.e., the proposed Project would involve at least one impact that is a "potentially significant impact"), as indicated by the checklist on the following pages. Because the Supplemental EIR is intended to serve as a supplement to the previously adopted 2008 Final EIR, impacts and conditions presented in the previous EIR will serve as the primary base of comparison for the analysis, the checklist addresses only those impact areas implicated by the proposed project.

	Aesthetics		Agriculture and Forest Resources	X	Air Quality
	Biological Resources		Cultural Resources		Geology/Soils
X	Greenhouse Gas Emissions		Hazards and Hazardous Materials		Hydrology/Water Quality
	Land Use/Planning		Mineral Resources	X	Noise
	Population/Housing		Public Services		Recreation
X	Transportation/Traffic		Utilities/Service Systems	X	Mandatory Findings of Significance

Determination:

On the basis of this initial evaluation:

	I find that the proposed Project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.
	I find that although the proposed Project could have a significant effect on the environment, there will not be a significant effect in this case because revisions to the proposed Project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.
X	I find that the proposed Project MAY have a significant effect on the environment, and a SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT is required to address the potential for the change in the project to result in new or substantially more severe impacts than analyzed in the 2008 FEIR/FEIS. This focus meets the requirements for supplemental analysis under Section 15163 of the CEQA Guidelines, as only minor additions or changes would be necessary to make the previous EIR adequately apply to the project in the changed situation.
	I find that the proposed Project MAY have an impact on the environment that is "potentially significant" or "potentially significant unless mitigated" but at least one effect (1) has been adequately analyzed in an earlier document pursuant to applicable legal standards and (2) has been addressed by mitigation measures based on the earlier analysis, as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.
	I find that although the proposed Project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier ENVIRONMENTAL IMPACT REPORT or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier ENVIRONMENTAL IMPACT REPORT or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed Project, nothing further is required.



Christopher Cannon, Director of Environmental Management Division	Date: September 18, 2015

		Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
III.	**AIR QUALITY.** Would the project:				
a.	Conflict with or obstruct implementation of the applicable air quality plan?			X	
b.	Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	X			
c.	Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is a non-attainment area for an applicable federal or state ambient air quality standard (including releasing emissions that exceed quantitative thresholds for ozone precursors)?	X			
d.	Expose sensitive receptors to substantial pollutant concentrations?	X			
e.	Create objectionable odors affecting a substantial number of people?			X	

Discussion:

The Port is located within the South Coast Air Basin (SCAB), which consists of the urbanized areas of Los Angeles, Riverside, San Bernardino, and Orange Counties. Due to the combined air pollution sources from over 15 million people and meteorological and geographical effects that limit the dispersion of these pollutants, the SCAB can experience high air pollutant concentrations. As a result, the region currently does not attain the national and California ambient air quality standards for ozone (O3), particulate matter less than 10 microns in diameter (PM10), particulate matter less than 2.5 microns in diameter (PM2.5), and lead (national standard only).

a. Would the project conflict with or obstruct implementation of the applicable air quality plans?

Less Than Significant Impact. The FEIR concluded that construction and operation of the CS Container Terminal would not conflict with implementation of the 2003 AQMP (the then-current version) because the Port regularly provides SCAG with its Port-wide cargo forecasts for development of the AQMP. Therefore, the attainment demonstrations included in the 2003 AQMP accounted for the emissions generated by projected future growth at the Port. The FEIR further concluded that the attainment strategies in these plans include mobile source control measures and clean fuel programs that are enforced at the state and federal levels on engine manufacturers and petroleum refiners and retailers, and, as a result, operation of the CS Container Terminal would comply with these control measures. The South Coast Air Quality Management District (SCAQMD)

also adopts AQMP control measures into the SCAQMD rules and regulations, which are then used to regulate sources of air pollution in the South Coast Air Basin. Therefore, compliance with these requirements would ensure that the proposed Project would not conflict with or obstruct implementation of the AQMP. These conclusions remain valid and this impact will not be addressed in the Supplemental EIR.

b. Would the project violate any air quality standard or contribute substantially to an existing or projected air quality violation?

Potentially Significant Impact. Construction of the CS Container Terminal resulted in emissions of air pollutants from construction equipment. Operation of the CS Container Terminal results in emissions of air pollutants from terminal equipment, truck and train trips, and vessels. The FEIR concluded that emissions from construction and operation of the CS Container Terminal would exceed SCAQMD thresholds of significance, and proposed a suite of mitigation measures to reduce construction-related emissions (MM AQ-1 through MM AQ-8) and operational emissions (MM AQ-9 through MM AQ-24).

The measures associated with construction have all been completed or will be completed after the construction of the remaining two buildings. Accordingly, construction-related emissions will not be considered in the Supplemental EIR.

The FEIR proposed 16 mitigation measures to address operational emissions. Many of these have been implemented and are currently in effect, most as originally envisioned and some in an equally effective form.

The other measures are in various stages of implementation. Some of these mitigation measures may not be feasible as worded, some may have been superseded by subsequent regulations and standards, and others may not be as effective as intended. For some of these, related to air quality (AQ-9, AQ-10, AQ-15, AQ-16, AQ-17, AQ-20 and AQ-23), China Shipping has requested that the mitigation measure be reviewed and possibly revised based on feasibility, the availability of alternative technologies, and other factors warranting re-analysis as appropriate (see Table 2 below). Accordingly, re-evaluation of these mitigation measures that have not yet been implemented, in part or in full, is warranted, and this issue will be evaluated in the Supplemental EIR.

Table 2. 2008 FEIR Air Quality Mitigation Measures For Re-Evaluation

Mitigation Measure	Description
AQ-9	Alternative Maritime Power (AMP) for 100% of vessels
AQ-10	100% compliance with 40-nm Vessel Speed Reduction Program
AQ-15	Liquefied petroleum gas (LPG) Yard Tractors/0.015 g/hp-hr PM
AQ-16	Emissions standards for yard equipment at Berth 121-131 rail yard
AQ-17	Emissions standards for yard equipment at Berths 97-109 terminal
AQ-20	LNG-powered drayage trucks (70% through 2017, 100% in 2018 and thereafter)
AQ-23	Throughput tracking to verify EIR assumptions

c. Would the project result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?

Potentially Significant Impact. Due to the elevated concentrations of air pollutants that currently occur in the SCAB and Port region, the proposed Project, in conjunction with other related projects, has the potential to make a substantial contribution to significant cumulative air quality impacts, despite the application of mitigation measures. Some of the mitigation measures originally adopted to address these impacts may not be feasible as worded, may have been superseded by subsequent regulations or standards, or may not be as effective as intended (see Table 2). This issue will be evaluated in the Supplemental EIR.

d. Would the project expose sensitive receptors to substantial pollutant concentrations?

Potentially Significant Impact. Operational activities of the proposed Project may expose nearby sensitive receptors to increased levels of air pollution. In addition, there is the potential for the proposed Project to result in increased toxic air pollutants associated with diesel emissions from ships, trains, trucks, and cargo handling equipment. Some of the mitigation measures originally adopted to address these impacts may not be feasible as worded, may have been superseded by subsequent regulations or standards, or may not be as effective as intended (see Table 2). As a result, emissions of toxic air contaminants may be substantially different from those evaluated in the FEIR. These issues will be evaluated in the Supplemental EIR.

e. Would the project create objectionable odors affecting a substantial number of people?

Less Than Significant Impact. The FEIR concluded that odors from operation of the CS Container Terminal would constitute a less-than-significant impact because of the mobile nature of the sources (diesel-fueled vehicles, equipment, locomotives, and ships) and their distance from the nearest residential receptors. Accordingly, this issue will not be evaluated in the Supplemental EIR.

		Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
VII.	**GREENHOUSE GAS EMISSIONS.** Would the project:				
a.	Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	X			
b.	Conflict with any applicable plan, policy, or regulation of an agency adopted for the purpose of reducing the emissions of greenhouse gases?			X	

Discussion:

a. Would the project generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?

Potentially Significant Impact. Greenhouse gas emissions would be released as a result of operation of the proposed Project. The 2008 FEIR concluded that greenhouse gas emissions during operation of the CS Container Terminal would result in significant impacts. Six mitigation measures (MM AQ-25 through MM AQ-30) were proposed to reduce those impacts. These measures would be completed during construction of the two remaining buildings or, in the case of MM AQ-27 (energy audits) and AQ-29 (recycling), through the normal course of operations.

The 2008 FEIR also identified MM AQ-9, AQ-10, AQ-17, AQ-20 and AQ-21 as reducing greenhouse gas emissions. Some of these mitigation measures may not be feasible as worded, may have been superseded by subsequent regulations or standards, or may not be as effective as intended (see Table 2, under Air Quality). These issues will be evaluated in the Supplemental EIR.

b. Would the project conflict with any applicable plan, policy or regulation of an agency adopted for the purpose of reducing the emissions of greenhouse gases?

Less Than Significant Impact. The Project is not expected to conflict with any applicable plan, policy, or regulation of an agency. Nevertheless, these issues will be evaluated in the Supplemental EIR.

		Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
XII.	**NOISE.** Would the project:				
a.	Expose persons to or generate noise levels in excess of standards established in a local general plan or noise ordinance or applicable standards of other agencies?	X			
b.	Expose persons to or generate excessive groundborne vibration or groundborne noise levels?			X	
c.	Result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	X			
d.	Result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	X			
e.	Be located within an airport land use plan area, or, where such a plan has not been adopted, within 2 miles of a public airport or public use airport and expose people residing or working in the project area to excessive noise levels?				X
f.	Be located in the vicinity of a private airstrip and expose people residing or working in the project area to excessive noise levels?				X

Discussion:

a. Would the project result in exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance or applicable standards of other agencies?

Potentially Significant Impact. The proposed project site is located in an area zoned for heavy industrial uses that is characterized by periodic increases in noise levels associated with container terminal operations and associated industrial uses. The nearest sensitive receptors are located less than 0.5 mile from the project site in the Knoll Hill area of San Pedro. The 2008 FEIR concluded that operational activities of the CS Container Terminal could result in increased noise levels as a result of additional trains, trucks, and cargo handling equipment, and imposed mitigation measure MM NOI-2, which required sound walls, if feasible, and/or soundproofing of noise-sensitive structures, as well as monitoring at residences. That measure has not yet been implemented; however, the actual effectiveness of this measure is uncertain, and there

are substantial differences in operational equipment and activity levels between the FEIR and the current situation. Accordingly, this issue will be further evaluated in the Supplemental EIR.

b. Expose persons to or generate excessive groundborne vibration or groundborne noise?

Less Than Significant Impact. The FEIR concluded that operation of the CS Container Terminal would not cause excessive groundborne vibration or groundborne noise. Accordingly, impacts would be less than significant; however, this issue will be evaluated in the Supplemental EIR.

c. Result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?

Potentially Significant Impact. Terminal operations under the proposed Project could result in increased noise above ambient conditions as a result of train, truck, and terminal equipment activities. The 2008 FEIR concluded that operation of the CS Container Terminal could result in increased noise levels as a result of additional trains, trucks, and cargo handling equipment, and imposed mitigation measure MM NOI-2, which required sound walls and/or soundproofing of noise-sensitive structures, as well as monitoring at residences. That measure has not yet been implemented; however, the actual effectiveness of this measure is uncertain, and there are substantial differences in operational equipment and activity levels between the FEIR and the current situation. This issue will be further evaluated in the Supplemental EIR.

d. Would the project result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?

Potentially Significant Impact. Operation of the proposed Project may generate temporary or periodic increases in ambient noise levels. The 2008 FEIR concluded that operation of the CS Container Terminal could result in increased noise levels as a result of additional trains, trucks, and cargo handling equipment, and imposed mitigation measure MM NOI-2, which required sound walls and/or soundproofing of noise-sensitive structures, as well as monitoring at residences. That measure has not yet been implemented; however, the actual effectiveness of this measure is uncertain, and there are substantial differences in operational equipment and activity levels between the FEIR and the current situation. This issue will be further evaluated in the Supplemental EIR.

e. For a project located within an airport land use plan or, where such a plan has not been adopted, within 2 miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?

No Impact. The Project is not located within an airport land use plan or within two miles of a public airport or public use airport. Therefore, this issue will not be discussed in the Supplemental EIR.

f. For a project located within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?

No Impact. The proposed Project is not located in the vicinity of a private airstrip. Therefore, this impact will not be discussed in the Supplemental EIR.

		Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
XVI.	**TRANSPORTATION/TRAFFIC.** Would the project:				
a.	Exceed the capacity of the existing circulation system, based on an applicable measure of effectiveness (as designated in a general plan policy, ordinance, etc.), taking into account all relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?	X			
b.	Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?	X			
c.	Result in a change in marine vessel traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?				X
d.	Substantially increase hazards because of a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?				X
e.	Result in inadequate emergency access?			X	
f.	Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?				X

Discussion:

a. Would the project exceed the capacity of the existing circulation system, based on an applicable measure of effectiveness (as designated in a general plan policy, ordinance, etc.), taking into account all relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?

Potentially Significant Impact. The 2008 FEIR concluded that operation of the CS Container Terminal would increase the number of cargo truck trips, resulting in significant impacts on levels of service and volume/capacity ratios at local intersections, and imposed six mitigation measures involving modifications of those intersections to improve traffic flow. Four of those measures (MM TRANS-2, MM TRANS-3, MM TRANS-4 and MM TRANS-6) have not yet been fully implemented, and none is included in any current transportation project.

Recent intersection operating conditions analyses conducted by the Port for several other projects have determined that these locations are generally currently operating at, or are projected to operate in the future at, a very good level of service (LOS) B, or better, without these mitigation measures, and that the intersection of Alameda Street/Anaheim Street would operate at a good LOS C in the Year 2017. The LAHD proposes to reassess these locations in the Supplemental EIR to determine if and when any mitigation measures would be needed. Accordingly, this issue will be evaluated in the Supplemental EIR.

b. Would the project conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?

Potentially Significant Impact. The 2008 FEIR concluded that operation of the CS Container Terminal would increase the number of cargo truck trips, resulting in significant impacts on levels of service and volume/capacity ratios at local intersections, and imposed six mitigation measures involving modifications of those intersections to improve traffic flow. Four of those measures (MM TRANS-2, MM TRANS-3, MM TRANS-4 and TRANS-6) have not yet been fully implemented, and none is included in any current transportation project. The need for and actual effectiveness of these measure is uncertain. Accordingly, this issue will be evaluated in the Supplemental EIR

c. Would the project result in a change in marine vessel traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?

No Impact. The FEIR concluded that the Port's maritime infrastructure could safely accommodate the large cargo vessels associated with operation of the CS Container Terminal. Accordingly, the impact would be less than significant and this issue will be not discussed in the Supplemental EIR.

d. Would the project substantially increase hazards because of a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?

No Impact. The proposed Project does not include modification of any roadways or include any design features that would be incompatible with the current zoning or land use designation. Accordingly, this issue will not be discussed in the Supplemental EIR.

e. Would the project result in inadequate emergency access?

No Impact. The FEIR concluded that operation of the CS Container Terminal would not result in inadequate emergency access to, from, and within the site. Accordingly, this issue will not be discussed in the Supplemental EIR.

f. Would the project conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?

No Impact. The FEIR concluded that construction and operation of the CS Container Terminal would have no impact on alternative transportation policies or facilities. Accordingly, this issue will not be discussed in the Supplemental EIR.

		Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
XVIII.	**MANDATORY FINDINGS OF SIGNIFICANCE**				
a.	Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory?			X	
b.	Does the project have impacts that are individually limited but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.)	X			
c.	Does the project have environmental effects that will cause substantial adverse effects on human beings, either directly or indirectly?	X			

Discussion:

a. Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory?

Less Than Significant Impact. Operation of the proposed Project does not have the potential to degrade the quality of the environment with regard to biological resources.

b. Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.)

Potentially Significant Impact. The proposed Project, in conjunction with other related projects, has the potential to result in significant cumulative impacts. The 2008 FEIR identified several mitigation measures as reducing such impacts. Some of these mitigation measures may not be feasible as worded, may have been superseded by subsequent regulations or standards, or may not be as effective as intended (see discussions above). Accordingly, the potential for cumulative impacts will be evaluated in the Supplemental EIR.

c. Does the project have environmental effects that would cause substantial adverse effects on human beings, either directly or indirectly?

Potentially Significant Impact. The proposed Project could result in adverse impacts on human beings, either directly or indirectly, related to air quality, noise, transportation, and greenhouse gases. The 2008 FEIR identified several mitigation measures as reducing such impacts. Some of these mitigation measures may not be feasible as worded, may have been superseded by subsequent regulations or standards, or may not be as effective as intended (see discussions above). This issue will be further evaluated in the Supplemental EIR.

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Laws and Regulations

California Code of Regulations, Title 14. State CEQA Guidelines

California Health and Safety Code, Section 7050.5

California Health and Safety Code, Section 7052

California Public Resources Code, Section 21000, et seq.

Public Resources Code, Sections 5097.94 and 5907.98.

U.S. Government Code, Title 33, Sections 1344 et seq. (Section 404 of the Clean Water Act of 1972, as amended.)

U.S. Government Code, Title 33, Sections 1401 et seq. (Section 103 of the Marine Protection, Research, and Sanctuaries Act of 1972.)

U.S. Government Code, Title 33, Sections 403 et seq. (Section 10 of the Rivers and Harbors Act of 1899)

2430410.10

Scoping Comments

South Coast
Air Quality Management District
21865 Copley Drive, Diamond Bar, CA 91765-4182
(909) 396-2000 • www.aqmd.gov

October 16, 2015

Christopher Cannon, Director
Environmental Management Division
Los Angeles Harbor Department
425 S. Palos Verdes Street
San Pedro, CA 90731

Notice of Preparation of a
Draft Supplemental Environmental Impact Report (SEIR)
for the China Shipping Container Terminal Project

The South Coast Air Quality Management (SCAQMD) staff appreciates the opportunity to comment on the above-mentioned document. We note that the Port is intending to reevaluate the feasibility of mitigation measures and take steps which could include the "elimination of measures that have proven to be clearly infeasible, addition of replacement measures to address those impacts, and revision of measures that have proven problematic to implement in order to achieve comparable results." (NOP, pg. 9.) It is our recommendation that this process also be used as an opportunity to further reduce impacts from the project. In furtherance of this objective, SCAQMD staff recommends that the Draft SEIR include the following components:

A. Ensure that the newly approved project does not backslide on the level of control and emission reductions provided by the previously approved mitigation.
B. Implement all feasible mitigation, even if it provides additional reductions beyond what had previously been approved in 2008, with the goal of reducing impacts to a level below significance.
C. Pursuant to the requirements of Mitigation Measure AQ-22 from the 2008 EIR (which requires a review and implementation of new, feasible lower-emission technologies every seven years), this Draft SEIR should take this opportunity to aggressively deploy the lowest emission technologies possible wherever feasible. This deployment should include those technologies that are "capable of being accomplished in a successful manner within a reasonable period of time" (Public Resources Code §21061.1), such as zero and near-zero emission technologies that are expected early in the life of the project.
D. As part of CEQA's disclosure requirements, the analysis of existing conditions in the Draft SEIR should include an analysis of the environmental impacts from actual existing conditions, and what the environmental impacts in the existing condition should have been had all mitigation been implemented fully in the past, and into the future.
E. The NOP states that the Draft SEIR will not evaluate whether the project is consistent with the Air Quality Management Plan (AQMP). As this Draft SEIR is only being prepared because of the project's inability to meet previous

commitments, this question should not be dismissed in the NOP. The AQMP relies on commitments made by the port and others to ensure that emission reductions occur on time to meet federal and state standards. Because of the precedent this project is setting by failing to meet previous commitments, the consistency of this project with the AQMP should be fully analyzed.

Due to the expected complexity of the air quality analysis required for this Draft SEIR, SCAQMD staff recommends that the port meet with us to establish an air quality protocol prior to preparation of the Draft SEIR. This protocol would be consistent with SCAQMD's guidance on air quality analyses for CEQA[1], but would be tailored to the specific needs of this project. If you have any questions regarding this letter, please contact me at imacmillan@aqmd.gov or (909) 396-3244.

Sincerely,

Ian MacMillan
Planning and Rules Manager

LAC 15091802
Control Number

[1] http://www.aqmd.gov/home/regulations/ceqa/air-quality-analysis-handbook

Los Angeles County
Metropolitan Transportation Authority

One Gateway Plaza
Los Angeles, CA 90012-2952

213.922.2000 Tel
metro.net

Metro

October 8, 2015

Mr. Christopher Cannon
Director of Environmental Management
Los Angeles Harbor Division
425 S. Palos Verdes Street
San Pedro, CA 90731

RE: Berths 97-109 [China Shipping] Container Terminal Project SEIR

Dear Mr. Cannon:

Thank you for the opportunity to comment on the proposed Berths 97-109 [China Shipping] Container Terminal Project located at 2050 John S. Gibson Blvd San Pedro, CA 90731. This letter conveys recommendations from the Los Angeles County Metropolitan Transportation Authority (LACMTA) concerning issues that are germane to our agency's statutory responsibility in relation to our facilities and services that may be affected by the proposed project.

Metro bus line 246 operates on S. Gibson Blvd/Pacific Ave, adjacent to the proposed project. Three Metro bus stops on the corners of Pacific/Front, Pacific/Channel, and Pacific/J.S. Gibson are directly adjacent to the proposed project. We respectfully request that the Level of Service (LOS) at Level C be reevaluated based on the anticipated truck traffic and proposed mitigations that will result from this project. It would be helpful if the project would provide for expedited public transit flow on the project-adjacent streets. To the extent that the project impacts the Harbor Red Car Trolley route, the Los Angeles Port Authority and this project should provide for mitigations to the loss of service and make plans to continue the operation of this line once the project is completed. There is the potential for the project to impact bus routes serving San Pedro. In this regard, there should be traffic mitigation provisions to insure that the buses are minimally delayed. The following comments relate to bus operations and the bus stop:

1. Although the project is not expected to result in any long-term impacts on transit, the developer should be aware of the bus facilities and services that are present. The existing Metro bus stop must be maintained as part of the final project.

2. During construction, the stop must be maintained or relocated consistent with the needs of Metro Bus Operations. Metro Bus Operations Control Special Events Coordinator should be contacted at 213-922-4632 regarding construction activities that may Impact Metro bus lines. (For closures that last more than six months, Metro's Stops and Zones Department will also need to be notified at 213-922-5188). Other municipal bus may also be impacted and should be included in construction outreach efforts.

3. LACMTA encourages the installation of bus shelters, benches and other amenities that improve the transit rider experience. The City should consider requesting the installation of such amenities as part of the development of the site.

4. Final design of the bus stop and surrounding sidewalk area must be Americans with Disabilities Act (ADA) compliant and allow passengers with disabilities a clear path of travel to the bus stop from the proposed development.

Beyond impacts to Metro facilities and operations, LACMTA must also notify the applicant of state requirements. A Transportation Impact Analysis (TIA), with roadway and transit components, is required under the State of California Congestion Management Program (CMP) statute. The CMP TIA Guidelines are published in the "2010 Congestion Management Program for Los Angeles County", Appendix D (attached). The geographic area examined in the TIA must include the following, at a minimum:

1. All CMP arterial monitoring intersections, including monitored freeway on/off-ramp intersections, where the proposed project will add 50 or more trips during either the a.m. or p.m. weekday peak hour (of adjacent street traffic).

2. If CMP arterial segments are being analyzed rather than intersections, the study area must include all segments where the proposed project will add 50 or more peak hour trips (total of both directions). Within the study area, the TIA must analyze at least one segment between monitored CMP intersections.

3. Mainline freeway-monitoring locations where the project will add 150 or more trips, in either direction, during either the a.m. or p.m. weekday peak hour.

4. Caltrans must also be consulted through the NOP process to identify other specific locations to be analyzed on the state highway system.

The CMP TIA requirement also contains two separate impact studies covering roadways and transit, as outlined in Sections D.8.1 – D.9.4. If the TIA identifies no facilities for study based on the criteria above, no further traffic analysis is required. However, projects must still consider transit impacts. For all CMP TIA requirements please see the attached guidelines.

If you have any questions regarding this response, please contact Elizabeth Carvajal at 213-922-3084 or by email at DevReview@metro.net. LACMTA looks forward to reviewing the Draft SEIR. Please send it to the following address:

LACMTA Development Review
One Gateway Plaza MS 99-18-3
Los Angeles, CA 90012-2952

Sincerely,

Elizabeth Carvajal
Transportation Planning Manager

SOUTHERN CALIFORNIA AIR POLLUTION SCIENTISTS AND OTHER UNIVERSITY FACULTY

October 19, 2015

Chris Cannon, Director
Environmental Management Division
Port of Los Angeles
425 S. Palos Verdes Street
San Pedro, CA 90731

Re: "Berths 97-109 [China Shipping] Container Terminal Project Supplemental EIR" Notice of Preparation (NOP)

Dear Mr. Cannon:

We submit the following comments on the Notice of Preparation (NOP) for the draft supplemental environmental impact report for the China Shipping Container Terminal Project's supplemental EIR.

At a meeting of the Public Policy Institute of Santa Monica College several years ago (which signatory Andrea Hricko attended), then-President of the Port of Los Angeles Harbor Commissioners, Cindy Miscikowski, stated that the 2001 China Shipping lawsuit brought by homeowners associations and NRDC against the Port was a "defining moment" in the Port of L.A.'s history. The Port, she told the audience, recognized that unless the Port could "grow green," lawsuits would prevent it from growing at all.

Fast forward, and it turns out that the very company she spoke about – China Shipping – had, under the Commission President's own tenure at the Port – and several years thereafter – been in violation of the China Shipping/NRDC/homeowners' settlement agreement. It now appears that the staff of the Port of L.A. knew about China Shipping's failure to meet the air quality and noise mitigation measures in the years after the 2008 EIR and its court Amended Stipulated Judgment (ASJ), but did not tell the public – nor, apparently, the Harbor Commissioners – until 2015.

The MMRP

The 2008 EIR and its amended stipulated judgment (ASJ) from the China Shipping lawsuit) had a "Mitigation Monitoring and Reporting Program" (MMRP) that required reporting to the Port's Environmental Management Division about compliance with China's Shipping's mitigation measures. Many of the mitigation measures dealt with reduction of pollutants or physical agents (noise) that can cause adverse health effects. The MMRP shows the following deadlines for China Shipping to meet certain mitigation requirements relating to air pollution and noise:

Air Quality and Meteorology: Operation	
MM AQ-9: Alternative Maritime Power (AMP). China Shipping ships calling at Berths 97-109 must use AMP at the following percentages while hoteling in the Port: • January 1 to June 30, 2005: 60 percent of total ship calls (ASJ Requirement) • July 1, 2005: 70 percent of total ship calls (ASJ Requirement) • January 1, 2010: 90 percent of ship calls • January 1, 2011, and thereafter: 100 percent of ship calls Additionally, by 2010, all ships retrofitted for AMP shall be required to use AMP while hoteling at a 100 percent compliance rate, with the exception of circumstances when an AMP-capable berth is unavailable due to utilization by another AMP-capable ship.	**Timing:** Throughout all operational years. **Methods:** This measure shall be incorporated into th lease. China Shipping shall submit bi-annual compliance report documenting compliance to the Environmental Management Division. Vessel calls shall be monitored by the Wharfingers Office and th Environmental Management Division. Enforcement shall include oversight by the Real Estate Division. Annual staff reports shall be made available to the Board at a regularly scheduled public Board Meetin
MM AQ-10: Vessel Speed Reduction Program. All ships calling at Berths 97-109 shall comply with the expanded VSRP of 12 knots between 40 nm from Point Fermin and the Precautionary Area in the following implementation schedule: • 2009 and thereafter: 100 percent	**Timing:** Throughout Phases II and III operational years. **Methods:** This measure shall be incorporated into th lease. China Shipping shall submit quarterly reportir forms documenting compliance to LAHD. Environmental Management Division will independently monitor through monitoring data

The NOP states that China Shipping missed these critical deadlines. That is, it did NOT plug in 100% of its ships to shore power starting in 2011, as required under the ASJ. In fact, in 2011, it plugged into shore power only 12% of its ships! It did NOT reduce vessel speeds for all China Shipping ships coming into the harbor starting in 2009; in fact, by that date in 2009, China Shipping was reducing ship speed only a fraction of the time.

The current Port of L.A.'s Executive Director, Gene Seroka, was quoted in the Los Angeles Times last week, saying that: "Emissions are at or below levels contemplated when the port approved the expansion of the China Shipping terminal in 2008. He argued that we need to recognize that China Shipping today is almost meeting the 2011 requirement that 98% of its ships plug into electricity (instead of emitting diesel exhaust) while they wait to unload… and that it is almost meeting its 2009 requirement for vessel speed reduction rule (which reduces diesel and other air pollutants as ships come into the harbor).

We are pleased that China Shipping is "almost meeting" some of its 2008 mandates. But years of exposure to residents occurred before we got to this point. And more pollution means more exposure means more health effects.

NEED FOR DEIR TO INCLUDE STARCREST CONSULTING'S ANNUAL TENANT SURVEYS OF CHINA SHIPPING (SINCE 2008), REPORTS ABOUT VESSEL BOARDING BY STARCREST EMPLOYEES AND WHAT THEY FOUND AT CHINA SHIPPING, AND CHINA SHIPPING'S DATES OF COMPLIANCE WITH ALL 2008 ASJ MEASURES

The tenant surveys collected by Starcrest Consulting, presumably, show what China Shipping claimed about its compliance with the mitigation measures. They should show, e.g., what percentage of ships were plugging into electricity? What percentage of ships were meeting the Vessel Speed ReductIon (VSR) measure, year by year? And compliance with other mitigation measures, year by year. We request that copies of these tenant surveys be included in the DEIR for this project.

In addition, in the DEIR please include a table with ALL of China Shipping's ASJ measures and compliance year by year since 2008.

NEED FOR STUDY TO CALCULATE THE EXTRA POLLUTION TO WHICH RESIDENTS WERE EXPOSED BECAUSE THE PORT OF LOS ANGELES ALLOWED CHINA SHIPPING TO IGNORE ITS MANDATED ENVIRONMENTAL MEASURES; INCLUDE RESULTS IN THE DEIR.

The public needs to know how many extra pounds of pollutants it was exposed to because of the Port's and China Shipping's failures**.** According to the Draft EIR, at buildout, China Shipping is expected to bring in 18% (nearly 1/5) of all POLA containers. Unless mitigated, that means a huge amount of pollutants – with air pollution from ships, cargo handling equipment, yard tractors, drayage trucks and locomotives to move those containers. The Port of Los Angeles needs to do an analysis of exactly how much "excess pollution" there was (over that allowed in the ASJ and the 2008 EIR) during the years between 2008 and 2015 when China Shipping missed deadlines for the mitigation measures in the 2008 EIR. We ask that this study's results be included in the DEIR.

Typically, a company that fails to meet its environmental health obligations will be faced with sanctions, penalties or fines. Please include information in the DEIR about what these will entail.

WHY DOES THIS MATTER TO PUBLIC HEALTH?

Several of these mitigation measures relate to reducing the public's exposure to diesel particulate matter and exhaust. In 1998, diesel particulate matter was declared a toxic air contaminant in California because it causes lung cancer. In 2012, diesel exhaust was designated as a human carcinogen by IARC, the International Agency for Research on Cancer, part of the World Health Organization. Exposure to diesel exhaust is related to an increase in heart disease, asthma and lung cancer.

ANOTHER PUBLIC HEALTH ISSUE – NOISE EXPOSURE.

Mitigation measures for noise were included in the court's ASJ. Below is what the current NOP says about China Shipping's compliance with the noise mitigation measures in the 2008 EIR and ASJ. Note that the NOP states that nothing has been done to reduce noise from the China Shipping Terminal to protect residents since the 2008 EIR:

"Potentially Significant Impact. Terminal operations under the proposed Project could result in increased noise above ambient conditions as a result of train, truck, and terminal equipment activities. The 2008 FEIR concluded that operation of the CS Container Terminal could result in increased noise levels as a result of additional trains, trucks, and cargo handling equipment, and imposed mitigation measure MM NOI-2, which required sound walls and/or soundproofing of noise-sensitive structures, as well as monitoring at residences. That measure has not yet been implemented; however, the actual effectiveness of this measure is uncertain, and there are substantial

differences in operational equipment and activity levels between the FEIR and the current situation. This issue will be further evaluated in the Supplemental EIR."

Noise is not just a nuisance; it is a documented health hazard. Mitigation measures to reduce noise cannot simply be dismissed.

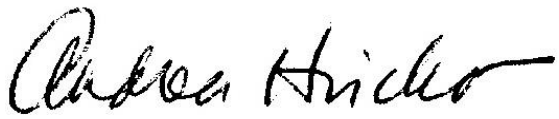
CONCLUSION

The Port of L.A.'s failure to require China Shipping to fully mitigate its diesel exhaust and noise exposures for more than 4-5-6 + years has clearly presented increased exposure and an added health burden to nearby residents, especially to the lower income and primarily minority communities living in the vicinity of the Port of Los Angeles. We urge the Port to:

1. Conduct a study of the tons of excess emissions from China Shipping added to the community and include results of that study in the DEIR for this project.
2. Publically post online China Shipping's tenant surveys collected by Starcrest Consulting about the China Shipping marine terminal's compliance with mitigation measures – since the time these surveys started to be collected and going forward Also include copies of these Tenant Surveys of China Shipping in the DEIR for this project.
3. Appoint an independent third-party oversight committee to monitor the China Shipping agreements and compliance dates.

Thank you for your consideration of our comments and requests.

Sincerely,



Andrea Hricko, MPH
Professor of Clinical Preventive Medicine
Keck School of Medicine (KSOM) of USC
and
Co-Director of Community Outreach and Engagement
Division of Environmental Health, KSOM

Approval to include the names below as signatories on file with Andrea Hricko:

Jill Johnston, PhD
Assistant Professor of Professor of Preventive Medicine
Keck School of Medicine (KSOM) of USC
and

Co-Director of Community Outreach and Engagement
Division of Environmental Health, KSOM

Ed Avol, MS
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Professor of Epidemiology
UC Irvine School of Medicine

John Froines, PhD
Professor of Environmental Health Sciences
UCLA School of Public Health

Beate Ritz, M.D.
Professor of Epidemiology
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San Pedro Peninsula Homeowners United, Inc.
PO Box 6455
San Pedro, CA 90734-6455

October 19, 2015

Christopher Cannon, Director
Environmental Management Division
Los Angeles Harbor Department
425 S. Palos Verdes St
San Pedro, CA 90731

Re: Notice of Preparation of a Draft Supplemental EIR for Berths 97-109 (China Shipping) Container Terminal Project

Dear Mr. Cannon

On behalf of the homeowners of San Pedro Peninsula Homeowners United, Inc., I wish to echo the opinions and facts submitted by the NRDC, the San Pedro & Peninsula Homeowners Coalition, the Point Fermin Homeowners Assn., etc. Most of the content of this letter will include the information already submitted by these organizations and more significantly mirroring the comments provided by the SPPHC. However, I want to go on record by also including the following;

While the public and the news media are expressing their "outrage" at the Port of Los Angeles' for their purposeful ignorance of duties set forth under the legal settlement of the China Shipping lawsuit, it is more than clear that this policy of "ignoring the law" in conducting port business, is a long standing and ingrained pattern of behavior.

SPPHU has fought the port since the late 1970's for the "improper introduction" of one of the most hazardous and explosive facilities in existence. Introduced as Petrolane LPG in 1973, this 25 million gallon butane and propane gas storage facility has passed through three ownerships and now falls under the ownership and operation of the infamous, Plains All American Pipeline Corp. under the subsidiary name, Rancho LPG. The port played a "key role" in initializing the original facility's placement by their treatment of it as a "single port project" although it involved two separate operation sites. There were no public hearings, the EIR was highly deficient, and the project was exempted from permits and many other regulations. The massive LPG storage site was developed on "private property"... "off of port lands" and *nearer* residents, while the port accommodated the operation by installing a pipeline to a wharf at berth 120 for receiving and exporting the highly explosive gas. At least 68% of its gases were transferred via pipeline for sea transport. The injustice of the introduction of this highly dangerous facility into such a densely populated area prompted the US Comptroller General, J

Dexter Peach, to issue a report to the Congress in an effort to prevent such hazardous facilities from ever again being placed so near residents and infrastructure. When the 30 year old wharf and pipeline lease expired with the Port in 2004, the port refused to renew the lease based on "safety issues." However, the Port has continued to allow the Plains/Rancho facility to transport the highly flammable and explosive gases over port rail that falls within mere feet of youth soccer fields, businesses, homes, schools and through the port itself. The port has been notified multiple times that this activity is in **complete violation of their own legal agreements with the facility. Both their rail permit and their contract with Pacific Harbor Rail Line (intra port transport) "prohibit" the transport of any "hazardous" commodity over that rail.**

In addition, the Port's own "vested document of authority", their Port Master Plan provides a very straightforward directive that has been effectively "ignored" for almost 35 years! *The directive is to congregate and segregate all hazardous terminals to a remote location in the interest of public safety.* In fact, prior to the final approval of that document way back in 1981, that specific directive, so emphasized by the Los Angeles Department of Planning for inclusion, "disappeared from the document". Attached is the old City of Los Angeles inter departmental memo that went back to the port *demanding* the reinstatement of that directive into their Master Plan. So, it is painfully obvious that the Port "ignores what they wish to ignore" with total disregard for their legal obligations under the law. In the latest draft of the new Port Master Plan, awaiting approval, there is NO directive at all that calls for the relocation of all hazardous terminals in the interest of public safety. ***The recent horrific catastrophe in the Chinese port town of "Tianjin" illustrates the necessity to move all hazardous storage sites as far as possible from residents. The latest Port Master Plan completely negates any responsibility to the safety of local communities and their residents. "If" this latest Master Plan is approved, the Port's continued ignorance of that safety measure will finally be made "legal".***

Regarding the NOP, we request an extension of the NOP comment period to 90 days. The short comment period presently allowed gives the appearance of an effort to limit the public's chance for input. Many citizens are only now becoming aware of what has happened and why the Port is doing this "Project'.

It is now obvious that the Port of Los Angeles has cynically devised a long term plan that again demonstrates a massive betrayal of the public's trust in the Port. The revelation that the Port has not completed many of the measures it agreed to impose to reduce air pollution, noise and traffic when it allowed the expansion of the China Shipping terminal comes as a disheartening shock. What we have here is another example of promises made to the public by the Port of Los Angeles that are then broken and ignored.

We, the public, have been misled to believe that China Shipping is a much cleaner project than it really is. It appears that the mitigations promised weren't happening and the Port knew this all along. This makes the Clean Air Action Plan and the Emissions Inventories fraudulently based documents in that assumptions in these reports are based on the mitigation measures that have not been carried out. The Port has been trumpeting these

documents far and wide and now we learn they are based on "Green Smoke, Green Mirrors, Green Hot Air, and Green Lies.'

The CAAP now appears willfully deceitful, given that POLA knew it had not fulfilled its previous commitments. It needs revision with public input.

The Port must revise its past Emissions Inventories which are based on modeling, not monitoring or real world observations, now that the modeling assumptions about the emissions from China Shipping are known to be incorrect due to failure to do the promised mitigations.

An annual independent audit of the Emissions Inventory is now needed to reassure an apprehensive public and decision makers. SPPHU members have reported that they have not seen China Shipping vessels plugged into electric shore power over the past few years.

We have learned that in some instances China Shipping was given secret written waivers on certain mitigation measures. This lack of transparency is a complete betrayal of the public's trust and most likely exposes the Port and City to significant liability.

The failure of the Port to include the required mitigation measures in the long term lease with China Shipping appears to be a fraudulent act of major magnitude. This is not some simple little foul up. It has to have been totally deliberate. But why? The damage to the publics trust in the Port is incalculable. Unfortunately the fact (as reported in the Los Angeles Times Oct 14, 2015) that port officials "never revised their long term lease agreement with China Shipping to include the required mitigation measures" strongly enhances the appearance of willful wrongdoing or willful malfeasance. This part of the situation is so egregious as to make an outside observer wonder: "Was there some conflict of interest or secondary gain factor involved here that caused this "failure" on the part of Port Senior Management and the City Attorneys Office?"

This failure appears to be a willful act calculated to be able to allow POLA to later on say in effect "We can't make China Shipping do these things (mitigation measures) because they are not in the lease."

The Port Community Advisory Committee (PCAC) was established by Mayor James Hahn in part to assure that all environmental regulations will be followed by the Port "in future projects." This latest China Shipping mess makes a mockery of that intent. The dissolution of the PCAC by the previous Port Director at a time when that group was starting to examine actual mitigation monitoring (versus optimistic projections) now establishes presumed intent to deceive the public that is being adversely affected by China Shipping related air pollution and other negative impacts.. The reasoning given by the Port Director for the disbanding of PCAC at the time was "Our work on China Shipping is now all done" (Conveniently ignoring all the other oncoming projects.) Given that she knew the work was not finished, this now appears to be a move planned to keep interested, knowledgeable members of the public from enquiring too deeply into the

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Additionally MM A-22 mandates that as a condition for the Port to give China Shipping a lease ("permit"), China Shipping "shall implement no less frequently than once every 7 years following the effective date of the permit, new air quality technological advancements subject to mutual agreement on operational feasibility and cost sharing, which shall not be unreasonably withheld." There have been major advances in zero and low emission technology since 2008. Seven years will have passed by December 2015. So where is this implementation or discussion thereof? Adherence to MM AQ-22 must be a part of this Project.

The two maps provided with the NOP are so vague and general as to be non-informational to any member of the public or decision maker who is not already intimately knowledgeable about the location and layout of the China Shipping Terminal. Much more detailed maps need to be provided in the Revised and Re-circulated NOP.

The public and its decision makers deserve to know how much excess of the various air pollutants have been released into the South Coast Air Basin. The public also needs to know how much damage, how many lives have been lost, how many people's health have affected by these excess pollutants. The creation of an independent expert commission to do this would go a long way to restore the Port's badly tarnished credibility.

Epidemiologists, including many local researchers at the Keck USC School of Medicine and The UCLA School of Medicine have long demonstrated that every increase in air pollution in our area has adverse health effects.

We submit as part of the Public Record "Exhibit B", a document titled "Health Effects of Diesel Exhaust Air Pollution" August 28, 2003 Prepared for The Environmental; Subcommittee Air Quality Group of the Port of Los Angeles Community Advisory Committee. This reviews the identified Health Effects including cancer, heart attacks, strokes, elevations in all cause mortality, chronic obstructive pulmonary disease, asthma, serious birth defects and others.

We assert that the public, especially the public living near the Port or in The Diesel Death Zone (That portion of the South Coast Air basin that is downwind of the twin Pots Of LA and Long Beach) has been materially harmed by POLA from these excess, hidden air emissions created by allowing China Shipping to ignore the approved mitigation measures.. The Port needs to make restitution to the public for allowing excess emissions to occur.

Many of the citizens living in the Diesel Death Zone are minorities, persons of color, and/or economically disadvantaged. The burden of the Air Emissions related to the China Shipping project and other Port projects falls disproportionately on these citizens, creating an environmental justice issue.

A Health Impact Assessment needs to be done for this Project, otherwise the DSEIR/DSEIS will be non-informational to the public and decision makers.

With regard to the Mitigation Measures (MMs) listed in the NOP:

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aggressively against this backstop rule claiming it wasn't necessary. The present situation proves that assertion to be non-factual. This is more damage to Port credibility.

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Is an effort to modify AQ-23 really a disguised effort to get rid of situations that would trigger MM AQ-22?

There has been talk in the Port communities that some containers not being shipped by China Shipping were being moved through the CS Facility. Frankly we doubted this, but in light of the present situation we wonder now if this could be true? If so, are those containers being included in the throughput counts/? Have the resulting emissions been accounted for? Have non-China Shipping ships docked at the CS facility?

More transparency is needed, not less.

To restore public confidence, the Port needs to conduct a full independent third party audit of the existing mitigation measures of every CEQA project at the Port, as well as the Port's emissions inventories from 2008 to the present. Where deficiencies are found they could be remedied.

MM NOI-2 (noise walls and soundproofing) Is the Port trying to get out of its promise to reduce the noise impact on the people living nearby? Up to date technology needs to be assessed and implemented to reduce noise impact.

TRANS -2, -3,-4-6
We wonder if any of the studies that are alleged to support omitting these Mitigation Measures were done during the recent economic downturn when traffic volume was lower. If these aren't needed at present, why won't they be needed in the future?

The Port made a contract with the Public to build these traffic improvements. We say just honor the contract and build them.

OVERALL: With all of these Mitigation Measure modifications or downright deletions we wonder which of these mysterious, non-defined "*other factors*" will be at work where in the analysis and how?

Thank you for your kind attention to our comments. This letter is not to be construed as a waiver of any rights under the Amended Stipulated Judgment or under federal or state law, including the right to arbitrate and/or litigate compliance with existing China Shipping mitigation measures, all of which rights are expressly reserved.

Thank you for the opportunity to comment on this Project.

Sincerely,

Chuck Hart

Chuck Hart,
President, San Pedro Peninsula Homeowners United, Inc.

FORM GEN. 160 (Rev. 3-78)

CITY OF LOS ANGELES

INTER-DEPARTMENTAL CORRESPONDENCE

Date: April 10, 1981

To: Ernest L. Perry, Executive Director
Harbor Department

Via: Robert Weir, Director of Planning and Research

From: Calvin S. Hamilton, Director of Planning
City Planning Department

Subject: COMMENTS -- DRAFT RISK MANAGEMENT PLAN FOR THE PORT OF LOS ANGELES

Background

When the California Coastal Commission acted last year to retain permit authority over new or expanded hazardous liquid bulk Port projects until certification of a Risk Management Plan, a Commission staff report dated on February 8, 1980 stated that the "Coastal Act and risk management concepts require a more affirmative planning approach on the part of the Port, indicating to tenants where the safest and most efficient locations are for new projects and providing for the eventual relocation of currently inappropriately sited activities." Such approach, however, is not adequately borne out by the subject Draft Risk Management Plan (Draft RMP).

Planned Land Use

This conclusion is based on what Planning Department staff perceives to be a serious lack of coherent and definitive land use policies with respect to the siting of hazardous Port facilities. The minimization or elimination of hazard footprint overlaps -- the underlying policy objective of the Draft RMP -- is not an acceptable substitute for the comprehensive, long-range planned use of harbor land areas for the handling, storage or transfer of hazardous cargoes.

Relation to the Port Master Plan

Hazard footprinting is, at best, a function of calculated technical assumptions concerning "acceptable" degrees of risk. The methodology is inherently dependent upon present circumstances in Port development; it follows no guidelines or constraints for future-oriented, planned Port development. In short, the hazard footprinting technique, when applied independently in and of itself, is inconsistent with the basic overall objective of the Port Master Plan: "To establish standards and criteria for the long-range orderly expansion and development of the Port by the eventual aggregation of major functional and compatible land and water uses under a system of preferences which will result in the segregation of related Port facilities and operations into functional areas." (Emphasis added.)

(1)

Relation to the Mayor's Hazardous Cargo Task Force Recommendations

It is stated in the Risk Management Program report:

> "It appears that the basic and most effective risk management measure for the Port of Los Angeles is the control of siting of any additional hazardous cargo facilities on existing or new land in the outer harbor, or, on or south of Terminal Island. These areas provide remote sites for cargoes of varying degrees of hazard. They will allow for the relocation of old, inner harbor petroleum (and chemical) facilities to a more remote area, and their reconstruction with up-to-date technologies." (Emphasis added.)

This statement (not included in the Draft RMP) essentially makes the same recommendation that was made in the final report of the Mayor's Hazardous Cargo Task Force over four years ago. However, the Draft RMP contains no strategy by which to implement the planned development of new hazardous cargo facilities and the relocation of existing ones. Once again, we consider this a serious omission for any plan which intends to address risk management for the Port of Los Angeles. (2)

Relation to the City's General Plan

At a joint meeting of the Board of Harbor Commissioners and the City Planning Commission on March 21, 1979, it was agreed that the Planning Department would prepare an update of the 1970 Port of Los Angeles Plan, an element of the City's General Plan. As required by the State Planning and Zoning Laws and as expressly set forth under Section 96.5 of the City Charter, the General Plan is to consist of a comprehensive declaration of purposes, policies and programs that coordinate and control the development of land use, circulation and service systems.

The preliminary Port of Los Angeles Plan revision seeks to promote and accomodate the orderly and continued development of the Port, and also to recognize the policies and objectives of the community plans for San Pedro and Wilmington-Harbor City, in order to provide for the mitigation of any possible adverse impacts of Port operations upon these communities. (3)

The Draft RMP is of key interest to our effort in developing a comprehensive City policy document for the Port. Harbor Department staff has urged that key aspects of the Port of Los Angeles Plan which allude to hazardous cargo operations defer to the Risk Management Plan. However, Planning Department staff was not asked to participate in the Risk Management Program Advisory Group, and until recently, had no knowledge whatsoever of the contents of either the Risk Management Program report or the Draft RMP. The lack of detail of the latter with respect to planned land use and relocation strategies for hazardous Port facilities does little to enhance what we consider a fundamental objective of the Port of Los Angeles Plan: to coordinate the development of the Port and adjacent areas to maximize land use compatibility.

San Pedro and Peninsula Homeowners Coalition
P.O. Box 1106
San Pedro, CA 90733

CEQA/NEPA Comments

October 19, 2015

Christopher Cannon, Director
Environmental Management Division
Los Angeles Harbor Department
425 S. Palos Verdes St
San Pedro, CA 90731

Re: Notice of Preparation of a Draft Supplemental EIR for Berths 97-109 (China Shipping) Container Terminal Project

Dear Mr Cannon,

I am writing to submit the following comments on the Notice of Preparation for the Draft SEIR for the berths 97-109 China Shipping project on behalf of the San Pedro and Peninsula Homeowners Coalition. I am President of this group of 10 different Homeowners Associations.

First of all, we ask for an extension of the NOP comment period to 90 days. The short comment period presently allowed gives the appearance of an effort to limit the public's chance for input. Many citizens are only now becoming aware of what has happened and why the Port is doing this "Project'.

It saddens me to have to be writing these comments. It is now obvious that the Port of Los Angeles has cynically devised a long term plan that ultimately now constitutes a massive betrayal of the public's trust in the Port. The revelation that the Port has not completed many of the measures it agreed to impose to reduce air pollution, noise and traffic when it allowed the expansion of the China Shipping terminal comes as a disheartening shock. Many of us had begun to feel that we could trust the Port to keep its promises. Obviously this is not the case.

What we have here is another example of promises made to the public by the Port of Los Angeles that are then broken and ignored.

We the public have been mislead to believe that China Shipping is a much cleaner project than it really is. It appears that the mitigations promised weren't happening and the Port knew this all along. This makes the Clean Air Action Plan and the Emissions Inventories fraudulently based documents in that assumptions in these reports are based on the mitigation measures that have not been carried out. The Port has been trumpeting these documents far and wide and now we learn they are based on "Green Smoke, Green Mirrors, Green Hot Air and Green B.S." (Lies)

The CAAP now appears willfully deceitful, given that POLA knew it had not fulfilled its previous commitments. It needs revision with public input.

The Port must revise its past Emissions Inventories which are based on modeling, not monitoring or real world observations, now that the modeling assumptions about the emissions from China Shipping are known to be incorrect due to failure to do the promised mitigations.

An annual independent audit of the Emissions Inventory is now needed to reassure an apprehensive public and decision makers.

We have learned that in some instances China Shipping was given secret written waivers on certain mitigation measures. This lack of transparency is a complete betrayal of the public's trust and most likely exposes the Port and City to significant liability.

The failure of the Port to include the required mitigation measures in the long term lease with China Shipping appears to be a fraudulent act of major magnitude. This is not some simple little foul up. It has to have been totally deliberate. But why? The damage to the publics trust in the Port is incalculable. Unfortunately the fact (as reported in the Los Angeles Times Oct 14, 2015) that port officials "never revised their long term lease agreement with China Shipping to include the required mitigation measures" strongly enhances the appearance of willful wrongdoing or willful malfeasance. This part of the situation is so egregious as to make an outside observer wonder: "Was there some conflict of interest or secondary gain factor involved here that caused this "failure" on the part of Port Senior Management and the City Attorneys Office?"

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Clear multiple demonstrations of POLA's historic malfeasance in regard to mitigation measures and environmental laws in general are to be found in Attachment A to this comment letter. Attachment A is a report titled "Review of Previous Environmental Documents" August 2004 prepared for Past EIRs Subcommittee of the Port of Los Angeles Community Advisory Committee (PCAC) . This document in its entirety must be made a part of the Public Record on the Proposed Project.

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If the Port wants to say that what Mayor Garcetti told the public in regard to the feasibility of these trucks in a press conference in early 2015 is NOT TRUE, it should just say so.

MM AQ-23 (Thoughput tracking for verifying EIR assumptions) Given that present day truth-on-the-ground in regard to the mitigation measures and all mitigation monitoring is in a total state of disarray, we need more and public throughput tracking. Is POLA trying to hide something here? Are there some inconvenient facts being covered up?

Is an effort to modify AQ-23 really a disguised effort to get rid of situations that would trigger MM AQ-22?

There has been talk in the Port communities that some containers not being shipped by China Shipping were being moved through the CS Facility. Frankly we doubted this, but in light of the present situation we wonder now if this could be true? If so, are those containers being included in the throughput counts/? Have the resulting emissions been accounted for? Have non-China Shipping ships docked at the CS facility?

More transparency is needed, not less.

To restore public confidence, the Port needs to conduct a full independent third party audit of the existing mitigation measures of every CEQA project at the Port, as well as the Port's emissions inventories from 2008 to the present. Where deficiencies are found they could be remedied.

MM NOI-2 (noise walls and soundproofing) Is the Port trying to get out of its promise to reduce the noise impact on the people living nearby ? Up to date technology needs to be assessed and implemented to reduce noise impact.

TRANS -2, -3,-4-6
We wonder if any of the studies that are alleged to support omitting these Mitigation Measures were done during the recent economic downturn when traffic volume was lower? If these aren't needed at present, why won't they be needed in the future?

The Port made a contract with the Public to build these traffic improvements. We say just honor the contract and build them.

OVERALL: With all of these Mitigation Measure modifications or downright deletions we wonder which of these mysterious, non-defined "*other factors*" will be at work where in the analysis and how?

Thank you for your kind attention to our comments. This letter is not to be construed as a waiver of any rights under the Amended Stipulated Judgment or under federal or state law, including the right to arbitrate and/or litigate compliance with existingChina Shipping mitigation measures, all of which rights are expressly reserved.

Thank you for the opportunity to comment on this Project.

Sincerely,

John J. Miller, M.D. FACEP

John G. Miller, M.D. FACEP
President, San Pedro and Peninsula Homeowners Coalition

Exhibit "A" for China Shipping NOP comments from the San Pedro and Peninsula Homeowners Coalition 10/19/2015

REVIEW OF PREVIOUS ENVIRONMENTAL DOCUMENTS

Prepared for
Past EIRs Subcommittee of the
Port of Los Angeles Community Advisory Committee (PCAC)

Prepared by
Sandra Genis, Planning Resources

August 2004

Sept. 21, 2004 PCAC Meeting
Report: "Review of Previous Environmental Documents"

Dear PCAC Members,

In his letter of August 9, 2001 that recommended establishment of the PCAC, the Mayor of Los Angeles tasked this new entity to "review all past present and future environmental documents in an open public process to ensure that all laws –particularly those related to environmental protection-have been obeyed, all City procedures followed, and all adverse effects on the community mitigated."

The attached document, "Review of Previous Environmental Documents" represents another step forward in this process. The document relates to and supports the findings of the "Interim Report" presented to PCAC Sept. 2003 by the Past Environmental Document Working Group. The central finding of the Interim Report is that: A substantial backlog exists of unmitigated impacts, especially on air quality, traffic, and off port community impacts (Blight). Today's "Review" Report identifies factors that appear to have contributed to this backlog of unmitigated impacts and how they may be avoided in the future. Fundamentally, impacts went unacknowledged or underestimated in the documents, cumulatively leading to the situation we all see today.

The report was prepared as an independent review by our consultant Ms. Genis with additional input from the Working Group and PCAC members. Much of the overall content of this report was given in our presentation to PCAC at the August 17, 04 meeting.

The "Review" documents numerous serious problems with the past environmental documents examined. Multiple specific instances of these problems are cited in this report as well as recommendations on how to avoid these problems in the future. It appears that many of the documents examined fail to fulfill the purpose of the California Environmental Quality Act. Recommendations on how to avoid these failures are included. Citations of relevant sections of CEQA and CEQA Guidelines are included.

The report is structured so that general observations are given as bullet points on the first two pages with expanded details in subsequent pages as to how and why each of these general observations and suggestions were developed. Key points are highlighted and then expanded throughout the report. Language in the document refers to the "Past EIR Working Group" which was active at the time this document was developed although we have now morphed into the Past EIR Subcommittee of the PCAC.

The Subcommittee hopes that this report will serve to inform the PCAC and the public as to our findings in our review of past environmental documents. We also hope this will further substantiate the need for many measures recommended in the "EIR Template" document.

John G. Miller, M.D. Chairman Past EIR/Aesthetic Mitigation Subcommittee

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REVIEW OF PREVIOUS ENVIRONMENTAL DOCUMENTS

Prepared for Past EIRs Subcommittee of the
Port of Los Angeles Community Advisory Committee (PCAC)

August 2004

This report summarizes findings from a review of past environmental documents prepared to address projects in the Port of Los Angeles. The documents were reviewed on behalf of and in order to assist the Past EIR Working Group of the Port of Los Angeles Community Advisory Committee (PCAC) in their efforts.

General observations are summarized as follows and discussed in more detail below.

- Environmental documents prepared for Port of Los Angeles projects generally include all mandated sections. (see discussion p. 5)
- Past documents are fairly detailed as to physical improvement to be undertaken, examining operational characteristics less thoroughly. (see p. 5)
- Operational characteristics must be included as part of the project description, inasmuch as characteristics of day-to-day operations ultimately determine day-to-day impacts. (p.6)
- Project objectives must be stated clearly enough to be useful when considering project alternatives and stated broadly enough to allow for consideration of alternative means of achieving the broader purposes of the proposed project. (p. 7)
- Environmental documents must make a good faith effort to consider a range of alternatives, not merely the proposed project and "no project". (p.9)
- EIRs must be prepared as early as possible in the planning process, not at the end of the line. (p.11)
- All impacts, including factors related to community blight, must be thoroughly and adequately addressed. (p.12, 13)
- Impacts on air quality and other environmental issues must be assessed on a worst-case basis using realistic, verifiable assumptions. (p.12)
- Analyses of impacts on transportation systems and other factors must use standard, accepted methodologies. (p.15)

- Projects must be examined in a comprehensive manner, not on a piece-by-piece basis which may reduce the perception of impacts. (p. 19)
- Analyses must identify and consider the increased cargo capacity that may be facilitated by a proposed project and any demands for on- or off-port infrastructure that may result.(p.20)
- Port planning must be coordinated with other agencies dealing with off-port infrastructure and land use. This must include intensity as well as type of use.(p.21)
- It is essential that facilities be monitored on a continuing basis both to verify assumptions and to assure implementation of mitigation measures in order to ensure that all adverse impacts upon the communities are mitigated. (p.22)

Purpose

It is the stated mission of the Working Group per the directive of Mayor James K. Hahn to:

> ..review all past, present and future environmental documents in an open public process to ensure that all laws—particularly those related to environmental protection—have been obeyed, all city procedures followed, and all adverse impacts upon the communities mitigated.

The Working Group is concerned that a backlog of unmitigated impacts has resulted in degraded air quality, traffic congestion, and community blight in San Pedro and Wilmington.

Examining EIRs prepared for past projects at the Port of Los Angeles can be used to identify past, unmitigated environmental impacts. Further, examination of past reports and procedures is helpful in developing future environmental review procedures as the Port moves forward to provide infrastructure to meet the increasing demand for imported goods. Summarized below are major observations regarding past environmental documents and suggestions for future reviews.

Environmental Impact Reports/Statements for the 1992 Deep Draft Navigation Improvements and the related Pier 300 Dry Bulk Terminal, Pier 300 Container Terminal, and Pier 400 Container Terminal and Transportation Corridor Project were examined together in depth, inasmuch as this group of documents examined related improvements. Other documents for container facilities and liquid bulk facilities were also examined, though in less detail. Summaries of specific comments on each document are attached along with a summary spreadsheet. Documents pertaining to the West Basin Terminal/China Shipping project were not included because the documents have already been subject to intensive critique and controversy.

Summary of EIRs Reviewed

Project	Physical Changes	Operations	Significant Impacts	Alternatives	Growth Inducement	Cumulative Impacts
1992 Deep Draft, SCH2020 87101408	Dredge channels, create 582 acres of fill, mostly at Pier 400, some Pier 300	Minimal information	Exposure to geologic hazards, air emissions, rail noise, short-term constructions impacts	No project	Not addressed	Thorough discussion, including quantitative assessments
Pier 300 Dry Bulk, SCH 92091030	Dry bulk terminal, remote storage, road and rail access and improvements	19.8 million metric tons/yr., 254 ship calls, 1.75 mmt storage, 7 trains 5k long/d. (14 tm)	Exposure to geologic hazards, air emissions, rail noise, short-term constructions impacts	No project	Slight population and economic growth	Discussion not detailed; references Deep Draft, but has greater throughput than anticipated in Deep Draft.
Pier 300 Container Terminal, SCH 92091029	Container terminal, storage, ICTF, Rail improvements, 9 cranes	1,224,000 TEU, 275 employees	Exposure to geologic hazards, impacts to water quality and biological resources due to spills, air emissions, rail noise, short-term construction impacts, potential rail mitigated	No project	"important source of economic growth" Notes increased regional housing need	List of projects, but no analysis beyond general statements
Pier 400 SCH98031135	Container terminal, storage, rail connection	277 ship call/yr., 2,550,000 TEU, total # cranes unknown=2/ship	Air quality; least terms in text but not executive summary	Separate operations, gap closure, no project	Slight economic impact	List of projects, but no analysis beyond general statements. Includes cum. list in future traffic baseline, but fails to note cumulative impact
B Street SCH 92021075	Re-align B street to add Berth 136-139 backlands for container terminal and warehouse	Add 54,500 containers/yr., 378 trips/day	Exposure to geologic hazards, air emissions, short-term construction impacts	Improve B St. w/out re-alignment; no project	Economic	Includes list of projects, but little analysis for air. Includes cum. list in future traffic baseline, but fails to note cumulative impact

Project	Physical Changes	Operations	Significant Impacts	Alternatives	Growth Inducement	Cumulative Impacts
Evergreen SCH 96031088	Container terminal on Terminal Isl.	No "significant" changes	Exposure to geologic hazards, air emissions, noise	Partial expansion, No project	None	List of projects; no analysis beyond general statements
Berth 136 SCH 92081035	Extend wharf, possible addition of one crane to four existing	Use new wharf instead of existing berth space, no change in operations	Air emissions, only area studied	No project	"growth accommodating"	Lists projects, finds cumulative impacts insignificant, though many listed projects have identified impacts in separate EIRs
Unocal SCH 90010311	Renew lease for oil terminal, improve tanks	Add 4 vessel calls/mo.	Exposure to geologic hazards, water quality and biological impacts from spills	No project	None	No list, no analysis
Wickland Oil SCH 89010214	Renew lease for oil terminal, improve tanks, add piping	Add approx. 4 million barrels per year to existing	Exposure to geologic hazards, water quality and biological impacts from spills, air emissions	No project or lease renewal without physical change	None	No analysis, some projects listed
GATX SCH 91051025	Renew lease for oil terminal, add deep draft access at Pier 400, improve tanks	Increased pumping capacity	Exposure to geologic hazards, water quality and biological impacts from spills, air emissions	No lease renewal, renew w/out use of Pier 400, relocate GATX to Pier 400	None	List of projects, but no analysis beyond general statements

Port Development

Shipping from what is now Los Angeles Harbor began in the Eighteenth Century, when two ships per year called at San Pedro Bay. As Los Angeles and the surrounding region have grown, the harbor has also grown, and Los Angeles Harbor has become one of the largest cargo handling facilities in the world. Improvements over the past one hundred years include construction of the Breakwater, dredging and deepening of shipping channels, placement of fill to form additional land for shipping facilities, and improvement of transportation infrastructure to handle increased cargo.

In 1959, the first cargo containers were shipped through the Port, the beginning of containerized cargo at the Port of Los Angeles, now a major portion of all shipping. Other changes in cargo handling over the years include the use of larger vessels with deeper drafts, requiring the deepening of harbor channels.

Much of this occurred decades before any sort of environmental review was required. Later phases of development were subject to the requirements of the National Environmental Protection Act (1969) and the California Environmental Quality Act (1970).

CEQA/NEPA

The California Environmental Quality Act (CEQA) and the National Environmental Protection Act (NEPA) require the preparation of environmental documents which analyze the environmental impacts of a project and examine alternatives to the proposed project. Although, unlike CEQA, NEPA does not specifically require the identification of mitigation measures to reduce or eliminate impacts, the requirement that unavoidable impacts be identified implies examination of some type of avoidance strategy. In practice, mitigation measures are normally discussed in NEPA documents. Also unlike CEQA, NEPA does not require that growth inducing impacts be identified but does require a discussion of the relationship between local short-term uses of the environment in the light of long-term productivity, which had been required by CEQA only under certain circumstances, and is no longer required under CEQA at all (Chapter 1230 of the Statutes of 1994). In actual practice, documents required under each are quite similar, and documents intended to fulfill both NEPA and CEQA requirements must include all sections mandated under both acts.

The environmental information developed is to be used in the decision making process. CEQA and NEPA differ as to how environmental information is to be weighed. CEQA has generally been interpreted to be more protective of environmental values than NEPA. CEQA requires that mitigation measures or less environmentally damaging project alternatives be adopted and implemented if feasible. By contrast, NEPA only requires that mitigation measures and alternatives be considered. NEPA specifically calls for weighing of economic needs against environmental values. CEQA includes economic factors only to the extent they may render a mitigation measure or project alternative infeasible, not just economically less rewarding.

In adopting the California Environmental Quality Act (CEQA), the California Legislature has declared that:

(a) The maintenance of a quality environment for the people of this state now and in the future is a matter of statewide concern.
(b) It is necessary to provide a high-quality environment that at all times is healthful and pleasing to the senses and intellect of man.

The Legislature declared further, in Section 21001, that it is the policy of the State to:

(a) Develop and maintain a high-quality environment now and in the future, and take all action necessary to protect, rehabilitate, and enhance the environmental quality of the state.
(b) Take all action necessary to provide the people of this state with clean air and water, enjoyment of aesthetic, natural, scenic, and historic environmental qualities, and freedom from excessive noise.

...

(d) Ensure that the long-term protection of the environment, consistent with the provision of a decent home and suitable living environment for every Californian, shall be the guiding criterion in public decisions...

...

(f) Require governmental agencies at all levels to develop standards and procedures necessary to protect environmental quality.
(g) Require governmental agencies at all levels to consider qualitative factors as well as economic and technical factors and long-term benefits and costs, in addition to short-term benefits and costs and to consider alternatives to proposed actions affecting the environment.

One of the foremost operating principles in administering CEQA is that the Act 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". (*Friends of Mammoth v. Board of Supervisors*, 8 Cal. 3d 247).

A basic purpose of CEQA is to inform decision-makers and the public generally about the potential environmental effects of proposed activities and to identify ways in which environmental damage can be avoided or reduced (Guidelines Sec. 15002(a)(1,2)). This is achieved through the EIR process, which is considered "the heart of CEQA" (Guidelines Sec. 15003(a)). As described in *County of Amador v. El Dorado County Water Agency* (76 Cal.App.4th 933):

The environmental impact report (EIR) is the primary means of achieving the Legislature's considered declaration that it is the policy of California to take all action necessary to protect, rehabilitate, and enhance the environmental quality of the state. The EIR is therefore the heart of the California Environmental Quality Act (CEQA) (Pub. Resources Code, 21000 et seq.). The purpose of an EIR is to alert the public and its responsible officials to environmental changes before they have reached ecological points of no return. The EIR is also intended to demonstrate to an apprehensive citizenry that the agency has, in fact, analyzed

and considered the ecological implications of its action. Since the EIR must be certified or rejected by public officials, it is a document of accountability. If CEQA is scrupulously followed, the public will know the basis on which its responsible officials either approve or reject environmentally significant action, and the public, being duly informed, can respond accordingly to action with which it disagrees. The EIR process protects not only the environment but also informed self- government.

Environmental documents prepared for Port of Los Angeles projects generally include all mandated sections.

All of the documents examined include those sections mandated by CEQA except two, the 1992 Deep Draft Navigation Improvements EIS/EIR which did not include a section on growth inducing impacts (Guidelines 15126(d)), and the Unocal's Marine Oil Terminal Lease Renewal EIR which did not address cumulative impacts (Guidelines Sec.15130). Although these documents would have been acceptable under NEPA, they do not fulfill the requirements of CEQA. Oddly, some documents prepared to fulfill CEQA requirements, such as the EIR for the Pier 400 Container Terminal, include a section on the relationship between local short-term uses of the environment and the maintenance and enhancement of long-term productivity, although this would not have been required under CEQA.

This raises the question as to whether projects at the Port have been reviewed according to a NEPA perspective, which focuses on providing environmental information. By contrast, CEQA is to be interpreted to provide the fullest possible protection of the environment, including implementation of all feasible mitigation measures and adoption of a feasible, less environmentally damaging alternative to a proposed project. As noted above, where a NEPA document is to be used for CEQA purposes, all CEQA requirements must also be fulfilled.

Past EIRs examined are fairly detailed as to physical improvement to be undertaken, examining operational characteristics less thoroughly.

Generally, the EIRs examined do a good job of examining and informing the public as to permanent physical improvements involved. These include dredging, placement of fill, and provision of additional berthing space. Impacts which the physical improvements would create on environmental resources such as biological resources and water quality are examined in detail. The only exception would be impacts of physical improvements on visual factors which were examined in only a portion of the EIRs. This is discussed in more detail below.

By contrast, impacts associated with project operations, such as traffic and noise, are examined less well. In some documents it is difficult to determine even such basic information as project throughput. Throughput may be discussed only as an assumption for analysis purposes in analyses of traffic or air quality impacts which is relegated to a footnote in a technical appendix. Oddly, documents examining liquid bulk facilities, which generate little vehicular traffic and associated air emissions and noise, generally provided clearer information upfront regarding throughput than documents for container facilities which generate considerable truck traffic.

This is particularly problematic in the case of the Deep Draft Navigation Improvements EIS/EIR. This document examined the impact of the portion of the "2020 Plan" improvements which were slated to occur in the Port of Los Angeles portion of the San Pedro Bay port complex. Nearly all subsequent environmental documents cite the 2020 Plan in their discussions of compliance with adopted planning programs. However, without an efficient means of verifying the level of throughput examined in the Deep Draft EIS/EIR, one cannot readily verify whether or not a proposed project would actually be consistent with the 2020 Plan project previously examined. Of particular concern in this regard are cumulative increases in throughput.

Operational characteristics are typically not included as part of the project description, though constituting the very essence thereof, but buried in analyses, sometimes apparent only through an examination of the appendix.

While physical improvements can, and often do, result in environmental impacts, the greatest impacts on the physical environment often result from the occupation and operation of a project. It should be noted that the CEQA Guidelines (Sec. 15002(d)) define a "project" as "an ***activity*** [emphasis added] subject to CEQA"—not just construction, not just a physical alteration of the environment, but an ***activity***.

As stated in *McQueen v. Board of Directors of the Mid-Peninsula Regional Open Space District* (202 Cal.App.3d 1136, 1143; 249 Cal.Rptr. 439), "An accurate project description is necessary for an intelligent evaluation of potential environmental effects of a proposed activity". In setting aside the approval of an EIR by the City of Los Angeles for water development facilities in Inyo County, the court stated: "An accurate, stable and finite project description is the most basic and important factor in preparing a lawful EIR" (*County of Inyo v. City of Los Angeles* (71 Cal.App.3d 193) [139 Cal.Rptr. 401]). A vague or ambiguous project description will render all further analyses and determinations ineffectual. It is critical that the project description be as clear and complete as possible so that the issuing agency and other responsible agencies may make informed decisions regarding a proposed project.

Without a clear definition of the activities to be undertaken, the EIR becomes useless. The CEQA process cannot ensure that all impacts have been mitigated to the extent feasible, because the ultimate extent of project activities is not stable and finite but is potentially unstable and infinite, contrary to the requirements of CEQA.

Presentation of operational characteristics varies widely. Some EIRs such as those for the Pier 300 Dry Bulk Terminal and GATX lease renewal devote a specific subsection to project operations and clearly indicate what activities will occur and at what activity level.

In other cases, such as the EIR for the Pier 400 Container Terminal, operations are not addressed in the project description at all, thus the project description is essentially incomplete. One is left to wonder as to the volumes of cargo anticipated, maximum cargo capacity, hours of operation, and other factors that would influence impacts until well into the impact analysis section of the EIR. These basic project denominators are then presented as assumptions for analysis purposes, rather than as the fundamental core of the project itself. Clearly if no operations were to occur

on a site, long term impacts related to such factors as transportation, air quality, or noise would not even be an issue.

A key factor in assessing impacts of the various Port projects is anticipated throughput. As throughput varies, so do impacts on air quality, vessel traffic, ground transportation, noise, energy, and other factors. Thus, this critical denominator cannot be treated as just another assumption used only for analysis purposes, but must be included as a key element of any project approval.

Although the type and volume of equipment to be utilized are important factors in analyzing impacts such as air emissions, equipment to be used in operations is also not typically a part of the project description. Rather, it is identified in reviewing assumptions for such analyses as air quality studies. Even when such equipment is identified, it changes over time. For example the Berth 136 Wharf Extension EIR indicates that three or four cranes will be utilized. Current data on the Port web-site indicate that there is more than twice that number. This would have significant effects on the visual environment. Additional equipment may generate additional air emissions, though newer equipment is typically cleaner. Information compiled by the Planning and Research Division of the Port in December 2003 indicates that Coastal Development Permits for additional cranes were processed, but no significant impacts were identified.

Provision must be made for review of changes in equipment utilized. Although it is clearly impractical to review every addition of a forklift, impacts of major new equipment must be identified and analyzed with particular attention given to cumulative impacts. The Coastal Development Permit review procedure provides a framework for such review, provided personnel charged with environmental management and analysis are given sufficient authority and autonomy to see that full analyses and mitigation are pursued. Unfortunately, it is possible for this function to be subsumed in real property management or engineering functions to the detriment of environmental concerns and full CEQA/NEPA compliance.

Copious detail is not required, merely enough information to be able to enable one to determine project impacts. This must include information regarding physical alteration of the environment, whether through construction or other means, as well as operation characteristics of the project.

It is recognized that an EIR cannot be a crystal ball, nor is it intended to be. However, means of responding to changes in key project denominators or assumptions must be built into the environmental review process. This could be accomplished through caps on throughput, beyond which approval of a Coastal Development Permit and additional environmental documentation would be required; tiering of mitigation measures such that additional measures would be required at certain levels of throughput; or developing a menu of needed improvements to deal with cumulative impacts and assessing a fee per unit of throughput.

Project objectives must be stated clearly enough to be useful when considering project alternatives and stated broadly enough to allow for consideration of alternative means of achieving the broader purposes of the proposed project.

The Working Group identified multiple examples of failure to achieve a clear statement of project objectives. This impedes the ability of decision makers and the general public from evaluating proposed projects and potential alternatives as prescribed by CEQA. In accordance with Section 15124(b) of the CEQA Guidelines, a project description must include

> A statement of objectives sought by the proposed project. A clearly written statement of objectives will help the lead agency develop a reasonable range of alternatives to evaluate in the EIR and will aid the decision makers in preparing findings or a statement of overriding considerations, if necessary. The statement of objectives should include the underlying purpose of the project.

An agency cannot define its objectives in unreasonably narrow terms. For example, a reasonable project objective might be provision of adequate public circulation between Point A and Point B. An objective specifying, for example, the provision of turn lanes and elimination of on-street parking at specific locations would be overly narrow. The objective must articulate the broader purposes of the project.

At the same time, the objective must not be so broad as to be pointless. For example, an objective to "provide for a better tomorrow" absent any further definition would be meaningless. The objective must be stated in a clear manner so that it can be used by decision-makers and the public generally to evaluate project alternatives.

At least one objective of six of the projects was to increase or optimize efficiencies. As noted repeatedly by the Working Group, it is not clear what this is intended to mean. It is assumed that this would mean to move cargo as efficiently as practicable. One other project has as an objective to "optimize operations". This also is unclear, but it is assumed to have the same meaning assumed for optimizing efficiencies. Two additional projects have "efficient cargo transport" as an objective, which is much clearer.

Although nearly all the projects would have the potential to increase cargo throughput, only four of ten EIRs cite this as an objective. One additional EIR indicates that a project objective is to accommodate forecast throughput, which may imply some increase in throughput. The Working Group is concerned that EIRs have avoided addressing the fundamental issue of potential increased cargo throughput and have obscured the goal of accommodating increased throughput increases by use of ambiguous project objectives.

Several of the projects define objectives so narrowly as to exclude most or all alternatives. For example, all three liquid bulk terminal lease renewal EIRs have lease renewal as an objective, thereby precluding any project alternative except lease renewal, i.e. the proposed project. A more appropriate objective might be continued movement of liquid petroleum products. This would allow for consideration of alternatives which could provide the same ultimate output as the proposed projects.

The EIR for the Pier 300 Dry Bulk Terminal specified as an objective the relocation of the Berths 49-50 dry bulk operation to Pier 300. This objective specifically excludes any consideration of alternate sites, even though CEQA requires that alternate sites be considered.

The Pier 400 Container Terminal and Transportation Corridor Project EIR has the clearest, and most broadly defined objectives in terms of project purpose of all the the EIRs reviewed:

- Accommodate the cargo throughput forecast for the Port of Los Angeles;
- Accommodate the largest, most modern container vessels in the world fleet;
- Develop transportation infrastructure to maximize cargo handling efficiencies while minimizing air quality and transportation impacts. Including intermodal, near-dock rail facilities;
- Support regulatory and permit actions required for project specific development;
- Provide adequate backland space immediately adjacent to the berth to facilitate rapid loading and unloading of ships without the need to double-handle containers; and
- Preserve and improve environmental resources to the maximum extent practical.

Accordingly, the Pier 400 project also examines a greater range of alternatives than was typical for the EIRS examined. The Pier 300 Container Terminal EIR also has a broadly-defined, clearly-presented statement of objectives, although ultimately examining only the "no project" alternative in the EIR.

Environmental documents must make a good faith effort to consider a range of alternatives

In accordance with Section 15126.6(a) of the Guidelines:

> An EIR shall describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives.

An EIR must consider a "reasonable range of potentially feasible alternatives that will foster informed decision-making and public participation" (Section 15126.6(a)). "Feasible" is defined by Section 15364 of the Guidelines as:

> capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors.

Title 40 C.F.R. s 1502.14(a) requires that an EIS rigorously explore and objectively evaluate all reasonable alternatives, and for alternatives which were eliminated from the detailed study, briefly discuss the reasons for they were eliminated. As stated in *City of Carmel-by-the-Sea v. United States Department of Transportation* (1997)123 F.3d 1142:

> An Environmental Impact Statement must discuss "reasonable alternatives" to the proposed action. 42 U.S.C. s 4332(2)(C)(iii); *Alaska Wilderness Recreation v. Morrison*, 67 F.3d 723, 729 (9th Cir.1995); see 40 C.F.R. s 1502.14 **(consideration of alternatives "is the heart of the environmental impact statement.").** [emphasis added]

The Port of Los Angeles Community Plan also requires that:

> Decisions to undertake individual and specific development projects within the harbor shall be based on considerations of alternative locations and designs, in order to minimize adverse environmental impacts

Out of ten EIRs reviewed, five examined only the project as proposed and the "no project" alternative, which is an alternative that is mandated under Section 15126.6(e) of the CEQA Guidelines. Two EIRs, examined "no project" and partial implementation of the proposed project, in one case a lease renewal and project expansion which examined "no project" and renewal of the lease with no expansion, and another expansion project which examined "no project" and a partial expansion. The Working Group considers this failure to provide decision makers with a reasonable range of alternatives to constitute a serious flaw.

Only three EIRs examined alternatives which would have constituted substantially different projects. One EIR, the B Street Re-alignment and Backlands Expansion, examined "no project" and a project which was substantially different, specifically improvement to B Street without re-alignment, a project which resulted in substantially different land uses for the re-alignment area. Two other EIRs, for the Pier 400 EIR and the GATX lease renewal, examined a range of alternatives. However, both of these EIRs failed to identify the environmentally superior alternative, as required by Section 15126.6(e) (formerly Section 15126(d)) of the CEQA Guidelines.

Analysis of only the "no project" alternative creates an interesting situation in that Section 15126.6 requires that if "no project" is the environmentally superior alternative, then the EIR must identify another environmentally superior alternative among remaining alternatives. If the only other alternative is the project as proposed, the project as proposed becomes identified as "environmentally superior" by default.

Many of the EIRs provide a list of alternatives which were dismissed from consideration in those EIRs. The 1992 Deep Draft EIR/EIS in particular explains at length why potential alternatives were eliminated. The EIS/EIR identifies and describes ten implementation scenarios for the deep draft navigation improvements, including ocean disposal of dredged materials. All of these except two were eliminated based on criteria summarized in a table in the EIS/EIR and examined in more detail in a separate feasibility study which was not a part of this EIS/EIR.

While providing some degree of information as to the procedure for eliminating certain scenarios from further consideration, the table presented only the conclusions as to whether or not criteria were met. It did not explain the specific rationale behind each of those conclusions. The table also included statements regarding impacts on certain environmental issues such as water quality

and habitat, though no quantification of impacts or other details are presented. While it may be that extensive studies were done in support of these statements, this is not adequate. As stated in *Environmental Defense Fund, Inc. v. Coastside County Water District* (1972) 27 Cal.App.3d 695, 104 Cal.Rptr. 197:

> It should be understood that whatever is required to be considered in an EIR must be in that formal report; what any official might have known from other writings or oral presentations cannot supply what is lacking in the report.

Thus, more in-depth information as to how or why criteria were or were not met should have been provided. This would constitute a major deficiency in this report. The Working Group would be concerned if such information were missing in future reports.

In a number of cases, such as the 1992 Deep Draft EIS/EIR and Pier 300 Dry Bulk Terminal EIR, alternatives were rejected from further consideration in the EIR as being more costly. There is no representation that the alternatives were cost-prohibitive, only that they cost some undefined amount more than the chosen alternative.

As stated in Section 15126.6(b) of the Guidelines:

> ...the discussion of alternatives shall focus on alternatives to the project or its location which are capable of avoiding or substantially lessening any significant effects of the project, **even if these alternatives would impede to some degree the attainment of the project objectives, or would be more costly.** [emphasis added]

Thus, those alternatives eliminated from consideration in an EIR on the basis of cost may have been improperly eliminated.

Other alternatives were dismissed from discussion in the various EIRs because they did not meet project objectives or did not "fully" meet project objectives, despite the dictates of Guidelines Section 15126.6(b). However, as discussed above, some of those objectives were stated so narrowly that only the project as proposed could be said to meet the objectives.

EIRs must be prepared as early as possible in the planning process, not at the end of the line, when most, if not all substantive decisions had been made.

It appears that the EIRs for some of these projects, notably the Deep Draft and Pier 300 and 400 improvements came at the end of the line, when most, if not all substantive decisions had been made. This is reflected in the failure to address a range of alternatives and defeats the purpose of CEQA, which is "not to generate paper, but to compel government at all levels to make decisions with environmental consequences in mind". (*Bozung v. LAFCO* (1975) 13 Cal.3d 263).

In accordance with Guidelines Section 15004(b), an environmental document is to be prepared as early as feasible in the planning process. Per *Laurel Heights Improvement Association of San Francisco, Inc. v. The Regents of the University of California* (1988) 47 Cal. 3d 376:

> ...the later the environmental review process begins, the more bureaucratic and financial momentum there is behind a proposed project, thus providing a strong incentive to ignore environmental concerns that could be dealt with more easily at an early stage of the project. This problem may be exacerbated where, as here, the public agency [UC Regents] prepares and approves the EIR for its own project.

It is important that the Port undertake a public examination of alternatives to a project as early as possible in the planning project. Waiting until negotiations with a potential tenant are well underway or completed does not allow decision makers and the general public to adequately examine of a range of alternatives as required by the letter and the spirit of CEQA.

All impacts must be thoroughly and adequately addressed. Essential to this is an analysis of the blighting effect of Port activities on the surrounding communities.

The Working Group has stated its greatest concern regarding impacts on air quality, traffic, and visual impacts or other factors contributing to community blight. Nine of the ten EIRs examined identified significant unavoidable adverse impacts on air quality, primarily from oxides of nitrogen and carbon monoxide, but also including oxides of sulfur, particulates, and reactive organic compounds. These previously identified impacts constitute a significant, cumulative impact which has not been mitigated.

Impacts on air quality and other environmental issues must be assessed on a worst-case basis using realistic, verifiable assumptions to ensure no net increase in emissions, per Mayor Hahn's directive.

In order to make sure that all potential environmental impacts are identified, EIRs generally attempt to anticipate worst-case conditions. While the future cannot be predicted with absolute certainty, predictions based on conservative assumptions reflecting pre-existing conditions and behaviors are more likely to fully anticipate future impacts.

An example of this conservative approach would be the Port's treatment of truck traffic, which recognizes that large, less maneuverable trucks have a greater impact on roadway capacity than typical passenger vehicles. Truck trips are therefore prorated in terms of passenger car equivalents. Not all public agencies take this approach, even though the Port's approach results in a more realistic prediction of the impact due to a given volume of increased truck traffic. Assumptions regarding lane capacity are also realistic and conservative.

Calculations of anticipated air pollution emissions depend on a number of factors including throughput, rail use, number of vehicle trips, trip length, idling time, on-dock equipment use, and ship hotelling. In some cases, information regarding fundamental assumptions has been difficult to ascertain. Where information is provided, it varies. For example truck idling ranges from ten minutes per load to twenty minutes. It may be noted that current modeling used by the California Air Resources Board currently assumes that an average truck will idle for 104 minutes per day. Assumed rail use ranges from fairly low on up to fifty percent of cargo transport. In order to assure that air emissions are fully mitigated to result in no net increase, in accordance

with Mayor Hahn's directive, monitoring programs must be implemented to confirm assumptions as well as implementation of mitigation measures. Where assumptions are proved overly optimistic, provision must be made for additional mitigation measures or offsets.

It should be noted that even if the EIRs had perfect analyses based on perfect assumptions on the part of the Port, anticipated impacts for certain factors would not be precisely accurate, not only due to emissions factors which reflect a "typical" condition, but due to updates in adopted emissions factors by the California Air Resources Board (CARB) in 2002. This is particularly a problem for emissions from truck idling which were not fully addressed in previous basin modeling (EMFACAC7G) by CARB and the South Coast Air Quality Management District (SCAQMD). Even if all anticipated emissions had been fully mitigated, this would result in an additional, unmitigated impact. The current model (EMFAC2002) uses heavy-duty truck idling emission rates based on U.S.EPA emissions testing. Other aspects of air quality modeling have also been refined, including additional pollution from liquid leakers.

The blighting effect of Port activities on the surrounding communities must be addressed.

Only three EIRs examined visual factors: EIRS for the B-Street Re-alignment, Pier 300 Dry Bulk Terminal, and the Deep Draft Navigation Improvements. Factors considered included replacement of views of open water with fill and night-lighting. None of the EIRs reviewed included any analysis of visual impacts resulting from container facilities. None of the EIRs examined visual intrusion due to cranes, although the Port web-page indicates that eighty-one cranes currently operate at the Port. This has, over time, resulted in a gradual, cumulative transformation of the San Pedro/Wilmington skyline so that the landmark Vincent Thomas Bridge is no longer the dominant visual element in much of the Wilmington/San Pedro community.

None of the EIRs examined perceived blight due to stacking of containers or container chassis at locations on or off Port lands. No significant impacts related to visual impacts of other blighting factors were identified in any of the documents examined. By contrast, local residents have found these issues to be very important and have maintained that port activities have had an adverse impact on their quality of life and have contributed to the decline and physical deterioration of local commercial areas.

While the CEQA is designed to address the quality of the physical environment, economic and social issues are not completely excluded from the environmental review process. On the contrary, the Guidelines for the Implementation of CEQA and judicial history indicate that economic and social factors are important on two scores:

- Economic and social factors may bear on the significance of a physical change; and
- Economic and social effects of a project may result in physical changes which are themselves significant.

In accordance with Guidelines Section 15131:

> Economic or social information may be included in an EIR or may be presented in whatever form the agency desires.

However, the Guidelines specifically state that:

> An economic or social change by itself shall not be considered a significant effect on the environment. (Guidelines Section 15382)

and:

> Economic or social effects of a project shall not be treated as significant effects on the environment. (Guidelines Section 15131(a))

At the same time, Sections 15064(e), 15382, and 15131 (b) all recognize the importance of social and economic effects in determining the significance of a project's actual physical effects on the environment.

Perhaps most germane to the discussion of blight in the Wilmington and San Pedro area is the potential for indirect effects on the environment. In accordance with Guidelines Section 15131(a):

> An EIR may trace a chain of cause and effect from a proposed decision on a project through anticipated economic or social changes resulting from the project to physical changes caused in turn by the economic or social changes.

and Section 15064(e):

> Where a physical change is caused by economic or social effects of a project, the physical change may be regarded as a significant effect in the same manner as any other physical change resulting from the project.

This is stated more strongly in *Citizens Assn. for Sensible Development of Bishop Area v. County of Inyo* (1985) 172 Cal.App.3d 151 [217 Cal.Rptr. 893], a case in which the plaintiffs contended, among other points, that decision makers should consider whether a new shopping center would draw business from the downtown shopping district, leading to business closures and eventual physical deterioration of the downtown area. The appellate court held that:

> ...the lead agency shall consider the secondary or indirect environmental consequences of economic and social changes, but may find them to be insignificant. Such an interpretation is unequivocally consistent with the mandate that secondary consequences of projects be considered... subdivision (f) [of Guidelines Sec. 15064, since re-enumerated] expressly gives the agency **discretion to determine whether the consequences of economic and social changes are significant, which is <u>not the same as discretion to not consider these consequences at all.</u>** [emphasis added] Indeed, the physical change caused by economic or social effects of a project may be regarded as a significant effect

> in the same manner as any other physical change resulting from the project may be regarded as a significant effect.

Thus, the Court very clearly required that the public agency address the potential that physical blight in the downtown area would be caused by the proposed shopping center.

Similarly, in *Citizens for Quality Growth v. City of Mount Shasta* (1988) 198 Cal.App.3d 433, 441 [243 Cal.Rptr. 727], also addressing downtown blight, the court stated:

> The potential economic problems caused by the proposed project could conceivably result in business closures and physical deterioration of the downtown area. Therefore, on remand, City should consider these problems to the extent that potential is demonstrated to be an indirect environmental effect of the proposed project.

Accordingly, the Port has agreed to include a discussion of blight and community impacts in future environmental documents.

Analyses of impacts on transportation systems and other factors must use standard, accepted methodologies, and the magnitude of an existing problem should not be used to minimize the perceived significance of project impacts.

Transport of liquid bulk has not typically resulted in significant impacts due to vehicular traffic, inasmuch as most product is moved by pipeline. Of the seven EIRs examining container terminals or dry bulk, six analyzed impacts on traffic. Although potential impacts were noted in several cases, these were determined to be adequately mitigated through circulation system improvements to be implemented by the Port and/or other public agencies. Individual impacts due to increased congestion at rail crossings were not considered to result in significant adverse impacts for individual projects, but one EIR did indicate that a cumulative impact could potentially occur.

Traffic analyses provide standard level of service (LOS) and intersection capacity utilization (ICU) data. However, in a number of cases, such as the B Street Re-alignment, the significance of the impacts is evaluated in terms of the percent increase in total traffic. This approach results in the peculiar situation whereby the impact of a given volume of additional traffic would be considered less significant when the volume of existing traffic and associated congestion were larger. Thus, the significance of additional traffic would be inversely proportional to the volume of existing traffic.

This is not standard practice, which evaluates increases in traffic volume in terms of roadway capacity to be utilized by that traffic and is the exact reverse of the actual impact of a given volume of traffic. On a lightly traveled road, hundreds of additional vehicles can be added with no appreciable increase in traffic delay. However, those same vehicles added to a roadway already functioning at or near capacity can bring traffic to a grinding halt. This ratio/percent approach was repudiated in *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692 which stated:

> The EIR's analysis uses the magnitude of the current ozone problem in the air basin in order to trivialize the project's impact. In simple terms, the EIR reasons the air is already bad, so even though emissions from the project will make it worse, the impact is insignificant.
>
> The point is not that, in terms of ozone levels, the proposed Hanford project will result in the ultimate collapse of the environment into which it is to be placed. The significance of an activity depends upon the setting. (Guidelines, § 15064, subd. (b).) The relevant question to be addressed in the EIR is not the relative amount of precursors emitted by the project when compared with preexisting emissions, but whether any additional amount of precursor emissions should be considered significant in light of the serious nature of the ozone problems in this air basin...

Likewise in *Los Angeles Unified School Dist. v. City of Los Angeles* (1997) 58 Cal.App.4th 1019 the court stated:

> ... the relevant issue to be addressed...is not the relative amount of traffic noise resulting from the project when compared to existing traffic noise, but whether any additional amount of traffic noise should be considered significant in light of the serious nature of the traffic noise problem already existing

The Port now uses the City of Los Angeles thresholds guide which defines significance in terms of volume to capacity ratios, which has been standard practice in most City of Los Angeles EIRs for many years. However, the general concept of evaluating significance in terms of the ratio of project impacts to the magnitude of an overall problem tends to minimize perceived impacts at the very point when further environmental degradation is most perilous, whether traffic, noise, air quality or other factors are most affected.

Cumulative impacts must be analyzed and quantified. General statements do not suffice.

Over the years, many small, incremental changes have occurred in Port operations. Some of these have been so small as to require no environmental documentation. Other projects have been examined, but found to result in no significant impact by that project on its own. Unfortunately, over the years, these projects, combined with projects at the Port of Long Beach and the surrounding area, have combined to cumulatively degrade air quality, create congestion on area highways, and alter the visual character of the area.

Section 21083 of the California Environmental Quality Act (CEQA) requires that cumulative impacts of a project be examined. Some have argued that this would mean that the impacts of a project should be compared to the similar, cumulative impacts from other projects in an area, with an impact to be considered significant only if it constituted a significant portion of that cumulative impact. However, this comparative/ratio approach is clearly not consistent with either the letter or the spirit of Section 21083(b), which states:

> ...a project may have a "significant effect on the environment" if any of the following conditions exist...

(2) The possible effects of a project are individually limited but cumulatively considerable. As used in this paragraph, "cumulatively considerable" means that the incremental effects of an individual project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.

Section 15355 of the Guidelines for the Implementation of CEQA defines a cumulative impact as follows:

"Cumulative impacts" refers to two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts.
(a) The individual effects may be changes resulting from a single project or a number of separate projects.
(b) The cumulative impact from several projects is the change in the environment which results from the incremental impact of the project when added to other closely related past, present, and reasonably foreseeable probable future projects. Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time.

The courts have repeatedly confirmed the importance of examining impacts on a cumulative basis, rather than consider each project in isolation as a "single shot". As stated in *San Franciscans For Reasonable Growth v. City and County of San Francisco* (1984) 151 Cal.App.3d 61:

It is vitally important that an EIR avoid minimizing the cumulative impacts. Rather, it must reflect a conscientious effort to provide public agencies and the general public with adequate and relevant detailed information about them. ... A cumulative impact analysis which understates information concerning the severity and significance of cumulative impacts impedes meaningful public discussion and skews the decision-maker's perspective concerning the environmental consequences of the project, the necessity for mitigation measures, and the appropriateness of project approval. (*San Franciscans For Reasonable Growth v. City and County of San Francisco,* (1984) 151 Cal.App.3d 61, 80, 198 Cal.Rptr. 634.)

Section 15130(b) of the Guidelines states that following elements are necessary to an adequate discussion of significant cumulative impacts:

(1) Either:
(A) A list of past, present, and probable future projects producing related or cumulative impacts, including, if necessary, those projects outside the control of the agency, or
(B) A summary of projections contained in an adopted general plan or related planning document, or in a prior environmental document which has been adopted or certified, which described or evaluated regional or areawide conditions

contributing to the cumulative impact. Any such planning document shall be referenced and made available to the public at a location specified by the lead agency.

(2) When utilizing a list, as suggested in paragraph (1) of subdivision (b), factors to consider when determining whether to include a related project should include the nature of each environmental resource being examined, the location of the project and its type. Location may be important, for example, when water quality impacts are at issue since projects outside the watershed would probably not contribute to a cumulative effect. Project type may be important, for example, when the impact is specialized, such as a particular air pollutant or mode of traffic.

(3) Lead agencies should define the geographic scope of the area affected by the cumulative effect and provide a reasonable explanation for the geographic limitation used.

(4) A summary of the expected environmental effects to be produced by those projects with specific reference to additional information stating where that information is available; and

(5) A reasonable analysis of the cumulative impacts of the relevant projects. An EIR shall examine reasonable, feasible options for mitigating or avoiding the project's contribution to any significant cumulative effects.

Most of the Port EIRs utilize a list approach, though one EIR, that for the Unocal lease renewal, does not address cumulative impacts at all. The Pier 300 Dry Bulk Terminal EIR references cumulative impacts analyses in the Deep Draft Navigation Improvements EIR, a program EIR from which the Pier 300 EIR is tiered, which is reasonable. However, as previously noted, the lack of clearly defined statements regarding throughput hinders the ability to confirm that later phases of the tiered project reflect assumptions made in analyses of the overall program. The Deep Draft Navigation Improvements EIR does provide a fairly thorough examination of cumulative impacts as required under 15130(b)(4), including calculations of total air emissions, though other issues such as traffic impacts are addressed on a more general basis.

None of the other EIRs examined provide such an analysis, relying rather on generalized statements contrary to the requirements of Section 15130(b)(4). Even in those cases where potentially significant cumulative impacts are noted in the discussion, cumulative impacts are not listed as significant adverse impacts in executive summaries or in the EIR section listing significant unavoidable adverse impacts, as the executive summaries typically only include project specific impacts.

The Working Group has found these omissions to be serious and unacceptable, leading to failure to inform the public of the full magnitude of the impacts of Port activities. Port staff has agreed to provide more comprehensive tallies of cumulative development and potential impacts in future documents. This must include project impacts which may individually be less than significant but which will combine with impacts of other projects to add to or create a significant impact.

Cumulative impacts on traffic are discussed in general terms in past EIRs, but can usually be determined by examining the ICU and LOS tables in the documents. Where data tables are

provided, such as the Pier 400 EIR, the information is typically provided in one table of existing LOS at various locations and another table showing LOS for future traffic, including cumulative projects, versus LOS for future traffic plus the proposed project. Thus, one would determine the cumulative impact of all projects by flipping back and forth between tables, something that might not occur to a lay person. This approach, while common, may tend to obscure the public's perception of the extent of cumulative impacts. In addition, even though one may identify a cumulative impact exceeding the stated significance threshold through quick arithmetical computations, these are not always called out in the text.

It is imperative that cumulative impacts of all past, present, and future projects be identified and tracked on a quantitative basis by the Port. This must include even those impacts not identified to be significant at the individual project level. Even if the impacts of individual projects have been mitigated to a level of insignificance, a significant cumulative effect may still occur. To assume otherwise is "at odds with the concept of cumulative effect", as stated in *Environmental Protection Information Center, Inc. v. Johnson* (1985) 170 Cal.App.3d 604:

> CDF ... stated that...operations in general had to substantially lessen significant adverse impacts on the environment, and closed with this comment: 'To address the cumulative effect issue the Department has taken the tact [sic] that if the adverse effects are minimized to the maximum on each individual operation, then the total effect in the surrounding area will also be minimized to an acceptable level.'
>
> This statement is at odds with the concept of cumulative effect, which assesses cumulative damage as a whole greater than the sum of its parts.

Incredibly, even where an EIR has identified a significant, project level impact, cumulative impacts are not always considered significant as in the case of the Berth 136 Wharf Extension EIR. The project is acknowledged to create significant unavoidable adverse impacts on air quality due to emissions of oxides of nitrogen and oxides of sulfur. The list of cumulative projects includes a number of projects for which similar significant unavoidable adverse impacts had been identified. However, the EIR concludes that no significant cumulative impact would occur because increased Port efficiencies would reduce the increase in emissions that might have occurred had the same amount of cargo been moved less efficiently. This approach completely ignores any increase in capacity that may have encouraged an increase in cargo, and contributes to the backlog of unmitigated impacts on San Pedro and Wilmington.

Projects must be examined in a comprehensive manner, not piecemealed.

To the extent feasible, the Port must avoid segmentation of related projects in separate EIRs. For example, the Evergreen facility consisted of a core parcel to which Evergreen wished to add five additional parcels, eventually adding 62 acres to an existing 125-acre facility, for a fifty percent increase in upland area. One EIR examined expansion into Parcels B and C. That document indicated that Parcel A was already in use by Evergreen as an offset for areas on the main 125-acre Evergreen parcel undergoing improvement. The EIR did not state what would happen at Parcel A once improvements were completed on the core parcel. The Parcel B and C EIR also

stated that Parcel E was examined in yet a separate negative declaration in 1994 while plans were for Parcel D to be examined in another separate EIR in the future. It is not clear whether any environmental documentation was required for the original Evergreen occupation of the 125-acre facility, for the improvement underway at the time the EIR was prepared, or for use of Parcel A.

CEQA mandates "... that environmental considerations do not become submerged by chopping a large project into many little ones--each with a minimal potential impact on the environment--which cumulatively may have disastrous consequences." (*Bozung v. Local Agency Formation Com., supra,* 13 Cal.3d at pp. 283-284, 99 Cal.Rptr. 745, 492 P.2d 1137). City of Los Angeles CEQA Guidelines reflect this concern, requiring environmental review for small projects normally exempt from CEQA requirements "when the cumulative impact of successive projects of the same type in the same place may be significant".

As noted in [*San Franciscans for Reasonable Growth v. City and County of San Francisco* ((1984) 151 Cal.App.3d 61, 198 Cal.Rptr. 634) analyzing only "piecemeal development would inevitably cause havoc in virtually every aspect of the urban environment". Yet that appears to be what has happened here. Expansion into Parcel E was clearly not found to result in any adverse impacts, inasmuch as a negative declaration was adopted. The EIR for Parcels B and C resulted in a finding of no significant impacts for most factors and noted that operations would not increase "substantially". The original Evergreen parcel and Parcel A came into use with or without some unknown environmental studies. Still later Parcel D was to be addressed in yet another document. This approach clearly avoids examination of the impacts of the whole of the Evergreen operation.

Similarly, the Berth 136 Wharf Extension document examined impacts from increased berth length at the TraPac facility. The B Street project, examined in a separate EIR, would have provided additional backlands for TraPac. Both EIRs were certified as Final in 1994. This approach tends to reduce the perceived impact of each project. Further acting in concert, the increased backlands and increased berth space may combine to encourage an increase in cargo handling at the facility which might not even be possible with only one of the projects implemented on its own.

The Working Group hopes that the various pending EIRs for Port projects will address projects and their cumulative impacts as a whole.

Analyses must identify and consider the increased cargo capacity that may be facilitated by a proposed project and identify any demands for on- or off-port infrastructure that may result.

Nearly all of the projects analyzed would result in an increase in the capacity of the facilities affected. To the extent that any impact at all is acknowledged, growth inducement may be identified as a slight increase in economic growth.

Although most of the projects would increase Port capacity, EIR analyses tend to address impacts assuming that this increase in capacity would not lead to any increase in cargo throughput. In fact data regarding overall capacity are typically not identified, although such

information is presented in EIRs for the Wickland Oil lease renewal and the Berth 300 container facility. Thus, comparisons between "no project" and a proposed project generally assume that somehow, somewhere within the Port of Los Angeles, that cargo will be moved, only it will be moved in an older, overcrowded, inefficient terminal.

Under this scenario, physical improvements are assumed actually reduce pollution, since the amount of pollution per given volume of cargo would be reduced. This neglects increased pollution due to increased capacity for throughput. For example, if a project were to reduce pollution per cargo volume by ten percent but ultimately lead to a thirty percent increase in cargo, the pollution reduction would be more than offset by the increased throughput.

There is an underlying assumption, repeatedly stated in various EIRs, that at no point will any absolute capacity limit be reached which might actually preclude any additional increase in cargo throughput. Frequent stories in the press regarding stress on existing facilities and statements of need in the Port's own documents belie this. This ignores the fact that current throughput could not have been handled by just the facilities existing fifty years ago, nor for that matter could it be handled by other west coast ports, such as Stockton, today.

The unstated assumption is "whether or not we build, it they will come". As stated in the Berth 136 EIR, the project will not induce growth, it will just "accommodate growth" that would occur regardless. Due to the public's well-publicized, apparently insatiable appetite for cheap imported goods, that may well be the case. If there is indeed no ultimate activity ceiling, then it is imperative that the Port of Los Angeles work with the Port of Long Beach, CalTrans, Los Angeles County Metropolitan Transportation Authority and other public agencies and private parties to monitor and plan for that growth in throughput, so that adequate on- and off-port infrastructure and impact mitigation may be provided.

Port planning must be coordinated with other agencies dealing with off-port infrastructure and land use. This must include intensity as well as type of use.

In accordance with Section 15125(d) of the CEQA Guidelines, an EIR must identify any inconsistencies between a proposed project and adopted planning programs. This is important in order to assure that future on- and of-port infrastructure will be adequate for future needs. It is also critical in developing strategies for the region to achieve compliance with state and Federal air quality standards. Applicable plans include element of the City of Los Angeles General Plan; the Air Quality Management Plan(AQMP) prepared by the South Coast Air Quality Management District (SCAQMD) in conjunction with the Southern California Association of Governments(SCAG); other regional plans prepared by SCAG; and the Congestion Management Program (CMP) prepared by the Los Angeles County Metropolitan Transportation Authority (LACMTA).

General plans must address not only land uses, but consistent with Section 65302 of the Government Code, they must address the amount of the use that will be permitted. Section 65302 requires that local agencies identify both land use type and land use intensity in the land use element of a general plan, the function of which is fulfilled by the Port of Los Angeles Community Plan which is to be consistent with and act in concert with the Port Master Plan. In

accordance with Section 65302, the land use element must then be coordinated with other general plan elements addressing such factors as circulation, safety, noise, housing, and open space. Without some degree of certainty as to the magnitude of future uses, it would be impossible to coordinate future infrastructure with future needs.

The intensity descriptor may be expressed, for example, in units per acre for residential uses, or floor area ratio for commercial uses. The intensity must be identified in terms that will allow some prediction of need for infrastructure and impacts on the community. Otherwise, planning efforts will come to naught. Cargo throughput would be an indicator of intensity for the Port. As throughput varies, so do air emissions, traffic generation, employment, and demand for infrastructure.

Required under Assembly Bill 471 and Proposition 111, the CMP is intended to address the impact of local development on the regional transportation system. The adopted CMP is designed to accomplish this through a plan addressing transportation system deficiencies, transportation demand management (TDM), capital improvements and a local land use analysis program.

In order to receive Proposition 111 funds, a city must comply with CMP provisions. In Los Angeles County a city must monitor and report traffic counts and service levels at key intersections; adopt and implement a TDM ordinance; adhere to traffic analysis guidelines when preparing EIRs; and monitor and report on new development activity, usually in the form of building permit summaries. In Port EIRs which analyzed impacts on ground transportation, projects were found to be consistent with CMPs merely because an EIR was prepared meeting basic guidelines. Other issues such as TDM programs and activity monitoring were not addressed. In order to be fully consistent with the CMP, monitoring and reporting of Port activity levels is essential. Without such data, attempts to coordinate transportation improvements with anticipated demand would be ineffectual.

Other planning programs including the AQMP, the Regional Mobility Element (RME), Regional Transportation Plan (RTP), Regional Transportation Improvement Program (RTIP), and the CMP have also been based on information regarding anticipated land uses as well as the intensity of those uses. Most recently, for example, SCAG has utilized the PILUT (Planning for Integrated Land Use and Transportation) approach to link transportation and environmental planning in updating the RTP. Absent some definition of intensity of use, the ability to integrate planning for transportation with land use would be stymied. The PILUT approach will also be used in Regional Comprehensive Plan (RCP) updates.

A number of EIRs indicate that because adopted city and regional plans included the Port use, the projects conform to all planning efforts, failing to address whether anticipated activity levels would be consistent with those anticipated in the various planning efforts. Several EIRs including those for both projects at Pier 300 indicate that because the contemplated improvements are consistent with the 2020 Plan, they would be consistent with other plans which used the 2020 Plan as input. These include the AQMP, RME and Regional Growth Plan (RGP).

However, the May 1997 West Basin Transportation Improvements Program EIR references the cargo increase forecast in studies used in preparation of the 2020 Plan and then states that "Actual increases have greatly exceeded forecasts." Thus, activity levels are known to exceed those anticipated in previously adopted planning programs such as the RGP and RTIP. Yet EIRs subsequently circulated, including the Channel Deepening Project EIR circulated in October 1997, still claim consistency with local and regional plans on the basis of consistency with the 2020 Plan.

It is essential that facilities be monitored on a continuing basis to ensure that all adverse impacts upon the communities are mitigated.

In accordance with Section 21081.6 of the Public Resources Code and Section 15091(d) of the CEQA Guidelines, if a public agency requires changes in a project or adopts mitigation measures when approving a project, then a monitoring program must be established to make certain that the project changes and mitigation measures will actually occur. The Port of Los Angeles has established a mitigation monitoring program whereby mitigation measures are listed together with schedules and responsibility for implementation. The Port has developed a standard form for this purpose.

The object of a mitigation monitoring program is to ensure that when decision makers and the general public believe an impact will be fully mitigated, the impact will actually be mitigated. If an impact is to be sustained, it will be by the conscious, public choice of decision makers on the basis of overriding considerations which outweigh the impact.

Similarly, if assumptions made for analysis purposes are not born out, unanticipated impacts may be sustained. Most critical in that regard would be assumptions regarding throughput, though other factors such as truck idling time and use of rail would also affect impacts. As noted above, the West Basin Transportation Improvements EIR indicates that cargo increases have "greatly exceeded" anticipated throughput. It is thus likely that EIRs based on those forecasts would have underestimated impacts on such factors as air emissions, traffic, and noise.

Other assumptions which could bear on project impacts include proportion of cargo moved by rail, type of on-dock equipment utilized, truck idling time, and trip length. If key operational characteristics differ significantly from those assumed in an EIR, impacts could also differ significantly. Thus, it is imperative that operations be monitored to discern if optimistic assumptions are realized and to determine if significant unanticipated impacts may be occurring. Additional, backup mitigation measures or provision for additional environmental review must be identified at the time of project approval in order to make certain that all adverse impacts upon the community are mitigated.

Where specific, unanticipated impacts relate to regional planning programs, the responsible agency should be informed. If significant unanticipated vehicular traffic would be generated as a result of alteration of operational assumptions, then the LACMTA and SCAG should be informed so the increase can be anticipated in regional transportation planning. SCAQMD and SCAG should be informed of deviations from

assumed characteristics which could result in increases in Port emissions above those anticipated in the AQMP so that appropriate programs may be adopted in order to reduce in emissions elsewhere in the basin.

The Port may wish to consider Port-wide mitigation programs with fees to be paid commensurate with the impact that actually occurs. Such programs are in place in many communities, particularly for traffic mitigation, although fee programs address everything from public art to noise walls.

Typically, traffic mitigation fees are initially assessed on the basis of standard Institute of Transportation Engineers (ITE) rates for a given use, and then adjusted upward or downward based on monitoring after full completion and occupation of a project. LACMTA is currently considering such fees, to be assessed through the local development monitoring program. Because the Port is a unique use, standard ITE traffic rates would not be applicable, but based on specific users. The Port should coordinate monitoring of port activities with LACMTA to ensure that all port tenants pay their fair share under any LACMTA fee program.

Tenant compliance with Port greening programs would also require monitoring to ensure that impacts are mitigated to the extent feasible. As the Port continues to respond to the regional demand for cargo handling, implementation of greening programs will be essential if regional air quality goals are to be met and if residential communities in San Pedro and Wilmington are to continue to exist. It is crucial that operations are monitored so that unanticipated impacts are not sustained by the community.

Conclusion/summation

The quality of past EIRs varies, and the greatest need for improvement lies in the need for greater attention to operational characteristics as an integral part of a project, more detailed discussions of cumulative impacts, and good faith examination of genuine alternatives to a proposed project. As the Port continues to grow and the surrounding communities reach an environmental breaking point, it is essential that all environmental impacts on the adjacent communities be addressed and mitigated to the extent feasible. These include not only impacts associated with physical improvements but also, perhaps more important, impacts due to operations such as impacts on air quality, traffic, and community blight.

As throughput increases, these impacts will increase. A means of monitoring and addressing such increases must be developed, whether through tiering of mitigation measures, Port wide mitigation programs financed by cargo-based fees, or other means.

Cumulative impacts must be identified and quantified, even where an individual project has a less than significant impact. In order to address the regional effects of these impacts, planning must be coordinated with regional planning agencies and planners for the adjacent communities. If cargo volumes are to continue to increase into the future, as appears likely, a coordinated, cooperative planning effort must be pursued.

Primary Documents Reviewed

1. United States Army Corps of Engineers, Deep Draft Navigation Improvement, Los Angeles and Long Beach Harbors, San Pedro Bay Environmental Impact Statement/Environmental Impact Report, Draft and Final 1992
2. Los Angeles Harbor Department, Pier 300 Dry Bulk Terminal EIR, Draft 1992, Final 1993
3. Los Angeles Harbor Department, Pier 300 Container Terminal EIR, Draft 1992, Final 1993
4. Los Angeles Harbor Department, Pier 400 Container Terminal and Transportation Corridor Project EIR, Draft and Final, 1999
5. Los Angeles Harbor Department, B street Re-alignment and Widening/Container Terminal Backland Expansion, Draft 1993, Final 1994
6. Los Angeles Harbor Department, Evergreen Backlands Improvements EIR, Draft and Final, 1997
7. Los Angeles Harbor Department, Berth 136 Extension EIR, Draft and Final, 1994
8. Los Angeles Harbor Department, Unocal's Marine Oil Terminal Lease Renewal for Berths 148-151EIR, Draft 1995, Final 1996
9. Los Angeles Harbor Department, Wickland Oil Company and Wickland Corporation Environmental Improvements, Facility Modifications, Ownership Transfer, and Lease Renewal at Berths 163-164 Mormon Island, Los Angeles Harbor, Draft and Final 1993
10. Los Angeles Harbor Department, GATXLease Renewal Los Angeles Marine Terminal Berths 171-173 and Deep Draft Vessel Access and Pier 400 EIR, Draft and Final 1996

Other Sources Consulted

1. California Public Resources Code Section 21000 et seq (California Environmental Quality Act) California Government Code Section 65000, et seq (Planning and Land Use)
2. California Code of Regulations Title 14, Section 15000 et seq (CEQA Guidelines)
3. City of Los Angeles, Environmental Quality Act Guidelines, as amended, various dates
4. City of Los Angeles, Port of Los Angeles Community Plan
5. City of Los Angeles, Draft L.A. CEQA Thresholds Guide: Your Resource for Preparing CEQA Analyses in Los Angeles (Thresholds Guide), 1998
6. Port of Los Angeles, Port Master Plan with Amendments, as revised, June 2002
7. Port of Los Angeles Web Page: www.portoflosangeles.org
8. Port of Los Angeles, List of Coastal Development Permits, 2003
9. Vickerman Zachary Miller with CH2MHill, 2020 San Pedro Bay Ports of Los Angeles and Long Beach Cargo Handling Operations, Facilities and Infrastructure (OFI) Requirements Study. April 1988

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Citizens Assn. for Sensible Development of Bishop Area v. County of Inyo (1985) 172 Cal.App.3d 151

Citizens for Quality Growth v. City of Mount Shasta (1988) 198 Cal.App.3d 433 [243 Cal.Rptr. 727
City of Carmel-by-the-Sea v. United States Department of Transportation (1997)123 F.3d 1142
Communities for a Better Environment v. California Resources Agency (2002) 103 Cal.App.4th 98, 126 Cal. Rptr. 2d. 441
Concerned Citizens of Costa Mesa, Inc. v. 32nd Dist. Agricultural Assn. (1986) 42 Cal.3d 929
County of Amador v. El Dorado County Water Agency (1999) 91 Cal.Rptr.2d 66, 30 Envtl. L. Rep. 20,224, 99 Cal. Daily Op. Serv. 9544, 1999 Daily Journal D.A.R. 12,253
County of Inyo v. City of Los Angeles (1977) 71 Cal.App.3d 185, 139 Cal.Rptr. 396 Civ. 13886
Environmental Defense Fund, Inc. v. Coastside County Water District (1972) 27 Cal.App.3d 695, 104 Cal.Rptr. 197 Civ. 31455
Environmental Protection Information Center, Inc. v. Johnson (1985) 170 Cal.App.3d 604
Kings County Farm Bureau v. City of Hanford (1990) 221 Cal.App.3d 692
Laurel Heights Improvement Association of San Francisco, Inc. v. The Regents of the University of California (1988) 47 Cal. 3d 376
Los Angeles Unified School Dist. v. City of Los Angeles (1997) 58 Cal.App.4th 1019
McQueen v. Board of Directors of the Mid-Peninsula Regional Open Space District (1988) 202 Cal.App.3d 1136, 249 Cal.Rptr. 439
San Franciscans For Reasonable Growth v. City and County of San Francisco (1984) 151 Cal.App.3d 61, 198 Cal.Rptr. 634
Stevens v. City of Glendale (1981) 125 Cal.App.3d 986, 178 Cal.Rptr. 367
Whitman v. Board of Supervisors of Ventura County (1979) 88 Cal.App.3d 397, 151 Cal.Rptr. 866

Attachments

Comments on Deep Draft Navigation Improvements Environmental Impact Statement/Environmental Impact Report
Comments on EIR for Pier 300 Dry Bulk Terminal
" " " " Pier 300 Container Terminal
" " " " Pier 400 Container Terminal
" " " " B street Re-alignment
" " " " Berth 136 Extension
" " " " Evergreen
" " " " Unocal
" " " " Wickland Oil
" " " " GATX

1992 DEEP DRAFT NAVIGATION IMPROVEMENTS EIS/EIR

The Deep Draft Navigation Improvements Environmental Impact Statement/Environmental Impact Report (EIS/EIR) (SCH #2020 87101408) was prepared to address dredging of navigational channels and placement of fill to form additional port land area. The project included deepening of existing navigation channels; creation of 582 acres of land, the bulk of which would be at Pier 400; creation of shallow water wetlands in an existing deep water area; and establishment of additional liquid bulk and container facilities.

Program EIRs

The document is a Program EIR, intended to address the impacts of the various facets of the overall project, with additional environmental documentation to be prepared as more specific information became available for specific facilities at Pier 300 and Pier 400. This is consistent with Section 15165 of the Guidelines for Implementation of the California Environmental Quality Act (CEQA) which provides:

> Where individual projects are, or a phased project is, to be undertaken and where the total undertaking comprises a project with significant environmental effect, the Lead Agency shall prepare a single program EIR for the ultimate project.

Mandated Contents

In accordance with Section 15126(d) of the Guidelines for Implementation of the California Environmental Quality Act (CEQA) an EIR must address the growth-inducing impacts of a proposed project. Section 15126 indicates that it is preferable that this be included as a separate section of the document. Otherwise, a chart is to be provided specifying where this is discussed. No such section or chart has been provided in this EIS/EIR. Although an EIS need not address growth inducing impacts of a project, where a document is used to fulfill the requirements of both the National Environmental Policy Act (NEPA) and CEQA, all requirements of both acts must be fulfilled.

Alternatives

In accordance with Section 15126.6(a) of the Guidelines:

> An EIR shall describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives.

Section 15126.6(a) requires that an EIR consider a "reasonable range of potentially feasible alternatives". "Feasible" is defined by Section 15364 of the Guidelines as:

> capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors.

Title 40 C.F.R. s 1502.14(a) requires that an EIS rigorously explore and objectively evaluate all reasonable alternatives, and for alternatives which were eliminated from the detailed study, briefly discuss the reasons for their having been eliminated. As stated in *City of Carmel-by-the-Sea v. United States Department of Transportation* (1997)123 F.3d 1142:

> An Environmental Impact Statement must discuss "reasonable alternatives" to the proposed action. 42 U.S.C. s 4332(2)(C)(iii); *Alaska Wilderness Recreation v. Morrison*, 67 F.3d 723, 729 (9th Cir.1995); see 40 C.F.R. s 1502.14 **(consideration of alternatives "is the heart of the environmental impact statement.").** [emphasis added]

The Deep Draft Improvements EIS/EIR contains a lengthy discussion of alternatives that were considered for inclusion in the EIS/EIR. The EIS/EIR discusses why various non-landfill alternatives were not considered. These include expansion inland and re-allocation of existing port lands to accommodate additional cargo. The EIS/EIR states that:

> Even with the maximization of all facilities, there ...[is] not enough future terminal capacity in the harbors of the Ports of Los Angeles and Long Beach to fill the forecast cargo demand... even with optimization of all Port related facilities, increased amounts of new lands ...[are] deemed necessary.

Prior to preparation of the EIS/EIR, sixty different navigation improvement and landfill concepts for the Port of Los Angeles/Port of Long Beach complex were jointly developed and refined to twenty-nine alternatives. As stated in the EIS/EIR:

> After review by the Maritime Advisory Committee, four configurations...were examined further and finally Scheme B was selected for recommendation...

The EIS/EIR indicates that the major advantage of the chosen scheme was a reduced cost per terminal acre.

The preferred alternative was broken down into six increments, and a Draft EIS/EIR was prepared. The process was abandoned by the Port of Long Beach, and the Port of Los Angeles (POLA) elected to move ahead with environmental documentation for the four increments of the project within POLA.

The EIS/EIR identifies and describes ten implementation scenarios for the deep draft navigation improvements, including ocean disposal of dredged materials. All of these except two were eliminated based on criteria summarized in a table in the EIS/EIR and examined in more detail in a separate feasibility study which was not a part of this EIS/EIR.

While providing some degree of information as to the rationale for eliminating certain scenarios from further consideration, the table presented only the conclusions as to whether or not objectives were met. It did not explain the rationale behind those conclusions. The table also included brief statements regarding impacts on water quality and habitat, though no quantification of impacts or other details are presented. While it may be that extensive studies were done in support of these statements, this is not adequate. As stated in *Environmental Defense Fund, Inc. v. Coastside County Water District* (1972) 27 Cal.App.3d 695, 104 Cal.Rptr. 197:

> It should be understood that whatever is required to be considered in an EIR must be in that formal report; what any official might have known from other writings or oral presentations cannot supply what is lacking in the report.

Thus, more in-depth information as to how or why criteria were or were not met should have been provided.

Two alternatives "could not be eliminated from further consideration". There is no statement as to other alternatives that could reasonably have been considered. Rather, the EIS/EIR seemed determined to

retain only those alternatives that "could not be eliminated". These were the only two alternatives stated to fully meet project objectives.

The Project objective is a key issue in considering alternatives to a project proposal. Citing *Carmel-by-the-Sea*:

> Project alternatives derive from an Environmental Impact Statement's "Purpose and Need" section, which briefly defines "the underlying purpose and need to which the agency is responding in proposing the alternatives including the proposed action." 40 C.F.R. s 1502.13. The stated goal of a project necessarily dictates the range of "reasonable" alternatives and an agency cannot define its objectives in unreasonably narrow terms.

Thus, consideration of project objectives is an integral part of selection of project alternatives. The "Purpose and Need" section of the Deep Draft EIS/EIR cites a need for deeper channels to accommodate larger, deeper draft vessels and a need for facilities to accommodate growing volumes of cargo.

The stated project objectives are:

1. Optimize the efficiency of transporting existing and future waterborne commerce through the Port of Los Angeles by dredging navigation channels to accommodate more efficient existing and future fleets.
2. Optimize the efficiency of transporting existing and future waterborne commerce through the Port of Los Angeles by expanding berth and landside cargo handling facilities and capabilities.
3. Improve safety in and about the Port by reducing the conflicts between Port related activities and incompatible adjacent land uses and activities.
4. Preserve and improve environmental resources to the maximum extent practical.

It may be noted that the first two stated objectives include not only a desired outcome, i.e. optimized efficiency, but the means by which that outcome is to be achieved, thereby eliminating other means of attaining the desired outcome.

In any case, complete attainment of project objectives is not to be the only consideration when selecting alternatives to be examined in an EIR. As stated in Section 15126.6(b) of the Guidelines:

> ...the discussion of alternatives shall focus on alternatives to the project or its location which are capable of avoiding or substantially lessening any significant effects of the project, **even if these alternatives would impede to some degree the attainment of the project objectives, or would be more costly.** [emphasis added]

Thus, those alternatives which were stated to partially meet the project objectives may have been improperly eliminated.

Of the two alternatives found to fully meet the project objectives, only one was carried forward for examination in the EIS/EIR. The reason cited was the "most favorable cost/benefit ratio", despite 15126.6(b), stated above. None of the alternatives dismissed were stated not to be feasible.

As a result of the elimination process, the EIS/EIR provided environmental analyses only for the desired alternative and the "no action/no project" alternative, an alternative mandated under Section 15126.6(e) of the CEQA Guidelines, though dismissed in the first few pages of the report. Although Guidelines Section 15126.6(a) mandates consideration of a "range of alternatives", that is it: The desired project or nothing.

On the other hand, it may be noted that many of the impact discussions identified separate impacts by project increment. Though each built on the previous increment, it would still be possible to evaluate and approve individual portions of the project based on these analyses.

It does appear that the EIS/EIR for this project came at the end of the line, when most, if not all substantive decisions had been made. This defeats the purpose of CEQA, which is "not to generate paper, but to compel government at all levels to make decisions with environmental consequences in mind". (*Bozung v. LAFCO* (1975) 13 Cal.3d 263)

In accordance with Guidelines Section 15004(b), an environmental document is to be prepared as early as feasible in the planning process. Per *Laurel Heights Improvement Association of San Francisco, Inc. v. The Regents of the University of California* (1988) 47 Cal. 3d 376:

> ...the later the environmental review process begins, the more bureaucratic and financial momentum there is behind a proposed project, thus providing a strong incentive to ignore environmental concerns that could be dealt with more easily at an early stage of the project. This problem may be exacerbated where, as here, the public agency [UC Regents] prepares and approves the EIR for its own project.

Further, twice during the winnowing process, alternative projects or implementation scenarios were chosen based on lower cost. There is no representation that other alternatives were cost-prohibitive, only that they cost some undefined amount more than the chosen alternative.

CEQA does not require that environmental considerations be paramount. CEQA provides for a balancing of various factors, including economic social factors. CEQA does, however, require that that balancing be conducted as part of the public process. As stated in Section 15003(e) of the Guidelines:

> The EIR process will enable the public to determine the environmental and economic values of their elected and appointed officials

When this balancing is conducted outside the public EIR process, how can the purposes of the above section be fulfilled?

Project Description

The description of the physical improvements is thorough and provides a great deal of detail. Unfortunately, while detailed information is provided for each project increment, no concise summary of the project as a whole is provided. The descriptions for each increment also provide additional information regarding project rationale and other factors, and unfortunately the specific project elements become buried in lengthy explanations. This is a particular problem when attempting to refer back to the project description when reviewing various impact analysis sections. It is even more problematic in light of the EIS/EIR's function as a program document from which additional analyses would flow. It becomes very difficult to reference portions of the original project which are to be examined further in a subsequent, tiered document.

The description of the completed facilities in the operational phase provides little detail. This would be expected in a program or staged approach to environmental review. However, more information on assumptions regarding project operations would have been helpful, particularly in following the deliberations involved in project analyses. It also impedes efforts to identify which, if any, portion of the analysis would apply to projects in a subsequent, tiered document.

Oceanographic Resources and Water Quality

This section discusses water quality issues associated with dredging in detail and briefly addresses potential impacts due to anti-fouling coatings on vessels and spills. It does not, however, identify changes in tidal prism due to deep dredging and shallow fill.

The EIS/EIR indicates that materials dredged from the outer harbor are contaminated with heavy metals, DDE and tributyltin. The document states that it would be beneficial to place clean fill over such materials, with the greatest concern being the shallow water habitat to be created. The area outside the breakwater is identified as the location with the cleanest material. However, no mitigation measure is suggested which would require that material from this area be used as a cap to bury more polluted materials. Assumptions cannot be made regarding impacts and mitigation unless measures are taken to see that the assumptions become reality.

The EIS/EIR does include a mitigation measure to petition the state for increased local staffing for the Office of Oil Spill Response. There is no indication that POLA was prepared to take responsibility for participation in funding the additional staffing, though that may indeed have been the case. There is also no indication that POLA has any authority to see that the request for additional staffing would actually be provided. Therefore, this mitigation measure cannot be assumed to offer any reduction in potential impacts.

Biological Resources

Direct impacts due to dredging are well covered. However, this section contains no discussion of impacts on biological resources due to increased noise or lighting.

Ground Transportation

This section indicates that:

> the assumptions and procedures in determining the numbers of vehicles associated with the construction efforts were obtained from the air quality assumptions used by SAIC in the preparation of the air quality analysis.

The actual assumptions are not presented in the EIR itself, however.

Estimates of truck and rail trip generation at the operational stage are presented, although no basis for these estimates is provided. There is no estimate of throughput, no estimate of material moved per trip, no analysis of trip distribution, no estimate of the proportion of cargo that will be moved by rail, and no information as to the number of rail cars per train trip.

Pre-existing Levels of Service (LOS) for roadway segments is presented, but no LOS data is presented for the post development condition. There are no intersection capacity utilization analyses at all. The EIS/EIR concludes that a significant impact to surface traffic will occur, but specific areas of impact are not identified nor is the specific degree of impact.

Proposed mitigation measures include generalized measures such as carpooling, as well as specific circulation system improvements. However, the EIS/EIR presents no evidence that the specific improvements will mitigate project traffic or even that project traffic creates any impact at the locations noted for improvement. This type of information would be crucial in establishing a nexus for mitigation

measures that might be imposed by POLA upon development to be undertaken by other parties or that might be required by the State Lands Commission prior to expenditure of port funds. Financial responsibility for implementation of the roadway improvements listed is not identified.

Air Quality

This section contains minimal information regarding assumptions utilized in determining air quality impacts. According to the EIS/EIR:

> Detailed analysis of the development of all assumptions, emissions calculations, and impact modeling concentrations used in the air quality assessment are contained in a separate document...The interested reader who wishes to fully understand all details of the air quality analysis should refer to the Technical Report.

Although one is informed that a ship queuing analysis was performed, one is not informed as to the results of that analysis or how queuing assumptions might affect pollution emissions. Total mobile emissions are presented, but not numbers of trips or trip length. Emissions associated with cargo handling are presented absent any information as to the volume of cargo. For most factors, it is virtually impossible to determine if realistic assumptions were utilized. To quote *EDF v. Coastside* again: "...what any official might have known from other writings or oral presentations cannot supply what is lacking in the report".

Unfortunately, the Technical Report was not provided as an appendix to the EIS/EIR, nor is there any evidence that it was circulated therewith. This is problematic in that had the report been included as an appendix to the EIR, it would have been circulated for public review with the EIR. In fact, there is no information as to what type of public review, if any, may have been undertaken for the Technical Report. Thus, the analysis and conclusions regarding this key environmental factor were not subject to the type of public comment and required response normally required for EIR analyses. The Technical Report simply stands as the unquestioned, authoritative source.

Neither is there any information as to where, or if, a member of the public might obtain the Technical Report. Even if the report had not been included as an appendix to the EIS/EIR but merely been incorporated into the EIS/EIR by reference, CEQA Guidelines Section 15150 would have required that the document be available for public inspection and that EIS/EIR state where the document would have been available for inspection.

While it is not unusual to refer to other, generalized documents in an EIR, it is highly unusual to provide project specific analyses in separate documents apart from the EIR. Indeed, even where documents are incorporated into an EIR by reference, project specific analyses are normally included in the EIR itself. As stated in Guidelines Section 15150 (f):

> Incorporation by reference is most appropriate for including long, descriptive, or technical materials that provide general background but do not contribute directly to the analysis of the problem at hand.

Provision of project analyses in a separate document from which the lead agency merely plucks the final conclusions frustrates the public involvement and full disclosure functions of CEQA.

Emissions are shown for each increment of the proposed project, and as a total in a summary table. The air quality analysis indicates that emissions for the "No Action" alternative will exceed those for the proposed project.

This seems counterintuitive at first, since one might expect that an expanded facility would experience more activity. However, the two alternatives are compared on the basis of identical cargo throughput. The rationale presented is that many small vessels will be needed to handle cargo moved by fewer larger vessels, and that cargo will need more handling. However, no data is provided as to the number of vessels or emissions per vessel, either in port or when moving. No data is presented as to how much cargo might require double handling or what equipment would create emissions at what rate.

The equivalent cargo comparison completely ignores previous statements in the EIS/EIR that the improvements are needed to handle increased cargo and that:

> Even with the maximization of all facilities, there ...[is] not enough future terminal capacity in the harbors of the Ports of Los Angeles and Long Beach to fill the forecast cargo demand... even with optimization of all Port related facilities, increased amounts of new lands ...[are] deemed necessary.

Impacts of handling this increased cargo are not addressed.

The tables of maximum concentrations of air pollutants are presented, but no location is identified for these air pollution hot spots. It is not know whether any sensitive uses will be affected nor, if so, whether it would be possible to retrofit existing structures to provide relief from the affects of these pollutant concentrations.

A number of mitigation measures are identified, but there is little reassurance that implementation will occur. Reduction of SOx and NOx under a potential new rule is discussed. Other measures indicate a behavior will be encouraged or a measure will be pursued if feasible or available. Thus, it cannot be assumed that specific mitigating actions will occur. Further, specific reductions in impacts to be achieved by the proposed mitigation measures are not identified. In any case, the EIS/EIR acknowledges that a significant impact to air quality would be sustained.

Noise

The EIS/EIR has a fairly thorough discussion of noise impacts due to dredging and other activities involved in navigational improvements. This includes a discussion of the potential impact of noise on least terns.

Truck traffic is projected to increase noise somewhat, though not significantly. Noise levels are discussed in terms of Community Noise Equivalent Levels (CNELs)[1] from the centerline of the roadway. More typically, CNELs are expressed from the center of the outer lane or the outer edge of the roadway. Since the bulk of project traffic will be trucks which, by law, are confined to the outer lanes of the roadway, this makes is especially important in this case. Noise levels along specific transportation corridors are not identified.

[1] Community Noise Equivalent Levels reflect an average noise level for the entire 24-hour day, with extra weighting given to noise in the evening hours and greater weighting still given to noise at night.

This section also indicates that noise levels will be greater under the "No Action" alternative than with the proposed project. Little information is given regarding assumptions, but presumably, the same assumptions regarding equal volumes of cargo is utilized.

Another reason cited for increased noise under "No Action" is more double handling of cargo. Due to limited space close to the water, cargo would have to be moved from ships and quickly moved to a nearby location elsewhere in the Port or nearby areas before being moved again to a final destination. However, the noise discussion cites an increase in noise along "the transportation corridor", not identifying a specific element of the corridor. Presumably this is the general 110/710/Alameda transportation linkage system.

Goods might require more truck trips due to double handling. However, these trips would not be expected to be moving on identical portions of the corridor. It is not logical to expect that cargo would be moved a short distance in a northerly direction for short-term storage and then backtracked south to the pier area to be moved north again. Significantly increased volumes of trucks would be anticipated only in the vicinity of any short term storage areas in the Port, which are not typically noise sensitive areas.

Socioeconomics

This section estimates economic impacts of the Deep Draft Navigation project. The EIS/EIR estimates that 9,200 jobs will be generated during the peak of development activities, and 4,776 jobs will be generated by facility operations by 2010. The report then estimates that 360 workers will migrate into the City of Los Angeles as a result of this job generation, of which less than half would locate in the port area. This is said to be based on certain trends. It would be helpful if more information had been presented on data reflecting those trends.

Potential residential overcrowding is not mentioned. A potential impact on housing price is discussed, but found to be insignificant "based on professional judgment". However, CEQA does not encourage conclusory statements: "To facilitate CEQA's informational role, the EIR must contain facts and analysis, not just the agency's bare conclusions or opinions." (*Concerned Citizens of Costa Mesa, Inc. v. 32nd Dist. Agricultural Assn.* (1986) 42 Cal.3d 929, 935 [231 Cal.Rptr. 748, 727 P.2d 1029])

Said the court in *Laurel Heights I*:

> We do not impugn the integrity of the Regents, but neither can we countenance a result that would require blind trust by the public, especially in light of CEQA's fundamental goal that the public be fully informed...

Recreation

The EIS/EIR acknowledges that a significant adverse impact will be sustained due to the loss of areas for recreational boating and fishing.

Aesthetics

The EIS/EIR acknowledges a visual impact due to the loss of views of open water. Impacts due to cranes, container stacking and night lighting are not discussed. The POLA web page indicates that ten cranes currently exist at Pier 400.

Energy

This section also indicates that greater impacts will occur due to operations under "No Action" than operations under the proposed project. The primary difference is increased truck trips. The EIS/EIR indicates additional truck trips would be needed due to double handling, whereby cargo is moved away from the water on a temporary basis and then ultimately transported elsewhere. While this makes sense, it does not allow for increased cargo at the new facilities.

Further, the estimated trip length of fifty miles used to compute energy consumption is the same under both scenarios. It would seem likely that cargo subject to double handling would be moved a short distance to begin with and then shipped further to an ultimate destination, or it would be moved a longer distance initially to a storage area closer to its ultimate destination. This would result in one long and one short trip, or even a series of short trips, for cargo that was double handled. Based on information in the air quality Technical Report, it appears that this same trip length was assumed in calculating air pollution emissions. Thus, impacts of "no project" versus the proposed project may have been overstated.

PIER 300 DRY BULK TERMINAL EIR

The Pier 300 Dry Bulk Terminal Environmental Impact Report (EIR) (SCH #92091030) was prepared to address development of a dry bulk terminal with remote storage yard, unloading facilities and equipment, on-site road and rail access and associated off-site transportation improvements. These include rail connections and new at-grade crossings at Earle and Cannery Streets, relocation of the Seaside Avenue/Ferry Street offramp, construction of a railroad grade separation at Seaside Avenue and Navy Way, and a rail track from the Brighton Beach Railyard. Although not noted in the project description, the impact analysis section of the EIR also indicates that the project will involve demolition and cleanup of the Seaplane Lagoon.

The Pier 300 Dry Bulk Terminal EIR is not identified as a Supplemental or Subsequent EIR, although the project is part of the improvements generally identified in the Deep Draft Navigation Improvements Environmental Impact Statement/Environmental Impact Report (EIS/EIR) (SCH #2020 87101408), and numerous references are made to that document. Whether to prepare a subsequent document or a new, stand-alone document is at the option of the lead agency. Because standards for content and review of a stand-alone, versus a subsequent or supplemental document are quite similar, if not more rigorous, preparation of a stand-alone EIR is not a concern. As noted in Section 15162(d) of the Guidelines for Implementation of the California Environmental Quality Act:

> A subsequent EIR or subsequent negative declaration shall be given the same notice and public review as required under Section 15087 or Section 15072. A subsequent EIR or negative declaration shall state where the previous document is available and can be reviewed.

In this case, although the Pier 300 Dry Bulk Terminal EIR is not specifically identified as a subsequent EIR, the numerous references to the "2020 Plan" and Deep Draft Navigation Improvements EIS/EIR, it would have been helpful, but not required, to identify where these documents were available to the public.

Project Description

A stable, accurate project description is the most basic and important factor in preparing a lawful EIR. A vague or ambiguous project description will render all further analyses and determination ineffectual. It is critical that the project description be as clear and complete as possible so that the issuing agency and other responsible agencies may make informed decisions regarding a proposed project.

The project description does not include all physical changes which would occur as a result of project implementation. Project elements not called out in the project description, but later discussed include demolition and cleanup of the Seaplane Lagoon, which is discussed in the air quality and biological resources sections of the EIR, and demolition of buildings at the former Navy seaplane base, which are discussed as potential cultural resources.

The project description provides more information regarding operational characteristics of the proposed project than a number of other documents reviewed. Included in the project description are anticipated throughput, types of equipment to be used, and descriptions of rail and vehicle routing.

Project Alternatives

In accordance with Section 15126.6(a) of the Guidelines:

> An EIR shall describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives.

An EIR must consider a "reasonable range of potentially feasible alternatives". As stated in *City of Carmel-by-the-Sea v. United States Department of Transportation* (1997)123 F.3d 1142:

> An Environmental Impact Statement must discuss "reasonable alternatives" to the proposed action. 42 U.S.C. s 4332(2)(C)(iii); *Alaska Wilderness Recreation v. Morrison*, 67 F.3d 723, 729 (9th Cir.1995); see 40 C.F.R. s 1502.14 **(consideration of alternatives "is the heart of the environmental impact statement.").** [emphasis added]

The Pier 300 Dry Bulk Terminal EIR describes a number of alternatives such as alternate location, alternate use of the site, and alternate layouts which were dismissed, with only the "no project" alternative, a legally mandated alternative, carried through for analysis purposes. Inasmuch as the EIR introduction had already stated the great need for the proposed project, even this single alternative included for analysis appears to be a pro forma exercise.

While, intuitively it appears that several of the alternatives dismissed would result in approximately the same impacts as the project, it is possible that further analysis could reveal some significant differences. Thus, it is unfortunate that nearly all alternatives were dismissed prior to preparation of the EIR.

A number of alternatives, such as alternative site layout, are dismissed as not consistent with the 2020 Plan. However, the "2020 Plan" as such was not formally adopted as a master planning document. An EIS/EIR had been prepared for the plan, a joint effort of the Port of Los Angeles, Port of Long Beach and U.S. Army Corps of Engineers, but was withdrawn. Portions of the improvements contemplated under the 2020 Plan were addressed in the Deep Draft Navigation Improvements EIS/EIR, but not at a level which established detailed layouts for future development. Ironically, some improvements contemplated under the Deep Draft Improvements would require an amendment to the Port Master Plan, which is a mandatory planning program. This is noted in the Deep Draft Improvements EIS/EIR and the Pier 300 Dry Bulk Terminal EIR.

The Deep Draft EIS/EIR repeatedly indicates that plans for development of future facilities at Pier 300 and Pier 400 are preliminary or tentative, allowing for flexibility in future upland development. The Pier 300 EIR itself indicates that the Deep Draft Improvement EIR was geared primarily to navigation improvements.

Occasionally, when documents are tiered, there is a reluctance to examine alternatives beyond the scope of a program EIR in supplemental documents, although there is no CEQA requirement for such limitation so long as all impacts are thoroughly examined under the CEQA process. However, the Pier 300 Dry Bulk Terminal EIR is presented as a stand-alone document. Thus, this would not have been a factor.

Re-location of the proposed project to Pier 400 is dismissed because other facilities are planned for Pier 400. However, no development at Pier 400 appears in the list of cumulative projects.

Other alternatives are dropped with no discussion at all. For example, the EIR indicates that additional uses such as an auto terminal or scrap metal facility were considered. A lengthy explanation regarding feasibility and desirability of a scrap metal facility is provided, but no explanation is provided as to why the auto terminal was not considered a reasonable alternative.

Geology and Soils

This section provides an explanation of geologic hazards which could have a significant effect on the proposed project. Impacts would be reduced by implementation of mitigation measures, though a significant impact due to liquefaction would still remain. However, the specific measures would be determined at a later date, based on site-specific geotechnical studies. Such factors as setbacks from fault zones and the need for pile-supported foundations should be examined early in the process, because some measures could create impacts of their own; because the extent of necessary mitigation could affect project feasibility, thereby rendering other alternatives more attractive; and perhaps, most important, preparation of studies later, at an administrative level effectively excludes the public from the review process, short circuiting the public disclosure and involvement function of CEQA.

Oceanographic Resources/ Water Quality

This section provides an extensive examination of most aspects of water quality issues, including elutriate tests and physical dispersion tests. It would seem that a port-wide computer flow model would be helpful for projects of this type.

Two areas need further examination: On-site drainage patterns are should be mapped. Although drainage and retention facilities are described, they are not shown on site plans in the EIR. Site grading would be a key factor in proper retention of runoff. Retention and settling ponds could require considerable land area, requiring redesign of project plans. If such facilities are provided below ground, suitability of subsurface materials and liquefaction must be explored.

A second area not discussed is release of bilge water. Analyses regarding time at berth are based on time for loading of bulk materials, with no time included for offloading. This would presumably occur at some other site. There is no explanation as to how vessels would maintain proper draft when arriving empty at Pier 300.

Air Quality

Project specific impacts are presented and acknowledged to be significant. This section is one of the few within the EIR to examine impacts associated with construction of the Seaside Avenue grade separation. The EIR indicates that significant impacts on Air Quality will occur, although this is not included in the Executive Summary for the project.

Cumulative impact analysis is limited to the proposed project combined with the proposed container facility also at Pier 300. No other projects are considered, not even development at Pier 400.

The EIR also references the Deep Draft Navigation Improvements EIS/EIR as a source providing additional information regarding cumulative impacts, though no summary of information in that EIS/EIR is provided. In any case, the list of cumulative project in the Pier 300 Dry Bulk Terminal EIR includes seven projects not included in the Deep Draft Navigation Improvements EIS/EIR. Further, that document assumes a throughput of only 15 million metric tons, whereas the Pier 300 Dry Bulk Terminal EIR projects a throughput of 20 million metric tons. Similarly, the Deep Draft Navigation Improvements EIS/EIR assumes a throughput of approximately one half that projected in the Pier 300 Container

Terminal EIR. Thus, the Deep Draft Navigation Improvements EIS/EIR does not even fully project cumulative impacts from the Pier 300 projects and would thus understate cumulative impacts.

The EIR also indicates that the proposed project would be consistent with the 1991 Air Quality Management Plan (AQMP), because the plan includes port activities. However, as noted above the anticipated through put exceeds that anticipated even in the Deep Draft Navigation studies which were finalized after preparation of the 1991 AQMP.

Biological Resources

This section is fairly thorough, particularly in regard to potential raptor predation impacts and mitigation. However, buried in the mitigation section is an indication that brown pelican habitat will be reduced. This is not discussed elsewhere, and no mitigation measures are identified. The loss is projected to occur due to measures to improve water quality and fish habitat. The specific impact to be mitigated is not identified. In accordance with Section 15126.4(a)(1)(D) of the CEQA Guidelines:

> If a mitigation measure would cause one or more significant effects in addition to those that would be caused by the project as proposed, the effects of the mitigation measure shall be discussed but in less detail than the significant effects of the project as proposed. (*Stevens v. City of Glendale*(1981) 125 Cal.App.3d 986.)

Thus, potential impacts on the brown pelican should be included.

An emerging area of research relates to the effects of night-lighting on fauna. This is discussed in terms of enhanced predation. Other effects are not considered, but it is recognized that limited information was available at the time the document was prepared. Future studies should, however, consider such effects, including effects on lighting on feeding and breeding of pelagic and avian species.

Ground Transportation

This section identifies impacts on roadways and railways. Increased rail traffic is identified and impacts at on-grade crossings are identified as potentially significant. However, specific locations over the anticipated length of the rail trips are not identified. Improvements at grade crossings in the immediate vicinity are identified, however.

Traffic impacts associated with construction are examined, although the discussion somewhat glosses over impacts due to construction of the proposed grade separation at Seaside. More information regarding detours and traffic control would have been helpful.

Traffic impacts associated with project operation are presented in terms of volume to capacity ratios on affected roads and intersections, which is standard. Improvements to port access roads are identified.

The examination of cumulative impacts, however, is limited to a referral to the Deep Draft Navigation Improvements EIS/EIR. This document only discusses operational impacts in a general way and indicates that more detailed analyses would be provided for the specific projects, of which this is one. In any case, even if the Deep Draft Navigation Improvements EIS/EIR did include a thorough examination of cumulative impacts, this would not be adequate, due to the increased throughput estimates and additional cumulative projects noted above.

Noise

The EIR identifies a significant temporary impact due to construction noise and potentially significant increases due to rail traffic. The EIR identifies a Memorandum of Agreement amongst the Port of Los Angeles, Port of Long Beach, and other parties to implement improvements designed to achieve noise reductions along rail lines. The port is to be applauded for such efforts, and is encouraged to pursue other cooperative efforts to achieve a comprehensive, cooperative solution to environmental problems in the subregion. However, the document concludes, without any support, that this program will reduce noise impacts below a significant level. This may well be true, but no information is included as to specific noise reductions anticipated to be achieved at any specific location.

Public Safety

The EIR notes a potential impact due to spontaneous smoldering of coal and coke, but notes that this would not be a problem if materials are properly compacted. However, there is no indication as to what proper compaction would entail, nor is there any mitigation measure presented that would require that this be done.

Similarly, the potential for combustion related to dust-in-air mixtures of the bulk materials is noted, but dismissed. Specific measures to prevent sparks or concentration of dust are not identified.

Socioeconomics

This section identifies a potential increase in demand for housing due to an approximate increase in 5,185 workers at the facility. Potential residential overcrowding is not mentioned. A potential impact on housing price is discussed, but declared to be insignificant without explanation. However, CEQA does not encourage conclusory statements:

> To facilitate CEQA's informational role, the EIR must contain facts and analysis, not just the agency's bare conclusions or opinions." (*Concerned Citizens of Costa Mesa, Inc. v. 32nd Dist. Agricultural Assn.* (1986) 42 Cal.3d 929, 935 [231 Cal.Rptr. 748, 727 P.2d 1029])

Increased demand for housing should also be discussed in terms of its potential for growth inducement.

Environmental Contamination

This is another section where further studies and plans are identified as mitigation measures. As stated in Section 15126.4(B):

> Formulation of mitigation measures should not be deferred until some future time.

Performance standards may, however, be specified. Where studies are deferred to a later date, specific provision for public review should be identified.

PIER 300 CONTAINER TERMINAL

The Environmental Impact Report (EIR) for the Pier 300 Container Terminal project (SCH 92091029) was prepared to address the impacts of establishing a container handling facility to include four ship berths, approximately 200-acre of storage, a 35-acre near dock intermodal container transfer facility (ICTF), and shoreline. The project also entailed circulation system alterations including a street extension to access facility backlands, at-grade road and rail crossings, and a grade separation at Seaside Way and Navy Way. The terminal was planned to utilize up to nine gantry cranes. The terminal would handle 1,224,000 TEUs per year when fully operational and would employ 275 people. The project objective is to expand the Port's ability to handle container cargo, construction of a near-dock ICTF to increase rail transport, develop a future expansion area, and provide transportation infrastructure.

The EIR examines geology, water quality, air quality, biological resources, cultural resources, transportation, land use, recreation, transportation, public utilities and services, energy, noise, aesthetics, public safety, socioeconomics and contamination. The EIR identifies significant adverse impacts due to liquefaction or other hazards due to the project's exposure to earthquake shaking; impairment of water quality and biological resources due to potential spills; emissions of reactive organic gases, oxides of nitrogen, oxides of sulfur, carbon monoxide and particulates; and construction noise.

Alternative sites or land uses were determined not to be feasible and the EIR examines only the no project alternative. Winnowing of alternatives had apparently already occurred as part of the Port of Los Angeles/Port of Long Beach/ Army Corps of Engineers cooperative planning effort that was abandoned by the Port of Long Beach. Unfortunately, this short-circuits the public involvement aspects of the CEQA process, as noted in the discussion regarding the 1992 Deep Draft EIR.

The EIR does not examine an alternative which includes only the ICTF facility without additional container capacity. This would reduce overall Port traffic and thereby air emissions. As presented, the container facility would be perceived to result in lower emissions because the ICTF helps balance any increased emission that would be attributed to increased cargo and trucking.

Cumulative Impacts

The EIR includes a list of projects to be included in analyses of cumulative impacts. However, the document provides no actual analyses or quantitative information as to the extent of cumulative impact, relying rather on generalized statements.

Air Quality

The EIR assumes that the same amount of increased cargo would be handled by the port whether or not the project ever occurred. It is also assumed that the cargo would be handled less efficiency, due to the ICTF, thus resulting in a decrease in anticipated air emissions due to the project. While it is logical that the establishment of the ICTF facility would reduce truck traffic and associated emissions, assumptions regarding an unlimited onslaught of cargo are questionable, inasmuch sooner or later a ceiling would be reached if no improvements were implemented. As it stands, the ship berths and cargo storage facilities addressed by the EIR in a way take credit for reductions in emissions to be achieved by the ICTF alone.

The air quality discussion does not address air pollution hot spots. Neither does it address emissions associated with increased congestions at railroad grade crossings due to increased rail use.

Transportation

The EIR indicates that an average train could block a roadway for four and half to eight and a half minutes, but concludes this is not significant. The rationale for this conclusion is not presented nor is any information presented as to how much delay would be considered significant. The EIR does acknowledge that traffic delays due to increased trains at grade crossings could be cumulatively significant. The EIR then lists a number of grade separations that may reduce the impact, although the Port would have no responsibility for implementation and no assurance that the improvements would be implemented.

The analysis utilizes a significance threshold of ten percent increase in traffic for traffic impacts. This is well below current standards utilized by the City of Los Angeles. This is also not consistent with existing City policy nor common practice which assesses traffic significance on the basis of percent of roadway capacity utilized.

Aesthetics

The EIR discusses impacts due to increased lighting, but does not mention visual intrusion due to cranes or container stacking. The EIR indicates that nine gantry cranes would be used at the facility. However, the Port web page indicates that the APL facility at Pier 300 utilizes twelve electric, post-Panamax gantry cranes, ten rail-mounted intermodal yard gantry cranes, and eight transtainers. This increased equipment would affect air emissions as well as aesthetic factors.

Socioeconomic Factors

While the Pier 300 project itself would employ 275 people, the EIR estimates that by 2020 the project would generate 5,185 workers, based on a ratio of anticipated value of goods shipped to employee. The section states that:

> The Ports are an important source of economic growth in the region. Failure to provide approval for the proposed action would constitute an impediment to such growth.

By contrast, the section on air quality indicates that the same volume of goods would still be shipped regardless of the project, though less efficiently. Thus, the anticipated value of goods should not vary.

The EIR indicates that in-migration of 2,810 workers per year would be needed as a result of cumulative economic growth (one of the few places in the EIR where a cumulative impact is addressed in a specific quantitative manner). This would clearly create significant demand for housing, yet the EIR indicates, without any analysis, that the project will result in negligible demand for housing. The EIR also states that any cumulative impact "cannot be determined".

PIER 400 CONTAINER TERMINAL

The environmental impact report (EIR) for the Pier 400 Container Terminal and Transportation Corridor Project (SCH 98031135) is a Supplemental EIR, prepared to examine the specific impacts of the Pier 400 project. The SEIR was prepared subsequent to EIR for the Deep Draft Navigation Improvements, Los Angeles and Long Beach Harbors (SCH 2020 87101408), which was a program level EIR prepared to address the impacts of channel dredging and placement of fill to create additional space at Pier 300 and Pier 400. The Deep Draft Navigation Improvement EIR did not specifically identify the proposed transportation corridor improvements, although it did identify the corridor location within the study area for the project at that time.

Program EIRs

In accordance with Section 15165 of the Guidelines for Implementation of the California Environmental Quality Act (CEQA):

> Where individual projects are, or a phased project is, to be undertaken and where the total undertaking comprises a project with significant environmental effect, the Lead Agency shall prepare a single program EIR for the ultimate project.

A programmatic approach is encouraged under CEQA As stated in Section 15168(b) of the Guidelines, a program EIR can:

> (1) Provide an occasion for a more exhaustive consideration of effects and alternatives than would be practical in an EIR on an individual action,
> (2) Ensure consideration of cumulative impacts that might be slighted in a case-by-case analysis,
> (3) Avoid duplicative reconsideration of basic policy considerations,
> (4) Allow the Lead Agency to consider broad policy alternatives and program wide mitigation measures at an early time when the agency has greater flexibility to deal with basic problems or cumulative impacts, and
> (5) Allow reduction in paperwork.

A major advantage to the program approach is that, used appropriately, it can facilitate review of environmental impacts on a comprehensive basis, rather than on a piecemeal basis which has been found to be illegal under CEQA (*Citizens Assoc. For Sensible Development of Bishop Area v. County of Inyo* (1985) 172 Cal.App.3d 151). It can also provide for a review of generally anticipated impacts prior to the time that detailed information regarding specific aspects of the project is developed. This is responds to Section 15004 of the Guidelines which requires that environmental review be conducted at the earliest feasible time in the planning process.

This is necessary if the EIR is to fulfill the stated purpose of CEQA which is

> not to generate paper, but to compel government at all levels to make decisions with environmental consequences in mind. (*Bozung v. LAFCO* (1975) 13 Cal.3d 263)

Per Section the CEQA Guidelines (Section 15003):

> The EIR serves not only to protect the environment but also demonstrate to the public that it is being protected...The EIR is to inform other governmental agencies and the

> public generally...The EIR is to demonstrate to an apprehensive citizenry that the agency has...considered and analyzed the ecological implications..."

Thus, an EIR must be prepared at a point in time when it may actually influence decision making. The program approach can provide for review of the complete project prior to the time that any actions are taken to irretrievably commit the lead and responsible agencies to a course of action. In accordance with Section 15004 (b)(2):

> ...public agencies shall not undertake actions concerning the proposed public project that would have a significant adverse effect or limit the choice of alternatives or mitigation measures, before completion of CEQA compliance.

While a program approach can be helpful, care must be taken to ensure that analyses do not fall through the cracks, deferred to the future at one point and then assumed already finalized at later stages. The program EIR is to be supplemented with a Subsequent or Supplemental EIR if new information regarding a project, anticipated impacts, or the existing environment becomes available at a later stage in the project. The Pier 400 EIR is a supplemental EIR.

Document Scope

The Pier 400 EIR is a focused EIR addressing impacts on air quality, transportation, biological resources, and noise/vibration. It does not address impacts on other factors such as aesthetic impacts or demand for housing generated by facility employees. Although the general topics of aesthetics and social impacts were included in the Deep Draft EIR, there was no analysis at all of the cranes to be used or night lighting. Housing demand was addressed in only cursory manner, with no real analysis.

Project Description

A stable, accurate project description is the most basic and important factor in preparing a lawful EIR. A vague or ambiguous project description will render all further analyses and determinations ineffectual. It is critical that the project description be as clear and complete as possible so that the issuing agency and other responsible agencies may make informed decisions regarding a proposed project.

Physical improvements anticipated as part of the proposed project are presented in a thorough manner for the most part, although additional information regarding cranes would be helpful. On the other hand, operational characteristics of the proposed project are not addressed at all. One is left to wonder as to the volumes of cargo anticipated, maximum cargo capacity, hours of operation, and other factors that would influence impacts until well into the impact analysis section of the EIR. These basic project denominators are then presented as assumptions for analysis purposes, rather than the fundamental core of the project itself. Clearly, if no operations occurred on the site, long-term impacts related to transportation, air quality, or noise would not even be an issue.

The EIR indicates that no customer was identified for the project, so a generic design was used for analysis purposes. If subsequent tenants varied significantly from this generic design, additional environmental documentation would be required. Likewise, if assumed operational characteristics varied significantly environmental documentation would be required as well.

The EIR indicates that a single-lane access bridge across the Pier 400 Transportation Corridor was already under construction at the time the document was prepared, but was included in the Pier 400 Transportation Corridor EIR due to timing issues. It was not included in the Deep Draft EIR. This raises

questions as to whether environmental issues were examined consistent with Section 15004 above. There is no indication as to whether any other previous environmental document may have included the bridge.

Air Quality

The air quality analysis addresses both construction and operational impacts associated with the proposed project in a fairly thorough manner. The analysis assumed the following:

- 277 ships per year
- Each ship cruising in the air basin 63 nautical miles per round trip
- Unloading/loading 16 hours a day
- 700 kilowatt hours per vessel for hotelling
- Equipment for each ship to consist of 2 rubber-tired gantries, 2 top picks, and 24 hostlers, all diesel operating 16 hours/day
- Half of cargo to travel by train
- Two trains per day handling 296 containers passing in through the port and 252 containers passing out
- Railyard equipment to consist of 3 rubber-tired gantries, 2 top picks, and 12 hostlers, all diesel operating 15 hours/day
- Trains powered by four locomotives, traveling 20 mph, and traveling a distance of 20 miles
- Average truck trip to be 12 miles
- Average truck idling for 20 minutes
- Average employee commute to be 15 miles, with an average vehicle ridership (AVR) of 1.1
- Two tugboats per berthing operation for 2.3 hours

The Port web page indicates that ten cranes are located at the Pier 400 site. It is not known to what extent other project assumptions are being born out. In particular, it seems rather optimistic to assume transport of half of all cargo by rail. To verify whether impacts were accurately anticipated, key assumptions regarding issues such as cargo handled, rail transport and vehicle trips and idling should be reviewed and confirmed.

Not all assumptions utilized in calculating future air emission are apparent, such as specific construction activities anticipated in calculating construction emissions. It would normally be expected that this could be found in the air quality study for the project which would normally be included as an appendix to an EIR. However, in this case, the air quality study is referenced as a stand-alone document prepared by a private concern. It is not stated where the document would be available, although presumably it would be available at POLA offices.

Because the study is neither included nor incorporated by reference, CEQA would not require that it automatically be provided to members of the public on demand. While, this is probably what would happen, the possibility exists that the air quality study for the project would not be readily available to the public and subject to the ten day waiting period permitted under the Public Records Act. It might take some time to chase down. This would reduce the public's opportunity for a meaningful review of the air quality analyses for the project within the 45 day time frame provided for normal EIR review. Further, as a stand-alone study, the air quality analysis would not be subject to the same public scrutiny as portions of the EIR itself. This is contrary to the public participation purposes of CEQA.

The air analyses are fairly through except for the analysis of carbon monoxide (CO) hot spots. The reviewer is told that a problem might exist in a few areas, but will be remedied by transportation system improvements. Information on phasing of these improvements would have been re-assuring. It would be

helpful to present tables of anticipated CO concentrations at various locations including existing concentrations, additional concentrations with the proposed project and on a cumulative basis.

While rail operations at grade crossings are noted as a potential source of hot spots, this is dismissed with a simple conclusory statement that additional rail traffic is "not expected to increase traffic delays", although the average train is to have four locomotives and handle 250 to 300 containers. There is no analysis presented in the EIR, although it may have been included in the air quality study for the project. Important information which is lacking includes average delay for vehicle traffic and anticipated stacking.

The possibility of significant CO impacts on Interstate 710 is noted, but that is all. There is no further investigation of this potential impact; no quantification of impacts or identification of sensitive receptors is provided.

The EIR acknowledges that air quality impacts will remain significant after mitigation. Unfortunately, the bulk of mitigation measures presented do not provide any guarantee of reduction in impacts. Nearly all are couched in terms "encourage" or "where feasible", with no actual demand for action.

Ground Transportation

The analysis assumes each truck is equivalent to 1.68 passenger cars for analysis purposes for project traffic. This is reasonable and superior to some jurisdictions which address all vehicles as the same. However, a factor of 2.0 was used for baseline conditions, rendering the perception of impacts due to existing trucks to be greater than the perception of the impact of future trucks. This is explained due to vehicle mix. There is not information as to why the future vehicle mix will be different from the existing mix. A capacity of 1,600 passenger cars or equivalent per lane was assumed which is reasonable.

The analysis is based on a number of assumptions including:

- 2,000,424 TEUs per year
- half of cargo to travel by train
- 260 work days per year
- 340 daytime workers and 210 evening workers

To verify whether impacts were accurately anticipated, key assumptions should be reviewed and confirmed.

Although the anticipated TEUs per year divided by anticipated working days gives a throughput of 7,694 TEUs per day, of which half, or 3,847 would travel by truck, the analyses anticipate only 3,700 truck trip ends per day. While an explanation for this anomaly may be provided in the traffic study for the project, the traffic study is not included with the EIR. As noted above, inclusion of background technical studies in appendices readily available to the public would be helpful.

Similarly, although the EIR shows half of daytime workers arriving during the am peak hour, only a fraction of these workers would be leaving during the pm peak. This is of particular concern because in many areas, peak hour has stretched to be a peak tow or three hours. Assumptions regarding offset shifts and shift length would be helpful in providing an explanation for this.

The analysis uses City of Los Angeles significance criteria which relate both to level of congestion at an intersection and project contribution to that congestion. The project is identified as having significant

impacts at a number of locations, although impacts are anticipated to be reduced by anticipated transportation improvements to be funded by the Port of Long Beach and Caltrans.

At certain locations, such as the northbound I-710 at Willow, the project has an impact but a less than significant impact. However, when combined with the impacts of Pier 300, it is possible that the cumulative impact of the combined projects would be significant. The Deep Draft EIR did not include detailed analyses for project operations and the separate analysis of Pier 300 and 400 may have understated the significance of transportation impacts. EIRs for the two projects must be examined in tandem to determine the full traffic impacts of the full project, including impacts due to increased rail traffic at grade crossings.

Noise

Again, inclusion in the EIR of the technical study prepared for project noise is preferred. Also necessary would be a table of noise levels at various locations with and without the project. The lack of such information prevents examination of specific impacts due to Pier 400 in conjunction with impacts due to Pier 300 operations. Anticipated noise attenuation due to the block wall appears to be quite optimistic.

B STREET REALIGNMENT AND WIDENING/CONTAINER TERMINAL BACKLAND EXPANSION

The Environmental Impact Report (EIR) for the B Street Realignment and Widening/Container Terminal Backland Expansion was prepared to address the realignment of B Street in a northerly direction and conversion of the land south of the re-aligned roadway from general industrial use to use for container terminal expansion. This involved 186 parcels of land, of which 112 were to be acquired through eminent domain. The area to be acquired was variously stated to be thirty acres (Page 3-122) and forty five acres (Page 3-148).

Additional circulation system improvements addressed by the EIR include construction of a noise wall between B and C Streets, realignment of Figueroa and John Gibson Boulevard, and realignment of the Southern Pacific Railroad track. The project also included extension of the wharf at Berth 136; construction of a freight warehouse; storage of containers, container chassis, autos, and other cargo; and relocation of utilities. The proposed container terminal expansion was calculated to enable an additional 54,529 containers per year to be handled at Berths 136-139. The stated project objective was to increase port efficiency and increase the volume of goods shipped.

The EIR examined geology, hydrology, transportations, air quality, noise, land use, housing and business relocation, population and employment, public health and safety, cultural resources, aesthetics, public utilities and services, and biological resources. The EIR identified significant adverse impacts due to emissions of oxides of nitrogen and carbon monoxide (though the air quality section of the document identified emissions of sulfur oxide which exceeded the identified significance threshold); construction noise; and liquefaction or other hazards due to the project's exposure to earthquake shaking. Alternatives to the proposed project examined in the EIR were the "no project" alternative and improvement to B Street, John Gibson and Figueroa without realigning B Street, thus resulting in no increase in area for the container terminal and preservation of existing uses.

Traffic Impacts

The proposed roadway improvements would enhance traffic flow and thus result in improved levels of service (LOS) at several intersections. However, additional traffic from the expanded container terminal would result in increased congestion at some locations.

Additional tables showing the impact of the roadway improvements alone and the container terminal alone, as well as combined, would have been helpful. While CEQA is very clear that projects are not to be analyzed in a piecemeal fashion so as to minimize the significance of impacts of the total project, data regarding specific project components is essential to a meaningful evaluation of those components. Otherwise, decision makers are presented with an "all or nothing" scenario. In fact, the only alternative presented in the EIR other than the "no project" alternative, is a set of roadway improvements without the terminal expansion. However, the impact of this alternative on roadway LOS is not presented in the document.

The EIR identifies a number of increases in intersection capacity utilization (ICU) which would occur as a result of the entire project. Peculiarly, the significance of the impacts is evaluated in terms of the percent increase in total traffic. This is not standard practice, which evaluates increases in traffic volume in terms of roadway capacity to be utilized by that traffic. This is usually expressed as a decimal fraction. A roadway that was utilized at ninety percent of capacity would be said to be operating at an ICU of .90. Additional traffic that utilized two percent of roadway capacity would increase the ICU by .02, resulting in a total ICU of .92.

This volume to capacity approach is utilized by Caltrans and by the City of Los Angeles, which currently identifies an increase of .01 (or one percent of capacity) to be significant for intersections already experiencing high levels of congestion, i.e. LOS E (ICU greater than .90) or F (ICU greater than 1.00).

The approach utilized in the B Street EIR results in a finding that an increase in ICU from 1.54 to 1.58 is not significant, since the actual number of vehicles did not increase by two percent or more. This approach results in the peculiar situation whereby the impact of a given volume of additional traffic would be considered less significant when the volume of existing traffic and associated congestion were larger. Thus, the significance of additional traffic would be inversely proportional to the volume of exiting traffic.

This is the exact reverse of the actual impact of a given volume of traffic. On a lightly traveled road, hundreds of additional vehicles can be added with no appreciable increase in traffic delay. However, those same vehicles added to a roadway already functioning at or near capacity can bring traffic to a grinding halt.

The ratio/percent approach was repudiated in *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692 which stated:

> The EIR's analysis uses the magnitude of the current ozone problem in the air basin in order to trivialize the project's impact. In simple terms, the EIR reasons the air is already bad, so even though emissions from the project will make it worse, the impact is insignificant.
>
> The point is not that, in terms of ozone levels, the proposed Hanford project will result in the ultimate collapse of the environment into which it is to be placed. The significance of an activity depends upon the setting. (Guidelines, § 15064, subd. (b).) The relevant question to be addressed in the EIR is not the relative amount of precursors emitted by the project when compared with preexisting emissions, but whether any additional amount of precursor emissions should be considered significant in light of the serious nature of the ozone problems in this air basin...

Likewise in *Los Angeles Unified School Dist. v. City of Los Angeles* (1997) 58 Cal.App.4th 1019 the court stated:

> ... the relevant issue to be addressed... is not the relative amount of traffic noise resulting from the project when compared to existing traffic noise, but whether any additional amount of traffic noise should be considered significant in light of the serious nature of the traffic noise problem already existing

The City's own threshold manual reflects this in that an increase of up to 0.040 in volume to capacity (V/C) ratio is acceptable if the final LOS would be C, whereas an increase of over .010 is considered significant if LOS would be E or F. While the threshold guide was adopted subsequent to the preparation of the B Street EIR, it reflects what has been standard practice for decades. There may be differences as to whether an increase in .01 or .02 is more appropriately considered significant, but the basic V/C approach is standard.

Evaluated on the V/C basis, even using a .02 threshold, the B Street project and container terminal expansion would have had a significant effect on the intersection of Anaheim and Figueroa Street at the very least.

Air Quality

The air quality analysis addresses both construction and operational impacts associated with the proposed project in a fairly thorough manner. The analysis assumed the following:

- 54,500 additional containers per year
- Each ship maneuvering 120 minutes into port, with one hour of tug time
- Unloading/loading 16 hours a day
- 22 hours of hotelling per ship
- Equipment to consist of 4 electric gantry cranes, 3 diesel transtainers, and 28 diesel hostlers operating 16 hours/day
- Average truck trip to be 67.1 miles
- Average truck idling for 12 minutes

Although the Draft EIR was published in May 1993, subsequent to the adoption of new thresholds of significance for air quality emissions by the South Coast Air Quality Management District, the EIR utilized the old, 1987 thresholds. Use of the old thresholds is noted in the EIR and rationalized on the basis that preparation of the EIR had commenced in 1990, when the old standards were in effect. Inasmuch as emissions were found to be significant, even under the old thresholds, the issue is moot. However, it would have been desirable to present the new thresholds and provide a discussion thereon. Had the new thresholds caused project impacts to be assessed as more significant, subsequent environmental documentation pursuant to CEQA (PRC Sec. 21166) could have been required.

Housing

The discussion of impacts on housing fails to address whether or not any of the residents displaced are low or moderate income households and whether adequate replacement housing exists in the area. The California legislature has found the provision of housing to be of vital statewide importance (Government Code Sec. 65580), with particular attention to be paid to low and moderate income housing. Thus, any examination of housing loss must examine special needs groups, including low and very low income families and individuals. The EIR indicates that city relocation guidelines will be observed but provides no information as to what that might entail. It may be noted that, when condemnation is employed, relocation of low and moderate income tenants may generate considerable expense for a public agency, potentially affecting the economic viability of a project.

Employment

While the proposed container terminal expansion would generate 135 jobs, 540 jobs would be lost in the existing commercial and industrial development to be eliminated, for a net loss of 405 jobs. This 2.5 percent net loss in jobs in the Wilmington area was found to be insignificant. By contrast, in the evaluation of project alternatives, jobs creation due to the terminal expansion is cited as a reason for approving the proposed project, even though the project would result in a net job loss.

Aesthetics

The EIR indicated that while light and glare would be generated at the container terminal, this would not be significant. Aesthetic factors related to cranes were not discussed.

Cumulative Impacts

As stated in Section 15130(b) of the CEQA Guidelines:

> ...The following elements are necessary to an adequate discussion of significant cumulative impacts:
>
> (1) Either:
> (A) A list of past, present, and probable future projects producing related or cumulative impacts, including, if necessary, those projects outside the control of the agency, or
> (B) A summary of projections contained in an adopted general plan or related planning document, or in a prior environmental document which has been adopted or certified, which described or evaluated regional or areawide conditions contributing to the cumulative impact. Any such planning document shall be referenced and made available to the public at a location specified by the lead agency.
> (2) When utilizing a list, as suggested in paragraph (1) of subdivision (b), factors to consider when determining whether to include a related project should include the nature of each environmental resource being examined, the location of the project and its type. Location may be important, for example, when water quality impacts are at issue since projects outside the watershed would probably not contribute to a cumulative effect. Project type may be important, for example, when the impact is specialized, such as a particular air pollutant or mode of traffic.
> (3) Lead agencies should define the geographic scope of the area affected by the cumulative effect and provide a reasonable explanation for the geographic limitation used.
> (4) A summary of the expected environmental effects to be produced by those projects with specific reference to additional information stating where that information is available; and
> (5) A reasonable analysis of the cumulative impacts of the relevant projects. An EIR shall examine reasonable, feasible options for mitigating or avoiding the project's contribution to any significant cumulative effects.

The B Street EIR includes a list of other projects in the area. It is assumed that these projects were included in calculating the future baseline conditions for traffic purposes. However, even though future traffic conditions as compared to existing could be seen to be increasingly congested, specific increases were not identified as cumulative impacts, even when the proposed project made a significant contribution to the increased congestion. In fact, one could only determine where a significant cumulative increase might occur by flipping back and forth between tables several pages apart in the document and making an independent assessment of ICU values.

The only direct comparison of traffic function is between future conditions including the cumulative projects without the proposed project and future conditions including both the cumulative projects with the proposed project. Thus one is presented with the type of ratio/comparison approach to cumulative impacts rejected in Communities for a Better Environment and Kings County. In fact, because the EIR wrongly assesses the significance of traffic impacts on the basis of fraction of total traffic, instead of

fraction of roadway capacity, the inclusion of the cumulative projects into a future"baseline" of increased congestion, the EIR tends to minimize the perception of the project's impact on traffic even further.

The discussion of air emissions includes only a vague, general discussion. This is not adequate. As stated in *Whitman v.The Board of Supervisors of Ventura County* (88 Cal.App.3d 397, 151 Cal.Rptr. 866), also quoting a number of other cases:

> " '(a) conclusory statement "unsupported by empirical or experimental data, scientific authorities, or explanatory information of any kind" not only fails to crystalize issues (citation) but "affords no basis for a comparison of the problems involved with the proposed project and the difficulties involved in the alternatives." (Citation.)' " (*People v. County of Kern*, supra, 39 Cal.App.3d 830, 841-842, 115 Cal.Rptr. 67, 75, quoting *Silva v. Lynn* (1st Cir. 1973) 482 F.2d 1282, 1285.) Here, the cumulative impact discussion in the EIR lacks even a minimal degree of specificity or detail. Rather, the "discussion" is but a conclusion utterly devoid of any reasoned analysis of the type suggested in *Akers v. Resor*, supra, 443 F.Supp. 1355, 1360. The use of phrases such as "increased traffic" and "minor increase in air emissions," without further definition and explanation, provides neither the responsible agency nor the public with the type of information called for under CEQA.

Alternatives

Alternatives to the proposed project examined in the EIR were the "no project" alternative and improvement to B Street, John Gibson and Figueroa without realign B Street, thus resulting in no increase in area for the container terminal and preservation of existing uses. Despite information presented in Table 4-7 which indicates that emission for four of the five pollution components calculated would be significantly lower for the "no project" alternative, the EIR concludes that all alternatives would result the same impact on air quality. This is all the more strange when one considers that the only pollutant which would be created in greater amounts by the "no project" alternative was carbon monoxide, a probable result of the congestion on B Street which would be relieved, in part, by the alternative providing for street improvements without container terminal expansion.

The alternatives discussion indicates that the proposed project would result in the best traffic flow, when the project generates significantly more traffic than existing uses. LOS data is not presented for the street improvement without container terminal scenario, merely the conclusory statement that the project as proposed would be superior. CEQA does not encourage conclusory statements: "To facilitate CEQA's informational role, the EIR must contain facts and analysis, not just the agency's bare conclusions or opinions." (*Concerned Citizens of Costa Mesa, Inc. v. 32nd Dist. Agricultural Assn.* (1986) 42 Cal.3d 929, 935 [231 Cal.Rptr. 748, 727 P.2d 1029])

Said the court in *Laurel Heights I*:

> We do not impugn the integrity of the Regents, but neither can we countenance a result that would require blind trust by the public, especially in light of CEQA's fundamental goal that the public be fully informed...

Finally, the EIR concludes that the proposed project should be preferred because other alternatives would result in the loss of "increased port-related employment opportunities", despite the net loss of 405 jobs as a result of the project.

BERTH 136 WHARF EXTENSION

The Environmental Impact Report (EIR) for the Berth 136 Wharf Expansion project (SCH 93081035) was prepared to address the impacts of a 277-foot long extension of the wharf at the Trans Pacific Container Service Corporation (TraPac) container terminal at Berths 136-139. The EIR indicates that TraPac was in the process of obtaining use of the backland area of Berths 142-143 and the Berths 145-146 wharf. However, the EIR does not address impacts associated with use of those areas. The EIR indicates that TraPac's use of the Berths 145-146 would be abandoned upon completion of the project. The EIR also indicates that additional backlands would potentially be provided under the B Street re-alignment project, which was subject to a separate EIR. If that were to come to fruition, then TraPac would leave the Berths 142-143 backlands. The stated project objective is to optimize the efficiency of the Berths 136-139 container terminal.

The EIR was a focused EIR which examined only air quality and water quality. The EIR identified significant adverse impacts due to emissions of oxides of nitrogen and oxides of sulfur. The only alternative to the proposed project which was examined was the "no project" alternative.

Cumulative Impacts

The EIR includes a list of other project to be included in analyses of cumulative impacts. However, the document provides no quantitative information as to the extent of cumulative impact, relying rather on generalized statements. Although the Berth 136-138 project as well as many of the projects listed have been stated to result in significant impacts on air quality, the EIR indicates that no significant cumulative air quality impact would occur. This makes no sense, inasmuch as CEQA recognizes the compounding effect of many small, individual impacts, even when those individual impacts are less than significant. The EIR fails to even discuss the combined impact of all facilities potentially used by Trapac, including increased backlands created by the B Street re-alignment.

Air Quality

The air quality analysis addresses only on-dock equipment. It does not address emission due to trucks hauling cargo. The EIR indicates that no increase in truck traffic would occur. The rationale for this assertion is that TraPac would abandon its use of Berths 145-146 when the wharf extension was completed. Thus, the extended wharf would allow the Berths 136-139 site to absorb all activity which had been occurring at Berths Berths 136-146. This alternative seems to unrealistically assume that Berths 145-146 would have no use at all, even though the EIR itself indicates that overall cargo capacity would increase. In any case, TraPac did not abandon use of Berths 145-146, but continues to use Berths 136-146.

Growth Inducement

The EIR indicates that the project would not be growth inducing, but would be "growth accommodating".

EVERGREEN BACKLANDS IMPROVEMENT PROJECT

The Environmental Impact Report (EIR) for the Evergreen Backlands Improvement Project (SCH 96031088) was prepared to address the expansion of backlands uses at the Evergreen container terminal. Two parcels would be added to a 125-acre facility at Evergreen. Physical improvements included paving, repaving, drainage improvements and lighting. The project objective is to expand operations and to optimize operations.

The project description indicates that Evergreen is already operating a facility on 125 acres and is seeking to expand. The 125-acre facility is described as part of the existing environment for analysis purposes in the EIR. However, the document repeatedly indicates that Evergreen is "***planning on leasing*** [emphasis added] a 125-acre parcel ...with the capability to expand into five expansion parcels." The EIR at hand examines expansion into parcels B and C.

Although the project description indicates throughput for the 125-acre facility, there is no information regarding throughput upon implementation of the proposed project in that section. Elsewhere the EIR indicates that the average number of containers will increase, but not "substantially", despite the project objective to expand operations. The EIR does not indicate what would constitute a "substantial" increase, although elsewhere the document indicates that truck trips would increase ten percent. Presumably this would be due to a ten percent increase in cargo. The document indicates there would be no increase in ship calls.

The EIR examined geology, air quality, land use, transportation, and cultural resources. The EIR identified significant adverse impacts on air quality due to emissions of oxides of nitrogen, noise from traffic on Earle Street and Cannery Street, and liquefaction or other hazards due to the project's exposure to earthquake shaking.

Alternatives to the proposed project were the "no project" alternative and expansion into just one of the additional areas to be added. Lesser expansion was stated not to fully meet the project objective, though why is not clear, especially since, as noted below, the EIR indicates that volume of cargo handled would not increase "substantially".

Cumulative Impacts

The EIR includes a list of other project to be included in analyses of cumulative impacts. However, the document provides no quantitative information as to the extent of cumulative impact, relying rather on generalized statements. In fact, the EIR does not even include an analysis of the cumulative impact of using all of the proposed Evergreen parcels.

Piecemeal Approach

The EIR indicates that Evergreen wishes to expand into five additional parcels, eventually adding 62 acres to an existing 125-acre facility, for a fifty percent increase in upland area. This EIR examines expansion into Parcels B and C. The document indicates that Parcel A was already in use by Evergreen as an offset for areas on the main 125-acre Evergreen parcel undergoing improvement. The EIR did not state what would happen at Parcel A once improvements were completed on the core parcel. The EIR states that Parcel E was examined in a separate negative declaration in 1994 while plans were for Parcel D to be examined in a separate EIR in 1999. It is not clear whether any environmental documentation was required for the original Evergreen occupation of the 125-acre facility, for the improvement underway at the time the EIR was prepared, or for use of Parcel A.

CEQA mandates "... that environmental considerations do not become submerged by chopping a large project into many little ones--each with a minimal potential impact on the environment--which cumulatively may have disastrous consequences." (*Bozung v. Local Agency Formation Com., supra,* 13 Cal.3d at pp. 283-284, 99 Cal.Rptr. 745, 492 P.2d 1137). Yet that appears to be what has happened here. Expansion into Parcel E was clearly not found to result in any adverse impacts, inasmuch as a negative declaration was adopted. The EIR for Parcels B and C resulted in a finding of no significant impacts for most factors and noted that operations would not increase "substantially". The original Evergreen parcel and Parcel A came into use with or without some unknown environmental studies. Still later Parcel D is to be addressed in yet another document. This approach clearly avoids examination of the impacts of the whole of the Evergreen operation.

Air Quality

The EIR does not provide any data as to terminal equipment emissions. The EIR states that no information was available but that "maximum daily ship activity and on-site equipment usage would not significantly change with operation of Parcels B and C", without any analysis at all. At the same time, data in the traffic study indicate that truck trips from the site would increase approximately ten percent and that employee car trips would also increase, though the basis for this data is not presented. Thus, there will obviously be some increase in equipment usage and emissions from that equipment. Although, no analysis is presented, the reader is asked to accept that the increase will be insignificant.

Emissions for truck trips are presented based on existing and future conditions. Although a large number of trucks under then current conditions are stated to transport cargo to the intermodal container transfer facility (ICTF) approximately fourteen miles distant up the Route 47, the EIR anticipates that the vast majority of those trips would be eliminated in favor of the new ICTF on Terminal Island less than 2 miles away. Thus, the EIR happily concludes that the proposed project would produce a lesser volume of truck emissions than existing operations, even though the routing change to the TICTF was due to the completion of that facility and had nothing to do with the proposed project. The EIR does not present truck emissions that would occur with use of the TICTF and no expansion of Evergreen operations.

Noise

The EIR indicates that an 8 decibel increase in noise would occur on Earle Street which is a significant increase. However, the EIR indicates that no sensitive receptors are located in that area. The EIR does not identify what changes in the noise environment might occur in the vicinity of sensitive receptors.

Traffic

The traffic analysis examines project traffic in the light of future traffic, thereby reducing the perception of traffic increases due to the proposed project. This approach tends to minimize the perception of cumulative impacts on traffic due to future projects, causing future cumulative increases in traffic to be viewed as part of some future baseline, not the cumulative impact it really is.

UNOCAL'S MARINE OIL TERMINAL LEASE RENEWAL FOR BERTHS 148-151

The environmental impact report (EIR) for Unocal's Marine Oil Terminal Lease Renewal for Berths 148-151 was prepared to address the renewal of the Unocal lease at Berths 148-151, which handles products associated with operations at their nearby refinery, including gasoline and gasoline additives. A separate EIR was prepared for upgrades to the Unocal refinery to enable production of reformulated gasoline. Although this might be interpreted by some as unacceptable piecemealing of a project, the refinery project was not within the boundaries of the Port or Los Angeles nor under the control of POLA.

The project also included improvements to the site to enable handling of reformulated gasoline and to remediate contaminated soils. The improved site would handle twenty three vessels a month, anticipated to consist of twenty ships and three barges. This is an increase from the pre-existing average of nineteen vessels per month, consisting of fifteen ships and four barges.

The EIR is a focused EIR addressing geology, groundwater and soils, air quality, hydrology and water quality, biology, and public safety. At the direction of the City Council, the final EIR also included a health risk assessment which found a calculable, though not significant, potential for health effects. The EIR identified significant adverse impacts related to exposure to geologic hazards and water quality and biological impacts due to spills

Mandated Contents

The EIR includes all mandated sections for an EIR. However, the document does not address cumulative impacts of the project or project alternatives in the manner required.

Cumulative Impacts

Section 21083(b) of the Public Resources Code establishes the requirement that an EIR include a discussion of cumulative impacts and that the Guidelines for the Implementation of the California Environmental Quality Act (CEQA), to be prepared by the Governor's Office of Planning Research (OPR), include the following:

> (b) The guidelines shall specifically include criteria for public agencies to follow in determining whether or not a proposed project may have a "significant effect on the environment." The criteria shall require a finding that a project may have a "significant effect on the environment" if any of the following conditions exist: (1) A proposed project has the potential to degrade the quality of the environment, curtail the range of the environment, or to achieve short-term, to the disadvantage of long-term, environmental goals.
> (2) The possible effects of a project are individually limited but cumulatively considerable. As used in this paragraph, "cumulatively considerable" means that the incremental effects of an individual project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.

Section 15130(b) of the Guidelines specifies that:

> ...The following elements are necessary to an adequate discussion of significant cumulative impacts:

(1) Either:

(A) A list of past, present, and probable future projects producing related or cumulative impacts, including, if necessary, those projects outside the control of the agency, or
(B) A summary of projections contained in an adopted general plan or related planning document, or in a prior environmental document which has been adopted or certified, which described or evaluated regional or areawide conditions contributing to the cumulative impact. Any such planning document shall be referenced and made available to the public at a location specified by the lead agency.

(2) When utilizing a list, as suggested in paragraph (1) of subdivision (b), factors to consider when determining whether to include a related project should include the nature of each environmental resource being examined, the location of the project and its type. Location may be important, for example, when water quality impacts are at issue since projects outside the watershed would probably not contribute to a cumulative effect. Project type may be important, for example, when the impact is specialized, such as a particular air pollutant or mode of traffic.
(3) Lead agencies should define the geographic scope of the area affected by the cumulative effect and provide a reasonable explanation for the geographic limitation used.
(4) A summary of the expected environmental effects to be produced by those projects with specific reference to additional information stating where that information is available; and
(5) A reasonable analysis of the cumulative impacts of the relevant projects. An EIR shall examine reasonable, feasible options for mitigating or avoiding the project's contribution to any significant cumulative effects.

The Unocal EIR provides neither of the items required under No. 1, above. While the document does indicate that cumulative impacts on air quality will occur, there is no actual analysis of such impacts, nor are such impacts acknowledged as significant. This is particularly problematic in that daily emissions for the facility already exceeded the South Coast Air Quality Management District's thresholds for significance for emission of reactive organic carbons (ROC), oxides of nitrogen (NO_x), oxides of sulfur (SO_x), and small particulate (PM_{10}). Thus, when project emissions are added to the "past project" already existing on the site, cumulative emissions would be significant. Further, cumulative emissions to the air basin were also generated by the related, off-port refinery modifications.

Alternatives

The EIR examines only the proposed project and the "no project" alternative. In accordance with Section 15126.6(a) of the Guidelines:

> An EIR shall describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives.

An EIR must consider a "reasonable range of potentially feasible alternatives". "Feasible" is defined by Section 15364 of the Guidelines as:

> capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors.

The EIR fails to examine a "range of alternatives" which might include alternate uses of the project site or location of most storage tanks at another location on or off port lands while providing minimal storage and pumping facilities at the project site. The EIR identifies the objective of the proposed project as the renewal of the Unocal lease. This stated objectives includes not only a desired functional outcome, i.e. movement and storage of petroleum products, but the means by which that outcome is to be achieved, thereby eliminating any other means of attaining the desired outcome. This precludes consideration of any other alternative.

WICKLAND OIL COMPANY AND WICKLAND CORPORATION ENVIRONMENTAL IMPROVEMENT, FACILITY MODIFICATION, OWNERSHIP TRANSFER AND LEASE RENEWAL AT BERTHS 163-164 MORMON ISLAND, LOS ANGELES HARBOR

The Environmental Impact Report (EIR) for the Wickland Oil Company and Wickland Corporation project (SCH 89010214) was prepared to address the renewal of the lease for storage and shipping of products associated with operations at their nearby refinery, including gasoline and gasoline additives. The project also involved programs to monitor and ensure the structural integrity of on-site tanks, upgrading of the tanks, and installation of new pipelines. Overall throughput capacity increased from 33, 326,162 barrels per year to 37, 268,000 barrels per year. The stated project objective was to renew the lease and improve efficiencies.

The EIR examined geology, soils and groundwater, air quality, hydrology, biological resources, transportation, noise, public health and safety, public utilities and services, land use and cultural resources. The EIR identified significant adverse impacts on water quality and biological resources due to potential spills; emissions of reactive organic gases, oxides of nitrogen and oxides of sulfur; and liquefaction or other hazards due to the project's exposure to earthquake shaking. Alternatives to the proposed project were the "no project" alternative, and lease renewal with no changes. The inclusion of lease renewal as a project objective unduly limited the range of alternatives to be considered.

Air Quality

Although the Draft EIR was published in May 1993, subsequent to the adoption of new thresholds of significance for air quality emissions by the South Coast Air Quality Management District, the EIR utilized the old, 1987 thresholds. Use of the old thresholds is noted in the EIR and rationalized on the basis that preparation of the EIR had commenced in 1990, when the old standards were in effect. Inasmuch as emissions were found to be significant, even under the old thresholds, the issue is moot. However, it would have been desirable to present the new thresholds and provide a discussion thereon.

Peculiarly, had a new discretionary approval loomed on the horizon after the EIR already been certified in a previous year when the old thresholds were in use, the adoption of the new thresholds could have warranted circulation of a supplemental or subsequent EIR or addendum pursuant to Public Resources Code Section 21166 and Sections 15162-15164 of the CEQA Guidelines. Likewise, had the document already been circulated but not certified, revision and recirculation could have been warranted pursuant to Guidelines Section 15088.5. These specific requirements reflect a goal of reviewing impacts in the light of the most current information practicable.

GATX LEASE RENEWAL, LOS ANGELES MARINE TERMINAL BERTH 171-173 AND DEEP DRAFT VESSEL ACCESS AT PIER 400

The Environmental Impact Report (EIR) for the GATX Lease Renewal project (SCH 91051025) was prepared to address the renewal of the lease for a liquid bulk facility at Berth 171-173 and use of deep draft access at Pier 400. Physical improvements include new and reinstalled loading arms, increased pump capacity, new piping, dock reconstruction, tank refurbishment and improvement at Berth 171-173, a new tank and other infrastructure at Pier 400, upgraded fire protection systems, and soil remediation. BATX had supplemented operations at Berth 171-173 with facilities at Berth 46 on an interim basis. Use of Berth 46 would be abandoned once operations were commenced at Pier 400. The project increased overall throughput capacity from 3.8 million barrels per month to 10 million barrels per month. Assumed output is seventy percent of capacity. The stated project objective was to renew the lease, clean up the site, and improve efficiencies.

The EIR examined geology, soils and groundwater, air quality, hydrology, biological resources, transportation, noise, public health and safety, public utilities and services, energy and cultural resources. The EIR identified significant adverse impacts on water quality and biological resources due to potential spills; emissions of reactive organic gases, oxides of nitrogen, oxides of sulfur and particulates; and liquefaction or other hazards due to the project's exposure to earthquake shaking. Alternatives to the proposed project were no renewal of the GATX lease, continued use of Berth 171-173 in conjunction with Berth 46, and relocation of the entire GATX operation to Pier 400.

Air Quality

The air quality analysis, based on a worst case scenario, indicates that the project would result in significant impacts on all five air quality descriptors examined. Oddly, the EIR then backpedals and states that the emissions are probably overstated because facilities at Berth 171-173 would probably not be operating simultaneous with facilities at Pier 400. If that were the case, then the proposed project would not have significant impacts as compared to the existing baseline. However, the existing baseline was calculated on the basis of a worst case, simultaneous operation of Berth 171-173 and Berth 46. Thus, the EIR originally quite properly compared apples to apples but then chose offer a comparison of apples to oranges instead.

Cumulative Impacts

The EIR includes a list of other project to be included in analyses of cumulative impacts. However, the document then neglects to include quantitative information as to the extent of cumulative impact, relying rather on generalized statements.

Alternatives

The EIR examines a range of alternatives and provides a fairly comprehensive discussion of the alternatives. In fact, this EIR provides one of the best examinations of project alternatives and associated impacts among the various EIRs reviewed. However, the EIR fails to identify an environmentally superior alternative, as required by Section 15126.6(e) (formerly Section 15126(d)) of the CEQA Guidelines.

Exhibit (B) from San Pedro and Peninsula Homeowners Coalition for NOP Comments on NOP of a Draft Supplemental EIR for Berths 97-109 (China Shipping Terminal Container Project

HEALTH EFFECTS OF DIESEL EXHAUST AIR POLLUTION

August 28, 2003

Document prepared by the Environmental Subcommittee/Air Quality Group to be forwarded to the Board of Harbor Commissioners (BOHC) via PCAC

Subject: Committees Findings Regarding Health Effects of Diesel Exhaust Air Pollution; with Concern for Port Activity Related Sources

BACKGROUND: Since its inception the Environmental Subcommittee has been considering the issue of the multiple health effects that have been associated with diesel exhaust air pollution. Experts hired by the Committee, including Professor Avol, Mr. Howekamp, and experts from ARB and AQMD have frequently provided input. These experts also found data for the committee's review from sources they had available. Dr. John G. Miller, an Environmental Sub-committee member and PCAC member cited and provided multiple references from the medical, epidemiologic and scientific literature on this topic. Members of the public have expressed concerns at many committee meetings.

The committee has learned that the Health Risk Assessment Study (HRA) to be completed by consultants hired by the POLA, as one of the Seven Studies mandated by the BOHC, is not scheduled to begin until possibly January 2004, depending on when the (as yet incomplete) Air Emissions Inventory is finished. The completion date for the HRA is currently estimated to be late 2004/early 2005.

Environmental Sub-committee members have heard extensive input from the public requesting no further delay in conveying what it has found to date to the BOHC. This input came both at meetings and in the community. The committee finds no reason for further delay in revealing its findings to date.

The committee notes that Port-related activities, including those that occur off Port property but as a result of Port operations, have been identified by the South Coast AQMD as the largest single unregulated contributor to area-wide air pollution.

Port operations (shipping, loading/unloading, and transport of product) require the use of significant amounts of fuel. Currently most of the trucking, locomotive, and off-road yard operations in and supporting the Port use diesel fuel. The combustion of diesel fuel creates high concentrations of very small particles (numerically, over 90% are less than 1 micron in diameter) and nitrogen oxides. Regional air studies have demonstrated that Port-related emissions are transported widely in the air across the South Coast Air Basin, from the harbor area to Riverside/San Bernardino and beyond. These pollutants have been associated directly (through direct exposure by breathing these pollutants from the air) and indirectly (through participation in photochemical reactions in the air, and breathing the products of these reactions, such as ozone) with a number of health effects.

The Sub-committee has learned that some of these health effects occur even when concentrations of particulates are just one quarter of the Federal limit for outdoor air.

Summary of Health Effects that have been related to Diesel Exhaust Air Pollution as identified and brought to the committee's attention:

1. Prenatal and Perinatal effects
    A. Intrauterine growth retardation
    B. Elevated incidence of low birth weight infants
    C. Increased incidence of spontaneous miscarriage
    D. Increased incidence of respiratory cause of deaths in newborns
    E. Elevated incidence of serious birth defects
    F. Increases in sudden infant death syndrome (SIDS)

2. Childhood effects
    A. Diminished lung growth in children (with unknown long term effects on the individual)
    B. Development of asthma in children involved in active sports
    C. Exacerbations of existing asthma
    D. Elevation of incidence of asthma in children and teenagers. (an ongoing worldwide phenomenon)
    E. Increases in incidence of bronchitic symptoms
    F. Loss of days from school attendance due to respiratory symptoms
    G. Potentiation (enhancement) of allergic effects of known allergens such as ragweed pollen when individual is exposed to diesel particles and the allergen concomitantly.

3. Adulthood
    A. Elevated incidence of lung cancer in a linear relationship with progressive increases in fine particle (Pm 2.5) air pollution (The category Pm 2.5 includes the particles less than 1 micron in size.)
    B. Elevated incidence of myocardial infarctions (heart attacks)
    C. Elevated incidence of mortality from cardiovascular causes (heart attacks and strokes)
    D Triggering of myocardial infarctions associated with spikes in Pm 2.5
    E Elevation of cardiopulmonary deaths in a linear relationship with increases in Pm 2.5
    F. Significant elevations in "all cause mortality" associated with increases in Pm2.5
    G. Increased incidence of bronchitic symptoms
    H. Chronic obstructive pulmonary disease (COPD): increased incidence, prevalence, and exacerbations of existing disease.
    I. Fatal exacerbations of COPD
    J. Exacerbations of asthma leading to time off work, emergency room visits and hospitalizations

K. Approximately 1.5 times elevation in the smoking adjusted incidence of lung cancer in workers occupationally exposed to diesel exhaust versus the smoking adjusted relative risk baseline incidence of lung cancer in similar non-exposed populations.
L. Chronic exposure to particulate pollution shortens lives by one to three years
M. Higher concentrations of particulate air pollution has been linked to low heart rate variability, a risk factor for heart attacks. Association is stronger for people with pre-existing cardiovascular conditions.
N. Mitochondrial damage in cells. (All age groups)
O. Airway inflammatory changes (all age groups)
P. Damage to and death of alveolar and airway macrophages,(all age groups)

This is a brief overview of an extensive and growing body of knowledge. These findings were developed through many avenues of research including but not limited to: epidemiologic studies, clinical studies-retrospective and prospective, autopsy studies, animal studies, cellular biology studies, and Government agency investigations. There has been worldwide scientific participation in research on the links between diesel exhaust air pollution and human health.

This body of knowledge is constantly evolving, with many new pieces of information having been published or brought to light since the inception of Environmental Committee Subcommittee/Air Quality Group. The committee notes that as this an evolving body of knowledge, in many areas further studies are needed.

The Committee finds sufficient evidence to warrant immediate aggressive action by POLA and its tenants to reduce the measurable levels of local and Air Basin wide diesel exhaust air pollution due to Port related activities.

Richard Havenick
Chairman, Air Quality Group

References Regarding the Health Effects of Diesel Exhaust Air Pollution
July 25, 2003

1. Health Assessment Document For Diesel Engine Exhaust (United States Environmental Protection Agency, EPA/600/8-90/057F, May 2002).

2. Staff Report: Public Hearing to Consider Amendments to the Ambient Air Quality Standards for Particulate Matter and Sulfates. (State of California, California Environmental Protection Agency, Air Resources Board) Staff Report: Initial Statement of Reasons for Proposed Rule Making. Release Date: May 3, 2002.

3. Selected Key Studies on Particulate Matter in Health: 1997-2001 American Lung Association, Updated March 5, 2001.

4. Findings of the Scientific Review Panel on "THE REPORT ON DIESEL EXHAUST" as adopted at the Panel's April 22, 1998 Meeting.

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JOHN G. MILLER, M.D., FACEP
Diplomate: American Board of Emergency Medicine

1479 Paseo Del Mar
San Pedro, CA 90731
(310) 548-4420

10/15/2015

Mr Christopher Cannon, Director
Environmental Management Division
LAHD / POLA

Re: China Shipping Nop

Dear Mr Cannon

Please accept these comments from the San Pedro & Peninsula Homeowners Coalition as My own personal comments also.

I do not have another copy of exhibit A but you received one in the packet from the Homeowners Coalition

Thank you,

John

San Pedro and Peninsula Homeowners Coalition
P.O. Box 1106
San Pedro, CA 90733

October 19, 2015

Christopher Cannon, Director
Environmental Management Division
Los Angeles Harbor Department
425 S. Palos Verdes St
San Pedro, CA 90731

Re: Notice of Preparation of a Draft Supplemental EIR for Berths 97-109 (China Shipping) Container Terminal Project

Dear Mr Cannon,

I am writing to submit the following comments on the Notice of Preparation for the Draft SEIR for the berths 97-109 China Shipping project on behalf of the San Pedro and Peninsula Homeowners Coalition. I am President of this group of 10 different Homeowners Associations.

First of all, we ask for an extension of the NOP comment period to 90 days. The short comment period presently allowed gives the appearance of an effort to limit the public's chance for input. Many citizens are only now becoming aware of what has happened and why the Port is doing this "Project'.

It saddens me to have to be writing these comments. It is now obvious that the Port of Los Angeles has cynically devised a long term plan that ultimately now constitutes a massive betrayal of the public's trust in the Port. The revelation that the Port has not completed many of the measures it agreed to impose to reduce air pollution, noise and traffic when it allowed the expansion of the China Shipping terminal comes as a disheartening shock. Many of us had begun to feel that we could trust the Port to keep its promises. Obviously this is not the case.

What we have here is another example of promises made to the public by the Port of Los Angeles that are then broken and ignored.

We the public have been mislead to believe that China Shipping is a much cleaner project than it really is. It appears that the mitigations promised weren't happening and the Port knew this all along. This makes the Clean Air Action Plan and the Emissions Inventories fraudulently based documents in that assumptions in these reports are based on the mitigation measures that have not been carried out. The Port has been trumpeting these documents far and wide and now we learn they are based on "Green Smoke, Green Mirrors, Green Hot Air and Green B.S." (Lies)

The CAAP now appears willfully deceitful, given that POLA knew it had not fulfilled its previous commitments. It needs revision with public input.

The Port must revise its past Emissions Inventories which are based on modeling, not monitoring or real world observations, now that the modeling assumptions about the emissions from China Shipping are known to be incorrect due to failure to do the promised mitigations.

An annual independent audit of the Emissions Inventory is now needed to reassure an apprehensive public and decision makers.

We have learned that in some instances China Shipping was given secret written waivers on certain mitigation measures. This lack of transparency is a complete betrayal of the public's trust and most likely exposes the Port and City to significant liability.

The failure of the Port to include the required mitigation measures in the long term lease with China Shipping appears to be a fraudulent act of major magnitude. This is not some simple little foul up. It has to have been totally deliberate. But why? The damage to the publics trust in the Port is incalculable. Unfortunately the fact (as reported in the Los Angeles Times Oct 14, 2015) that port officials "never revised their long term lease agreement with China Shipping to include the required mitigation measures" strongly enhances the appearance of willful wrongdoing or willful malfeasance. This part of the situation is so egregious as to make an outside observer wonder: "Was there some conflict of interest or secondary gain factor involved here that caused this "failure" on the part of Port Senior Management and the City Attorneys Office?"

This failure appears to be a willful act calculated to be able to allow POLA to later on say in effect "We can't make China Shipping do these things (mitigation measures) because they are not in the lease."

The Port Community Advisory Committee (PCAC) was established by Mayor James Hahn in part to assure that all environmental regulations will be followed by the Port "in future projects." This latest China Shipping mess makes a mockery of that intent. The dissolution of the PCAC by the previous Port Director at a time when that group was starting to examine actual mitigation monitoring (versus optimistic projections) now establishes presumed intent to deceive the public that is being adversely affected by China Shipping related air pollution and other negative impacts.. The reasoning given by the Port Director for the disbanding of PCAC at the time was " Our work on China Shipping is now all done" (Conveniently ignoring all the other oncoming projects.) Given that she knew the work was not finished, this now appears to be a move planned to keep interested, knowledgeable members of the public from enquiring too deeply into the actual status of promised mitigations. This appears to have been a move calculated to deceive the public and decision makers.

Given the magnitude of failure, deceit and damage to the public's trust here, there is a need for an independent outside paid professional oversight committee to monitor all POLA mitigation measures looking at past compliance and ongoing compliance. This has been demonstrated as feasible by LAWA under the terms of the LAX CBA. The documentation for this is included in the public Record on the Proposed Project by reference.

We request that some independent oversight group be established to monitor all POLA mitigation measures. This group should not be appointed by BOHC, the Port Director, CD 15, or the Mayor's Office. It needs to be established by negotiation. We are tired of seeing the foxes guarding the henhouse. The group needs to be professionally staffed by proven independent paid professionals with adequate funding. Meetings of the mitigation oversight group will need to be subject to the Brown Act for transparency.

Clear multiple demonstrations of POLA's historic malfeasance in regard to mitigation measures and environmental laws in general are to be found in Attachment A to this comment letter. Attachment A is a report titled "Review of Previous Environmental Documents" August 2004 prepared for Past EIRs Subcommittee of the Port of Los Angeles Community Advisory Committee (PCAC) . This document in its entirety must be made a part of the Public Record on the Proposed Project.

It would be helpful in the future to have a reconstituted Port of Los Angeles Community Advisory Committee as long as it is made up of actual community members and not just "Port lackies" and "yes men". Such a renewed PCAC would have to have funding to hire consultants as required. However, a reconstituted PCAC would NOT take the place of the above mentioned independent expert oversight group but rather work in tandem with that group.

Need for a NEPA Analysis

The original China Shipping FEIR/FEIS is a CEQA/NEPA document. Although there is no dredging being done now, *the analysis needs* to consider *the project as a whole, thus a subsequent analysis must involve NEPA and include an EIS.*

The proposed "Supplemental EIR' should be a "Subsequent EIR/EIS." It must be both a CEQA and a NEPA analysis as was done in the original China Shipping FEIR/FEIS.

The plan to make this only an EIR conveniently gets rid of the National Environmental Protection Act (NEPA) here. We wonder: Is the Port trying to hide something else from the public by failure to include a NEPA analysis? Is the Port trying evade or avoid something?

Analysis of the impacts of the proposed project must include an Environmental Justice analysis. Environmental Justice has always been a key issue with the China Shipping project.

The lack of a plan to address Environmental Justice issues is a glaring omission in this NOP. Environmental Justice is a huge issue with the China Shipping project. Once again we must think that this is not just a little accidental omission.

We assert that a NEPA analysis including Environmental Justice issues must be done for this project.

We are disturbed to read in the NOP that "LAHD has also proposed that certain mitigation measures be reviewed and possibly revised based on feasibility, effectiveness, *and other factors.*" (Italics ours) Exactly what "other factors" is POLA talking about here?! "other factors" is so vague and undefined as to be totally non-informational to an apprehensive public and decision makers. Is the Port trying to hide something else? After all, "other factors" could be things like "We don't want to do it." "China Shipping won't do it." or even "The voices in our heads told us not to do it"! This crucial term ("other factors") is that vague and totally non-informational. Given the overall situation this vagueness can not be accidental.

We insist that these mysterious "other factors" mentioned in multiple places in the NOP be fully defined and explained in a revised and re-circulated NOP. Otherwise there is no transparency in this proposal.

In the Project Description (Section 2.0), the text states there are 11 measures that haven't been fully implemented, but Table 1 shows 12 measures to be reviewed. Later 2 more additional measures not mentioned in Table 1 (TRANS 3 and TRANS 2) are mentioned for review giving a total of 14 measures to be reviewed! Something seems wrong here. Please correct the NOP and re-circulate it.

Lets be clear about what this "Project" really is: This is an effort by POLA and China Shipping to evade, avoid and escape from the promises they made to a public that trusted them to keep their promises.

Any analysis performed for this Proposed Project must be made in reference to the latest Federal and State Air Quality standards, not those that were in existence in 2008.

Any changes, modifications or downright discarding of mitigation measures promised in the 2008 FEIR/FEIS will have to be made in accordance with the China Shipping Amended Stipulated Judgment, the Court decision that allowed China Shipping to go forward. If the Port proposes to change the terms of the Stipulated Judgment, Court approval will be necessary.

Please do not try to "modify" mitigation measures by taking them away.

If new mitigation measures must be considered, these must have at least equivalent or greater benefit than the benefits that were supposed to accrue from the original mitigation measure promised in the China Shipping FEIR and ASJ Court decision.

Mitigation Measure AQ 22 has been triggered and must be complied with. Because a lease amendment and /or facility modification is now contemplated, measure AQ-22 requires China Shipping "to review, in terms of feasibility, any Port-identified or other new emissions technology, and report to the Port. Such technology feasibility reviews *shall take place at the time of the Port's consideration of any lease amendment or facility modification for the Berth 97-109 property.* If the technology is determined by the *Port* to be feasible in terms of cost, technical and operational feasibility, the tenant shall work with the Port to implement such technology." (Italics ours)
Additionally MM A-22 mandates that as a condition for the Port to give China Shipping a lease ("permit"), China Shipping "shall implement no less frequently than once every 7 years following the effective date of the permit, new air quality technological advancements subject to mutual agreement on operational feasibility and cost sharing, which shall not be unreasonably withheld." There have been major advances in zero and low emission technology since 2008. Seven years will have passed by December 2015. So where is this implementation or discussion thereof ? Adherence to MM AQ-22 must be a part of this Project.

The two maps provided with the NOP are so vague and general as to be non-informational to any member of the public or decision maker who is not already intimately knowledgeable about the location and layout of the China Shipping Terminal. Much more detailed maps need to be provided in the Revised and Re-circulated NOP.

The public and its decision makers deserve to know how much excess of the various air pollutants have been released into the South Coast Air Basin. The public also needs to know how much damage, how many lives have been lost, how many people's health have affected by these excess pollutants. The creation of an independent expert commission to do this would go a long way to restore the Port's badly tarnished credibility.

Epidemiologists, including many local researchers at the Keck USC School of Medicine and The UCLA School of Medicine have long demonstrated that every increase in air pollution in our area has adverse health effects.

We submit as part of the Public Record "Exhibit B", a document titled "Health Effects of Diesel Exhaust Air Pollution" August 28, 2003 Prepared for The Environmental; Subcommittee Air Quality Group of the Port of Los Angeles Community Advisory Committee. This reviews the identified Health Effects including cancer, heart attacks, strokes ,elevations in all cause mortality, chronic obstructive pulmonary disease, asthma, serious birth defects and others.

We assert that the public, especially the public living near the Port or in The Diesel Death Zone (That portion of the South Coast Air basin that is downwind of the twin Pots Of LA and Long Beach) has been materially harmed by POLA from these excess, hidden air emissions created by allowing China Shipping to ignore the approved mitigation measures.. The Port needs to make restitution to the public for allowing excess emissions to occur.

Many of the citizens living in the Diesel Death Zone are minorities, persons of color, and/or economically disadvantaged. The burden of the Air Emissions related to the China Shipping project and other Port projects falls disproportionately on these citizens, creating an environmental justice issue.

A Health Impact Assessment needs to be done for this Project, otherwise the DSEIR/DSEIS will be non-informational to the public and decision makers.

With regard to the Mitigation Measures (MMs) listed in the NOP:

MM AQ-9 (alternative marine power) The DSEIR needs to take into account the current CARB regulation on shore power as well as the AMP setup in Long Beach. If more AMP is feasible in Long Beach, it is feasible for Los Angeles.
MM AQ-10 (40 nm vessel speed reduction) This is feasible at Port of Long Beach. Apparently some better enforcement mechanism is needed at POLA to ensure 100% compliance with the VSRP. We make the following suggestion.

The data is available real time from the Marine Exchange as to which ships are exceeding the speed limit and where they have done this. Finding out which ship is in violation is feasible. When a ship in violation arrives near the POLA they need to be told they have violated the rule and are immediately to be penalized.

POLA has the ability to enforce penalties through its Wharfingers Division.

It could work as follows: First Violation- a warning.

Second Violation-the ship has to anchor outside the breakwater for 24 hours. i.e. it does not get to come into the dock for a day!

Third Violation- Anchor off for 48 hours

Fourth Violation Anchor off for 72 hours

Fifth Violation-the ship is banned from the port for a year.

So, if some hot-shot captain comes blasting into the Port, they don't get to dock immediately just because they hot near the Port entrance quickly and they face a serious delay problem. Note that the penalties would accumulate for the *ship.*

This would only have to happen once or twice to get the ship operators to come in to 100% compliance. This would be meaningful enforcement.

MM AQ-15 ((alternative fuel yard tractors) The Port of Long Beach Middle Harbor Project has all-electric yard tractors.

MM AQ-16 (Yard equipment at Berth 121-131 on-dock Railyard) Does all equipment Meet USEP Tier 4 non-road engine standards. Was this achieved by the end of 2014 as called for in the MM? If not The port should compare with the SCIG proposal and proceed in accordance with the AQMD Port Backstop Rule. We note that POLA fought aggressively against this backstop rule claiming it wasn't necessary. The present situation proves that assertion to be non-factual. This is more damage to Port credibility.

MM AQ-17 See comments on MM AQ-15, and AQ-16

MM AQ-20 (LNG powered drayage trucks) The 1000 or so LNG trucks now serving POLA demonstrate the feasibility of these trucks.

If the Port wants to say that what Mayor Garcetti told the public in regard to the feasibility of these trucks in a press conference in early 2015 is NOT TRUE, it should just say so.

MM AQ-23 (Thoughput tracking for verifying EIR assumptions) Given that present day truth-on-the-ground in regard to the mitigation measures and all mitigation monitoring is in a total state of disarray, we need more and public throughput tracking. Is POLA trying to hide something here? Are there some inconvenient facts being covered up?

Is an effort to modify AQ-23 really a disguised effort to get rid of situations that would trigger MM AQ-22?

There has been talk in the Port communities that some containers not being shipped by China Shipping were being moved through the CS Facility. Frankly we doubted this, but in light of the present situation we wonder now if this could be true? If so, are those containers being included in the throughput counts/? Have the resulting emissions been accounted for? Have non-China Shipping ships docked at the CS facility?

More transparency is needed, not less.

To restore public confidence, the Port needs to conduct a full independent third party audit of the existing mitigation measures of every CEQA project at the Port, as well as the Port's emissions inventories from 2008 to the present. Where deficiencies are found they could be remedied.

MM NOI-2 (noise walls and soundproofing) Is the Port trying to get out of its promise to reduce the noise impact on the people living nearby ? Up to date technology needs to be assessed and implemented to reduce noise impact.

TRANS -2, -3,-4-6
We wonder if any of the studies that are alleged to support omitting these Mitigation Measures were done during the recent economic downturn when traffic volume was lower? If these aren't needed at present, why won't they be needed in the future?

The Port made a contract with the Public to build these traffic improvements. We say just honor the contract and build them.

OVERALL: With all of these Mitigation Measure modifications or downright deletions we wonder which of these mysterious, non-defined "*other factors*" will be at work where in the analysis and how?

Thank you for your kind attention to our comments. This letter is not to be construed as a waiver of any rights under the Amended Stipulated Judgment or under federal or state law, including the right to arbitrate and/or litigate compliance with existingChina Shipping mitigation measures, all of which rights are expressly reserved.

Thank you for the opportunity to comment on this Project.

Sincerely,

John G Miller MD FACEP

John G. Miller, M.D. FACEP
President, San Pedro and Peninsula Homeowners Coalition

Ochsner, Lisa

From: Cannon, Chris
Sent: Sunday, October 18, 2015 8:16 PM
To: Ochsner, Lisa
Subject: Fwd: CEQA comments attached
Attachments: China Shipping NOP Comments 10 -2015; ATT00001.htm

Sent from wireless

Begin forwarded message:

> **From:** Miller Terry and John <igornla@cox.net>
> **Date:** October 18, 2015 at 7:50:18 PM PDT
> **To:** <ccannon@portla.org>
> **Cc:** Morgan Wyenn <mwyenn@nrdc.org>, David Pettit <dpettit@nrdc.org>, Kathleen Woodfield <dwgkaw@hotmail.com>, Chuck Hart <det310@juno.com>, Janet Gunter <arriane5@aol.com>, Jesse Marquez <jnm4ej@yahoo.com>, "Frank Anderson" <FBMJET@AOL.COM>, "Peter M. Warren" <pmwarren@cox.net>, June Smith <BURLING102@aol.com>
> **Subject: CEQA comments attached**
>
> Dear Chris,
> Attached are CEQA comments on the NOP of a Draft SIER for Berths 97-109 (China Shipping). I request that you list these comments as my own as well as being those of the San Pedro and Peninsula Homeowners Coalition. I have no way to e-mail Attachments A and B but they are in the packet we deliver by hand and they are both a part of POLA's Public Record.
>
> I add the following CEQA Comment both for myself and the Coalition: We request that a cap on throughput at China Shipping be made until all the previously unreported negative impacts due to failure to implement required measures have been analyzed and fully mitigated.
>
> Thank you,
> John G miller MD FACEP

Ochsner, Lisa

From: Cannon, Chris
Sent: Monday, October 19, 2015 9:35 PM
To: Ochsner, Lisa
Subject: Fwd: CEQA Comments for China Shipping NOP for DSEIR

Sent from wireless

Begin forwarded message:

> **From:** Miller Terry and John <igornla@cox.net>
> **Date:** October 19, 2015 at 4:05:03 PM PDT
> **To:** <ccannon@portla.org>
> **Cc:** Morgan Wyenn <mwyenn@nrdc.org>, David Pettit <dpettit@nrdc.org>, "Janet Gunter" <arriane5@aol.com>, "Peter M. Warren" <pmwarren@cox.net>, Chuck Hart <det310@juno.com>, Jesse Marquez <jnm4ej@yahoo.com>, Kathleen Woodfield <dwgkaw@hotmail.com>
> **Subject: CEQA Comments for China Shipping NOP for DSEIR**
>
> Hello Chris,
> I turned in the written copies of the comments from myself and The San Pedro and Peninsula Homeowners Coalition to the Environmental Department around noon today. I gave them to Chris Foley who seemed to be the only person there. He put them on Laura Masterson's (?) chair in her office saying she is the "CEQA Person."
>
> We have some further CEQA Comments: The document we submitted as Attachment A "Review of Previous Environmental Documents" demonstrates a long term pattern of unlawful behavior by the Port of Los Angeles. It demonstrates many instances where CEQA and other environmental laws were not followed. Overall this constitutes a pattern of evasion , avoidance and neglect toward the ports legal and environmental responsibilities.
>
> POLA has over the years sought to say that "the things that were done back then were OK at the time." But that argument doesn't fly because the things that were done then and the omissions that occurred were illegal at the time they occurred.
>
> Further, over the last decade members of POLA's Environmental Dept. have have told me confidentially that "We would have done a lot more for the environment, but SEnior Port Management wouldn't let us." They expressed regret over this.
>
> I feel regret that it now appears we are again in a time when the only way the public can communicate with the Port is via the Courts. This is a direct result of the dissolution of the Port Community Advisory Committee. If that group were still in existence we would have been discussing the present problem collaboratively years ago and working collaboratively to resolve it. An uneasy but very real collaborative detente had been established between the Port and the Community by the PCAC.

The Neighborhood Councils are not a substitute for the PCAC, as they are dealing with many other issues and are not specifically focused on the Port. Also few of their members have any real Port related expertise. The Port's insistence that the Neighborhood Councils could do PCAC's job reveals a cynical effort to dis-enfranchise a concerned public.

Thank you for your kind attention to these comments which must be part of the Public Record on this matter.

John G Miller MD FACEP

Ochsner, Lisa

From: James Allen <james@randomlengthsnews.com>
Sent: Thursday, October 15, 2015 9:31 AM
To: Ceqacomments
Subject: response to NOP China Shipping SEIR

China Shipping NOP and the Port of Los Angeles' Failed Mitigations
Draft Supplemental EIR admits to lack of compliance with legal settlement.
By James Preston Allen, Publisher

The Port of Los Angeles likes to call itself "America's premier port" and claim they are strongly committed to developing innovative strategic and sustainable operations. It likes to call itself the model of "green port technology" even as it facilitates some $290 billion in trade per years as of 2014. Clearly POLA and the Port of Long Beach are the largest most productive ports in the nation. Together they are also the single highest producing source of air pollution in the entire Los Angeles basin.

What is little remembered is the lawsuit filed by attorneys Gail Ruderman Feuer (the wife on the current LA City Attorney) and Julie Masters of the Natural Resources District Council on behalf of several harbor area activists against the Port's China Shipping EIR 13 years ago—a lawsuit that resulted in a $65 million settlement.

Documented in the Amended Settlement Judgment section of the decision is a long list of environmental, cultural and aesthetic mitigations to be accomplished and reported on by both POLA and China Shipping. They have failed to do so since 2011.

The California Court of Appeal unanimously ruled in the NRDC's favor in this case, finding that the City violated the California Environmental Quality Act (CEQA) in failing to address "any site-specific environmental issues related to the China Shipping project."

As part of its decision, the court stayed a number of China Shipping terminal improvements including: the last 200 feet of the first wharf, erection and operation of four 16-story cranes, operation of the first wharf, and construction of the later phases of the project, until the Port and City prepare an environmental review of the project's impacts in full compliance with CEQA.

Compliance with this judgment was to be reported at least annually in the Mitigation Monitoring and Reporting Program (MMRPs).

The port says that it has made great strides in meeting its clean air goals and standards, yet after this newspaper filed a California Public Records Act in September of this year, it was revealed that the port has failed to produce any MMRPs dated later than April 2011. So it may be impossible for them to certify these cleaner air standards.

Curiously, this curtailment of the MMRPs is around the time that the port under the leadership of Geraldine Knatz disbanded the Port Community Advisory Committee (PCAC), which after the China Shipping settlement was used to oversee and inform the public as to the progress of port mitigation on this and other terminal operations.

Without the pressure of public oversight, the port obviously failed to perform its mandatory reporting. The port continues to deny the relevance of or need for any public oversight and has preferred to hold close door meetings with neighborhood council presidents, local chamber of commerce directors and their plus one guests. That plan has clearly backfired on them, as a PCAC board would have clearly caught their non-compliance much earlier and brought it to the attention of the Harbor Commission.

It has also been revealed that the port failed to include the court ordered mitigation and reporting requirements during their lease renegotiations with the China Shipping Company over berth 97-109. Now in the current Notice of Preparation in the Supplemental Environmental Impact Report (SEIR), the port is claiming that these mitigation and reporting requirements are "infeasible".

The port is clearly at fault here and now they are attempting to backtrack and cover up the evidence of their incompliance. Why these mitigations weren't written into a long-term lease in the beginning is anyone's guess at this point. Ever since the port responded to my public records request and issued a Notice of Preparation, the port has instituted a gag order preventing staff or anyone else at the port from speaking to the press.

Part of the problem is that the port self certifies its own environmental impact reports. This has historically been a problem here, since their report are rarely subject to critical review. And in the absence of the PCAC, there's scant public oversight on compliance.

What is even worse is that the port has only given the public twelve days between the Oct. 7 public scoping meeting and its arbitrary October 19 deadline to respond to the SEIR. This is hardly enough time for the neighborhood councils, public agencies or the NRDC to respond. Clearly that deadline needs to be extended by 120 days.

The current rework of the SEIR that should concern everyone is that the port is backing off a list of critical environmental goals that include: greenhouse emissions, air quality, transportation/traffic, noise pollution and something called "mandatory findings of significance".

Of these, the air quality and transportation categories are probably the most immediate concerns to area residents, even though there is both a state and national mandate to combat greenhouse gas emissions to reduce global warming.

Under the air quality section of the NOP, three of the five issues raised were marked as "Potentially significant impact." These include: full compliance with Alternative Marine Power (electric plug in), vessel speed reduction; liquefied petroleum gas powered yard tractors and liquefied natural gas powered drayage trucks and emission standards for berths 121-131 and 97-109.

The failure to comply with the original EIR means that not only dirtier air quality for the seven communities surrounding the port and for the workers in the harbor but has an even harsher consequence for those neighborhoods that directly abut the port.

Because of the missing Mitigation Monitoring reports it is not entirely clear exactly what mitigations the port has fully accomplished and what they have not, for instance what is the status on these issues?:

> Traffic Mitigation Plan— The Port is required to complete and implement traffic studies for China Shipping and the entire Port by expedited dates in the agreement.
>
> Port-wide Policy Changes— As part of the settlement, the Port has adopted resolutions setting forth two new Port-wide mitigation policies:
>
> > The Port will require the purchase of only clean, alternative fuel yard tractors for all new leases and "significant" renegotiations of existing leases.
> >
> > The Port will now only grant permits for new or replacement cranes if they are "low-profile," subject to a showing of their feasibility.

Though the port is pinning their argument on the "feasibility" of the requirements, I suspect that the real issue is that China Shipping is trying to wrangle their way out of having to pay any further monies toward mitigation connected to this lease. It is also rumored that China Shipping is going to be merged with another state owned shipping company, COSCO.

The port's failure to meet transportation and traffic mitigations goals is another example of the conflict between the traffic needs of local citizens and the future growth of port operations along with the development of the waterfront, designed to turn the Harbor Area into a tourist attraction.

This failure to meet the transportation and traffic mitigations will only continue to grow as the port regains its pre-2008 container volumes and annual trade surpasses $290 billion per year.

Even with the current expansion of the 110 and 47 freeway connectors, how does the port expect to expand tourist traffic to the San Pedro and Wilmington waterfronts while at the same time exponentially

expanding container traffic on the same freeways? The port makes no effort to address these congestion issues or include the possibility of a light rail connection.

One of the other unforeseen and unaccounted for issues not mitigated in all of this is the eviction of some 50 homeless people living along the parts of the freeways that are currently being expanded. This is the human face of the port's disregard for the consequences of their actions on the surrounding communities or the lives of those impacted by port expansion.

In the end, this Supplemental EIR is an attempt by the Port of Los Angeles to renegotiate the terms of its Amended Settlement Judgment by self-certifying a new one without going back to court or allowing for adequate time for considered response from the communities affected. They are avoiding holding China Shipping accountable for their part in the failure to protect harbor area citizens from further environmental harm.

Gene Seroka, the Executive director of POLA, has claimed that this is a corrective action and is the consequence of the previous administration's failure to act, but much of this would have been avoided with *more not less citizen oversight*, which is one mitigation that should be permanently written into the new Supplemental EIR.

Thank you,
James Preston Allen, Publisher

t 310.519.1442 | f 310.832.1000
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THE PORT OF LOS ANGELES

PUBLIC SCOPING MEETING

OCTOBER 7, 2015

6:00 P.M.

425 SOUTH PALOS VERDES STREET, SAN PEDRO, CALIFORNIA

BOARD ROOM OF THE HARBOR ADMINISTRATION BUILDING

REPORTED BY: CELINDA ALIGADA, C.S.R. 13724

APPEARANCES

Christopher Cannon, Director
Environmental Management Division
Los Angeles Harbor Department

Eugene Seroka, Executive Director,
Los Angeles Harbor Department

PUBLIC COMMENTS:

David Pettit
James Allen Preston

PROCEEDINGS

MR. SEROKA: Good evening. My name is Gene Seroka. I am the executive director of the Port of Los Angeles, and thank you for joining us this evening for the October scoping meeting.

I will begin with some prepared comments, followed by comments from Chris Cannon, to my left, and then we will begin the public process and accept all speaker cards at that time.

We are here to speak to you today about an important issue facing the Port of Los Angeles. As you are aware, the issues involve the China Shipping Container Terminal. Let me start with a few critical points: First, as we go forward with the CEQA process, it is important to keep in mind that based on monitoring by the Port, emission inventories at this terminal location are currently at or below all levels studied in the 2008 Environmental Impact Report.

Secondly, we are faced with an unfortunate issue with delayed implementation of certain mitigation measures. This situation that was inherited by the

current port management team, although we are taking ownership. This must be addressed.

The Board of Harbor Commissioners, along with Los Angeles Mayor Eric Garcetti and I are committed to fixing this issue. We are solutions driven, and we are committed to ensuring that something like this never happens again.

The Port of Los Angeles is the leading seaport in North America in terms of shipping container volume and cargo value, generating more than 830,000 regional jobs and 35 billion in annual wage and tax revenues.

Every Monday through Friday here at the San Pedro Bay Port complex, more than 192,000 workers come and do business at our ports. There are more than 1.1 million jobs associated with this port in the state of California, more than 3.3 million jobs in the United States. It has been stated by our mayor that one in 11 Angelenos has a job related to the Port of Los Angeles.

In the past, the trucks, ships, and trains using the port have been major sources of air emissions, which has added to smog and other poor air quality effects in the area. Looking to change this past pattern, the Port is committed to developing innovative strategic and sustainable operations that benefit the economy as well as the quality of life for

the region and the nation it serves. To do this, the Port has worked very closely with the Port of Long Beach, agencies, citizen's groups, environmental organizations, and other stakeholders in a multi-year, multi-project process to upgrade its facilities, enhance environmental protections and invest in cleaner technology. This included the 2006 Clean Air Action Plan, a comprehensive strategy for reducing port-related air pollution emissions. The Port has also invested hundreds of millions of dollars on clean air innovations in the last decade, including more than $100 million on the highly successful Clean Truck Program, more than $180 million in the Alternative Marine Shore Power Infrastructure.

Already as a result of these efforts, air quality at the port has significantly improved and continues to improve year after year. It is against this backdrop that we will be undertaking this scoping meeting with your participation and input regarding ongoing planning efforts with respect to China's Shipping's Terminal.

China Shipping EIR: In 2008, the Port certified an environmental impact report for China's shipping terminal at berths 97-109. China Shipping has been operating out of the port since year 1999 and is

one of the port's busiest and most critical customers. China Shipping represents approximately 20 percent of the container volume for the Port of Los Angeles, providing high quality and high paying jobs in our community.

The 2008 China Shipping EIR was an ambitious groundbreaking effort by the Port of Los Angeles. The EIR adopted 52 mitigation measures to reduce impacts in the areas such as air quality, noise, and transportation. At the time of the 2008 EIR, many of the measures had never been attempted anywhere in the world. The port believed, at that time, that these measures, although far-reaching, were realistic and could be accomplished within a reasonable timeframe, and many of the mitigation measures have been accomplished to date.

The Port implements its mitigation measures by including them in leases with its tenants. The Port engaged in an extensive negotiation process with China Shipping to amend its existing lease to the terminal to include these new mitigation measures but never entered into an amended permit incorporating those mitigation measures.

Over the course of this lengthy negotiation process, it became apparent that there were

technological, economic, and operational challenges that suggest some of the adopted mitigation measures are infeasible. Based on this information, the Port is preparing a supplement EIR that identifies and analyzes the potential environmental impacts of possible changes in the mitigation measures based on the feasibility of some of the mitigation measures, the availability of alternative technologies and other factors.

As described in the Notice of Preparation, these measures include the requirements for 100 percent of vessels to use alternative marine power, 100 percent compliance with the 40 Nautical-Mile Vessel Speed Reduction Program, LPG fueled yard tractors and L&G power drayage trucks in addition to emission standards for all yard equipment.

While this is ongoing, the Port continues to monitor conditions at the terminal. Most of the mitigation measures have been completed or will be completed within the time period for implementation.

Indeed, the Port has invested more than $80 million in community mitigation measures at the China Shipping Terminal. As I indicated before, but worth mentioning again, the Port learned through its own analysis that emissions for the past few years at China's Shipping's terminal have been below that which

was predicted in the 2008 EIR. This is due to some overriding circumstances with economic value and China Shipping's operations, that in comparison to what was predicted from a volume standpoint in the EIR, and the port's efforts to reduce emissions port-wide.

Since the Port adopted the Clean Air Action Plan in 2006, great strides have been created cutting harmful port-related emissions. Due to these successes, emissions level associated with marine goods movement activities are often below levels predicted in past environmental documents.

The Port is committed to ensuring that feasible mitigation measures are adopted and implemented for China's Shipping's terminal. A top priority of the Port is achieving balance between the Port's critical role in ensuring California's economic success and competitiveness in the global economy and its commitment to minimizing environmental impacts. Each project and terminal is a critical component in achieving this balance and the efficient and sustainable operation of the regional good's movement chain. Unworkable and infeasible mitigation does not further this objective and the port will work diligently to address these issues.

Next steps: The port is committed to being a

strong environmental steward, and we would like to do this with your help. As members of the public and stakeholders, by providing input as we go through the supplemental EIR process. The purpose of this supplemental EIR is to inform the Board of Harbor Commissioners with the critical information it needs to consider any proposed changes to the China Shipping mitigation measures. The EIR is a planning document that describes the environmental impacts of the project. It is a problem-solving document. The EIR discloses the impact such as traffic, air quality, or noise, among many other factors, and determines which ones are of significance. The EIR also describes feasible mitigation measures to reduce impacts to an acceptable level.

Tonight's meeting is the first step in this process. The Port will take your comments and input here tonight into account in preparing a supplemental EIR that fully analyzes the potential changes to the mitigation measures and the environmental impacts of such changes.

This is the proper process under CEQA for addressing the need to revisit mitigation measures and will allow the Port to thoroughly and carefully analyze all issues and adopt mitigation measures that can be

successfully implemented. There will be other opportunities to participate and comment on the merits of the proposed changes and the supplemental EIR itself before the Board makes any decision on the mitigation measures.

I will now turn it over to Chris Cannon, Director of Environmental Management, to explain the rest of this meeting, how it will work and what topics will be covered.

Chris.

MR. CANNON: Thank you, Gene. Good evening. This is a pretty sophisticated audience, but I will remind you that we are here to listen. This is a scoping meeting and at scoping meetings we are not going to be taking questions. There is a recorder here and this person is making a record. We will also be taking diligent notes, of course, and we will respond to your comments.

So I'm going to go through a little bit about what the -- let's see, can I do it from here or do I need to get up -- I may have to get up.

MR. SEROKA: Go ahead. No, it's okay.

MR. CANNON: It works?

MR. SEROKA: Yeah.

MR. CANNON: There you go. So to start, the

purpose of CEQA is to provide information about environmental consequences of actions, to identify how to reduce impacts and identify feasible mitigation measures where possible. And most important, I think, is an opportunity for the public to comment on environmental issues.

The purpose of a scoping meeting is to notify the public regarding the Port's plans to prepare a supplemental EIR, to provide information about the proposed project to get public input on scoping content on environmental issues to be looked at, and most important again is that there will be other opportunities for you to participate.

So where we sit is, as you see, the scoping meeting there we've had a Notice of Preparation was released in September, the scoping meeting is now here in October. We anticipate that we will produce a draft supplemental EIR by sometime summer of next year. At that time there will be a public comment period as CEQA provides that the standard time for public comment period is 45 days. And of course there will also be a public meeting and then after that we will receive all comments, both from the public meeting and in writing, and we will respond to those comments to produce a final supplemental EIR and then that will be presented

to the Board Harbor Commissioners sometime in the winter or spring of 2016.

So just briefly, this is the project location. As you can see on the left there it's a broader view. You can see the Port of Los Angeles in the center near the bottom and then to the right you get a sense of the project location. It's in the West Basin area which to the north has Wilmington to the north, San Pedro to the west and south, and then the channel there just to the east. This is a better picture. It shows some of the surrounding land uses as well as the site. I won't go through all the details of the key features of the site, the gate, the backland and the berths, so forth.

So the China Shipping EIR adopted, the final EIR adopted 52 mitigation measures. Most have actually already been completed or are in progress, and those will not be considered in the supplemental document. 11 mitigation measures have not been fully implemented, and China shipping and the Los Angeles Harbor Department are proposing to revise these 11 based on feasibility, effectiveness, availability of alternative technologies and other factors. So these are the 12. There are 11, and then there's a twelfth one. Those of you -- by the way it's kind of interesting -- there are 12 that were actually listed in the Notice of

Preparation, 11 of them are mitigation measures. AQ234 is not a mitigation measure, it's a lease measure. I'll explain that in a moment. The basic issues here are -- some of them are just going to make minor changes to the way we assess compliance. An example of that is the 100 percent amp. The terminal is at 100 percent now, but we're going to evaluate the way we assess compliance, for example, in situations where a ship is damaged or can otherwise has the intent to amp but cannot.

Then there is some that we will evaluate the feasibility of and including the availability of alternative technologies to reduce emissions. Those are the art equipment and the drayage trucks, and then there's another group are just going to receive a technical reevaluation to changes circumstances and that would involve some of the transportation ones there down at the bottom. As know there's have been a lot of, there have been a lot of things that happened in the area as far as new developments and so we will do a reevaluation to determine the impacts associated with those.

Finally as I described, AQ23 is the least or re-opener for changed emissions and supplement throughput, that will also be looked at to determine

how it is affected by other mitigation measures and how it interacts with those, so we anticipate there may be some change there as well.

This is -- the mitigation measures identified for reevaluation are in the following areas: Air, greenhouse gas, noise, transportation. The supplemental will analyze potential impacts of these changes and supplement the 2008 final EIR. The supplemental will not reanalyze other parts of the project that are not being changed.

There we go. So if you have any comments, there are three ways for you to give comments: One, fill out a comment card and those will be brought in front here to Gene. Two, we have an actual card that you could write out your comments if you don't want to stand up and speak them, and third, we have a laptop, an actual comment station where you can go and type in comments of your own on a laptop. So those are the three ways. You can speak, you can write your comments down on a comment card or you can type them into a laptop. The e-mails -- you can e-mail your comments to ceqacomments@portofla.org, and you can certainly mail them in addressed to me at that address. The review period started on September 18th. Comments will be received through October 19th, 2015.

So, again, these are the, this is the procedure, fill out the speaker cards and give them to staff, speakers will be called three at a time in the order that the cards were received. Once called, please line up near the microphone and await being called. Speakers will be given two minutes to speak. All comments are being transcribed by a court reporter, and Spanish translation is available if needed.

So with that, I will turn the meeting back over to Gene Seroka.

MR. SEROKA: Thank you, Chris, and at this time I would ask Mr. Brad Jensen to present me with the speaker cards.

I have been presented with two speaker cards this evening. First, I would like to welcome Mr. David Pettit from the NRDC to be followed by James Allen who is the San Pedro Central Neighborhood Council president.

David.

MR. PETTIT: Thank you and good evening, gentlemen.

MR. SEROKA: Good evening.

MR. PETTIT: I just recently got back from China where I was, my colleagues and I were speaking with Chinese governmental officials about the successes

of the Port of L.A. in reducing emissions and how those might be translated into the Chinese situation and their major ports, and I would not like to have to go back there and say well I take it back and things have actually gone downhill. So I do, we do want to work with you folks to make sure we're going forwards, not backwards.

In terms of a couple -- and I'll be submitting some formal written comments -- but in terms of a couple of things that need to be in the scoping plan. One is, you know, what was feasible in 2008 is not necessarily what's feasible now, and there's a lot of things have changed for the better. One thing I intend to hold up is a model is what's going on with Middle Harbor in Long Beach particularly the way they're moving, proposing to move boxes around inside the facility with all electric driverless trucks. So that set the bar, I think, pretty high when we're talking about the mitigation measure for alternate fuel drayage within the harbor itself.

Secondly, CEQA requires you to look at the consistency of whatever the measures you're thinking of with State and regional laws. As you know SB350 was signed today by the governor. There's the executive order that is really part of that, B3215 I think is the

number. Carb has a sustainable freight strategy, they have a mobile source strategy they've just come out with. They have a climate strategy including short-lived climate pollutants which would include black carbon. So I think that the EIR needs to analyze whatever the measures you attend to change. How those are consistent or nonconsistent with that big statutory framework because we're not, we're not working alone here.

One thing also I think is worth thinking about is in the ESCAPE Project there are as, you know, there are certain requirements for -- it doesn't call out L&G trucks but the emissions are so, the emissions are so low it's really the equivalent of L&G. And one thing to think about is if ESCAPE can we do that, why can't we do that here at China shipping as well?

So thank you for your time tonight. We'll be, as I said, we'll be submitting written comments and hope to work with you folks. Thank you.

MR. CANNON: Thank you, David.

MR. SEROKA: Next up is James Allen. James, welcome this evening.

MR. PRESTON: Greetings, Chris, Gene, members of the community. I'm here this evening to represent the Central San Pedro Neighboring Council and to

basically protest the timeline on which you are planning on amending this particular EIR. Not only does this not comply with the true meaning of advanced notice of neighboring councils, but the amount of time that you're giving for the actual response does not give adequate time for the neighboring council in general and our neighboring council specifically to actually address this document. This is a rather complex document. And what you're planning on doing is changing a core principle on which this Port of Los Angeles has been operating under since the settlement on China Shipping happened some years ago.

Now the important thing here is this: Is that you're trying to convince the community that there are certain things in the amended settlement judgment that are infeasible. Now, it is up to you to convince the community that, in fact, these things are infeasible and not just your way of trying to circumvent the amended settlement judgement. Now it's going to take our community a significant amount of time to assess exactly what this report is saying and for us to get back. So what I'm arguing for here is an extension of at least 30 days, if not 60 days, for the community to actually respond and understand what it is what this report is trying to convince us of.

Now, on the other side of my life I've actually asked for --

MR. JENSEN: Sir, your two minutes are...

MR. PRESTON: I know, but we have until 8 o'clock, right?

MR. CANNON: James, continue but make it quick.

MR. PRESTON: I will. What I would actually ask you to produce are the MMRP's that were stipulated in the amended settlement judgment from 2011 until today, which I believe your department does not have, and I challenge you to produce them. That's my comment.

MR. CANNON: Thank you.

MR. SEROKA: Thank you, James.

Are there any other comments from the public? Okay. Thank you. As Chris mentioned at the outset, we have a number of channels by which the public can comment, offer advice, suggestions, and recommendations. And under the timeline that has been stated here by Chris tonight, we encourage all community members to share with us those areas that we would like to article. If no other from comments from the public we will conclude the scoping meeting.

Thank you all for taking the time to visit

with us this evening. Thank you.

(SCOPING MEETING CONCLUDED)

CERTIFICATION

I, CELINDA ALIGADA, CSR. No. 13724, Certified Shorthand Reporter for the State of California, do hereby certify;

That said proceedings were taken down by me in shorthand at the time and place therein named and were thereafter transcribed by means of computer-aided transcription; and the same is a true, correct and complete transcript of said proceedings.

I further certify that I am not of counsel nor attorney for any of the parties hereto or in any way interested in the events of this cause and that I am not related to any party hereto.

WITNESS my hand this_____day of_____, 2015.

~~CELINDA ALIGADA C.S.R. No. 13724~~

Northwest San Pedro Neighborhood Council

"Your Community Voice"

October 13, 2015

Christopher Cannon
Director of Environmental Management
City of Los Angeles Harbor Department
425 S. Palos Verdes Street
San Pedro, CA 90731

Subject: **Comments of the Northwest San Pedro Neighborhood Council Board To The Supplemental Environmental Impact Report For Berths 97 -109 (China Shipping) Container Terminal Project Notice of Preparation (NOP)**

Mr. Cannon:

We, the elected Board of the Northwest San Pedro Neighborhood Council, provide the comments below to the Berth 97- 109 Container Terminal Notice of Preparation (NOP). We understand that this Supplemental Environmental Impact Report is being prepared to reevaluate 12 mitigation measures from the original EIR that have not been implemented (Seven Air Quality, One Noise, Four transportation). We appreciate the opportunity to provide these comments and looking forward to them being addressed in the Environmental Impact Report for the project.

Comments

1. The Project should meet and exceed the requirements of the San Pedro Bay Clean Air Action Plan, and No Net Increase Policy adopted by the Board of Harbor Commissioners. If the Project cannot meet and exceed these requirements, then the Port should provide mitigation elsewhere to ensure no net increase in emissions.

2. The DEIR/DEIS should address and evaluate truck traffic from the proposed project west of the 110 Freeway. Given the location of the Port of Los Angeles Distribution Center on North Gaffey Street at Westmont and the number of trucks that currently use the facility; we believe that the DEIR/DEIS should reflect traffic counts on North Gaffey from Summerland to Anaheim.

3. The expansion of Berth 97 – 109 container terminal facilities has resulted in visual impacts from operating lights at the facility. We request that as part of this Supplemental EIR review of mitigation measures that aesthetics, specifically impacts from lights at night, be evaluated.

4. That the DEIR/DIES and lease provisions for the Berth 302-306 container project should incorporate a specific schedule for truck fleet modernization.

5. The approved EIR document should include review and application of new technology and regulations to ensure the highest level of emission standards is being applied to equipment operating at the facility. As part of the project operation post-project validation of the emission reductions should be done. Formal review's should be done to evaluate the state of the emissions control industry and how new technologies and devices could be applied to the China Shipping project in order to reduce emissions.

6. The development and expansion of Berth 97 – 109 container terminal facilities has added to the visual impact of utility poles and additional "cross-arms" on existing poles. This impact should be evaluated as part the EIR development. Potential mitigation of underground of utilities underground along Gibson and Harry Bridges should be evaluated.

7. The boundary between the project area and the adjacent streets is undeveloped in the Knoll Hill area. As part of the EIR evaluation the completion of the bike / walking path from the Cruise Terminal to intersection of Pacific and Harbor Blvd should be evaluated to improve public safety and reduce car/truck conflicts with pedestrians and bicyclists. A schedule for the completion of this segment of street should be included in the EIR47 project.

8. The transportation improvements within the approved EIR should be retained and revaluated as conditions change and the China Shipping Terminal expands and reaches capacity.

9. As part of the transportation review the use of the rail track along the China Shipping Terminal should be evaluated for possible use as part of the METRO regional transportation network.

10. To account for unmitigated impacts from emissions and air quality the Port should include mitigations related to reducing emissions through the use of public transportation. This could be accomplished by including the use of the Red Car in the future as a mitigation for emissions.

11. Operations of the China Shipping Terminal have resulted in increased noise. As part of the EIR evaluation the Port should compare current noise readings to the baseline readings recorded in nearby residential areas of San Pedro. Mitigations to reduce noise impacts off the China Shipping property should be included in the supplemental EIR to reduce the impacts below baseline.

12. Operations of the China Shipping Terminal have resulted in increased visual blight from the cranes. Please consider as a mitigation measure that the Port adopt a color scheme for the cranes that blends with the horizon, and require that it be used for any new cranes in the port and on all existing cranes as they are repainted.

13. As part of the impacts of increased truck and rail traffic, the Port should examine the increased potential for truck and rail accidents, particularly as they relate to the transportation and storage of hazardous materials, including the location/s where rail tankers are stored.

Adopted by the Northwest San Pedro Neighborhood Council on October 12th, 2015.

Sincerely,

R. Regalado

Ray Regalado, President
On behalf of the Northwest San Pedro Neighborhood Council

cc: Harbor Commission, Councilman Buscaino, ceqacomments@pola.org

Ochsner, Lisa

From:	Jesse Marquez <jnm4ej@yahoo.com>
Sent:	Monday, October 19, 2015 2:56 PM
To:	Ceqacomments; Cannon, Chris
Cc:	Ricardo Pulido; Drew Wood; Pastor Carrillo; Robina Suwol; Mitzi Shpak; Cynthia Babich; Shabaka Heru; Miller Terry and John; Jesse Marquez
Subject:	Submission of Public Comments on the NOP Draft Supplemental EIR for Berths 97-109 China Shipping Container Terminal Project
Attachments:	CFASE et al Draft Public Comments - Port of LA China Shipping Container Terminal NOP Draft Supplemental EIR.docx

October 19, 2015

Los Angeles City Mayor
Los Angeles City Council
Board of Harbor Commissioners (BOHC)
Port of Los Angeles (POLA)
Los Angeles Harbor Department
Christopher Cannon
Director of Environmental Management
Environmental Management Division
425 S. Palos Verde St., San Pedro, CA 90733-0151
ccannon@portla.org
310-732-3675 Office
310-547-4643 Fax
Lisa Ochsner
Environmental Manager
ceqacomments@portla.org

Re: Notice of Preparation of a Draft Supplemental EIR for Berths 97-109 (China Shipping) Container Terminal Project

Su: Submission of Public Comments

The Coalition For A Safe Environment et al co-signature organizations and individual respectfully file these Public Comments on behalf of our members, organization affiliations and the public regarding the Notice of Preparation of a Draft Supplemental EIR for Berths 97-109 (China Shipping) Container Terminal Project.

CFASE et al claim that its members, organization affiliations and the public's life, health, welfare, safety, public mobility, public transportation infrastructure, economic resources, community sustainability, quality of life, environment, wildlife and wildlife habitats are negatively and irreversibly impacted by the China Shipping Container Terminal Project operations and failure to comply with all mitigation measure requirements and lease agreement terms and conditions.

See attached letter.

Respectfully Submitted,

Jesse N. Marquez
Executive Director
Coalition For A Safe Environment

Coalition For A Safe Environment
Community Dreams
California Kids IAQ
Pastor Alfred Carrillo
California Safe Schools
Action Now
Del Amo Action Committee
Society For Positive Action
San Pedro & Peninsula Homeowners Coalition

October 19, 2015

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CFASE et al claim that its members, organization affiliations and the public's life, health, welfare, safety, public mobility, public transportation infrastructure, economic resources, community sustainability, quality of life, environment, wildlife and wildlife habitats are negatively and irreversibly impacted by the China Shipping Container Terminal Project operations and failure to comply with all mitigation measure requirements, Amended Stipulated Judgment and Port Lease Agreement terms and conditions.

1. **Request For Extension of Public Comment Period**

   On behalf of the Publics' Best Interests we request a 90 day Public Comment Period Extension due to the gravity of the Port of Los Angeles failure to comply with the Final EIR Mitigation and Lease Agreements.

2. **Notification That The Proposed Draft Supplemental EIR Is Not The Proper Legal CEQA Document And It Should Be A Subsequent EIR and Must Also Comply With NEPA**

   On behalf of the Publics' Best Interests we declare that a Subsequent EIR is the appropriate and proper legal CEQA document for the proposed reasons and actions stated in the NOP and for the reasons and requests stated in our public comments.

   Subsequent EIR (Definition)

   When an EIR has been certified or a negative declaration adopted for a project, no subsequent EIR shall be prepared for that project unless the lead agency determines, based on substantial evidence in the light of the whole record, one or more of the following:

   - Substantial changes are proposed in the project which will require major revisions of the previous EIR or ND due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
   - Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or ND due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
   - New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the ND was adopted, shows any of the following:
     - The project will have one or more significant effects not discussed in the previous EIR or ND;
     - Significant effects previously examined will be substantially more severe than shown in the previous EIR;
     - Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or
     - Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

   If changes to a project or its circumstances occur, or new information becomes available after adoption of a ND, the lead agency shall prepare a subsequent EIR if required under [14 CCR Section 15162(a)]. Otherwise, the lead agency shall determine whether to prepare a subsequent negative declaration or an addendum, or no further documentation.

   A subsequent EIR or subsequent ND shall be given the same notice and public review as required under CEQA Guidelines Section 15072 or Section 15087. A subsequent EIR or ND shall state where the previous documents are available and may be reviewed.

On behalf of the Publics' Best Interests we wish to advise and notify the Port of Los Angeles that the proposed NOP for a DSEIR must also comply with NEPA and must also be a US Army Corp of Engineers DSEIS.

3. **Request That The Los Angeles City Mayor & Los Angeles City Council Impose Disciplinary Actions Against Port of Los Angeles Executive Management & Protections To Prevent Future Violations of Legal Requirements**

   It is appalling and disturbing that we the public have just now been informed of the Port of Los Angeles illegal activity and violation of the Breach of Fiduciary Duties, Public Trust Doctrine, Public Records Act, China Shipping Terminal FEIR, Mitigation Measures, Lease Agreement Amended Stipulated Judgment and CEQA law.

   On behalf of the Public's Best Interests we request that the Los Angeles City Mayor & Los Angeles City Council Impose Disciplinary Actions Against Port of Los Angeles Executive Management for their illegal actions and violations of the Breach of Fiduciary Duties, Public Trust Doctrine, Public Records Act, China Shipping Terminal FEIR, Mitigation Measures, Lease Agreement and CEQA law (Also referred to as Public Policies in this document).

   We request that the Los Angeles City Mayor & Los Angeles City Council immediately adopt new policies, procedures and safeguards to prevent any future Port of Los Angeles contractual and public policy violations.

   We further request that all Port of Los Angeles projects with current mitigation programs and measures be reviewed by an independent 3rd party Auditor to verify legal compliance to all EIR and Lease Agreement requirements.

4. **Request That The NOP Be Rewritten To Include The Specific China Shipping Mitigation Changes**

   On behalf of the Public's Best Interests we request that the NOP Section 2.0 Description of the Proposed Project and Section 3.0 Environmental Issues, include the letter or correspondence that China Shipping provided to the Port of Los Angeles regarding the POLA reference in the NOP, "China Shipping has requested that certain mitigation measures that were analyzed in the FEIS/FEIR (USACE and LAHD 2008) be reviewed and possibly revised."

   The public cannot comment on the NOP or make recommendations for Draft SEIR/Draft SEIS without knowing the exact details of their request. The information stated in NOP Section 2 & 3 does not provide this information.

5. **Request That The NOP Be Rewritten To Include The LAHD Proposed Mitigation Measure Changes**

   On behalf of the Public's Best Interests we request that the NOP Section 2.0 Description of the Proposed Project and Section 3.0 Environmental Issues include detailed information referenced in the NOP statement, "LAHD has also proposed that certain mitigation measures be reviewed and possibly revised based on feasibility, effectiveness, and other factors."

The public cannot comment on the NOP or make recommendations for the Draft SEIR/Draft SEIS without knowing the exact details of the LAHD statement. The ports reference to other factors is unacceptable, we request that the Port state and clearly define all factors. The information stated in NOP Section 2 & 3 does not provide this information.

6. **Request That An Independent 3rd Party Be Contracted For Administrating The Mitigation Monitoring and Reporting Program (MMRP)**

   On behalf of the Public's Best Interests we request that an Independent 3rd Party be immediately contracted for Administrating the China Shipping Terminal Mitigation Monitoring and Reporting Program (MMRP).

7. **Request That The DSEIR/DSEIS Include Penalties & Sanctions For Failing To Comply With Legal Requirements**

   On behalf of the Public's Best Interests we request that the DSEIR/DSEIS include a matrix of Penalties and Sanctions for failing to comply with the China Shipping Terminal Final EIR, Mitigation Monitoring and Reporting Program (MMRP), Amended Stipulated Judgment (ASJ), Port Lease Agreement and CEQA law.

8. **Request That The DSEIR/DSEIS Be Required To Include All Current Feasible Mitigation Measures**

   On behalf of the Public's Best Interests we request that the DSEIR/DSEIS update the Final EIR Mitigation Measures to include all current State-of-the-Art Feasible Mitigation Measures.

   We would also like to state for the record that CEQA does not require that a technology proposed for mitigation be certified by any governmental regulatory agency. CEQA requires that a technology be feasible for the proposed application and be available upon completion of the construction of the project. A company can prove that a mitigation technology is feasible by providing independent 3rd party test validation and application demonstration verification, which can include governmental agency participation.

   The Port of Los Angeles repeatedly states that a mitigation technology must be certified by the California Air Resources Board (CARB) for it to be adopted as a mitigation measure which is not true, the Port of Los Angeles has never submitted any comprehensive assessment or evaluation in an EIR to validate it claims that a public proposed mitigation technology was not feasible. It is a fact that the POLA has not included a mitigation technology that was certified by CARB.

   For example, the BNSF SCIG Project Final EIR did not include the Vision Motor Corp Class VIII Tyrano Drayage Truck, which was certified by CARB as a zero emissions truck for sale in the state of California but was still not included in the Final EIR as mitigation measure. It had even passed a BNSF on-site railroad yard testing at their facilities.

   For example, it is a fact that not all China Shipping fleet of ships serving the Port of Los Angeles are retrofitted and able to plug into POLA's AMP electric shorepower. The Advanced Maritime Emissions Control System (AMECS) is the only alternative technology mitigation that can capture over 90% of all ship exhaust emissions from all current size ships visiting the Port of Los

Angeles. It is also a fact that the AMECS technology can captures more emissions than the POLA AMP electric shorepower.

We request that the Advanced Maritime Emissions Control System (AMECS) be included as a feasible China Shipping Terminal Mitigation Measure for China Shipping

We request that Zero Emission Trucks Class VIII, Class VII, Yard Hostlers, Top Picks, Side Picks and Transtainers be included as a feasible China Shipping Terminal Mitigation Measure for China Shipping.

9. Request That The 2008 Emissions Inventory Be Updated To Include Excess Emissions That Were Not Mitigated

On behalf of the Public's Best Interests we request that the DSEIR/DSEIS update the 2008=2015 China Shipping Emissions Inventories to include the illegal excess emissions that were not mitigated due to the failure of the Port of Los Angeles and Chine Shipping Terminal to implement agreed upon mitigation measures.

We further request that an additional Public Health Mitigation Fund be established at a penalty rate of $ 10,000. per metric ton to be given to the Harbor Community Benefit Foundation for public mitigation administration. These funds shall be used exclusively for public health research, with the priority for a conducting a Los Angeles Harbor Community Health Impact Assessment and Public Health Survey.

We further request that the emissions inventory be based on actual emission data from all sources to include the annual increases in emissions due to the aging of equipment and not be based on modeling and assumptions which have now been discovered to have been falsified.

We further request that an independent 3rd party engineering firm be hired to replace the previous consulting firm working on the China Shipping Emissions Inventory and that the previous consulting firm be banned from future Port of Los Angeles contracts.

We further request that an investigation be conducted of the engineering consulting firm (Starcrest) to determine if it knowingly participated in the falsification of emission data.

10. Request That The Supplemental Draft EIR/Draft EIS also Include Information Previously Omitted in The Final EIR/EIS

On behalf of the Publics' Best Interests we request that the Draft SEIR/Draft SEIS include information, assessments and mitigation that were omitted in the Final EIR that were required by CEQA. We request that the following as a minimum be included:

a. Freight Transportation Public Safety & Risk Assessment

On behalf of the Public's Best Interests we request that a Freight Transportation Public Safety & Risk Assessment be included in the SDEIR/SDEIS. The Port of Los Angeles in the certified China Shipping Container Terminal Project EIR failed to contain a Freight Transportation Public & Student Safety & Risk Assessment to identify Train Rail and Truck Transportation Corridors (TRFTC) off-tidelands property. TRFTC's exist throughout the Harbor Environmental Justice

Communities of Wilmington, San Pedro and neighboring cities. TRFTC's have never been identified, inventoried, mapped and assessed to determine the safety and risk to the public and students en route to public and private schools, child care centers, public libraries, public parks, youth recreational facilities, local medical clinics, churches, supermarkets and numerous other destinations.

The public and students must cross railroad tracks, truck routes, sidewalks and bridges which have become major port transportation corridors. The port has failed to provide appropriate mitigation for these yearly increasing public safety dangers and hazards risk impacts.

For example, Port trucks run over corner sidewalks trying to make a right turn from the right lane to a street that was never a built as a major truck route in order to get to container storage yards. There is no warning sign advising residents to take caution. There are no painted yellow lines on the sidewalks for residents to know how far back they should stand and wait.

b. Project Truck Driver Workforce Assessment

On behalf of the Public's Best Interests we request that a Project Truck Driver Workforce Assessment be included in the SDEIR/SDEIS. The Port of Los Angeles in the certified China Shipping Container Terminal Project EIR failed to contain a Project Truck Driver Workforce Assessment to determine the number of truck drivers that would have to be trained and hired over the period of time to meet the China Shipping Container Terminal growth.

The Port of Los Angeles has on numerous occasions recently in 2015 stated to elected officials, the public and media that there was and continues to be a shortage of truck drivers, thus causing the inability of the port and terminals to unload ships on their schedule and in a timely manner. This has caused an increase in toxic ship emissions that were not identified, inventoried and mitigated. This has also caused an increase in freight traffic congestion and freight transportation impacts throughout the Harbor Environmental Justice Communities of Wilmington, San Pedro and neighboring cities that were not identified, inventoried and mitigated.

The Port and Shipping Industry additionally failed to disclose that the primary reason that there is a shortage of truck drivers is because truck drivers refuse to work for minimum wage while big box retailers like Walmart, Kmart, Costco etc, reap hundreds of millions annually in net profits.

The Port of Los Angeles failed to disclose the truth of the inadequacies of the approved project and certified an EIR in identifying all environmental, transportation, public health and public safety impacts.

c. Project Chassis Need Assessment

On behalf of the Public's Best Interests we request that a Project Chassis Need Assessment be included in the SDEIR/SDEIS. The Port of Los Angeles in the certified China Shipping Container Terminal Project EIR failed to contain a Project Chassis Need Assessment to determine the

number of chassis that would be needed over the period of time to meet the China Shipping Container Terminal growth.

The Port of Los Angeles has on numerous occasions (recently in 2015) stated to elected officials, the public and media that there was and continues to be a shortage of chassis, thus causing the inability of the port and terminals to unload ships on their schedule and in a timely manner. This has caused an increase in toxic ship emissions that were not identified, inventoried and mitigated. This has also caused an increase in freight traffic congestion and freight transportation impacts throughout the Harbor Environmental Justice Communities of Wilmington, San Pedro and neighboring cities that were not identified, inventoried and mitigated.

The Port of Los Angeles failed to disclose the truth of the inadequacies of the approved project and certified EIR in identifying all project needs and environmental, transportation, public health and public safety impacts.

d. Project Comprehensive Truck Traffic Route Destination Assessment

On behalf of the Public's Best Interests we request that a Project Comprehensive Truck Traffic Route Destination Assessment be included in the SEIR. The Port of Los Angeles in the certified China Shipping Container Terminal Project EIR failed to contain a Project Comprehensive Truck Traffic Route Destination Assessment to determine all of the truck destinations of the China Shipping Container Terminal.

The Port of Los Angeles failed to include all project truck travel destinations in the Transportation Study:

- On/Off Tidelands Property Container Inspection Facilities
- On/Off Tidelands Property Container Storage Yards, Maintenance & Repair Facilities
- On/Off Tidelands Property Chassis Storage Yards, Maintenance & Repair Facilities
- On/Off Tidelands Property Chassis 40' to 53' Modification & Painting Facilities
- On/Off Tidelands Property TRU Storage Yards, Maintenance & Repair Facilities
- On/Off Tidelands Property Truck Storage Yards, Maintenance & Repair Facilities
- On/Off Tidelands Property Yard Hostler Storage Yards, Maintenance & Repair Facilities
- On/Off Tidelands Property Container Fumigation Facilities
- On/Off Tidelands Property Container Transloading Facilities
- On/Off Tidelands Property Truck Class VIII Fueling Facilities
- On/Off Tidelands Property Truck Yard Hostler Fueling Facilities

This has caused an increase in toxic truck emissions that were not identified, inventoried and mitigated. This has also caused an increase in freight traffic congestion and freight transportation impacts throughout the Harbor Environmental Justice Communities of Wilmington, San Pedro and neighboring cities that were not identified, inventoried and mitigated.

The Port of Los Angeles failed to disclose the truth of the inadequacies of the approved project and certified EIR in identifying all project needs and environmental, transportation, public health and public safety impacts.

e. Project Truck Emissions Inventory Failed to Include All Traffic Route Destinations

The Port of Los Angeles failed to include all project truck emissions from all truck travel destinations in the China Shipping Terminal Final EIR/EIS:

- On/Off Tidelands Property Container Inspection Facilities.
- On/Off Tidelands Property Container Storage Yards, Maintenance & Repair Facilities.
- On/Off Tidelands Property Chassis Storage Yards, Maintenance & Repair Facilities.
- On/Off Tidelands Property Chassis 40' to 53' Modification & Painting Facilities.
- On/Off Tidelands Property TRU Storage Yards, Maintenance & Repair Facilities.
- On/Off Tidelands Property Truck Storage Yards, Maintenance & Repair Facilities.
- On/Off Tidelands Property Truck Detours (Extra driving distance) and Idling (Waiting for accidents to clear-up) at location or through the community due to accidents on bridges and freeways. Which do occur frequently.
- On/Off Tidelands Property Yard Hostler/Top Picks/Side Picks/Transtainers Storage Yards, Maintenance & Repair Facilities.
- On/Off Tidelands Property Container Fumigation Facilities.
- On/Off Tidelands Property Container Transloading Facilities.
- On/Off Tidelands Property Truck Class VIII Fueling Facilities.
- On/Off Tidelands Property Truck Yard Hostler Fueling Facilities.
- On/Off Tidelands Property Truck Emissions from idling waiting for lift bridges to go up and come down. Shuyler Heim Bridge & Badger Bridge.

f. Project Emissions Inventory Failed To Include All Non-Tailpipe & Greenhouse Gas Emissions

The Port of Los Angeles failed to include all project Non-Tailpipe & Greenhouse Gas Emissions in the China Shipping Terminal Final EIR/EIS:

- Ships idling out of Inner Harbor due to lack of trucks, chassis, labor contract negotiations and other reasons.
- Harbor Line Train operation, maintenance & repair.
- On/Off Tidelands Property Truck Air Conditioner Units HFC's which escape during truck usage, maintenance & repair.
  Leakage increases with age.
- On/Off Tidelands Property Truck Air Conditioner Units HFC's which escape when trucks are put out of service. The HFC's are not evacuated before going to junk yards.
- On/Off Tidelands Property Refrigerated Container "Reefer" TRU's HFC's which escape during container usage, maintenance & repair. Leakage increases with age.
- On/Off Tidelands Property Refrigerated Container "Reefer" TRU's HFC's which escape when units are put out of service. The HFC's are not evacuated before going to junk yards.
- Lift Bridges emissions when bridge diesel power generator turns-on and operates when a ship travels under bridges. Shuyler Heim Bridge & Badger Bridge.

- Volatile Organic Compounds (VOCs) and Polycyclic Aromatic Hydrocarbons (PAHs) out-gassing from asphalt & modified bitumen used for China Shipping Terminal streets, parking areas and roof tars.
- Dust (Particulate Matter-PM) from uncovered dirt stored at the China Shipping Terminal and sludge materials dredged and deposited at Consolidated Slip. The Public reported to the South Coast AQMD fugitive emissions from wind storm at the China Shipping Terminal north-end which resulted in an AQMD fugitive dust violation and citation.
- On/Off Tidelands Property Truck, Yard Hostler/Top Picks/Side Picks/Transtainers brake dust, tire rubber and tire metal particles.
- On/Off Tidelands Property release of Methyl Bromide during set-up and fumigation of containers and release of residual fumigants in containers when opened at warehouses and distribution centers.
- On/Off Tidelands Property release of VOC's, PAHs & PM from paints, coatings, sealers and insulation materials used on buildings, railings, structural materials and equipment.
- On/Off Tidelands Property release of PM, Dust and Chips from deteriorating lead paint, coatings and sealers from Containers, Chassis and TRUs at storage yards and scrap metal recycling yards.

g. Project Noise/Ground Vibration Was Underestimated Due To The Failure To Identify All Noise Sources

The Port of Los Angeles failed to include all project noise from all port operations and truck travel destinations, freeways, highways, bridges and special equipment in the China Shipping Terminal Final EIR/EIS:

- On/Off Tidelands Property Container Inspection Facilities.
- On/Off Tidelands Property Container Storage Yards, Maintenance & Repair Facilities.
- On/Off Tidelands Property Chassis Storage Yards, Maintenance & Repair Facilities.
- On/Off Tidelands Property Chassis 40' to 53' Modification & Painting Facilities.
- On/Off Tidelands Property TRU Storage Yards, Maintenance & Repair Facilities.
- On/Off Tidelands Property Truck Storage Yards, Maintenance & Repair Facilities.
- On/Off Tidelands Property Truck Detours (Extra driving distance) and Idling (Waiting for accidents to clear-up) at location or through the community due to accidents on bridges and freeways. Which do occur frequently.
- On/Off Tidelands Property Yard Hostler/Top Picks/Side Picks/Transtainers Storage Yards, Maintenance & Repair Facilities.
- On/Off Tidelands Property Container Fumigation Facilities.
- On/Off Tidelands Property Container Transloading Facilities.
- On/Off Tidelands Property Truck Class VIII Fueling Facilities.
- On/Off Tidelands Property Truck Yard Hostler Fueling Facilities.
- On/Off Tidelands Lift Bridges when bridges go up and down and related sirens. Shuyler Heim Bridge & Badger Bridge.
- On/Off Tidelands Lift Bridges when bridge diesel power generator turns-on and operates when a ship travels under bridges. Shuyler Heim Bridge & Badger Bridge.
- On/Off Tidelands Property Freeways, Highways and Bridges. As a minimum Los Angeles Harbor Freeway I-110, Long Beach Freeway I-710, Terminal Island Freeway 104, Shuyler Heim Bridge & Badger Bridge.

- Port Police, City Police & Coast Guard cars, boats, ships and helicopters

h. Include A Truck Short Hall Destinations Assessment

On behalf of the Public's Best Interests we request that a Truck Short Hall Destinations Assessment be conducted to identify how many Zero Emission Trucks can be phased-in over a short period of time 1-5 years to replace diesel fuel trucks for hauling containers to destinations of less than 5 miles. Reference e. above, the Union Pacific ICTF Terminal and Proposed BNSF SCIG Terminal.

i. Include A Zero Emission Truck Assessment

On behalf of the Public's Best Interests we request that a Zero Emission Truck Assessment be conducted to identify all Zero Emission Truck Manufacturers and truck model availability. We request that Zero Emission Trucks be the # 1 priority for replacing diesel trucks and other petroleum based fuel trucks traveling to and through the Environmental Justice Communities of Wilmington, San Pedro, Harbor City, Carson, West Long Beach, other Port Freight Transportation Corridor Communities, the Union Pacific ICTF Railyard and future BNSF SCIG Railyard.

The Coalition For a Safe Environment has identified as a minimum the following Zero Emission Class VIII Drayage Trucks:

- Transportation Power, Inc. (TransPower), (www.transpowerusa.com) offers a Zero Emissions Class 8 Truck Model TransPower ElecTruck Internatrional ProStar.
- US Hybrid (www.ushybrid.com) offers two Zero Emissions Class 8 Truck Models, eTruck and H2Truck. http://www.ushybrid.com/documents/PDF/2/eTruck.pdf
- BYD Motors, Inc. (www.byd.com) offers a Zero Emissions Class 8 Truck Model J9D.
- BMW Group/SCHERM Group (www.bmwgroup.com) (www.scherm.com) offers a Zero Emissions Class 8 Truck Model Terberg YT202-EV.

j. Include A Near Zero Emission Truck Assessment

On behalf of the Public's Best Interests we request that a Near Zero Emission Truck Assessment be conducted to identify all Near Zero Emission Truck Manufacturers and truck model availability that can haul containers long distance of over 25 miles and up to 500-600 miles.

The Coalition For a Safe Environment has identified as a minimum the following Near Zero Emission Class VIII Drayage Trucks:

- Freightliner Trucks (www.freightolinertrucks.com) offers a Near Zero Emissions Class 8 Truck Model Cascadia 113 Natural Gas Tractor which uses a Cummins Westport ISX12 G Heavy-Duty Natural Gas Engine
- International Trucks (www.internationaltrucks.com) offers a Near Zero Emissions Class 8 Truck Model TRANStar Compressed Natural Gas which uses a CWI ISL-G Natural Gas Engine
- Volvo Trucks (www.volvotrucks.com) offers 2 Near Zero Emissions Class 8 Truck Models Volvo VNM and Volvo VNL which uses a Cummins Westport ISL G or ISX12 G Heavy-Duty Natural Gas Engine.

- Mack Trucks (www.macktrucks.com) offers a Near Zero Emissions Class 8 Truck Model Mack TerraPro which uses a Cummins Westport ISX12 G Heavy-Duty Natural Gas Engine.

k. Include An Environmental Justice Analysis

On behalf of the Public's Best Interests we request that an Environmental Justice Analysis be conducted and included in the Draft SEIR/EIR as a result of the illegal activities and failure to initiate all legally required mitigation measures to protect Environmental Justice Communities and the public.

11. Request Disclosure Of All Documentation & Correspondence Regarding Mitigation Measures & Lease Agreement

On behalf of the Public's Best Interests we request the Port of Los Angeles and China Shipping release to the public all Documentation, Correspondence, Waivers, Inter-Department Memos, Notes and Text Messages regarding Mitigation Measures & the Lease Agreement.

12. Request Disclosure Of All Non-China Shipping Containers Now Being Imported & Transported

We are now aware that other foreign companies and Port of Los Angeles terminals such as Yang Ming a Chinese company and UASC United Arab Shipping Company are using the China Shipping Terminal which was not included or approved in the China Shipping Terminal Final EIR/EIS, Mitigation Measures and Port Lease Agreement.

We request that a full investigation be initiated to disclose why these two companies were not included in the Final EIR/EIS, Mitigation Measures and Port Lease Agreement and whether they have been included in all project assessments and mitigation.

13. Request The Suspension Of Christopher Cannon, Director of Environmental Management

On behalf of the Public's Best Interests we request the suspension of Christopher Cannon, Director of Environmental Management, all staff and consultant contractors working on the China Shipping Terminal Project EIR for their:

a. Failure to timely disclose to the public that the Port of Los Angeles had failed to comply with the China Shipping EIR Mitigation Terms & Conditions, Amended Stipulated Judgment and Lease Agreement.
b. Failure to timely disclose to the Port Executive Director and Board of Harbor Commissioners that the Port of Los Angeles had failed to comply with the China Shipping EIR Mitigation Terms & Conditions and Lease Agreement.
c. Failure to timely disclose to the Los Angeles City Attorney that the Port of Los Angeles had failed to comply with the China Shipping EIR Mitigation Terms & Conditions and Lease Agreement.
d. Failure to immediately initiate corrective action and compliance actions.

14. Request The Suspension Of Janna Sidley, General Counsel Harbor Division - Los Angeles City Attorney

On behalf of the Public's Best Interests we request the suspension of Janna Sidley, General Counsel Harbor Division - Los Angeles City Attorney and all legal staff assigned to the China Shipping Terminal Project EIR for their:

e. Failure to timely disclose to the public that the Port of Los Angeles had failed to comply with the China Shipping EIR Mitigation Terms & Conditions, Amended Stipulated Judgment and Lease Agreement.
f. Failure to timely disclose to the Port Executive Director and Board of Harbor Commissioners that the Port of Los Angeles had failed to comply with the China Shipping EIR Mitigation Terms & Conditions and Lease Agreement.
g. Failure to timely disclose to the Los Angeles City Attorney that the Port of Los Angeles had failed to comply with the China Shipping EIR Mitigation Terms & Conditions and Lease Agreement.
h. Failure to immediately initiate legal enforcement, corrective action and disciplinary actions.
i. Intentional provide illegal and unprofessional advisement to Port of Los Angeles staff to not disclose information.

It was already known to the new City Attorney, Mayor, Los Angeles City Council, All of the City of Los Angeles and world that the previous Port of Los Angeles General Counsel Thomas Russel had illegally approved the China Shipping Terminal Project to proceed construction without an approved Environmental Impact Report as required by law under the California Environmental Quality Act (CEQA) which caused the Port of Los Angeles and City of Los Angeles to lose a CEQA in court.

It was also known by the previous executive officer and port management that CEQA required an EIR for all major projects, yet they failed to initiate individual actions to comply with CEQA or bring to the attention of the City Attorney, City Mayor and City Council of suspected illegal and improper actions.

15. Request The Los Angeles City Mayor And Los Angeles City Council Take Disciplinary Action Against The City Attorney

On behalf of the Public's Best Interests we request that the Los Angeles City Mayor and Los Angeles City Council take disciplinary action against the City Attorney for his failure and negligence to provide Harbor Department over-site, require periodic mitigation and lease contract compliance reporting, independent auditing and other appropriate administrative actions

The new City Attorney should have required new reporting protocols and auditing mechanisms to assure compliance to all CEQA and NEPA legal requirements and to assure public confidence.

The new City Attorney was aware of the China Shipping Terminal Project, the CEQA lawsuit and Port of Los Angeles and City of Los Angeles CEQA court settlement.

The failure of the City Attorney to do this, has now resulted in five (5) new CEQA lawsuits filed against the Port of Los Angeles and City of Los Angeles on the Port of Los Angeles Board of

Harbor Commissioners approved BNSF SCIG Project and certified Final EIR, with the primary issues of contention being inadequate mitigation.

16. Request The Reestablishment of The Port Community Advisory Committee (PCAC)

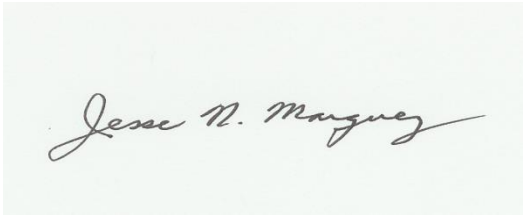
On behalf of the Public's Best Interests we request the Reestablishment of The Port Community Advisory Committee (PCAC), supporting Staff and Budget, however, with membership restricted to members of the public and organizations who have no conflict of interests representing: homeowner associations, environmental justice organizations, environmental organizations, community organizations, athletic organizations, faith based organizations, public health organizations, academic institutions but not limited too.

The failure to provide the public, appointed and elected officials the truth and to be transparent in all business activities and legal requirements justifies the Reestablishment of The Port Community Advisory Committee (PCAC), supporting Staff and Budget.

The Coalition For A Safe Environment et al co-signature organizations and individual respectfully file these Public Comments on behalf of our members, organization affiliations and the public and request that all actions requested herein be accepted and included in the Draft Supplemental EIR/EIS.

Jesse N. Marquez is the designated contact person for all co-signatories organizations and individual for all future correspondence, information, questions, hearings and meetings. All co-signatories and individual reserve their rights to participate in all future meetings, discussion, actions, mediation and negotiations.

Respectfully Submitted



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Hagner, Dennis

From: SoCal Environmental Justice Alliance <socaleja@gmail.com>
Sent: Monday, October 12, 2015 6:25 PM
To: Ceqacomments
Subject: Berths 97-109 [China Shipping] Container Terminal Project Supplemental EIR
Attachments: SCEJA Berths 97-109 [China Shipping] Container Terminal Project NOP Supplemental EIR Comments.pdf

To Whom it may Concern:

Please find attached comments for the record regarding the NOP for a Supplemental EIR for the Berths 97-109 [China Shipping] Container Terminal Project.

SoCal Environmental Justice Alliance
PO Box 79222
Corona, CA 92877

Thank you,

Joe Bourgeois
Chairman of the Board
SoCal Environmental Justice Alliance

SoCal Environmental Justice Alliance
Green Jobs & Clean Communities

October 12th, 2015

VIA US MAIL AND EMAIL

Christopher Cannon, Director of Environmental Management
City of Los Angeles Harbor Department
425 S. Palos Verdes Street
San Pedro, CA 90731

SUBJECT: COMMENTS ON BERTHS 97-109 (CHINA SHIPPING) CONTAINER TERMINAL PROJECT SUPPLEMENTAL EIR

To whom it may concern:

Thank you for the opportunity to comment on the Notice of Preparation for the Supplemental Environmental Impact Report for the proposed Berths 97-109 [China Shipping] Container Terminal Project. Please accept and consider these comments on behalf of SoCal Environmental Justice Alliance.

Project Description:

The proposed Project involves the continued operation of the CS Container Terminal under new and/or modified mitigation measures compared to those set forth in the 2008 FEIR. If changes to the mitigation measures are recommended as a result of the Supplemental EIR, the Board of Harbor Commissioners will consider amending Permit No. 999 for CS's operations at Berths 97-109 accordingly.

The 2008 FEIS/FEIR adopted 52 mitigation measures to reduce significant construction and operational impacts in the areas of aesthetics, air quality, biology, cultural resources, geology, ground water, noise, public services, and transportation. Most of these measures have either been completed or will be completed within the time period for implementation. These completed or to be completed mitigation measures are outside of the scope of the proposed Project and will not be further considered in the Supplemental EIR.

There are 11 mitigation measures, however, that have not yet been fully implemented for various reasons. For some of these, related to air quality (AQ-9, AQ-10, AQ-15, AQ-16, AQ- 17,

AQ-20 and AQ-23), China Shipping has requested that the mitigation measure be reviewed and possibly revised based on feasibility, the availability of alternative technologies, and other factors. LAHD has also proposed that certain mitigation measures related to air quality (AQ-23), noise (NOI-2) and transportation (TRANS-2, TRANS-3, TRANS-4 and TRANS-6) be re-evaluated based on feasibility, effectiveness, and other factors.

Air Quality Impact B: Potentially Significant

Construction of the CS Container Terminal resulted in emissions of air pollutants from construction equipment. Operation of the CS Container Terminal results in emissions of air pollutants from terminal equipment, truck and train trips, and vessels. The FEIR concluded that emissions from construction and operation of the CS Container Terminal would exceed SCAQMD thresholds of significance, and proposed a suite of mitigation measures to reduce construction-related emissions (MM AQ-1 through MM AQ-8) and operational emissions (MM AQ-9 through MM AQ-24).

The FEIR proposed 16 mitigation measures to address operational emissions. Many of these have been implemented and are currently in effect, most as originally envisioned and some in an equally effective form.

The other measures are in various stages of implementation. Some of these mitigation measures may not be feasible as worded, some may have been superseded by subsequent regulations and standards, and others may not be as effective as intended. For some of these, related to air quality (AQ-9, AQ-10, AQ-15, AQ-16, AQ-17, AQ-20 and AQ-23), China Shipping has requested that the mitigation measure be reviewed and possibly revised based on feasibility, the availability of alternative technologies, and other factors warranting re-analysis as appropriate.

These issues must be evaluated in the Supplemental EIR. The short term, long term, and construction phase impacts to air quality should be studied. Project alternatives should also be discussed as possibilities to mitigate negative impacts to air quality.

Air Quality Impact C: Potentially Significant

Due to the elevated concentrations of air pollutants that currently occur in the SCAB and Port region, the proposed Project, in conjunction with other related projects, has the potential to make a substantial contribution to significant cumulative air quality impacts, despite the application of mitigation measures. Some of the mitigation measures originally adopted to address these impacts may not be feasible as worded, may have been superseded by subsequent regulations or standards, or may not be as effective as intended.

These issues must be evaluated in the Supplemental EIR. The short term, long term, and construction phase impacts to air quality should be studied. Project alternatives should also be discussed as possibilities to mitigate negative impacts to air quality.

The significance of this impact must be reduced even further to ensure it is in compliance with SCAQMD regional thresholds of significance. The violations of existing federal and state ozone standards must be corrected. There must be adequate mitigation for operational emissions of VOCs, NOx, CO, and PM10 that remain above regional significance thresholds.

Air Quality Impact D: Potentially Significant

Operational activities of the proposed Project may expose nearby sensitive receptors to increased levels of air pollution. In addition, there is the potential for the proposed Project to result in increased toxic air pollutants associated with diesel emissions from ships, trains, trucks, and cargo handling equipment. Some of the mitigation measures originally adopted to address these impacts may not be feasible as worded, may have been superseded by subsequent regulations or standards, or may not be as effective as intended. As a result, emissions of toxic air contaminants may be substantially different from those evaluated in the FEIR.

These issues must be evaluated in the Supplemental EIR. The short term, long term, and construction phase impacts to air quality should be studied. Project alternatives should also be discussed as possibilities to mitigate negative impacts to air quality.

Greenhouse Gas Emissions Impact A: Potentially Significant

Greenhouse gas emissions would be released as a result of operation of the proposed Project. The 2008 FEIR concluded that greenhouse gas emissions during operation of the CS Container Terminal would result in significant impacts. Six mitigation measures (MM AQ-25 through MM AQ-30) were proposed to reduce those impacts. These measures would be completed during construction of the two remaining buildings or, in the case of MM AQ-27 (energy audits) and AQ-29 (recycling), through the normal course of operations.

The 2008 FEIR also identified MM AQ-9, AQ-10, AQ-17, AQ-20 and AQ-21 as reducing greenhouse gas emissions. Some of these mitigation measures may not be feasible as worded, may have been superseded by subsequent regulations or standards, or may not be as effective as intended.

These issues must be evaluated in the Supplemental EIR. The short term, long term, and construction phase impacts regarding greenhouse gas emissions should be studied. Project alternatives should also be discussed as possibilities to mitigate negative impacts to air quality.

Noise Impact A: Potentially Significant

The proposed project site is located in an area zoned for heavy industrial uses that is characterized by periodic increases in noise levels associated with container terminal operations and associated industrial uses. The nearest sensitive receptors are located less than 0.5 mile from the project site in the Knoll Hill area of San Pedro. The 2008 FEIR concluded that operational activities of the CS Container Terminal could result in increased noise levels as a result of additional trains, trucks, and cargo handling equipment, and imposed mitigation measure MM

NOI- 2, which required sound walls, if feasible, and/or soundproofing of noise-sensitive structures, as well as monitoring at residences.

The Supplemental EIR must acknowledge any adequate mitigation measures for the construction period of development and operational related noises. The mitigation measures in place do not adequately mitigate the noise from construction or operations. The Supplemental EIR must ensure all noise generated at the project site is in compliance with all local standards and ordinances.

Noise Impact C: Potentially Significant

Terminal operations under the proposed Project could result in increased noise above ambient conditions as a result of train, truck, and terminal equipment activities. The 2008 FEIR concluded that operation of the CS Container Terminal could result in increased noise levels as a result of additional trains, trucks, and cargo handling equipment, and imposed mitigation measure MM NOI-2, which required sound walls and/or soundproofing of noise-sensitive structures, as well as monitoring at residences. That measure has not yet been implemented; however, the actual effectiveness of this measure is uncertain, and there are substantial differences in operational equipment and activity levels between the FEIR and the current situation.

The Supplemental EIR must acknowledge any adequate mitigation measures for the substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project. The mitigation measures in place do not adequately mitigate the noise from construction or operations. The Supplemental EIR must ensure all noise generated at the project site is in compliance with all local standards and ordinances.

Noise Impact D: Potentially Significant

Operation of the proposed Project may generate temporary or periodic increases in ambient noise levels. The 2008 FEIR concluded that operation of the CS Container Terminal could result in increased noise levels as a result of additional trains, trucks, and cargo handling equipment, and imposed mitigation measure MM NOI-2, which required sound walls and/or soundproofing of noise-sensitive structures, as well as monitoring at residences. That measure has not yet been implemented; however, the actual effectiveness of this measure is uncertain, and there are substantial differences in operational equipment and activity levels between the FEIR and the current situation.

The Supplemental EIR must acknowledge any adequate mitigation measures for the substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project. The mitigation measures in place do not adequately mitigate the noise from construction or operations. The Supplemental EIR must ensure all noise generated at the project site is in compliance with all local standards and ordinances.

Transportation/Traffic Impact A: Potentially Significant

The 2008 FEIR concluded that operation of the CS Container Terminal would increase the number of cargo truck trips, resulting in significant impacts on levels of service and volume/capacity ratios at local intersections, and imposed six mitigation measures involving modifications of those intersections to improve traffic flow. Four of those measures (MM TRANS-2, MM TRANS-3, MM TRANS-4 and MM TRANS-6) have not yet been fully implemented, and none is included in any current transportation project.

Recent intersection operating conditions analyses conducted by the Port for several other projects have determined that these locations are generally currently operating at, or are projected to operate in the future at, a very good level of service (LOS) B, or better, without these mitigation measures, and that the intersection of Alameda Street/Anaheim Street would operate at a good LOS C in the Year 2017. The LAHD proposes to reassess these locations in the Supplemental EIR to determine if and when any mitigation measures would be needed.

The Supplemental EIR must analyze the construction and operational impacts on level of service at all surrounding intersections. The project must not exceed the capacity of the existing circulation system, based on an applicable measure of effectiveness (as designated in a general plan policy, ordinance, etc.), taking into account all relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit.

Transportation/Traffic Impact B: Potentially Significant

The 2008 FEIR concluded that operation of the CS Container Terminal would increase the number of cargo truck trips, resulting in significant impacts on levels of service and volume/capacity ratios at local intersections, and imposed six mitigation measures involving modifications of those intersections to improve traffic flow. Four of those measures (MM TRANS-2, MM TRANS-3, MM TRANS-4 and TRANS-6) have not yet been fully implemented, and none is included in any current transportation project. The need for and actual effectiveness of these measure is uncertain.

The Supplemental EIR must analyze the construction and operational impacts on level of service at all surrounding intersections. The project must not conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways.

Mandatory Findings of Significance B: Potentially Significant

The proposed Project, in conjunction with other related projects, has the potential to result in significant cumulative impacts. The 2008 FEIR identified several mitigation measures as reducing such impacts. Some of these mitigation measures may not be feasible as worded,

may have been superseded by subsequent regulations or standards, or may not be as effective as intended.

Cumulative impacts should include the project's contribution to greenhouse gas emissions and impacts on regional air quality. Include all potential direct and indirect project related impacts to streambeds, riparian areas, wetland, vernal pools, alluvial fan habitats, wildlife corridors, wildlife foraging habitats, or wildlife movement areas, aquatic habitats, sensitive species, and other sensitive habitats, open lands, open space, and adjacent natural habitats in the cumulative effects analysis.

The short term, long term, and construction phase cumulative impacts should be studied. The Supplemental EIR should provide a thorough analysis of all direct, indirect, and cumulative impacts and identify specific measures to offset such impacts. Further, the cumulative impact of all projects built, approved, or "in the pipeline" must be considered in regard for the total impact of the topics outlined in the Notice of Preparation for the Supplemental EIR.

Mandatory Findings of Significance C: Potentially Significant

The proposed Project could result in adverse impacts on human beings, either directly or indirectly, related to air quality, noise, transportation, and greenhouse gases. The 2008 FEIR identified several mitigation measures as reducing such impacts. Some of these mitigation measures may not be feasible as worded, may have been superseded by subsequent regulations or standards, or may not be as effective as intended.

The Supplemental EIR must analyze and discuss all environmental effects that will cause substantial adverse effects on human beings, either directly or indirectly. The short term, long term, and construction phase cumulative impacts should be studied. The Supplemental EIR should provide a thorough analysis of all direct, indirect, and cumulative impacts and identify specific measures to offset such impacts.

SoCal Environmental Justice Alliance requests to be notified via email at socaleja@gmail.com regarding any subsequent environmental documents, public notices, public hearings, and notices of determination for this project. SoCal Environmental Justice Alliance requests a minimum 14 days advance notice of all public hearings.

Sincerely,

Joe Bourgeois
Chairman of the Board
SoCal Environmental Justice Alliance

SoCal Environmental Justice Alliance
Green Jobs & Clean Communities

October 12th, 2015

VIA US MAIL AND EMAIL

Christopher Cannon, Director of Environmental Management
City of Los Angeles Harbor Department
425 S. Palos Verdes Street
San Pedro, CA 90731

SUBJECT: COMMENTS ON BERTHS 97-109 (CHINA SHIPPING) CONTAINER TERMINAL PROJECT SUPPLEMENTAL EIR

To whom it may concern:

Thank you for the opportunity to comment on the Notice of Preparation for the Supplemental Environmental Impact Report for the proposed Berths 97-109 [China Shipping] Container Terminal Project. Please accept and consider these comments on behalf of SoCal Environmental Justice Alliance.

Project Description:

The proposed Project involves the continued operation of the CS Container Terminal under new and/or modified mitigation measures compared to those set forth in the 2008 FEIR. If changes to the mitigation measures are recommended as a result of the Supplemental EIR, the Board of Harbor Commissioners will consider amending Permit No. 999 for CS's operations at Berths 97-109 accordingly.

The 2008 FEIS/FEIR adopted 52 mitigation measures to reduce significant construction and operational impacts in the areas of aesthetics, air quality, biology, cultural resources, geology, ground water, noise, public services, and transportation. Most of these measures have either been completed or will be completed within the time period for implementation. These completed or to be completed mitigation measures are outside of the scope of the proposed Project and will not be further considered in the Supplemental EIR.

There are 11 mitigation measures, however, that have not yet been fully implemented for various reasons. For some of these, related to air quality (AQ-9, AQ-10, AQ-15, AQ-16, AQ- 17,

AQ-20 and AQ-23), China Shipping has requested that the mitigation measure be reviewed and possibly revised based on feasibility, the availability of alternative technologies, and other factors. LAHD has also proposed that certain mitigation measures related to air quality (AQ-23), noise (NOI-2) and transportation (TRANS-2, TRANS-3, TRANS-4 and TRANS-6) be re-evaluated based on feasibility, effectiveness, and other factors.

Air Quality Impact B: Potentially Significant

Construction of the CS Container Terminal resulted in emissions of air pollutants from construction equipment. Operation of the CS Container Terminal results in emissions of air pollutants from terminal equipment, truck and train trips, and vessels. The FEIR concluded that emissions from construction and operation of the CS Container Terminal would exceed SCAQMD thresholds of significance, and proposed a suite of mitigation measures to reduce construction-related emissions (MM AQ-1 through MM AQ-8) and operational emissions (MM AQ-9 through MM AQ-24).

The FEIR proposed 16 mitigation measures to address operational emissions. Many of these have been implemented and are currently in effect, most as originally envisioned and some in an equally effective form.

The other measures are in various stages of implementation. Some of these mitigation measures may not be feasible as worded, some may have been superseded by subsequent regulations and standards, and others may not be as effective as intended. For some of these, related to air quality (AQ-9, AQ-10, AQ-15, AQ-16, AQ-17, AQ-20 and AQ-23), China Shipping has requested that the mitigation measure be reviewed and possibly revised based on feasibility, the availability of alternative technologies, and other factors warranting re-analysis as appropriate.

These issues must be evaluated in the Supplemental EIR. The short term, long term, and construction phase impacts to air quality should be studied. Project alternatives should also be discussed as possibilities to mitigate negative impacts to air quality.

Air Quality Impact C: Potentially Significant

Due to the elevated concentrations of air pollutants that currently occur in the SCAB and Port region, the proposed Project, in conjunction with other related projects, has the potential to make a substantial contribution to significant cumulative air quality impacts, despite the application of mitigation measures. Some of the mitigation measures originally adopted to address these impacts may not be feasible as worded, may have been superseded by subsequent regulations or standards, or may not be as effective as intended.

These issues must be evaluated in the Supplemental EIR. The short term, long term, and construction phase impacts to air quality should be studied. Project alternatives should also be discussed as possibilities to mitigate negative impacts to air quality.

The significance of this impact must be reduced even further to ensure it is in compliance with SCAQMD regional thresholds of significance. The violations of existing federal and state ozone standards must be corrected. There must be adequate mitigation for operational emissions of VOCs, NOx, CO, and PM10 that remain above regional significance thresholds.

Air Quality Impact D: Potentially Significant

Operational activities of the proposed Project may expose nearby sensitive receptors to increased levels of air pollution. In addition, there is the potential for the proposed Project to result in increased toxic air pollutants associated with diesel emissions from ships, trains, trucks, and cargo handling equipment. Some of the mitigation measures originally adopted to address these impacts may not be feasible as worded, may have been superseded by subsequent regulations or standards, or may not be as effective as intended. As a result, emissions of toxic air contaminants may be substantially different from those evaluated in the FEIR.

These issues must be evaluated in the Supplemental EIR. The short term, long term, and construction phase impacts to air quality should be studied. Project alternatives should also be discussed as possibilities to mitigate negative impacts to air quality.

Greenhouse Gas Emissions Impact A: Potentially Significant

Greenhouse gas emissions would be released as a result of operation of the proposed Project. The 2008 FEIR concluded that greenhouse gas emissions during operation of the CS Container Terminal would result in significant impacts. Six mitigation measures (MM AQ-25 through MM AQ-30) were proposed to reduce those impacts. These measures would be completed during construction of the two remaining buildings or, in the case of MM AQ-27 (energy audits) and AQ-29 (recycling), through the normal course of operations.

The 2008 FEIR also identified MM AQ-9, AQ-10, AQ-17, AQ-20 and AQ-21 as reducing greenhouse gas emissions. Some of these mitigation measures may not be feasible as worded, may have been superseded by subsequent regulations or standards, or may not be as effective as intended.

These issues must be evaluated in the Supplemental EIR. The short term, long term, and construction phase impacts regarding greenhouse gas emissions should be studied. Project alternatives should also be discussed as possibilities to mitigate negative impacts to air quality.

Noise Impact A: Potentially Significant

The proposed project site is located in an area zoned for heavy industrial uses that is characterized by periodic increases in noise levels associated with container terminal operations and associated industrial uses. The nearest sensitive receptors are located less than 0.5 mile from the project site in the Knoll Hill area of San Pedro. The 2008 FEIR concluded that operational activities of the CS Container Terminal could result in increased noise levels as a result of additional trains, trucks, and cargo handling equipment, and imposed mitigation measure MM

NOI- 2, which required sound walls, if feasible, and/or soundproofing of noise-sensitive structures, as well as monitoring at residences.

The Supplemental EIR must acknowledge any adequate mitigation measures for the construction period of development and operational related noises. The mitigation measures in place do not adequately mitigate the noise from construction or operations. The Supplemental EIR must ensure all noise generated at the project site is in compliance with all local standards and ordinances.

Noise Impact C: Potentially Significant

Terminal operations under the proposed Project could result in increased noise above ambient conditions as a result of train, truck, and terminal equipment activities. The 2008 FEIR concluded that operation of the CS Container Terminal could result in increased noise levels as a result of additional trains, trucks, and cargo handling equipment, and imposed mitigation measure MM NOI-2, which required sound walls and/or soundproofing of noise-sensitive structures, as well as monitoring at residences. That measure has not yet been implemented; however, the actual effectiveness of this measure is uncertain, and there are substantial differences in operational equipment and activity levels between the FEIR and the current situation.

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Noise Impact D: Potentially Significant

Operation of the proposed Project may generate temporary or periodic increases in ambient noise levels. The 2008 FEIR concluded that operation of the CS Container Terminal could result in increased noise levels as a result of additional trains, trucks, and cargo handling equipment, and imposed mitigation measure MM NOI-2, which required sound walls and/or soundproofing of noise-sensitive structures, as well as monitoring at residences. That measure has not yet been implemented; however, the actual effectiveness of this measure is uncertain, and there are substantial differences in operational equipment and activity levels between the FEIR and the current situation.

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Transportation/Traffic Impact A: Potentially Significant

The 2008 FEIR concluded that operation of the CS Container Terminal would increase the number of cargo truck trips, resulting in significant impacts on levels of service and volume/capacity ratios at local intersections, and imposed six mitigation measures involving modifications of those intersections to improve traffic flow. Four of those measures (MM TRANS-2, MM TRANS-3, MM TRANS-4 and MM TRANS-6) have not yet been fully implemented, and none is included in any current transportation project.

Recent intersection operating conditions analyses conducted by the Port for several other projects have determined that these locations are generally currently operating at, or are projected to operate in the future at, a very good level of service (LOS) B, or better, without these mitigation measures, and that the intersection of Alameda Street/Anaheim Street would operate at a good LOS C in the Year 2017. The LAHD proposes to reassess these locations in the Supplemental EIR to determine if and when any mitigation measures would be needed.

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Mandatory Findings of Significance B: Potentially Significant

The proposed Project, in conjunction with other related projects, has the potential to result in significant cumulative impacts. The 2008 FEIR identified several mitigation measures as reducing such impacts. Some of these mitigation measures may not be feasible as worded,

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Mandatory Findings of Significance C: Potentially Significant

The proposed Project could result in adverse impacts on human beings, either directly or indirectly, related to air quality, noise, transportation, and greenhouse gases. The 2008 FEIR identified several mitigation measures as reducing such impacts. Some of these mitigation measures may not be feasible as worded, may have been superseded by subsequent regulations or standards, or may not be as effective as intended.

The Supplemental EIR must analyze and discuss all environmental effects that will cause substantial adverse effects on human beings, either directly or indirectly. The short term, long term, and construction phase cumulative impacts should be studied. The Supplemental EIR should provide a thorough analysis of all direct, indirect, and cumulative impacts and identify specific measures to offset such impacts.

SoCal Environmental Justice Alliance requests to be notified via email at socaleja@gmail.com regarding any subsequent environmental documents, public notices, public hearings, and notices of determination for this project. SoCal Environmental Justice Alliance requests a minimum 14 days advance notice of all public hearings.

Sincerely,

Joe Bourgeois
Chairman of the Board
SoCal Environmental Justice Alliance

THE PORT OF LOS ANGELES

PUBLIC SCOPING MEETING

OCTOBER 7, 2015

6:00 P.M.

425 SOUTH PALOS VERDES STREET, SAN PEDRO, CALIFORNIA

BOARD ROOM OF THE HARBOR ADMINISTRATION BUILDING

REPORTED BY: CELINDA ALIGADA, C.S.R. 13724

APPEARANCES

Christopher Cannon, Director,
Environmental Management Division
Los Angeles Harbor Department

Eugene Seroka, Executive Director,
Los Angeles Harbor Department

PUBLIC COMMENTS:

David Pettit
James Allen Preston

PROCEEDINGS

MR. SEROKA: Good evening. My name is Gene Seroka. I am the executive director of the Port of Los Angeles, and thank you for joining us this evening for the October scoping meeting.

I will begin with some prepared comments, followed by comments from Chris Cannon, to my left, and then we will begin the public process and accept all speaker cards at that time.

We are here to speak to you today about an important issue facing the Port of Los Angeles. As you are aware, the issues involve the China Shipping Container Terminal. Let me start with a few critical points: First, as we go forward with the CEQA process, it is important to keep in mind that based on monitoring by the Port, emission inventories at this terminal location are currently at or below all levels studied in the 2008 Environmental Impact Report.

Secondly, we are faced with an unfortunate issue with delayed implementation of certain mitigation measures. This situation that was inherited by the

current port management team, although we are taking ownership. This must be addressed.

The Board of Harbor Commissioners, along with Los Angeles Mayor Eric Garcetti and I are committed to fixing this issue. We are solutions driven, and we are committed to ensuring that something like this never happens again.

The Port of Los Angeles is the leading seaport in North America in terms of shipping container volume and cargo value, generating more than 830,000 regional jobs and 35 billion in annual wage and tax revenues.

Every Monday through Friday here at the San Pedro Bay Port complex, more than 192,000 workers come and do business at our ports. There are more than 1.1 million jobs associated with this port in the state of California, more than 3.3 million jobs in the United States. It has been stated by our mayor that one in 11 Angelenos has a job related to the Port of Los Angeles.

In the past, the trucks, ships, and trains using the port have been major sources of air emissions, which has added to smog and other poor air quality effects in the area. Looking to change this past pattern, the Port is committed to developing innovative strategic and sustainable operations that benefit the economy as well as the quality of life for

the region and the nation it serves. To do this, the Port has worked very closely with the Port of Long Beach, agencies, citizen's groups, environmental organizations, and other stakeholders in a multi-year, multi-project process to upgrade its facilities, enhance environmental protections and invest in cleaner technology. This included the 2006 Clean Air Action Plan, a comprehensive strategy for reducing port-related air pollution emissions. The Port has also invested hundreds of millions of dollars on clean air innovations in the last decade, including more than $100 million on the highly successful Clean Truck Program, more than $180 million in the Alternative Marine Shore Power Infrastructure.

Already as a result of these efforts, air quality at the port has significantly improved and continues to improve year after year. It is against this backdrop that we will be undertaking this scoping meeting with your participation and input regarding ongoing planning efforts with respect to China's Shipping's Terminal.

China Shipping EIR: In 2008, the Port certified an environmental impact report for China's shipping terminal at berths 97-109. China Shipping has been operating out of the port since year 1999 and is

one of the port's busiest and most critical customers. China Shipping represents approximately 20 percent of the container volume for the Port of Los Angeles, providing high quality and high paying jobs in our community.

The 2008 China Shipping EIR was an ambitious groundbreaking effort by the Port of Los Angeles. The EIR adopted 52 mitigation measures to reduce impacts in the areas such as air quality, noise, and transportation. At the time of the 2008 EIR, many of the measures had never been attempted anywhere in the world. The port believed, at that time, that these measures, although far-reaching, were realistic and could be accomplished within a reasonable timeframe, and many of the mitigation measures have been accomplished to date.

The Port implements its mitigation measures by including them in leases with its tenants. The Port engaged in an extensive negotiation process with China Shipping to amend its existing lease to the terminal to include these new mitigation measures but never entered into an amended permit incorporating those mitigation measures.

Over the course of this lengthy negotiation process, it became apparent that there were

technological, economic, and operational challenges that suggest some of the adopted mitigation measures are infeasible. Based on this information, the Port is preparing a supplement EIR that identifies and analyzes the potential environmental impacts of possible changes in the mitigation measures based on the feasibility of some of the mitigation measures, the availability of alternative technologies and other factors.

As described in the Notice of Preparation, these measures include the requirements for 100 percent of vessels to use alternative marine power, 100 percent compliance with the 40 Nautical-Mile Vessel Speed Reduction Program, LPG fueled yard tractors and L&G power drayage trucks in addition to emission standards for all yard equipment.

While this is ongoing, the Port continues to monitor conditions at the terminal. Most of the mitigation measures have been completed or will be completed within the time period for implementation.

Indeed, the Port has invested more than $80 million in community mitigation measures at the China Shipping Terminal. As I indicated before, but worth mentioning again, the Port learned through its own analysis that emissions for the past few years at China's Shipping's terminal have been below that which

was predicted in the 2008 EIR. This is due to some overriding circumstances with economic value and China Shipping's operations, that in comparison to what was predicted from a volume standpoint in the EIR, and the port's efforts to reduce emissions port-wide.

Since the Port adopted the Clean Air Action Plan in 2006, great strides have been created cutting harmful port-related emissions. Due to these successes, emissions level associated with marine goods movement activities are often below levels predicted in past environmental documents.

The Port is committed to ensuring that feasible mitigation measures are adopted and implemented for China's Shipping's terminal. A top priority of the Port is achieving balance between the Port's critical role in ensuring California's economic success and competitiveness in the global economy and its commitment to minimizing environmental impacts. Each project and terminal is a critical component in achieving this balance and the efficient and sustainable operation of the regional good's movement chain. Unworkable and infeasible mitigation does not further this objective and the port will work diligently to address these issues.

Next steps: The port is committed to being a

strong environmental steward, and we would like to do this with your help. As members of the public and stakeholders, by providing input as we go through the supplemental EIR process. The purpose of this supplemental EIR is to inform the Board of Harbor Commissioners with the critical information it needs to consider any proposed changes to the China Shipping mitigation measures. The EIR is a planning document that describes the environmental impacts of the project. It is a problem-solving document. The EIR discloses the impact such as traffic, air quality, or noise, among many other factors, and determines which ones are of significance. The EIR also describes feasible mitigation measures to reduce impacts to an acceptable level.

Tonight's meeting is the first step in this process. The Port will take your comments and input here tonight into account in preparing a supplemental EIR that fully analyzes the potential changes to the mitigation measures and the environmental impacts of such changes.

This is the proper process under CEQA for addressing the need to revisit mitigation measures and will allow the Port to thoroughly and carefully analyze all issues and adopt mitigation measures that can be

successfully implemented. There will be other opportunities to participate and comment on the merits of the proposed changes and the supplemental EIR itself before the Board makes any decision on the mitigation measures.

I will now turn it over to Chris Cannon, Director of Environmental Management, to explain the rest of this meeting, how it will work and what topics will be covered.

Chris.

MR. CANNON: Thank you, Gene. Good evening. This is a pretty sophisticated audience, but I will remind you that we are here to listen. This is a scoping meeting and at scoping meetings we are not going to be taking questions. There is a recorder here and this person is making a record. We will also be taking diligent notes, of course, and we will respond to your comments.

So I'm going to go through a little bit about what the -- let's see, can I do it from here or do I need to get up -- I may have to get up.

MR. SEROKA: Go ahead. No, it's okay.

MR. CANNON: It works?

MR. SEROKA: Yeah.

MR. CANNON: There you go. So to start, the

purpose of CEQA is to provide information about environmental consequences of actions, to identify how to reduce impacts and identify feasible mitigation measures where possible. And most important, I think, is an opportunity for the public to comment on environmental issues.

The purpose of a scoping meeting is to notify the public regarding the Port's plans to prepare a supplemental EIR, to provide information about the proposed project to get public input on scoping content on environmental issues to be looked at, and most important again is that there will be other opportunities for you to participate.

So where we sit is, as you see, the scoping meeting there we've had a Notice of Preparation was released in September, the scoping meeting is now here in October. We anticipate that we will produce a draft supplemental EIR by sometime summer of next year. At that time there will be a public comment period as CEQA provides that the standard time for public comment period is 45 days. And of course there will also be a public meeting and then after that we will receive all comments, both from the public meeting and in writing, and we will respond to those comments to produce a final supplemental EIR and then that will be presented

to the Board Harbor Commissioners sometime in the winter or spring of 2016.

So just briefly, this is the project location. As you can see on the left there it's a broader view. You can see the Port of Los Angeles in the center near the bottom and then to the right you get a sense of the project location. It's in the West Basin area which to the north has Wilmington to the north, San Pedro to the west and south, and then the channel there just to the east. This is a better picture. It shows some of the surrounding land uses as well as the site. I won't go through all the details of the key features of the site, the gate, the backland and the berths, so forth.

So the China Shipping EIR adopted, the final EIR adopted 52 mitigation measures. Most have actually already been completed or are in progress, and those will not be considered in the supplemental document. 11 mitigation measures have not been fully implemented, and China shipping and the Los Angeles Harbor Department are proposing to revise these 11 based on feasibility, effectiveness, availability of alternative technologies and other factors. So these are the 12. There are 11, and then there's a twelfth one. Those of you -- by the way it's kind of interesting -- there are 12 that were actually listed in the Notice of

Preparation, 11 of them are mitigation measures. AQ234 is not a mitigation measure, it's a lease measure. I'll explain that in a moment. The basic issues here are -- some of them are just going to make minor changes to the way we assess compliance. An example of that is the 100 percent amp. The terminal is at 100 percent now, but we're going to evaluate the way we assess compliance, for example, in situations where a ship is damaged or can otherwise has the intent to amp but cannot.

Then there is some that we will evaluate the feasibility of and including the availability of alternative technologies to reduce emissions. Those are the art equipment and the drayage trucks, and then there's another group are just going to receive a technical reevaluation to changes circumstances and that would involve some of the transportation ones there down at the bottom. As know there's have been a lot of, there have been a lot of things that happened in the area as far as new developments and so we will do a reevaluation to determine the impacts associated with those.

Finally as I described, AQ23 is the least or re-opener for changed emissions and supplement throughput, that will also be looked at to determine

how it is affected by other mitigation measures and how it interacts with those, so we anticipate there may be some change there as well.

This is -- the mitigation measures identified for reevaluation are in the following areas: Air, greenhouse gas, noise, transportation. The supplemental will analyze potential impacts of these changes and supplement the 2008 final EIR. The supplemental will not reanalyze other parts of the project that are not being changed.

There we go. So if you have any comments, there are three ways for you to give comments: One, fill out a comment card and those will be brought in front here to Gene. Two, we have an actual card that you could write out your comments if you don't want to stand up and speak them, and third, we have a laptop, an actual comment station where you can go and type in comments of your own on a laptop. So those are the three ways. You can speak, you can write your comments down on a comment card or you can type them into a laptop. The e-mails -- you can e-mail your comments to ceqacomments@portofla.org, and you can certainly mail them in addressed to me at that address. The review period started on September 18th. Comments will be received through October 19th, 2015.

So, again, these are the, this is the procedure, fill out the speaker cards and give them to staff, speakers will be called three at a time in the order that the cards were received. Once called, please line up near the microphone and await being called. Speakers will be given two minutes to speak. All comments are being transcribed by a court reporter, and Spanish translation is available if needed.

So with that, I will turn the meeting back over to Gene Seroka.

MR. SEROKA: Thank you, Chris, and at this time I would ask Mr. Brad Jensen to present me with the speaker cards.

I have been presented with two speaker cards this evening. First, I would like to welcome Mr. David Pettit from the NRDC to be followed by James Allen who is the San Pedro Central Neighborhood Council president.

David.

MR. PETTIT: Thank you and good evening, gentlemen.

MR. SEROKA: Good evening.

MR. PETTIT: I just recently got back from China where I was, my colleagues and I were speaking with Chinese governmental officials about the successes

of the Port of L.A. in reducing emissions and how those might be translated into the Chinese situation and their major ports, and I would not like to have to go back there and say well I take it back and things have actually gone downhill. So I do, we do want to work with you folks to make sure we're going forwards, not backwards.

In terms of a couple -- and I'll be submitting some formal written comments -- but in terms of a couple of things that need to be in the scoping plan. One is, you know, what was feasible in 2008 is not necessarily what's feasible now, and there's a lot of things have changed for the better. One thing I intend to hold up is a model is what's going on with Middle Harbor in Long Beach particularly the way they're moving, proposing to move boxes around inside the facility with all electric driverless trucks. So that set the bar, I think, pretty high when we're talking about the mitigation measure for alternate fuel drayage within the harbor itself.

Secondly, CEQA requires you to look at the consistency of whatever the measures you're thinking of with State and regional laws. As you know SB350 was signed today by the governor. There's the executive order that is really part of that, B3215 I think is the

number. Carb has a sustainable freight strategy, they have a mobile source strategy they've just come out with. They have a climate strategy including short-lived climate pollutants which would include black carbon. So I think that the EIR needs to analyze whatever the measures you attend to change. How those are consistent or nonconsistent with that big statutory framework because we're not, we're not working alone here.

One thing also I think is worth thinking about is in the ESCAPE Project there are as, you know, there are certain requirements for -- it doesn't call out L&G trucks but the emissions are so, the emissions are so low it's really the equivalent of L&G. And one thing to think about is if ESCAPE can we do that, why can't we do that here at China shipping as well?

So thank you for your time tonight. We'll be, as I said, we'll be submitting written comments and hope to work with you folks. Thank you.

MR. CANNON: Thank you, David.

MR. SEROKA: Next up is James Allen. James, welcome this evening.

MR. PRESTON: Greetings, Chris, Gene, members of the community. I'm here this evening to represent the Central San Pedro Neighboring Council and to

basically protest the timeline on which you are planning on amending this particular EIR. Not only does this not comply with the true meaning of advanced notice of neighboring councils, but the amount of time that you're giving for the actual response does not give adequate time for the neighboring council in general and our neighboring council specifically to actually address this document. This is a rather complex document. And what you're planning on doing is changing a core principle on which this Port of Los Angeles has been operating under since the settlement on China Shipping happened some years ago.

Now the important thing here is this: Is that you're trying to convince the community that there are certain things in the amended settlement judgment that are infeasible. Now, it is up to you to convince the community that, in fact, these things are infeasible and not just your way of trying to circumvent the amended settlement judgement. Now it's going to take our community a significant amount of time to assess exactly what this report is saying and for us to get back. So what I'm arguing for here is an extension of at least 30 days, if not 60 days, for the community to actually respond and understand what it is what this report is trying to convince us of.

Now, on the other side of my life I've actually asked for --

MR. JENSEN: Sir, your two minutes are...

MR. PRESTON: I know, but we have until 8 o'clock, right?

MR. CANNON: James, continue but make it quick.

MR. PRESTON: I will. What I would actually ask you to produce are the MMRP's that were stipulated in the amended settlement judgment from 2011 until today, which I believe your department does not have, and I challenge you to produce them. That's my comment.

MR. CANNON: Thank you.

MR. SEROKA: Thank you, James.

Are there any other comments from the public? Okay. Thank you. As Chris mentioned at the outset, we have a number of channels by which the public can comment, offer advice, suggestions, and recommendations. And under the timeline that has been stated here by Chris tonight, we encourage all community members to share with us those areas that we would like to article. If no other from comments from the public we will conclude the scoping meeting.

Thank you all for taking the time to visit

with us this evening. Thank you.

(SCOPING MEETING CONCLUDED)

CERTIFICATION

I, CELINDA ALIGADA, CSR. No. 13724, Certified Shorthand Reporter for the State of California, do hereby certify;

That said proceedings were taken down by me in shorthand at the time and place therein named and were thereafter transcribed by means of computer-aided transcription; and the same is a true, correct and complete transcript of said proceedings.

I further certify that I am not of counsel nor attorney for any of the parties hereto or in any way interested in the events of this cause and that I am not related to any party hereto.

WITNESS my hand this_____day of_____, 2015.

_____
CELINDA ALIGADA C.S.R. No. 13724

Natural Resources Defense Council * San Pedro and Peninsular Homeowners Coalition San Pedro and Peninsula Homeowners United * End Oil/Communities for Clean Ports Coalition for Clean Air * East Yard Communities for Environmental Justice Coalition For A Safe Environment * California Kids IAQ * Community Dreams Apostolic Faith Center * Communities for a Better Environment * June Smith South Bay 350 Climate Action Group

October 19, 2015

Christopher Cannon, Director
Environmental Management Division
Los Angeles Harbor Department
425 S. Palos Verdes Street
San Pedro, CA 90731

Re: Notice of Preparation of a Draft Supplemental EIR for Berths 97-109 (China Shipping) Container Terminal Project

Dear Mr. Cannon:

We submit the following comments on the Notice of Preparation for the draft supplemental environmental impact report for the Berths 97-109 (China Shipping) project.

The China Shipping settlement and the subsequent EIR are the root causes of the Port's efforts to grow green and come into compliance with California and federal environmental laws. It is now clear that, for some years, the Port has been in violation of the settlement agreement and has knowingly allowed its tenant, China Shipping, to ignore mitigation measures in the certified 2008 EIR, going so far as to issue waivers of mitigation measures to China Shipping without telling the public.

Rather than enforce the mitigation measures that it agreed to, the Port now wishes to change them. This approach turns CEQA on its head and sets dangerous precedent that whenever mitigation measures fail to be implemented, due to poor management or otherwise, the lead agency can simply do a supplemental EIR to change out the prior mitigation commitments for new ones. Overall, the Port needs to be extremely clear throughout the SEIR process what led to the failure to implement the mitigation measures, including poor Port staff oversight and mismanagement.

The Mitigation Monitoring and Reporting Program (MMRP) for the 2008 EIR required regular reporting to the Port's Environmental Management Division detailing compliance with the required mitigation. The Port cannot claim that regular reporting was somehow "infeasible." At a minimum to even begin to re-build trust with the community, the Port must honestly and openly disclose what went wrong. The Port cannot hide behind conclusory claims of infeasibility; infeasibility determinations must be supported by evidence.

For example, the NOP lists among the mitigation measures that were not implemented both Alternative Maritime Power and compliance with the 40-nm Vessel Speed Reduction Program; yet Port Executive Director Gene Seroka stated publicly that these two measures were complied with at a rate of 98% and 96%, respectively.[1] It is hard to imagine that these measures can be deemed "infeasible" if the Port itself has admitted to already substantially complying with them. Similarly, many of the measures listed in the NOP that were not implemented are identical to or very similar to mitigation measures committed to in the TraPac EIR.[2] If TraPac is in compliance, then the measures are clearly feasible for China Shipping, and if TraPac is not in compliance, then the Port needs to publicly disclose that failure and fix that problem immediately as well. The TraPac mitigation measures of interest include: AQ-6 (AMP), AQ-7 (yard tractors), AQ-8 (yard equipment), AQ-10 (vessel speed reduction), and AQ-26 (throughput tracking); relatedly AQ-17 (technology review) has been triggered just as the similar measure for China Shipping has also been triggered.

Preliminarily, the Port needs to explain in the DSEIR why it expects China Shipping to comply with any new mitigation measures, and what will occur if China Shipping refuses to do so. The Port also needs to make public all communications with China Shipping, and all other terminals, concerning compliance with CEQA mitigation measures, as well as all supporting information such as gate moves at the China Shipping terminal and ship docking information that will disclose whether alternate marine power was used or not.

In the SEIR process, the Port needs to look at what mitigation measures are feasible now, not what may have been feasible in 2008. This includes the measures now in place in the Port of Long Beach Middle Harbor project, for example cold-ironing and electric yard tractors, and those measures proposed as feasible in the SCIG project, including transition to LNG or equivalent trucks. In that connection, the Port should be aware that CARB has recently certified an ultra-low NOx LNG engine[3] and is expected to soon certify a similar engine suitable for drayage purposes. One ship emissions capture technology ("sock on a stack") has already been certified by CARB, and a second one is on the cusp of certification. Given the advances in zero and low-emission technology since 2008, there is absolutely no excuse for the Port to go backwards in its mitigation measures by, for example, allowing diesel drayage trucks at China Shipping in place of LNG or better.

The Port needs to analyze the volume of excess emissions that has been created by allowing China Shipping to ignore the approved mitigation measures. Port Executive Director Gene Seroka has said publicly that China Shipping represents about 20% of the Port's revenue. Looking at the Port's published data, this would be about 9.34 million TEUs from 2009–2014, or about 4.6 million truck trips without accounting for use of on-dock rail. The Port should have China Shipping gate move data that will enable a precise calculation. In that respect, the Port

[1] "Port of L.A. terminal met pollution goal despite unfulfilled remedy stems," LA Times (Oct. 15, 2015), *available at* http://www.latimes.com/local/california/la-me-1016-port-pollution-20151016-story.html.
[2] See https://www.portoflosangeles.org/EIR/TraPac/FEIR/FEIR_MMRP.pdf.
[3] See http://www.arb.ca.gov/msprog/onroad/cert/mdehdehdv/2016/cummins_mhdd_a0210630_8d9_0d20-0d01_ng.pdf

should also revise its past emissions inventories which are based on modeling, not monitoring or real-world observation, given that the modeling assumptions about China Shipping have now been falsified. Moreover, the Port needs to make restitution to the public for allowing excess emissions to occur, either through the contribution of Port funds or something akin to a Supplemental Environmental Project under the federal Clean Air Act.[4]

Going forward, the Port needs to analyze the excess of future emissions over the provisions of the 2008 mitigation measures. And it is not sufficient to say that overall emissions are down without accounting for the effects of the 2008 recession—POLA cargo volumes have still not recovered to their 2006 number.

There also needs to be a new mitigation monitoring and reporting plan with public disclosure of the status of all mitigation measures for all past and present POLA CEQA projects. The management failures that led to the current China Shipping situation must never recur. We strongly urge the Port to work with the community to create a permanent and independent oversight committee, funded to conduct audits of the implementation of all committed mitigation measures, port-wide.

With respect to the mitigation measures not included in the NOP, measure AQ-22 has been triggered and should be complied with. Because a lease amendment and/or facility modification is now on the table, measure AQ-22 requires China Shipping to review, in terms of feasibility, "any Port-identified or other new emissions-reduction technology, and report to the Port." In addition, 7 years have passed since the 2008 EIR was certified, and measure AQ-22 provides that: "As partial consideration for the Port agreement to issue the permit to the tenant, the tenant shall implement not less frequently than once every 7 years following the effective date of the permit, new air quality technological advancements, subject to mutual agreement on operational feasibility and cost sharing, which shall not be unreasonably withheld."

CEQA also requires a DEIR to analyze compliance of a proposed project with relevant local, state and federal laws. In the case of China Shipping, these include:

- The China Shipping Amended Stipulated Judgment. If the Port proposed to change the terms of the stipulated judgment, Court approval will be necessary.
- The Clean Air Action Plan. The CAAP has been based in part on using lease renewals to effectuate environmental improvements. If China Shipping is allowed to defeat this process by refusing to sign a new lease, then all Port tenants will adopt China Shipping's tactic and the CAAP itself will be in danger.
- The federal and state Clean Air Acts, keeping in mind that the South Coast Air Basin is in non-attainment for ozone and particulate matter and has a July 2016 deadline for submitting an Air Quality Management Plan showing how compliance will be obtained. NOx, an ozone precursor, is produced in copious quantities by diesel trucks and so, if the LNG truck requirement is relaxed or eliminated, attainment status for ozone will be harder to achieve.

[4] See http://www2.epa.gov/enforcement/supplemental-environmental-projects-epa-settlements-involving-early-reductions-under.

- The California Air Resources Board sustainable freight strategy; see http://www.arb.ca.gov/gmp/sfti/sustainable-freight-pathways-to-zero-and-near-zero-emissions-discussion-document.pdf
- The California Air Resources Board mobile sources strategy; see http://www.arb.ca.gov/planning/sip/2016sip/2016mobsrc_dd.pdf, including the following text on page 2: "For heavy-duty vehicles, combustion technology will continue to dominate over the next 15 years. The strategy therefore calls for engine technology that is effectively 90 percent cleaner than today's current standards, with clean, renewable fuels comprising half the fuels burned. To position the heavy-duty sector for longer-term targets that extend beyond the timeframe of this strategy, actions to promote the use of clean-burning and near-zero emission vehicles must be complemented by targeted introduction of zero-emission technologies in heavy-duty applications that are suited to early adoption of ZEV technologies."
- Executive Order B32-15, see https://www.gov.ca.gov/news.php?id=19046.
- California Senate Bill 350, see: https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160SB350.
- The California Climate Strategy, including the Short-Lived Climate Pollutant Plan, see http://www.arb.ca.gov/cc/shortlived/2015draft.pdf (black carbon, a product of fossil fuel combustion, is a short-lived climate pollutant).
- The new OEEHA health risk assessment guidelines, the Air Toxics Hot Spots Program Guidance Manual for Preparation of Health Risk Assessments, see http://oehha.ca.gov/air/hot_spots/hotspots2015.html. If less health-protective mitigation measures are adopted for the China Shipping project, a new health risk assessment will be necessary and the newest OEHHA methodology should be used.
- The proposed South Coast port backstop rule. If NOx and/or PM emissions will increase due to changes in China Shipping mitigation measures, the utility of the port backstop rule should be analyzed.
- The cumulative effects on the neighborhood communities, including consideration of SCIG and the ICTF expansion project.

With respect to the mitigation measures listed in the NOP:

- AQ-9 (alternative maritime power). The DSEIR needs to take into account the current CARB regulation on shore power, as well as the AMP setup at the Port of Long Beach Middle Harbor project. If more AMP is feasible for Long Beach, it is feasible for Los Angeles.
- AQ-10 (40 nm vessel speed reduction): This is feasible at Port of Long Beach.
- AQ-15 (LPG yard tractors): The Port of Long Beach Middle Harbor project has all-electric yard tractors.
- AQ-16 (emission standards for yard equipment at on-dock railyard): The Port should compare the SCIG proposal and consider the relationship to the AQMD Port Backstop Rule.
- AQ-17 (emissions standards for yard equipment at terminal) See comments on AG-15, 16.
- AQ-20 (LNG powered drayage trucks): In regards to the feasibility of LNG trucks, note that there are 1,000 LNG trucks serving the port now. Also, in early 2015, Mayor

Garcetti held a press conference promoting the Eco Flow drayage company concept and electric drayage trucks. If the Port asserts that what the Mayor told the press is infeasible, it should say so. The Port should also consider the status of the I-710 expansion project and the proposal for a catenary system for Port drayage, as well as the many electrification projects funded by the Port, Port of Long Beach, AQMD and CARB. The Port needs to commit to a zero-emission container movement system at some defined date in the future.

- AQ 23 (throughput tracking for verify EIR assumptions): Given the sorry history of mitigation measures on this project, we need more and public tracking, not less. The Port should conduct a full, third-party audit of the existing mitigation measures of every CEQA project at the Port, as well as the Port's emissions inventories from 2008 to the present. There needs to be more transparency with the public moving forward.
- NOI-2 (noise walls and soundproofing): The Port needs to analyze up-to-date technology and the effect on the community if the 2008 standards are relaxed.
- TRANS-2, -3, -4, -6: (road modifications): The Port needs to analyze increases in PM and NOx emissions, consistency with SB 375 plans, and the effect on local intersections and project vehicle miles travelled ("VMT").

We also ask that the DSEIR consider the following mitigation measures:

- Accelerated compliance with the CARB cold-ironing rule.
- Phasing out of diesel trucks in favor of trucks meeting or exceeding the emission levels of the Cummins Westport LNG engine recently certified by CARB: NOx emissions of 0.02 grams per brake horsepower-hour.
- Consideration of zero-emission cargo movement solutions, particularly from the China Shipping terminal to the near-dock rail yards.
- Consideration of deployment of "sock on a stack" ship emissions capture technology.
- Maximization of the on-dock rail potential at China Shipping in view of the current arrangements among shippers.
- Use of all-electric yard tractors as used in the Long Beach Middle Harbor project.
- Terminating the China Shipping lease if China Shipping does not promptly agree to whatever mitigation measures are certified in the current SEIR process.
- Electronic posting of all correspondence and documents relating to compliance with CEQA mitigation measures, Port-wide.
- Committing funds to the TAP or similar program to fund advancement of zero emission technologies.
- Committing funds to the Harbor Community Benefit Foundation for grants to help mitigate the cumulative and other negative impacts, and/or for advancement of zero emission technologies.

Thank you for your attention to this letter. We will be supplementing it with additional information for analysis in the forthcoming DSEIR. Finally, this letter is not to be construed as a waiver of rights under the Amended Stipulated Judgment or under state or federal law, including the rights to arbitrate and/or litigate compliance with existing China Shipping mitigation measures, all of which rights are expressly reserved.

Sincerely,

David Pettit
Senior Attorney
Natural Resources Defense Council

Dr. John Miller
President
San Pedro and Peninsular Homeowners Coalition

Kathleen Woodfield
Vice President
San Pedro and Peninsular Homeowners Coalition

Janet Schaaf-Gunter
Member
San Pedro and Peninsula Homeowners United

Chuck Hart
President
San Pedro and Peninsula Homeowners United

Gisele Fong
Executive Director
End Oil/Communities for Clean Ports

Joseph K. Lyou, Ph.D.
President & CEO
Coalition for Clean Air

mark! Lopez
Executive Director
East Yard Communities for Environmental Justice

Jesse N. Marquez
Executive Director
Coalition For A Safe Environment

Drew Wood
Executive Director
California Kids IAQ

Ricardo Pulido
Executive Director
Community Dreams

Pastor Alfred Carrillo
Apostolic Faith Center

Gladys Limon
Staff Attorney
Communities for a Better Environment

June Smith
San Pedro resident

Joe Galliani
Organizer
South Bay 350 Climate Action Group

CC: Mayor Eric Garcetti
Councilmember Joe Buscaino, 15th District
Los Angeles Chief Sustainability Officer Matt Petersen

Ochsner, Lisa

From: Jack Brisley <jack@macgrzly.com>
Sent: Monday, October 19, 2015 10:58 AM
To: Ceqacomments
Subject: BERTHS 97-109 CHINA SHIPPING CONTAINER TERMINAL PROJECT

To:
Lisa Ochsner,

Environmental Manager

My name is Jack Brisley, I've been a San Pedro resident for 20 years. I'm writing an abbreviated note of displeasure regarding the above mentioned project and the more specifically the behavior of the Port of Los Angeles. As long as I've lived in San Pedro I've been a supporter of the Port and its activities. Obviously a very important entity of commerce. My support has always been based on the premise the Port is a respectable enterprise with the wellbeing of the area residents in mind, to a practical extent, while conducting the required activities of this very important hub of commerce.

Recent developments seem to indicate my support is misplaced being based on a reasonable element of trust in the Ports intentions and behavior. I will not get into what has already been addressed in Mr. Peter M Warren's correspondence regarding the project sent to Mr. Christopher Cannon, dated, I believe 10-19-2015. This an abbreviated note due to the Port's last minute deadline to respond, which seems part and parcel of the sleazy behavior of the Port regarding the entire process of agreeing to environmental mitigation, traffic mitigation and many other details agreed to by the Port regarding the China Shipping Terminal Project. It would appear the entire process regarding any of the mitigation measures, very important to the community, has been willfully and intentionally ignored and carried out with a significant amount of deception to that end and continuing with Ports ongoing intentions to ignore the agreed upon measures.

I may be a nobody to the Port but I do intend to become an anti-Port activist if this is the nature of the entity that I have to live with and for a time, trusted and believed to be a respectable enterprise as far engagement with the community goes. That does not at all appear to be the case and I cannot express my displeasure strong enough within the confines of civilized document.

Sincerely,
Jack Brisley
4015 Bluff Place
San Pedro
90731
310-832-1983

October 18, 2015

To: The Port of Los Angeles Environmental Division
Re: the NOP on China Shipping Berths 97-109 [China Shipping] Container Terminal Project Supplemental EIR"

Dear Port Environmental Division:

The trust and the working relationship that was so painstakingly built up between the Los Angeles waterfront communities, specifically Wilmington, Harbor City and San Pedro, was utterly shattered by the Port's revelation that it finds carrying out its agreed upon mitigation for the China Shipping leases "infeasible." What makes the destruction of that trust so total is this:

First: The Port Commission, under the leadership of the immediate past mayor and Executive Director, eliminated the watchdog Environmental Impact Committee (EIR)of the Port Community Advisory Committee (PCAC) that monitored the Air Quality and the mitigation efforts mandated under the China Shipping agreement. The Commission did so by agreeing with the Staff report that declared all the mitigation measures completed, and therefore, the Committee was no longer necessary**. That was a lie. The Port knew at that time that they were not complying with those agreed to measures.**

Second: The Port has not given any valid reasons as to why meeting these agreed upon measures are suddenly "infeasible." It simply makes an assertion without evidence**. Since the Port has withheld information on its actions for approximately seven years, the public has no reason to accept these assertions but rather has every reason to suspect the Port is simply stating that it can't do something because it doesn't want to.**

Third: Because the Port simply wants to scrub the agreed upon measures from a court agreement, it cannot unilaterally change those measures. It must be an agreement between the parties.

Fourth: The Port is being disingenuous in only asking for a revised EIR. Both health requirements and technologies to curb pollution effects have changed since the initial agreement, and the entire project effects need to be properly analyzed.

Fifth: Any future agreements will have to be monitored by a genuinely knowledgeable community committee, such as the EIR Committee under PCAC. Meetings need to be open to the public, and the Port should provide all the necessary monitoring information as well as consultants to this group. Reporting can no longer simply be left to the "discretion" of the Port since it has shown it doesn't choose to tell the community the truth until it is forced to.

For your records, I was Chair of the San Pedro Coordinated Plan Subcommittee for ten years, Parliamentarian to PCAC for ten years, and chair of (PCAC) after Jayme Wilson retired. I have attached my remarks to the Board of Harbor Commissioners upon their vote to disband PCAC. Please note the last two bullets, particularly.

The views expressed here are my own, based on these years of experience in dealing with the Port and its staff.

Yours sincerely,

June Burlingame Smith

3915 S. Carolina Street
San Pedro, Ca 90731
310 831 0726
Burling102@aol.com

June Burlingame Smith Notes for remarks to the Board of Harbor Commissioners
Re: the motion to disband PCAC
Date: May 2, 2013

Points:

1. Contrast of models: boss down or candor, cooperation and consensus.
2. Who will do EIRs?
3. What percentage of recommendations was accepted entirely or through moderation?
4. How many innovations in the past ten years did the Port initiate that did not come from PCAC?
5. How much money have the actions of PCAC saved the Harbor Department? How can this be measured?
6. An MOU with a few NCs is not a substitute for PCAC.
7. All PCAC recommendations for structural and voting changes were rejected by the Port staff and agreed to by the BOHC commissions in the past 8 years. We asked for cooperation, and got none.
8. No co-chair in eight years. Communication through the staff—who with held motions and recommendations for YEARS—has been the modus operandi under Mayor Villaraigoza. The community has not been absent: the Commission has been.
9. Over the past 8 years, PCAC has been the Commission's child that has systematically been starved of resources, nourishment and now respect. It was a child born out of the China Shipping decree: it was mandated. Port staff never willingly accepted it, but after the first few years of hard work, and largely due to the efforts of Commissioner Camilla Townsend then Kocol, the community and staff came together and established an excellent working relationship. Case in point: despite direct pleas to the BOHC, the current Executive Director defunded one of the most successful committees: the Air Quality Committee. So, the Commission allowed the staff to simply do what it wanted. It turned a deaf ear and blind eye to PCAC's attempts to change the negative relationship back to a positive one. There is no reference to the earlier success because the intent here is to simply get rid of this "thorn in staff's side" and assure the Commission that it is the only voice from the community that matters.
10. The ghost of PCAC will linger on. It will be invoked with every future lawsuit from continued flawed EIRS and continuing neglect of the nexus between the adjacent community and Port activities. It's literally criminal that the only future successful communication to address mitigation from the Port's studied indifference to the community will be in the courts of law.

October 18, 2015

Christopher Cannon, Director of Environmental Management
Los Angeles Harbor Department
425 South Palos Verdes Street
San Pedro, CA 90731

Email Comments sent to: ceqacomments@portla.org
Subject Line: Berths 97-109 [China Shipping] Container Terminal Project Supplemental EIR

From: Peter M. Warren
619 West 38 Street
San Pedro, CA 90731
--
Mr. Cannon and others at the Port of LA:

I write to object strongly to the timing, content and deadline for public comment to the Notice of Preparation for the Draft SEIR for the berths 97-109 China Shipping project. I object to the intent to alter the mitigation measures in the original EIR/EIS, as well as to changes to the court-approved settlement of the China Shipping lawsuit. The notice itself is inadequate.

The NOP can be found here:
https://www.portoflosangeles.org/NOP/China%20Shipping%20Berths%2097-109/ChinaShipping_NOP_090815_FINAL%20for%20web%20posting.pdf

First, I ask that the NOP be withdrawn. The NOP itself is inadequate in that it fails to describe what is being proposed. The NOP reads: "LAHD has also proposed that certain mitigation measures be reviewed and possibly revised based on feasibility, effectiveness, and other factors."
What are these other factors? The NOP does not say. No adequate response to a scoping or other document can be made under such circumstance.

Should the NOP not be withdrawn/reissued and even if it is, the comment period should be extended to at least 90 days.
This NOP constitutes an extraordinary change in the EIR/EIS, as well as to the agreement between the port and the plaintiffs to the suit. The plaintiffs were, in effect, proxies for tens of thousands of people living in the harbor area, as well as millions living down wind from the port in what has accurately been called the diesel death zone created by the air pollution, traffic and vehicle impacts from the goods movement industry.

It has long been clear to the port, which under a different administration routinely took this into account, that 30-day notice was inadequate.

It is incumbent on the port and city officials to do everything in their power to minimize impacts from the industry and port expansion, as well as to fulfill the court-approved agreement. Instead, this document tells residents that the port plans to forego mitigation measures covering air pollution, road improvements, vehicle traffic, including amping of ships, reduction in ship speed and emissions, yard-equipment upgrades and associated emissions pollution, as well as other issues.

Rather than prepare this large community – which extends across the LA Basin – for this request, the port announced it with no warning and no publicity efforts, at all. Accordingly, the comment period should be extended and the port should make broader efforts to notify those impacted, as federal and state law requires.

As to the idea that a supplemental EIR would suffice: The port should be required to do a new – not a supplemental – EIR/EIS for several reasons. First, it has demonstrated that the previous EIR/EIS was willfully ignored for years and likely fraudulently completed, or at the very least was agreed to by the harbor commission though senior port staff was engaging with its customers to bypass mitigation requirements. In addition, there have been significant changes in the technology, shipping volumes, cancer and health impact awareness, requirements for assessing social justice impacts, as well as substantial reason to doubt the data and other information being used by the port to assess impacts. Accordingly, the original EIR/EIS cannot be simply supplemented.

A brief history is in order. Recall that the court-approved settlement stems from the original inadequate EIR/EIS, which was successfully challenged by a homeowners' association lawsuit. The subsequent EIR/EIS was only adopted after a court-approved settlement. We learn now, after the fact, that the port made a decision to not comply with the settlement and the previous EIR/EIS, and the port continued in non-compliance for years. In fact, we also learn from other sources that the port did NOT incorporate the mitigation measures it had agreed to in lease agreements with the China Shipping Company. This willful non-compliance was kept secret from the public (but not China Shipping) until last month, when the NOP was issued. In effect, the port is saying that there is no reason for it to abide by this or any previous agreements, and that its previous words should be questioned at every turn.

Recall also that the Port Community Advisory Committee (PCAC), on which I served for 8 years, was created and had attempted to work as a monitor for port activities through its various subcommittees. In particular, PCAC acted as a watchdog of EIR compliance, as well as monitoring of air quality and other mitigation efforts under the China Shipping Agreement, and in general. Significant for the purposes of this discussion is that the port administration slowly withdrew financing and support for PCAC and then engaged with the Office of the Mayor to eliminate PCAC entirely. It is likely that this willful, stealthy dismantling of PCAC went hand-in-hand with port decisions to fast-track development at the new terminal while discarding required mitigation measures.

Accordingly, it is clear to me that a genuinely knowledgeable community committee, such as the EIR Committee under PCAC, must monitor future agreements, at the very least. Meetings need to be public, Brown Acted, and the Port should provide all the necessary monitoring information, as well as financial support to provide expert consultants to this group. Reporting can no longer simply be left to the port's discretion as the Port has demonstrated it withholds the truth from the public.

Finally, the non-compliance, withholding of information and violation of the court-approved settlement is so egregious that I would urge the plaintiffs in the China Shipping lawsuit to seek appointment of an overseer or some form of receivership for the port and its harbor commissioners with regard to compliance with environmental laws and court-approved settlements, but certainly with regard to next steps for the China Shipping terminal. I would also suggest the same for the Trapac Memorandum of Understanding, which included a separate set of environmental impact and mitigation measures.

Sincerely,

Peter M. Warren
619 West 38 Street
San Pedro, CA 90731
310 519-1585
pmwarren@cox.net

Ochsner, Lisa

From: havenick@cox.net
Sent: Monday, October 19, 2015 8:00 PM
To: Ceqacomments; burling102@aol.com
Cc: igornla@cox.net; det310@juno.com; arriane5@aol.com; pmwarren@cox.net; dwgkaw@hotmail.com
Subject: Re: the NOP on China Shipping Berths 97-109 [China Shipping] Container Terminal Project Supplemental EIR"

Thank you June for reminding us of the NOP and for your prescient comments, then and now!

Went to CAAP meeting last week and help is needed, as before, in helping direct Regulatory agencies, Ports, and Industry to the key emissions and to the key measures. Who knew!! PCAC served vital purpose.
Key point now is that previously low hanging fruit (e.g., LSF rules) are gone and new key measures must be identified for reasonable expectation of implementation.
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Richard Havenick

---- burling102@aol.com wrote:
> Please see the two attachments.
>
> Thanks.
>
> June Burlingame Smith