

Comment Letters Received on the YTI FEIR and Staff Responses

Several comment letters were received on the Final EIS/EIR for the Berths 212-224 [YTI] Container Terminal Improvements Project (proposed Project). This document provides responses to those comment letters.

Because multiple comment letters received had similar concerns, a set of global responses was developed to address common topics in a comprehensive manner. The following issue areas are addressed directly below:

- 1) Short time period between posting of the Final EIS/EIR and the Board meeting
- 2) Require use of zero-emissions trucks and cargo handling equipment
- 3) Include a comprehensive Health Impact Assessment (HIA)
- 4) Further mitigation to reduce/completely offset GHG emission pollutants
- 5) Technology Review Lease Measure

Following these global responses are copies of the individual comment letters followed by responses to the issue areas raised in those specific letters only.

Short time period between posting of the Final EIS/EIR and the Board meeting

Staff has fully complied with all CEQA and Brown Act laws regarding public notice, review periods, and public meetings for the Final YTI EIS/EIR as it has for the past several CEQA documents brought before the Board of Harbor Commissioners.

CEQA requires one 45-day public comments period on a Draft EIR. This period provides an opportunity for other agencies and members of the public to provide written feedback on the EIR's analysis, suggest additional mitigation measures, and identify other project alternatives. The Draft EIS/EIR prepared by LAHD and USACE was distributed to the public and regulatory agencies on May 2, 2014, for a 45-day review period. During that period, any members of the public and any organization could submit written comments. Approximately 107 printed and digital copies (CD) of the Draft EIS/EIR were distributed to various government agencies, organizations, individuals, and Port tenants. In addition, LAHD, in cooperation with USACE, conducted a public hearing regarding the Draft EIS/EIR on May 20, 2014, to provide an overview of the proposed Project and alternatives and to allow agencies and members of the public to provide oral public comments on the proposed Project, alternatives, and environmental document.

CEQA does not require any public comment period on the Final EIR. Rather, CEQA requires only that the agency preparing an EIR provide responses to comments submitted by public agencies at least ten days before making a decision on the project. Section 15088 of the CEQA Guidelines

states that the lead agency shall provide a written response to a *public agency* on comments made at least 10 days prior to certifying an EIR. Responses were provided to all public agency comments on October 6, 2014, 10 days prior to the Board meeting.

While CEQA does not require the Final EIR to be provided to the public in advance of a decision on a project, LAHD routinely does so. The Final EIR was posted to LAHD's website on October 10. Section 15089 of the CEQA Guidelines states that lead agencies may provide an opportunity for review of the final EIR by the public before approving the project, but there is no formal public review of the Final EIR afforded under CEQA. It should also be noted that the body of the Final EIS/EIR is less than 300 pages and the revised Appendix F is an additional approximately 1,000 pages, and not 7,000+ pages as stated in the comment. For reference, the complete Draft EIS/EIR text along with tables and exhibits is 1,690 pages, and the Appendices total 2,908 pages.

Going forward, the Harbor Department will utilize a new procedure for presenting major environmental documents to the Board for approval/certification that has been developed in response to the concerns raised in these comment letters. Staff will present an informational item at the time that the final document is made publicly available and will then present the document and project for approval or certification at the following meeting. This will allow the public additional time to review the final document before the Board acts on it.

Technology Review Lease Measure

Lease Measure AQ-1 is not a CEQA mitigation measure, because as previously explained, CEQA does not require the LAHD to adopt measures that have not yet been demonstrated to be feasible or effective. Lease Measure AQ-1 is a negotiated provision that the LAHD includes in its leases with its tenants. The lease measure outlines the frequency and process for review of new technologies of all types, including zero and near-zero emission technologies that are currently under development and/or testing as well as those that have not yet been developed or tested. It explicitly states that technology will be studied for feasibility, in terms of cost, technical and operational feasibility.

The Harbor Department is committed and actively engaged in supporting the development and testing of zero and near-zero emission technologies. The Technology Advancement Program (TAP) serves as the catalyst to identify, evaluate, and demonstrate new and emerging technologies applicable to the Port. The Ports of Los Angeles and Long Beach regularly meet with technology developers in order to stay informed about new and emerging technologies that may provide some options for reducing emissions from port operations. For a discussion of AMECS and MagLev trains specifically, please see responses to responses to CFASE's October 16 letter below.

In response to comments on the Final EIR and subsequent discussions with commenters, LM AQ-1 has been modified and strengthened to require more frequent technology reviews for specific, targeted technology areas. The revised language of LM AQ-1 is as follows:

LM AQ-1: Periodic Review of New Technology and Regulations. LAHD will require the tenant to review any LAHD-identified or other new emissions-reduction technology, determine whether the technology is feasible, and report to LAHD. Such technology feasibility reviews will take place at the time of LAHD's consideration of any lease amendment or facility modification for the YTI Terminal (Standard Tenant Feasibility Review). If the technology identified in the Standard Tenant Feasibility Review is determined by LAHD to be feasible in terms of financial, technical and operational feasibility, the tenant will work with LAHD to implement such technology.

In addition to the Standard Tenant Feasibility Review described above, and as partial consideration for the lease amendment, the tenant and LAHD will:

- (i) Commencing on December 31, 2017, and continuing not less frequently than once every two years thereafter (Expedited Feasibility Review), investigate and report to the Los Angeles Board of Harbor Commissioners on: (a) the feasibility of zero emissions and near-zero emissions technologies for truck, yard equipment and rail activities; and (b) the feasibility of technologies to reduce emissions from vessels berthed at terminals that are not able to utilize AMP; and
- (ii) Review and report to the Los Angeles Board of Harbor Commissioners on the feasibility of any other new technology advancements that may reduce emissions not less frequently than once every five years following the effective date of the lease amendment (Periodic Feasibility Review).

If either the Expedited Feasibility Review or the Periodic Feasibility Review demonstrates the new technology will be effective in reducing emissions and is determined by the Los Angeles Board of Harbor Commissioners to be feasible, including but not limited to from a financial, technical and operational perspective, tenant will implement the new air quality technological advancements, subject to mutual agreement on operational feasibility and cost sharing, which will not be unreasonably withheld. The effectiveness of this measure depends upon the advancement of new technologies and the outcome of future feasibility or pilot studies.

Require use of zero-emissions trucks and cargo handling equipment

Please refer to Master Response 2: Zero Emission Technologies in Chapter 2 of the Final EIS/EIR for a detailed and comprehensive discussion of the feasibility of individual zero and near-zero technologies. The Final EIS/EIR explains that there are *no zero emissions technologies readily available in the marketplace* to replace the types of trucks, ships, and trains that haul containers to and from the Port of Los Angeles. Nor have any zero emissions yard tractors proven to be effective for use at a container terminal. CEQA does not require lead agencies to adopt mitigation measures that have not proven to be feasible and effective, even if such measures might become feasible during the life of a project. This is because CEQA does not require speculation as to whether mitigation will become feasible.

As one example, commenter Coalition for a Safe Environment (CFASE) asks that the LAHD require use of Vision Motor Corp Zero Emissions Hydrogen Fuel Cell Class VIII Drayage Trucks and Yard Hostlers. On October 20, 2014, the LA Business Journal reported that Vision Industries Corporation, which did business as Vision Motor Corp., has filed for bankruptcy despite receiving millions in grant money from local, state and federal agencies. The article states that the largest impediment to marketability of the company’s product was the difficulty in getting the hydrogen fuel that powers the trucks. While zero emissions technology shows promise, it is not yet readily available or otherwise feasible.

LAHD has supported and continues to support the development of zero-emission technologies through funding and implementation of demonstration projects and through partnerships with other interested parties and agencies. However, development and testing of many of these technologies are still in the early stages, and a timeline for commercial viability is speculative at this time, making them technologically infeasible.

There have been suggestions made by commenters seeking to draw a parallel between YTI and other facilities in the Los Angeles/Long Beach port complex, especially with respect to the use of zero-emissions technologies. The one most commonly compared is the OOCL Middle Harbor project in Long Beach. However, for the sake of completeness, we have also included the TraPac project in Los Angeles. A side by side comparison of the three projects look like this:

	LBCT/Middle Harbor	YTI	TraPac
Acreage Before	102 acres (LBCT)	185 acres	176 acres
Acreage After	345 acres (Total)	“	243 acres (134ac auto)
Terminal Capacity Before	~1.0 million TEU (LBCT)	~1.7 million TEU	~1.7 million TEU
Terminal Capacity After	~3.3 million TEU	~1.9 million TEU	~2.4 mil TEU (pre-automation, now higher)
Approximate Cost	\$1.31 billion	\$~46 million	\$510 million
Lease Length	40 years	10 year extension	30 years

Source: www.polb.com, www.portoflosangeles.org

These three projects are significantly different in many ways ranging from size of land space, term of lease, expansion of yard capacity and cost. The Middle Harbor and TraPac projects are major redevelopments and expansions of terminals designed to increase overall terminal and port capacity. For each of those projects, automated equipment was proposed by the tenant; automation was not required as mitigation. YTI, by contrast, seeks only to deepen its berths to utilize the port supplied 53’ channel in order to accommodate the expected fleet mix of vessels up to 13,000 TEU that will call here in the future while upgrading aging portions of the terminals yard surface. YTI has not applied to automate its terminal; as explained below the cost of automation is extremely high, and generally would not be borne unless a tenant (1) has space available to take out of service while automation is installed; and (2) has a long enough lease term to amortize the capital cost of automated equipment. Neither is the case at YTI.

Three key pieces of automated machinery (Automated Stacking Crane/Rail Mounted Gantry Crane, Automated Guide Vehicle, and Auto-Strad) will be used in Middle Harbor and Trapac. The costs of the automated equipment alone at Middle Harbor and TraPac are roughly 5.7 and 3.3 times the total cost of construction of the YTI project, respectively. The costs at Middle Harbor and Trapac would be spread over 40 and 30 year leases, respectively, as compared to the 10-year lease extension at YTI. Given the scale and scope differences of these projects, LAHD could not feasibly require installation of automated terminal equipment at YTI.

Automated Stacking Crane (ASC) : ~\$3.0 million per machine

Automated Guided Vehicle (AGV): ~\$.5 million per machine

Auto-Strad: ~\$1.6 million per machine

	Automated Container Handling Equipment*			
	Middle Harbor		TraPac	
ASC	75	\$225,000,000	42	\$126,000,000
AGV	72	\$36,000,000	n/a	
Auto Strad	n/a		17	\$27,200,000
Total		\$261,000,000		\$153,200,000

Multiple of Equipment Cost vs. YTI Total Project Cost	~5.7		~3.3
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*estimated cost for equipment, based on public information

As such, it is infeasible to require YTI to use zero-emission truck and/or cargo handling equipment through mitigation. However, LAHD has included a lease measure in this document that requires technology reviews and allow for the deployment of new technologies when they become commercially viable (LM AQ-1). This measure will ensure that YTI will be required to reconsider the feasibility of zero emission technologies in the future as the technologies continue to develop. Please see modified language for LM AQ-1 above which speaks specifically to periodic review of technologies on a shorter review cycle (every two years) for zero and near-zero technologies for trucks and cargo handling equipment.

Additionally, LAHD has added the following lease measure for a zero or near-zero demonstration project to the Final EIR as follows:

LM AQ-4: Zero or Near-Zero Emissions Demonstration Project. The tenant will participate in a demonstration project lasting three years to investigate the feasibility of using two zero emission or near-zero emission yard tractors on the YTI Terminal. LAHD shall provide the equipment to be tested and any necessary infrastructure, including charging stations, as part of the project.

Finally, LAHD engaged in discussions with commenters on the Final EIS/EIR and will be recommending that the Board direct staff, separate from the proposed Project, to begin

exploring the development of strategies for zero emission and near-zero emission technologies, energy strategies, and GHG reduction strategies.

Include a comprehensive Health Impact Assessment (HIA)

Introduction

Commenters have suggested that the LAHD should conduct a Health Impact Assessment (HIA) for the proposed Project.

Before responding to these comments, a definition of HIA is necessary, as there are many various definitions of what an HIA is and no singular established guidance on how to conduct one. As described by the World Health Organization, a health impact assessment is: “A combination of procedures, methods, and tools by which a policy, programme, or project may be judged as to its potential effects on the health of a population, and the distribution of effects within the population.” (WHO, 1999) Although there is no one official interpretation or established guidance on how to conduct an HIA, HIA literature generally describes component steps of HIA as including, screening, scoping, assessment, recommendations, reporting, monitoring and evaluation. (National Research Council, 2011).

The detailed discussions of these issues below demonstrate that the Final EIS/EIR analyzes the health impacts of the Project by considering those changes to the physical environment that would result from implementation of the Project, and therefore, that the analysis in the Final EIS/EIR is consistent with CEQA requirements. As the CEQA lead agency, LAHD has discretion to determine what methodology should be used to measure an impact, and whether that methodology is sufficient to provide relevant information about an effect. Here, the methodology used in the Final EIS/EIR is sufficient to disclose health effects of the project.

In summary, the LAHD responds that: (1) the Final EIS/EIR includes a robust Health Risk Assessment (HRA) of Project health risk impacts that exceeds industry standards for a CEQA document; (2) the Final EIS/EIR also contains a comprehensive assessment of other health-related impacts of the Project in various other resource chapters that collectively provide information regarding health impacts of the project that LAHD considers to be sufficient; (3) there is no requirement under CEQA that a lead agency include an HIA or conduct every study requested by commenters; and (4) the LAHD has established, funded and participated in an extensive amount of community programs, financial assistance trust funds, and outreach of the type often sought by commenters or the literature as process or outcomes of HIAs.

Final EIS/EIR Has Satisfied CEQA Requirements

In LAHD’s judgment as the CEQA lead agency, the Final EIS/EIR already adequately analyzes many of the health impacts requested by the commenters to be in an HIA. The Final EIS/EIR discloses, in great detail, the environmental impacts of the Project and alternatives, including quantifiable health impacts. The health impacts were determined through assessments that

followed rigorous and scientifically-supported methods. These analyses are presented in the Final EIS/EIR for the Project and alternatives. The scientific and technical rigor of the approach to EIRs required by CEQA, satisfies the CEQA requirement that agencies base their environmental assessments on substantial evidence based on fact, or expert opinions or reasonable assumptions predicated on fact, and do not include social or economic impacts that are not caused by physical impacts on the environment by the proposed Project (Public Resources Code §§ 21080(e) and 21082.2(c)). This gives integrity to the health impact analyses in the Final EIS/EIR.

Air Quality and HRA

Section 3.2 and Appendix B3 of the Final EIS/EIR contain a comprehensive, detailed, and adequate HRA that more than meets industry standards for a CEQA document. CEQA requires that an EIR include an analysis that correlates “the identified adverse air quality impacts to resultant adverse health impacts.” *Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th, 1184, 1219. CEQA Guidelines §15126.2(a) requires an EIR to discuss “health and safety problems caused by the physical changes....” caused by the project. The proposed Project HRA meets these requirements.

In *City of Long Beach v. Los Angeles Unified School District* (2009) 176 Cal.App.4th 889, 901, the court held that the EIR’s Health Risk Assessment (HRA) contained “sufficient detail to enable those who did not participate in the” environmental review process “to comprehend and meaningfully consider the issues raised by the proposed project and the conclusions” reached by the agency. Consistent with CEQA Guidelines §21151.8, the Los Angeles Unified School District’s HRA considered potential long-term exposures to hazardous emissions generated from all facilities located within one-fourth of a mile of the site that might reasonably emit hazardous or acutely hazardous air including all sources of emissions, such as on-road (vehicle emissions) and off-road (locomotive) mobile sources, stationary sources as well as risks associated with carcinogenic chemicals and non-carcinogenic sources, such as refineries, and gas stations. The Final EIS/EIR HRA includes similar analyses, and thus also presents sufficient detail to enable those who did not participate in the CEQA process to understand the health issues and conclusions associated with the proposed Project. The HRA provides sufficient information for decision makers to make a decision which intelligently takes account of environmental consequences. (CEQA Guidelines Section 15151.)

The HRA, as presented in Section 3.2 and Appendix B3, examined the cancer risks and the acute and chronic non-cancer health risks associated with the Project on the local communities. The HRA is based on procedures developed by public health agencies, most notably the California Office of Environmental Health Hazards Assessment (OEHHA).

Health risks are analyzed for five different receptor types: residential, sensitive (elderly and immuno-compromised), student, recreational, and occupational. Health risks are reported over geographical areas (for example, the HRA includes cancer risk isopleths to illustrate risk patterns

in the communities). The Final EIS/EIR's health risk assessment modeling utilized a fine receptor grid in the vicinity of the Project site to capture health risk impacts to nearby sensitive receptors.

The HRA also assesses non-cancer impacts to a variety of acute and chronic exposure target organs. As is explained in Final EIS/EIR Section 3.2 and Appendix B3, the HRA assesses acute and chronic non-cancer health impacts (HIs) by calculating a "hazard index" which is then tied to OEHHA standards. HI's are set to provide a measure of how the project's toxics exposure compares to "reference exposure levels" or RELs. RELs are set so that the average person exposed to concentrations at the REL does not suffer adverse health effects. The types of adverse health effects associated with different air toxics vary by the chemical. Appendix B3, Table 5-1 lists the organs or systems of the body affected by each of the toxics analyzed the following acute and chronic exposure target organs: Alimentary Tract, Respiratory System, Cardiovascular System, Skin, Reproductive/Developmental System, Bone, Eye, Endocrine System, Hematologic System, Kidney, Immune System, Nervous System. More details can be found from the master table maintained by OEHHA on various toxics (OEHHA, 2012).

In addition to the HRA, the Final EIS/EIR also evaluated mortality and morbidity from particulate matter (PM) exposure. LAHD has developed a methodology for assessing mortality and morbidity in CEQA documents based on the health effects associated with changes in PM_{2.5} concentrations. Because mortality and morbidity studies represent major inputs used by CARB and EPA to set CAAQS and NAAQS, project-level mortality and morbidity is presented in LAHD CEQA documents as a further elaboration of local PM_{2.5} impacts, which are already addressed. Per LAHD policy, mortality and morbidity are quantified if dispersion modeling of ambient air quality concentrations during proposed project operation (Significance Criterion AQ-4) identify a significant impact for 24-hour PM_{2.5}. Mortality and morbidity effects are calculated for the population living inside the 2.5 µg/m³ proposed project increment isopleth identified during the dispersion modeling.

Operation of the proposed Project would result in a maximum offsite 24-hour PM_{2.5} concentration increment that would not exceed the SCAQMD significance threshold of 2.5 µg/m³ (see Table 3.2-34). Because the operational PM_{2.5} concentrations would be less than significant and would not exceed LAHD's criterion for calculating morbidity and mortality attributable to PM, potential mortality and morbidity effects were not quantified for the proposed Project.

Other Resource Areas: Aesthetics, Ground Transportation, Hazards, Noise, Land Use, Public Services, Utilities and Service Systems, Environmental Justice, Socioeconomics

The Final EIS/EIR contains a robust analysis of a variety of other issues that could be covered in an HIA by analyzing the proposed Project's effect on the following resources areas:

- Draft EIS/EIR Section 3.1 Aesthetics and Visual Resources analyzes the effect on visual and aesthetic resources, including degradation of existing visual character or quality of the

- Project site and its surroundings, light or glare that would adversely affect day or nighttime views, negative shadow effects on shadow-sensitive land uses
- Draft EIS/EIR Section 3.7 Ground Transportation analyzes short-term and long-term increases in truck and auto traffic, study intersections' volume/capacity ratios and level of service, freeway congestion, increases or delays in rail activity or regional rail traffic, hazards due to a design feature, adequacy of emergency access, and effects on adopted policies, plans or programs regarding public transit, bicycle or pedestrian facilities
 - Draft EIS/EIR Section 3.9 Hazards and Hazardous Materials analyzes hazards, hazardous materials, accidents, public health and safety, and homeland security issues, including the probable frequency and severity of consequences to people from exposure to health hazards
 - Draft EIS/EIR Section 3.12 Noise analyzes the impacts of proposed Project construction and operations on noise receptors in surrounding areas
 - Draft EIS/EIR Section 3.10 Land Use analyzes land use plans, environmental goals and policies adopted for the purpose of avoiding or mitigating an environmental impact, isolation or division of existing neighborhoods, communities or land uses, and secondary impacts to surrounding land uses
 - Draft EIS/EIR Section 3.13 Public Services analyze the effect on public services including emergency medical services, fire, police protection on and in the vicinity of the proposed Project
 - Draft EIS/EIR Section 3.14 Utilities and Service Systems analyzes the effects on public utilities including wastewater, storm drain, solid waste and energy services on and in the vicinity of the proposed Project
 - Draft EIS/EIR Chapter 5 Environmental Justice analyzes disproportionately high and adverse human health and environmental effects on minority populations and low-income populations
 - Draft EIS/EIR Section 7 Socioeconomics analyzes the socioeconomic character of the area in the vicinity of the proposed Project using information regarding employment and earnings, population and housing resources, environmental quality and the effect of urban decay and blight, and the economic effects of Port operations and the Project

No Legal Requirements for HIA

There are no specific legal or regulatory requirements in the United States or California to conduct an HIA. There is no requirement under CEQA that an EIR contain an HIA.

Under CEQA, an EIR is required to "identify and focus on the significant effects of the proposed project." (CEQA Guidelines §15126.2.) A "project" is defined as "an activity which may cause either a direct physical change in the environment or a reasonably foreseeable indirect change in the environment...." (Pub.Res. Code § 21065.) A significant impact typically involves a change in the "existing environment caused by the project." (Friends of the Eel River v. Sonoma County Water Agency (2003) 108 Cal.App.4th 859, 875.) An EIR does not need to resolve existing

environmental problems that will not be made worse by the project. (Watsonville Pilots Ass'n v. City of Watsonville (2010) 183 Cal.App.4th 1059, 1094 [holding that an existing water overdraft problem would remain but not be exacerbated by the project].) "The FEIR was not required to resolve [the existing and not exacerbated] problem, a feat that was far beyond its scope." (Id.) A change which is speculative or unlikely to occur is not reasonably foreseeable." (CEQA Guidelines 15064(d)(3).) "There is no requirement that an EIR analyze speculative impacts." (Friends of Eel River v. Sonoma County Water Agency (2003) 108 Cal.App.4th 859, 876.)

Furthermore, in Banker's Hill, Hillcrest, Park West Community Preservation Group v. City of San Diego found that a condition not caused by the project, which would exist with or without the project, was not an impact that negated the conclusion that there were no significant impacts to traffic. (Banker's Hill, Hillcrest, Park West Community Preservation Group v. City of San Diego (2006) 139 Cal.App.4th 249, 276.) This is the so-called "but for" provision of CEQA: effects that would not occur but for the Project must be considered as Project impacts, but effects that would occur with or without the Project need not be considered as Project impacts.

An HIA focused on the incremental impacts of a single project proposed for approval would not necessarily evaluate and address public health impacts from the broader, more regional perspective that commenters have requested to be studied. There are multiple regional contributors to a specific health endpoint (e.g. environmental pollution, related to refineries and manufacturing facilities, would not be accounted for are outside of the Ports' control). As mentioned above, the HIA analysis into these environmental endpoints that are the result of multiple regional contributors often lack scientific and technical methodologies established to measure an individual project's impact or contribution to the overall health impact.

State, county and municipal agencies' Public Health Departments may be the more appropriate agencies for HIA proponents to raise their broader community-wide health issues in a more programmatic, broad regional scale HIA rather than a project-level CEQA analysis. For example, a city or county general plan or a public health agency plan on a broader scale could address the kinds of important health issues that the public has expressed concerns about, including access to goods and services, access to parks, annoyance ("a feeling of displeasure associated with any agent or condition known or believed by an individual or a group to be adversely affecting them"), asthma, autism, birth defects, birth outcomes, bronchitis, cardiovascular disease, diabetes, educational performance, employment and income, housing, hypertension, leukemia, lymphoma, myocardial infarction, neurological problems, sinusitis, social networks, stress.

Agency Participation

The Port has made an effort, and continues to do so, to learn more about the HIA process, its application in major infrastructure or goods movement Projects, and its potential to positively impact the understanding of public health issues in the San Pedro Bay area. The Port has consulted with a leading HIA firm to gain a better understanding of the process. Additionally, the Port has collaborated with the Southern California Field Office of the USEPA Region IX during

discussions to develop a Ports-wide HIA. Furthermore, the Port was a member of the Technical Working Group for the HIA for the I-710 Corridor Project, a major goods movement project. The City of Los Angeles (City) is working to develop and implement policies to improve the overall health of individuals who live in the City's neighborhoods and communities. The multi-step strategy of the City is to first incorporate health policies into the City's General Plan by developing a Health/Wellness Chapter of the City's General Plan Framework Element (General Plan). (City of Los Angeles, 2012) Once the policies are incorporated into the General Plan, City staff will develop a series of health-based ordinances that target land use changes such as those that promote open space and recreational opportunities, grocery stores and health services, and will limit the quantity of liquor stores and tobacco retailers. The City's efforts are being conducted in collaboration with the Los Angeles County Department of Public Health (DPH), supported by a CDC grant - part of the US Department of Health and Human Services' Community Transformation Grants initiative.

Other Programs/Mitigations

Although the Port is restricted to Tidelands Trust-related activities and funding as stated above, the myriad of programs and activities that the Port supports outside of the EIR process positively influence health within the Port communities, either directly or indirectly, and therefore are relevant in responding to the comment. The Port supports programs and activities involving air quality, noise, education, neighborhood livability, cultural arts, open spaces, and community events.

Air quality and noise programs/mitigations include, but are not limited to:

- Development of the San Pedro Bay Ports Clean Air Action Plan (CAAP, 2006).
 - In 2006, the Ports completed development of the CAAP in collaboration with the USEPA, CARB, SCAQMD, the public, and other stakeholders. One of the CAAP's foundations is the commitment "to expeditiously and constantly reduce the public health risk associated with port-related mobile sources, and implement programs in the near-term that will achieve this goal" (POLB, 2006). The CAAP established source- and project-specific health risk standards, and identified the need to develop San Pedro Bay-wide Standards to reduce public health risks from air toxics and overall criteria pollutant emissions.
 - The recently-adopted 2010 CAAP Update established specific aggressive long-term goals for emission and health risk reduction in the region surrounding the POLA and the Port of Long Beach.
 - A key component of the CAAP is Alternative Maritime Power (AMP), which allows ships to shut down diesel engines and plug into clean electricity while at berth, thereby reducing community impacts.
- The Clean Trucks Program

- A key component of the 2006 CAAP, this program established a progressive ban on polluting trucks, and facilitated the replacement of old trucks with low emission vehicles as mechanisms to significantly reduce port truck-related emissions.
- As of January 2012, 100 percent of the cargo gate moves at Port terminals are being made by trucks meeting USEPA 2007 heavy duty truck emissions standards. This achievement allowed the San Pedro Bay ports to meet their 2012 goal of 80 percent emissions reductions from overall drayage operations relative to 2007.
- The Port Community Mitigation Trust Fund
 - LAHD is committed to addressing the overall off-Port impacts created by Port operations on surrounding communities and their residents. The Harbor Community Benefit Foundation (HCBF) is a nonprofit organization that administers the Port Community Mitigation Trust Fund (Trust Fund). The Trust Fund was established as a result of a Memorandum of Understanding (Trans Pacific Containers Service Corporation Memorandum of Understanding, executed on April 2, 2008, and known as the TraPac MOU) between appellants and the City of Los Angeles to settle appeals to the Board of Harbor Commissioner's certification of the Berths 136–147 [TraPac] Container Terminal Project Final Environmental Impact Statement/Final Environmental Impact Report (Final EIS/EIR). Pursuant to Exhibit B of the TraPac MOU, a specific list of Port expansion projects was established for which LAHD would contribute to the Trust Fund upon project implementation. The YTI Container Terminal Improvements Project is one of the projects listed in Exhibit B. As such, LAHD has estimated the proposed Project will contribute approximately \$773,500 to the HCBF in accordance with the established calculation method if the proposed Project is implemented. The final amount will be determined at the time the Board considers whether to certify the Final EIS/EIR and approve the proposed Project. The TraPac MOU does not allow the funding to be used as mitigation for direct project effects. Rather, the HCBF awards grants to a variety of projects and programs aimed at reducing health, environmental, and community impacts from Port operations in the communities of San Pedro and Wilmington.
- The Air Quality Mitigation Incentive Program (AQMIP) committed nearly \$30 million to fund air quality mitigation projects. These projects would either (1) reduce diesel PM and oxides of nitrogen (NO_x) emissions from Port operations in the communities of San Pedro and Wilmington, or (2) develop emission reducing technologies that may be applied throughout the San Pedro Bay. Although the AQMIP preceded the CAAP, the projects funded support the emission reduction goals of the CAAP. Specific projects include yard truck replacements, marine engine repowers, off-road retrofits, and CHE replacements.
- The Port, along with the Port of Long Beach, has developed the Technology Advancement Program (TAP) which accelerates the commercialization of new technologies, including zero-emission technologies, to provide more options to reduce emissions. The TAP has contributed over \$9 million of funding for new technology projects.
- The Port supports and sponsors various education programs including:

- The Port of Los Angeles High School
- The Port of Los Angeles Boys and Girls Club
- School Boat Tour Programs targeting 5th grade students
- The TransPORTer which is a 53-foot mobile museum that is presented at schools throughout Southern California.
- Red Car Field Trip Program that is available to schools on select days.
- Times in Education, in partnership with the Los Angeles Times, which is an entire curriculum based on the business of the Port and is offered to schools.
- Los Angeles Maritime Institute TopSail Program targeting Middle and High School students statewide
- International Trade Education Programs which has trade related academies on eight high school campuses including four at Banning High School in Wilmington, The Port of Los Angeles Boys and Girls Club, and Port of Los Angeles High School
- Harbor Department Engineers participate in annual outreach to 2-3 schools as part of “Engineers Week”
- The Harbor Department serves an active role in the Southern California Academy of Sciences
- Mentoring Program for high school students through the Global Environmental Studies Academy.
- A health education program is administered by Robert F. Kennedy Institute in Wilmington. The last health fair, held at Waterfront Park in April 2012, was estimated to have over 600 attendees. This project is a 5 year program and is currently in its 2nd year.
- The following Port programs and activities positively influence neighborhood livability.
 - China Shipping Community Aesthetic Mitigations Fund - Funds have been allocated to this fund pursuant to the China Shipping EIR settlement in 2003. The funds are to be used to beautify, landscape, and create open space for the port community. Notable projects that are possible through the fund include, but are not limited to, the following:
 - \$2.7 million has been allocated for the Wilmington YMCA Aquatic Center. This will allow the Wilmington YMCA to expand its current facility and build an indoor pool and teach water related skills and exercise programs.
 - Also, in San Pedro, nearly \$7 million was allocated to renovate a historical pool called the Hey Rookie Pool (also known as the “Gaffey Street Pool”) which is part of the Fort MacArthur Museum. This will provide a public swimming pool in the Southern part of San Pedro, where none exist.
 - In addition to these projects, \$1.4 million will be used for the Wilmington Marinas Parkway, located along Anchorage and Shore Roads, which is designed to include: landscaping, pathways, lighting, irrigation, and security cameras. This area currently has no walk-able paths or sidewalks and will enhance the opportunities for walking for the marina residents and visitors.

- The Port has funded projects to improve neighborhood and cultural arts in the local communities including:
 - Tree distribution events resulting in 3,947 trees to employees and 6,060 trees to community members at no charge. In addition, 4,374 trees have been recently planted on Harbor Department Property.
 - Financial support to fund the curator's salary for the Point Fermin Lighthouse, a local historic facility located in San Pedro.
 - Sponsorship of exhibits at local museums: the Banning Museum in Wilmington and both the Cabrillo Aquarium and Los Angeles Maritime Museum in San Pedro.
 - The construction of the Fanfare Fountain, Harbor Boulevard Parkway, and Cruise Ship Promenade in San Pedro.
 - Mitigation Grant Programs are funding the Plaza Park Redevelopment project, the Los Angeles Lighthouse renovation project, Wilmington Youth Sailing Center construction, Banning's Landing Health Education program, Marina's Parkway Landscaping in Wilmington, Storm Drain Education Program in Wilmington 3rd and 4th grade classes, and Tall Ship Restoration project which will allow for the expansion of the existing TopSail program.
- Recently the Port built the following new open spaces to enhance the local community and add natural space and parks:
 - 18 acres at 22nd Street Park
 - North Gaffey Street Beautification Project
 - 5 acres of park space including baseball facilities and parking on Knoll Hill
 - 1.4 acres of open space and parking at Front Street Dog Park
 - The Cabrillo Way Marina includes a 10,000 square foot park, and additional 2 acres of site landscaping spread across the site, 46 acres of project backland area, 41 acres of improvement to water areas, and approximately 3000 linear feet of promenade along the water edge varying in width.
 - The Wilmington Waterfront Park provides public space between Port operations and adjacent residences in Wilmington. Construction began in 2009 and the park officially opened to the public in June 2011. The park encompasses roughly 30 acres. Major elements of the park include continuous bike and walking paths. Additionally, the park features plazas and pavilions with stages and spectator seating having a capacity of more than 10,000 people.
 - The San Pedro Waterfront Project encompasses approximately 400 acres and will provide residents, visitors and businesses with unobstructed access to the waterfront for recreation, entertainment, commerce, culture and more. When completed, the project will include: a continuous eight-mile waterfront promenade, offering pedestrian and bike paths, public plazas, and new parks; three new public harbors and a public pier at 7th Street; redevelopment of Ports O'Call; and creation or enhancement of other attractions. The Harbor Department uses social networking sites such as Twitter and Facebook and also eAlerts to update users on

Board Meeting Agenda, Cargo Updates, New Alerts, Public Notices, Environmental Notices, and Newsletters.

Further mitigation to reduce/completely offset GHG emission pollutants

LAHD has evaluated the suggested mitigation to reduce and offset GHG emissions, and has addressed several of the suggested measures in Response to Comment EJ2-19 in Chapter 2 of the Final EIS/EIR. Some suggested measures have already been or will be implemented by the tenant, some were determined not to be applicable to the proposed Project and others were determined to be infeasible for the proposed Project. Measures deemed to be feasible for the proposed Project have been added as mitigation. It should be noted that Port-related source emissions inventories show that overall Port-related GHG emissions, including those controlled and not controlled by the Harbor Department, are already 15% below targets set by AB 32, the State's Global Warming Solutions Act. This is an important co-benefit of CAAP programs that have been implemented over the past nine years, and will continue to be implemented for projects such as YTI. Important examples of this include the vessel speed reduction requirements, AMP, and the transition to cleaner cargo handling equipment.

In addition, the Harbor Department is currently undertaking a planning exercise to develop new Port-wide GHG emissions reductions programs to assure continued reductions of GHG that could apply to this project and other Port-related sources as they are implemented in the coming years in order to meet further targets set by the City in 2030 and AB 32 in 2050. Implementation of these programs could occur through lease measures, such as those included in this document that require technology reviews and allow for the deployment of new technologies when they become commercially viable (LM AQ-1 and LM AQ-2), or they could occur through other types of voluntary and collaborative programs with the marine community. Nevertheless, and even while these Port-wide programs are under development, in response to comments to require YTI to purchase carbon offsets for GHG emissions, one new mitigation measure has been added to the Final EIS/EIR (MM GHG-4: Carbon Offsets for Certain GHG Emissions) to require the purchase of carbon offsets for GHG emissions associated with electricity usage for certain terminal operations by the year 2026. This measure has been further modified in response to comments on the Final EIS/EIR. Please see response below to the October 16, 2014 EarthJustice comment letter requesting GHG mitigation in Wilmington and San Pedro for a discussion of modifications to MM GHG-4 and the establishment of a local-investment GHG grant program.

MM GHG-4 requires that YTI shall purchase carbon offsets for 16,380 metric tons of GHG emissions equal to 100% of non-AMP Project-related terminal electricity usage in 2026. The Harbor Department is limiting the potential cost of this measure because (a) the future implementation cost for this measure is not known, (b) it is necessary to keep the measure proportional in nature and extent to the impacts, as well as, (c) LAHD policy objectives to encourage, rather than discourage, use of electrical power on the terminal. In the long-term, the cost of offset purchases could potentially be affected by several factors including: (a) the

limited and uncertain carbon offset market; and (b) the uncertain effects of future cap-and-trade regulations at various regulatory levels on all of the above factors. At this time, the State of California does not require consumers of electricity, such as the YTI Terminal, to participate in cap and trade programs.

The California Air Resources Board has imposed a cap-and-trade regulatory program on the power sector. CARB's cap-and-trade regulations (Cal. Code Regs., Title 17, §§ 95800 et seq.) took effect on January 2013 and the first phase of the regulatory program applies to electric power plants that produce 25,000 metric tons or more of CO₂e per year. The overall budget for GHG emission allowances under the cap and trade program encompasses a significant reduction in emissions from facilities covered by the program, from 394.5 million tons of CO₂e in 2015 to 334.2 million tons of CO₂e in 2020. Thus, the production of electricity that is consumed at the YTI terminal is already subject to the emissions reductions mandated by the cap and trade regulations that apply to electric power plants. This is the reason, per their website <http://www.climateactionreserve.org/resources/faqs/>, that the Climate Action Reserve did not develop protocols for reducing energy consumption for development projects, in order to avoid double counting. As is evident from the brief discussion above – there are many changes occurring in this area on the state level in this dynamic field. Additionally the City Council of Los Angeles has passed Motion No. 14-0907 in response to which the Harbor Department is preparing a comprehensive plan to further reduce GHG emissions.

In addition, it is important to recognize that a significant portion of terminal energy use is associated with AMP. AMP use is mandated by the California Air Resources Board in order to reduce emissions of criteria pollutants and toxic air contaminants. This project encourages AMP usage at the terminal. As a policy matter, imposing additional costs on AMP usage countervails CARB's current regulatory policies favoring increased electricity usage over combustion based energy sources for development projects. Further, consistent with requests by commenters, LAHD has been participating in several pilot projects designed to encourage use of electrical equipment on container terminals when and if such equipment becomes available. Charging tenants large sums in the form of offset requirements for electricity use could discourage, rather than encourage conversion to electricity powered equipment at terminals. The Final EIS/EIR recognizes the mitigation measures required for the proposed Project will not reduce GHG emissions to a less-than-significant level. LAHD has determined, as a policy matter, that requiring the tenant to purchase additional carbon offsets is not feasible on policy grounds.

Coalition For A Safe Environment

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October 16, 2014

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Re: Berths 212-224 (YTI) Container Terminal Improvements Project (Yuesen terminals, Inc.)
Final Environmental Impact Report (FEIR)
SCH No. 2013041017
APP No. 130204-020
SPL-2013-00810-TS

Su: Public Comments Regarding The Inadequacy of the Final EIR

The Coalition For A Safe Environment (CFASE) wishes to request the Port of Los Angeles Board of Harbor Commissioners (BOHC) vote to not approve the Berths 212-224 (YTI) Container Terminal Improvements Project and not certify the Final Environmental Impact Report (FEIR) for the following reasons:

1. The Port of Los Angeles failed to provide adequate time for the public to review, assess, compare, seek expert consultant opinion, validate information and prepare both verbal and written comments. The Port of Los Angeles provided only 6 calendar day's public notice for a Final EIR. On behalf of our members and public we request an extension of 60 calendar days to review a 7,000+ page FEIR document.
2. The Final EIR fails to require that YTI use the Advanced Maritime Emissions Control System (AMECS) Technology for ships unable to connect to POLA electric shorepower, for ships waiting at berth for unloading and for ships waiting in que outside the breakwater. THE FEIR failed to include a comprehensive assessment of the AMECS technology as a currently available, feasible and cost-effective mitigation measure for capturing ship emissions and reduction of ship emissions into the atmosphere. It has come to our attention that the EIR failed to assess the que waiting time at berth and outside the breakwater due to the unavailability of chassis to unload containers or other circumstances. As another example of delays, there recently was a fire in September of this year at another POLA terminal which required the stoppage of work on near-by ships and the relocation of near-by ships.

The AMECS technology has been demonstrated on over 50 ships over the past 4 years which have included: oil tankers, bulk loading and container ships. AMECS test results have shown reductions of:

PM	94.5%
NOX	99+%
SOX	98.5%
VOCs	99.5%

The current POLA Executive Director Gene Seroka, Environmental Director Chris Cannon and several other POLA staff witnessed a demonstration of the AMECS Technology on Tuesday October 14, 2014 at the Port of Long Beach.

The California Air Resources Board (CARB) has approved the AMECS Test Protocol and allows alternative emissions reductions and capture technologies to be used in lieu of electric shorepower.

We submit the following documents as further evidence of the validity of this technology:

- a. AMECS June 2014 Technology Performance Update
- b. AMECS January 23, 2013 Final Report-Demonstration of AMECS on an Ocean-Going Vessel While Berthed
- c. AMECS December 31, 2013 Press Release
- d. AMECS System Description & Cost Effectiveness vs Shorepower

CFASE further declares that in the previous Draft EIR & Final EIR for the POLA BNSF SCIG Project further AMECS documentation was submitted and is requested to be part of these public comments.

3. The Final EIR fails to require that YTI assess and mitigate increased toxic air pollution from locomotive diesel emissions at railroad yards that will transport YTI containers, service, maintain and repair locomotive engines. The Final EIR fails to require that YTI include the Advanced Locomotive Emissions Control System (ALECS) Technology for locomotive trains as a currently available, feasible and cost-effective mitigation measure for capturing diesel locomotive emissions and reduction of locomotive train emissions into the atmosphere, releasing greenhouse gases, impacting the environment and public health.

We submit the following documents as further evidence of the validity of this technology:

- a. ALECS General Information
 - b. ALECS April 2, 2007 TIAX Evaluation of the ALECS -ALECS Proof-of-Concept Testing at Union Pacific J.R. Davis Rail Yard in Roseville, California
 - c. ALECS February 26, 2007 EF&EE Emission Measurements on the ALECS at the J.R. Davis Rail Yard
4. The Final EIR fails to require that YTI assess and mitigate increased and/or continuing release of toxic air pollution from diesel trucks servicing the YTI Terminal. The Final EIR fails to require that YTI use zero-emissions trucks which are currently available, will soon be available, are feasible and cost-effective mitigation measure for eliminating diesel truck emissions from being released into the atmosphere, releasing greenhouse gases, impacting the environment and public health.

The California Air Resources Board (ARB) has certified Vision Motor Corp Electric/Hydrogen Fuel Cell Class VIII Drayage Trucks for sale in the state of California as a zero emissions truck.

The Vision Motor Corp Electric/Hydrogen Fuel Cell Class VIII Drayage Truck was able to successfully complete a full duty cycle (7-container per day) at a lower cost per mile when compared to a traditional diesel truck.

We submit the following documents as further evidence of the validity of this technology:

- a. ARB March 18, 2013 Certification Letter Ref. No. CIHD-2013-002
 - b. Tyrano BNSF Trials test report October 2-24, 2012
5. The Final EIR failed to include a comprehensive Health Impact Assessment (HIA) and Public Health Survey of the impacted harbor communities would have disclosed the serious increased public health impacts of the currently operating YTI Container Terminal and the proposed Expansion Improvements Project. CFASE has requested numerous times in the past that an HIA be included as a standard practice in all POLA EIR's. The Ports reliance on an outdated Health Risk Assessment and limited supplemental other health information fails to identify significant numbers of health impacted residents, their existing health problems and/or premature death. CFASE has previously submitted Expert opinion on the benefits of an HIA vs an HRA or as a supplement to an HRA which was ignored by the Port.

CFASE also submits with this Final EIR public comments a Health Impact Assessment Bibliography of 138 HIA abstracts and technical documents describing the benefits of an HIA which overwhelmingly validates our request.

CFASE also resubmits with these Final EIR public comments a copy of the CFASE Public Health Impact Studies List which contains hundreds of scientific medical research studies describing the health impacts of the Ports and Tenants

Without an HIA and/or Public Health Survey the Port has no Public Health Baseline of which to accurately know the depths of its public health impacts, base its decisions on the type and amount of mitigation and the mitigation funds necessary to off-set the impacts and reduce the negative impacts to less than significant. As an example and as identified in previous public comments:

- a. The Port can provide no accurate information of the number of Harbor, Freight Transportation Corridor and Distribution Center Residents, Sensitive Receptors and Port Industry Workers afflicted with Asthma, Bronchitis, Sinusitis, Emphysema, COPD, Lung Cancer or any other health problem. For example: The FEIR contains no rates of asthma for children or adults in Wilmington, San Pedro, Carson or West Long Beach the most common community health factor measurement reference and one of the most common air pollution respiratory health problem. With no baseline rate it is impossible to determine if public health is improving or getting worse as a result of the ports expansion and operations.
- b. The Port can provide no accurate information on the severity of public health problems, the length of time afflicted, loss of income, cost of health care, permanent disabilities or the availability of necessary health care services, medicines or equipment.
- c. The Port can provide no accurate information on the number of people who have died from COPD, an Acute Asthma Attack, Lung Cancer or any other respiratory disease, blood disease or other medical health condition as a result of its ports operations and freight transportation.
- d. An HIA can also disclose the loss of state funds which is a significant negative community socio-economic impact for local public schools due to missed school days, thus impacting the quality of education and services of children.
- e. An HIA can also disclose the loss of income, state and federal taxes from workers who must miss work due to ill family members or their own personal illness which is a significant negative community socio-economic impact to low income communities and also impacts the loss of revenues to support public services.

We submit our CFASE HIA Bibliography which contains 154 document citations which validate our request and the value of HIAs. We request that the POLA review each citation in its entirety to understand the value and necessity. We request that the POLA review each citation in its entirety to update the Final EIR to address the inadequacies and non-compliance issues.

We submit the following documents as further evidence of the validity of health Impact Assessments:

- a. Expert Witness Letter January 27, 2012
- b. Expert Witness CV

- c. Expert Witness Attachment: minimum Elements & Practice Standards for Health Impact Assessment
- d. US EPA May 5, 2010 Los Angeles & Long Beach Maritime Port HIA Scope
- e. CFASE HIA Bibliography

We submit our CFASE Bibliographies which contains over 1,000 document citations which validate our argument as to the inadequacies of the EIR's public health conclusions and proposed mitigation. We request that the POLA review each citation in its entirety to understand the value and necessity. We request that the POLA review each citation in its entirety to update the Final EIR to address the inadequacies and non-compliance issues.

- a. CFASE Public Health Impact Bibliography
- b. CFASE Ports & Goods movement Public Health impacts – 48 Citations

- 6. The EIR has inadequate information on the Cumulative Impact of multiple health problems and negative socio-economic impacts to residents. As examples a San Pedro family member was denied by all health care insurance providers health insurance due to preexisting health and a Wilmington single parent mother could not afford filters for her son's nebulizer and was using paper towels. An HIA could have provided some of this important information, as well as a more comprehensive off-port tidelands land use nexus study.

We submit our CFASE Bibliographies which contains 100's document citations which validate our argument as to the inadequacies of the EIR's lack of Cumulative Impact conclusions and proposed mitigation. We request that the POLA review each citation in its entirety to understand the value and necessity. We request that the POLA review each citation in its entirety to update the Final EIR to address the inadequacies and non-compliance issues.

- a. CFASE Public Health Impact Bibliography – 54 Citations
- b. CFASE Ports & Goods movement Public Health impacts Bibliography – 48 Citations
- c. CFASE Rail Road Industry Bibliography – 89 Citations

- 7. The project discusses that the YTI project will have built new On-Dock Rail but fails to disclose that the On-Dock Rail proposed at this facility is not the most efficient logistics design. The On-Dock Rail is not being built "dock-side to ships" so that containers can be unloaded directly to a train for transport out of the POLA. But is in fact being built on the opposite side, which will still require 1-2 additional container moves at a higher labor cost and increased logistic transport time.
- 8. The YTI Project Proposal proposes to use out-dated diesel fuel polluting locomotive rail transport instead of 21st Century Technologies such as a Zero Emissions and Near Noiseless MagLev Train. All electric MagLev trains can also travel 2x-3x faster than traditional locomotive trains and do not need to connect 200 or more cars to be transported. American MagLev Technologies, Inc. has proposed to build a demonstration project for the POLA, but the POLA has refused to allow a Demonstration Project. The 2006 Port adopted Clean Air Action Plan (CAAP) states that a Demonstration Project of Zero Emissions Container Movement System (ZECMS) technologies will be performed within 5 years

and the Port has failed to comply with the CAAP. There are currently 3 companies which have test demonstration tracks built at their manufacturing locations.

9. The Final EIR failed to include a comprehensive assessment of the Environmental Justice Community and Non-Discriminatory Impacts. The EIR fails to comply with federal, state and city executive orders, polices, directives and programs on Environmental Justice and Non-Discrimination. More detailed information could have been provided had there been more public participation and public comment time allowed. No expert Environmental Justice Consultant was hired to address this issue. The hiring of expert consultants is a standard practice of the POLA.

We submit our CFASE Bibliography which contains 100's document citations which validate our argument as to the inadequacies of the EIR's lack of Environmental Justice Community and Non-Discriminatory Impact conclusions and lack of proposed mitigation. We request that the POLA review each citation in its entirety to understand the value and necessity. We request that the POLA review each citation in its entirety to update the Final EIR to address the inadequacies and non-compliance issues.

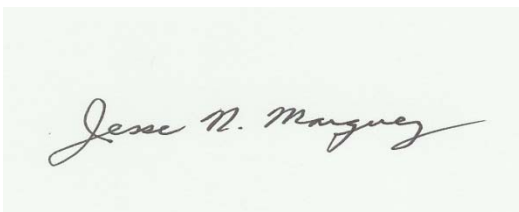
- a. CFASE Environmental Justice Bibliography – 118 Citations
- b. CFASE Public Health Impact Bibliography – 54 Citations
- c. CFASE Ports & Goods movement Public Health impacts Bibliography – 48 Citations
- d. CFASE Rail Road Industry Bibliography – 89 Citations

Coalition For A Safe Environment Mission Statement is - To protect, promote, preserve and restore our Mother Earth's delicate ecology, environment, natural resources and wildlife. To attain Environmental Justice in international trade marine ports, goods movement transportation corridors, petroleum and energy industry communities. CFASE has members in over 25 cities in Los Angeles County.

The Coalition For A Safe Environment declares that these public comments submitted include all previous submitted public comments in their entirety as part of the official record.

The Coalition For A Safe Environment reserves the right to submit additional public comments as may be deemed necessary.

Respectfully Submitted,

A handwritten signature in black ink on a light green rectangular background. The signature reads "Jesse N. Marquez" in a cursive script.

Jesse N. Marquez
Executive Director

And as an individual negatively health and socio-economically impacted resident
of Harbor City living near the proposed project.

Drew Wood
Executive Director
California Kids IAQ
Wilmington, CA

Ricardo Pulido
Executive Director
Community Dreams
Wilmington, CA

Pastor Alfred Carrillo
Apostolic Faith Center
Wilmington, CA

Require the use of Advanced Maritime Emissions Control System (AMECS) Technology

AMECS is essentially a baghouse installed over a ship's stack while it is docked. These units collect pollutants, which subsequently must be disposed of in solid or liquid form. LAHD anticipates that AMECS technology could eventually prove feasible and cost-effective as an alternative to AMP (shore power that allows ships to turn off main engines and auxiliary engines while docked) for some vessels calling the Port where AMP ship-side retrofits may be technologically, financially, and/or operationally infeasible for certain vessels. The system continues to be tested with generally promising preliminary results. However, AMECS cannot be used as an alternative technology to AMP until it receives verification from the ARB. The current status of AMECS technology is that it is undergoing CARB verification at this time and as such, requiring AMECS for the proposed Project is not a feasible mitigation measure. AMP continues to be the preferred mitigation measure for container ships as the technology is readily available, and does not collect pollutants that must be disposed of, but instead eliminates the generation of such pollutants in the Port-area. LAHD and its tenants have been installing AMP since 2004. It should be noted that AMP is currently available at all berths at the YTI Terminal.

It also is noted that the mitigation measures in the EIS/EIR include a requirement that by 2026, NYK-Line operated ships must use AMP (electrical power) for 95 percent of the hours they are at berth. As a result, the EIS/EIR shows that, by 2026, all criteria pollutant emissions from ships hoteling at the YTI Terminal under project conditions will be *lower* than emissions from ships hoteling at the YTI Terminal under baseline conditions. This shows the effectiveness of use of AMP as more ships become outfitted with technology that enables them to use this technology.

Please see modified language for LM AQ-1 above, which speaks specifically to periodic review of technologies on a shorter review cycle (every two years) to reduce emissions from vessels at berth.

Include assessment and mitigation of locomotive diesel emissions at railyards, including requirement to include the Advanced Locomotive Emissions Control System (ALECS) Technology

Like AMECs described in the paragraph above, the ALECS technology consists of a bonnet, or hood that is placed over a locomotive exhaust stack to capture exhaust pollutants emitted by the locomotive. The system was designed to capture and remove pollutants from locomotive emissions while the locomotive is motionless or moving slowly within the range of physical extension of the hood system. Although the ALECS system went through proof-of concept testing on a limited scale at the Union Pacific (UP) Roseville Railyard as part of a multi-agency stakeholder process, the system was never scaled up to full implementation at a railyard as a result of a number of technical issues. Idling emissions were not determined to be a significant portion of total railyard emissions in the testing, and therefore a number of hoods and substantial range of extension would be needed to capture a reasonable portion of emissions from multiple trains calling on a railyard. Because large-scale testing of ALECS has not occurred

and ALECS has proven to have a variety of technical and operational issues in the limited testing that has occurred and because the technology has not been verified by CARB, the ALECS technology is not technologically or operationally feasible mitigation for the proposed Project.

Further, line haul locomotives belong to national fleets owned and operated by the Class I railroads, UP and BNSF. Further reductions in locomotive emissions beyond the existing regulations and agreements discussed in the EIS/EIR can only be effectively accomplished at the San Pedro Bay Ports level rather than at the terminal level, as neither the Ports nor the terminal have control over UP and BNSF operations.

Please see modified language for LM AQ-1 above, which speaks specifically to periodic review of technologies on a shorter review cycle (every two years) to reduce emissions from rail activities at the terminal.

Inadequate information on the Cumulative Impact of multiple health problems and negative socio-economic impacts to residents

Cumulative impacts are addressed in detail in Chapter 4 of the Draft EIS/EIR, and analyses of environmental justice issues and socioeconomics are addressed in Chapters 5 and 7 of the Draft EIS/EIR, respectively.

On-dock railyard is not being built dock-side to ships so that containers can be loaded/unloaded directly between vessel and rail

This project supports the Harbor Department's goal of increasing on-dock rail usage. The Terminal Island Container Transfer Facility (TICTF) on-dock railyard is shared between the YTI and Everport container terminals. The proposed Project does not involve a complete redesign of the terminal layout and the shared on-dock railyard. Nor would it be feasible to move rail for use by trains directly onto the wharf. The majority of containers handled at the Port of Los Angeles, including at the YTI Terminal, are not bound for travel by rail. They are bound for the local market, which must be accessed by truck. All container terminals at the Port are configured so that there is space along the wharves and nearby container yards to load and unload containers from the ships, and to separate the containers into those that will be sent by truck or rail. While the wharves are not outfitted with rail for trains, the wharves are outfitted with rails for cranes so that the cranes can be moved along the wharf to the locations they are needed and the cranes can operate on electrical power. All of the cranes used to load and unload containers from ships at the YTI Terminal are electrically powered, which minimizes air pollutant emissions.

Require the use of magnetic levitation (maglev) train

Maglev is not a CARB verified technology. An operational prototype of a freight-moving system for maglev does not presently exist anywhere in the world. Accordingly, an extensive development, testing, and demonstration process is required before deployment of any of the

dedicated fixed-guideway systems could be considered feasible. Second, the likely very considerable capital and operating costs of fixed guideway systems have not been developed, and cannot be until technology development has proceeded further.

Additionally, these systems have extensive geographical coverage and are better implemented on a Port-wide or regional basis, making them inappropriate as mitigation for an individual project. The Project applicant has no means to implement such system-wide transportation improvements. The Clean Truck Program at the Port is an example of a large-scale transportation system that has been implemented on a Port-wide basis. However, transportation systems for cargo movement such as maglev represent an infrastructure system over which the LAHD has no jurisdiction or ability to control. The Harbor Department supports demonstration and testing of new technologies through our TAP program established under the CAAP. Nothing in this project prevents future demonstration of maglev.

Include a comprehensive assessment of the Environmental Justice Community and Non-Discriminatory Impacts

The EIS/EIR included an extensive discussion of project-level and cumulative environmental justice impacts and impact determinations were made pursuant to NEPA, even while analysis of environmental justice impacts is not a requirement under CEQA.

LAHD is committed to addressing the overall off-Port impacts created by Port operations on surrounding communities and their residents. The Harbor Department is committed to mitigating disproportionate impacts to EJ communities through a variety of CAAP measures and through funding provided to the Harbor Community Benefit Foundation. Please also refer to Master Response 3: Environmental Justice in Chapter 2 of the Final EIS/EIR.

Coalition For A Safe Environment

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October 28, 2014

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Re: Berths 212-224 (YTI) Container Terminal Improvements Project (Yuesen terminals, Inc.)
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SCH No. 2013041017
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SPL-2013-00810-TS

Su: Public Comments Regarding The Inadequacy of the Final EIR

The Coalition For A Safe Environment (CFASE) wishes to request the Port of Los Angeles Board of Harbor Commissioners (BOHC) vote to not approve the Berths 212-224 (YTI) Container Terminal Improvements Project and not certify the Final Environmental Impact Report (FEIR) for the following reasons:

1. The POLA has stated that the rationale for not including a Health Impact Assessment (HIA) in the YTI EIR is because the POLA does not believe that one can be prepared for a specific Port Project or for the entire PORT Complex Operations because there are other neighboring polluting industries and it is impossible to distinguish the Port of Los Angeles air pollution impacts on public health. External air pollution and other negative impacts exist in all HIA Scenarios and do not prevent an HIA from being prepared. The POLA of Los Angeles further states that a Health Risk Assessment and other supplemental health information it has included in the EIR is adequate to identify all public health impacts and to determine appropriate mitigation. These conclusions are arbitrary and capricious for the following reasons:
 - a. The POLA has no expert staff, expert opinion letters, professional, scientific, medical or research information to support its claims. CFASE in its previous submitted public comments on the YTI EIR on 10-16-2014 submitted an, "Expert Opinion Letter" with numerous attachments. See attached letter.
 - b. The POLA failed to include in the Draft and Final EIR and failed to disclose to the POLA Board of Harbor Commissioners that the US EPA had prepared a 111 page, "Los Angeles & Long Beach Maritime Port HIA Scope on 5/17/2010 of which the POLA was part of a taskforce in its development." See previous CFASE public comment letter 10-16-2014.
 - c. The POLA failed to include in the Draft and Final EIR and failed to disclose to the POLA Board of Harbor Commissioners that the Port of Oakland had prepared and included an HIA for one of its projects. See CFASE attached HIA Bibliography.
 - d. The POLA failed to include in the Draft and Final EIR and failed to disclose to the POLA Board of Harbor Commissioners that an HIA had been prepared for the Baltimore-Washington Rail Intermodal Facility. See CFASE attached HIA Bibliography.
 - e. The POLA failed to conduct an adequate if any HIA document research or contact any individual, organization or consultant to determine if there were relevant and potentially applicable HIA's the POLA could consider and incorporate into the YTI EIR. Other HIA's which are relevant and potentially applicable include HIA's on: Transportation & Infrastructure Projects, Hidden Costs of Transportation, Road Transport Policies, Transport Interventions, Land Transport Planning, Land Use Planning, Land Development & Decision Making, Public Policy Making, Health Impact Equity & Metrics, Global Climate Change, Climate Variability & Change and Integrate Environmental Justice into Federal Environmental Regulatory Analysis. See CFASE attached HIA Bibliography.
 - f. CFASE has prepared and is submitting an updated Health Impact Assessment Bibliography of 181 relevant and applicable HIA's as part of our Public Comments which refute POLA's claims and assumptions. We request that they be read individually, collectively and compared to those documents the POLA has based its decision making and provide a matrix showing the advantages and disadvantages of an HIA vs HRA. See CFASE attached HIA Bibliography.

2. The POLA proposal to address new emerging zero emissions, near zero emissions and emission capture systems technology is unacceptable. POLA measure is to require in the lease agreements a review of technologies every 5 years and then to consider the technology into the project. The lease measure does not “mandate” that they incorporate the technology when it is available and feasible nor does POLA describe under what conditions or criteria a company must meet.
 - a. A 5 year waiting period for an assessment of new technologies is unacceptable when new technologies are being introduced into the market every year and approved every year. CFASE requests every 2 years as a minimum.
 - b. The incorporation of a new technology into a project must be “mandatory” when it has been certified, verified, a the test protocol approved and the technology passing the designated requirements by the California Air Resources Board (CARB) or other recognized regulatory governmental (US EPA, SCAQMD) or industry authority.
 - c. There are technologies that will meet a project or tenants business cycle requirements. The POLA sets its own standards without factual basis and justification. As an example the Vision Motor Corp Zero Emissions Hydrogen Fuel Cell Class VIII Drayage Truck and Yard Hostler can currently meet all short distance transport requirements of containers and cargo. CARB has certified the Tyranno Truck for sale in the state of California as a zero emissions truck. There are currently truck companies that service POLA that wish to purchase the Vision Motor Corp trucks. POLA claims that electric trucks cannot go over a large tall bridge or long distance, but the fact is that certain projects do not require all or even one truck to go over a tall bridge or long distance. POLA also describes some of the problems these new technologies have but also fails to state that traditional trucks, even new ones still have problems on occasion. We support the phase in of zero emissions trucks as soon as possible, with local travel or deliveries being the priority. We support the POLA allocating in its annual budget a percentage for zero emission vehicles, which is 100% discretionary funds to support the offsetting of costs for a zero emissions vehicle. The POLA has failed to disclose to the Board of Harbor Commissioners that although zero emissions vehicles have a higher initial purchase cost, they are more cost effective and profitable than traditional diesel fuel or natural gas trucks over the lifetime of the truck. We request that the YTI EIR include a phase in plan of zero emission trucks. See previous CFASE public comment letter 10-16-2014.
 - d. The AMECS-Advanced Maritime Emission Control System Technology has been tested on over 50 ships over 6 years, including dry bulk, liquid bulk and container ships at the Port of Long Beach. AMECS has been successfully tested on a 10,000 TEU Ship. CARB has approved the AMECS Test Protocol. The POLA has refused to allow ACTI to demonstrate the AMECS technology at the Port of Los Angeles. New POLA EO Gene Seroka, Chris Cannon, numerous POLA staff and past Commissioners have witnessed an AMECS demonstration. POLA has failed to disclose to the Board of Harbor Commissioners that the main reason it is not supporting the ACTI-AMECS technology is because it is supporting a competitor technology at TraPac, by a former POLA Commissioner. Nick Tonsich is a former POLA BOHC and also an attorney who has been recently disbarred by the state of California and is currently being sued by ACTI for numerous patent infringements. AMECS has been demonstrated on-dock by a ship, off-dock on

the ocean side of a ship on a barge connected to its side while berthed at a terminal and off-dock on a ship on a barge connected to its side in the harbor water not at berth. We request that the YTI EIR include the AMECS technology to capture ship emissions when a ship is not capable to plug into electric shorepower or if YTI chooses not to plug into shorepower. POLA has failed to disclose to the BOHC that the AMECS technology is more effective in capturing 94%-99% of all ship emissions as compared to electric shorepower and that is because the POLA AMP technology cannot capture a ships auxiliary engines emissions while at dock. See previous CFASE public comment letter 10-16-2014.

- e. The public has requested a MagLev Train Demonstration Project either on-port property or off-port property. American MagLev Technology, Inc. (AMTI) has proposed a demonstration project numerous times and the POLA has refused to allow the demonstration project even when AMTI volunteered to build it at no cost to the Port,, POLA has failed to disclose to the HBOC that AMTI and other companies have existing test tracks at their facilities. The Clean Air Action Plan states that POLA will conduct a demonstration project within 5 years and they have not.

3. POLA claims that it cannot address and mitigate all greenhouse gas (GHG) emissions on-site. This is unacceptable when we have already disclosed:

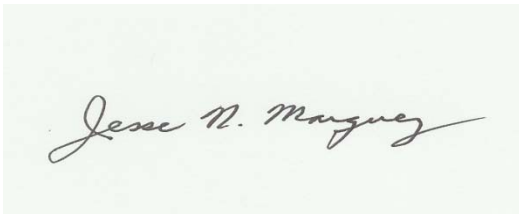
- a. There are several zero emissions freight transportation technologies and ship emissions capture technologies that will be available by the time the YTI Terminal Expansion Project is completed.
- b. POLA can expand its solar energy capacity at its terminals and at all property locations.
- c. POLA can mitigate GHG's off-port property. Examples of projects include:
 - i. Install Solar Energy at public schools.
 - ii. Install Solar Energy at parks, recreational centers, public buildings.
 - iii. Purchase electric and alternative fuel school buses.
 - iv. Purchase electric and alternative public transit buses.
 - v. Provide cash vouchers for local residents to purchase electric cars.
 - vi. Fund replacement of diesel fuel generators with solar and fuel cells.
 - vii. Electrify the Alameda Corridor. FYI Alameda Corridor was designed and built to be upgraded to electric.
 - viii. Fund the building and expansion of community green space parks, pocket parks and green landscaping.
 - ix. Replacing diesel fuel stations with bio-diesel fuel stations at port marinas and other off-port property fueling stations.

Coalition For A Safe Environment Mission Statement is - To protect, promote, preserve and restore our Mother Earth's delicate ecology, environment, natural resources and wildlife. To attain Environmental Justice in international trade marine ports, goods movement transportation corridors, petroleum and energy industry communities. CFASE has members in over 25 cities in Los Angeles County.

The Coalition For A Safe Environment declares that these public comments submitted include all previous submitted public comments in their entirety as part of the official record.

The Coalition For A Safe Environment reserves the right to submit additional public comments as may be deemed necessary.

Respectfully Submitted,

A handwritten signature in black ink on a light green background. The signature reads "Jesse N. Marquez" in a cursive script.

Jesse N. Marquez
Executive Director

And as an individual negatively health and socio-economically impacted resident of Harbor City living near the proposed project.

Drew Wood
Executive Director
California Kids IAQ
Wilmington, CA

Ricardo Pulido
Executive Director
Community Dreams
Wilmington, CA

Pastor Alfred Carrillo
Apostolic Faith Center
Wilmington, CA

All comments provided in this letter have been responded to either in the global responses at the beginning of this document or in the responses to the October 16 CFASE letter directly above.

**APOSTOLIC FAITH CENTER
CALIFORNIA KIDS IAQ
CALIFORNIA NURSES ASSOCIATION
COALITION FOR A SAFE ENVIRONMENT
COMMUNITIES FOR A BETTER ENVIRONMENT
COALITION FOR CLEAN AIR
COMMUNITIES FOR CLEAN PORTS
COMMUNITY DREAMS
EARTHJUSTICE
EAST YARD COMMUNITIES FOR ENVIRONMENTAL JUSTICE
NATURAL RESOURCES DEFENSE COUNCIL
REGIONAL ASTHMA MANAGEMENT & PREVENTION
SAN PEDRO AND PENINSULA HOMEOWNERS COALITION
SAN PEDRO HOMEOWNERS UNITED
SIERRA CLUB
SOUTH BAY 350 CLIMATE ACTION GROUP**

October 15, 2014

Board of Harbor Commissioners
Port of Los Angeles
425 South Palos Verdes St.
San Pedro, CA 90731
commissioners@portla.org

Re: Agenda Item No. 14—YTI Terminal Expansion

Dear President Martinez and Members of the Commission:

On behalf of undersigned organizations, we submit these comments on the Final Environmental Impact Report (EIR)/Environmental Impact Statement (EIS) for the YTI Terminal. Overall, we are disappointed with this project proposal. The project suffers from several flaws, and this letter highlights a few of the major problems with the EIR/EIS. We recommend that the project be sent back to staff to cure significant defects.

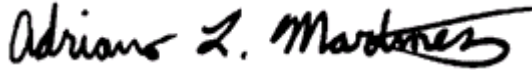
The YTI expansion project negatively impacts the health of the harbor community, the health of the region, and the health of the planet. On the local level, this project, which does very little to shift away from reliance on dirty diesel equipment, exceeds the health risk commitment the Port of Los Angeles made in the Clean Air Action Plan. Specifically, the project will exceed the 10 in a million health risk that the Port of Los Angeles committed not to exceed. On a regional level, this project emits significant Nitrogen Oxide (NO_x) emissions, which leads to ozone formation. As the Port is aware, the South Coast Air Basin suffers from some of the worst air quality in the nation. We need the largest emitters of pollution, like the Port of Los Angeles, to do their part in solving problems associated with this pollution. This project does not do its part, and in fact, makes the smog problem worse. Finally, in 2026, the EIR/EIS notes that the

project is slated to emit seven times what is considered significant for greenhouse gas emissions. The impacts of climate change are real and prevalent, and we need to dramatically curb greenhouse emissions. The project should include more strategies to reduce harmful climate pollution and not defer important mitigation measures for more than a decade.

Finally, we are concerned about the haste in which this project is proceeding. The public first became aware of the vote on this project on Friday of last week. A mere three business days to review the thousands of pages of documents is insufficient for a project of this magnitude. Moreover, the public hearing is being held at a time that is not conducive for the public to actually participate in the hearing. Given this haste and the import of this decision, the Port should provide more time to vet this project proposal.

We respectfully request that the Board of Harbor Commissioners not approve this project on Thursday, and in turn, send the project back to port staff to cure the many deficiencies identified by our groups and others. We appreciate your consideration of these comments.

Sincerely,



Adriano L. Martinez
Staff Attorney
Earthjustice

Pastor Alfred Carrillo
Apostolic Faith Center

Fernando Losada
California Nurses Association

Jesse N. Marquez
Executive Director
Coalition For A Safe Environment

Joseph K. Lyou, Ph.D.
President & CEO
Coalition for Clean Air

Alicia Rivera
Organizer
Communities for a Better Environment

YTI Terminal Expansion

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10/15/2014

Giselle Fong
Executive Director
Communities for Clean Ports

Drew Wood
Executive Director
California Kids IAQ

Ricardo Pulido
Executive Director
Community Dreams

Mark Lopez
Executive Director
East Yard Communities for Environmental Justice

Morgan Wyenn
Project Attorney
Natural Resources Defense Council

Joel Ervice
Associate Director
Regional Asthma Management & Prevention (RAMP)

John G. Miller MD, FACEP
President
San Pedro & Peninsula Homeowners Coalition

Chuck Hart
President
San Pedro Peninsula Homeowners United, Inc

George Watland
Sr. Chapter Director
Sierra Club

Joe Galliani
Organizer
South Bay 350 Climate Action Group

***Individual Signatory – Ann Cantrell

Project results in significant health impacts, including exceedance of the health risk commitment (over 10 in a million) the Port made in the Clean Air Action Plan

The EIS/EIR concludes that, at one relatively small portion of one marina near the YTI Terminal, the project would generate emissions that would exceed the 10 in 1 million significance threshold that the South Coast Air Quality Management District has established to measure health risks. Because there are live-aboard vessels at this marina, this is considered to be a significant impact. It should be recognized, however, that in calculating this health risk the EIS/EIR assumes (a) the Terminal would continue to operate for 70 years; and (b) a person living on a boat at the marina would continue to reside there for 70 years. These assumptions are conservative. With these conservative assumptions, the emissions result is an 11 in one million cancer risk at this limited location. The exceedance of the 10 in one million standard for residential receptors only extends over approximately 25% of a single marina directly adjacent to the Henry Ford and Schuyler Heim bridges and is not exceeded at any land-based residential receptors.

The commenter points out that the CAAP also includes a policy pertaining to a 10 in one million health risk level for residential receptors. The CAAP is a policy and planning document with goals to achieve air quality standards and suggested measures, but it retains the Board's discretion on their decisions to approve projects. Through the CEQA process, the Board has discretion to consider whether to approve a project that, after all feasible mitigation and CAAP measures are applied, has significant and unavoidable impacts which may include projects that exceed the 10 in one million health risk. The Harbor Department has approved two projects in the recent past with an exceedance of health risk for non-land based receptors, including most recently the APL EIS/EIR that had a similar health risk exceedance in this exact same location.

It also is important to understand that past projects approved by LAHD were able to show declining health risks in large part due to compliance with California Air Resources Board and Port rules requiring replacement of diesel trucks and yard equipment with cleaner trucks and equipment. Compliance with those regulations offset increases in emissions caused by greater throughput at the terminals. This same reduction in health risks is not identified for more recent projects because the trucks and yard equipment already have been replaced; as a result, the baseline emissions level is much lower. The CEQA documents show an increase in health risk due to an increase in throughput, not because equipment at the Port is getting dirtier.

Project emits significant Nitrogen Oxide (NO_x) emissions

The EIS/EIR concludes that the ships, trucks, trains and yard equipment used to transport and handle containers passing through the Terminal would generate emissions of criteria pollutants (including NO_x) that would be higher than the numeric significance thresholds that the South Coast Air Quality Management District has established for use in CEQA documents. These numeric thresholds are not scaled to the size of a project. The same numeric thresholds apply to operation of a small business such as a coffee shop as apply to operation of an entire

container terminal and associated goods movement activity. For this reason, emissions from container terminal projects at the Port of Los Angeles regularly exceed the CEQA significance standards.

LAHD staff recognizes the importance of reduction of NO_x emissions and has required all feasible mitigation to the proposed Project to reduce these emissions. Ships visiting the YTI Terminal will be required to comply with the Port's Vessel Speed Reduction Program, which reduces air pollutant emissions during travel. Ships will be required to plug into electrical power while at the YTI Terminal berths. NYK Line-operated ships must use Alternative Marine Power for 95 percent of the hours they are at berth. This is a substantially higher percentage than state law requires. In addition, yard equipment at the terminal will comply with the California Air Resources Board's stringent requirements for clean engines. The YTI Terminal has complied with CARB regulations earlier than required. All trucks visiting the Terminal will comply with the Port's Clean Trucks Program. Further, the YTI Terminal has an on-dock rail yard, which encourages transport of cargo by rail rather than truck, thereby minimizing air pollutant emissions.

It is important to point out that our Port emissions inventories show that Port-related NO_x emissions have declined by approximately 57% in the past nine years due to application of exactly the types of mitigation measures such as those proposed for this project as part of the CAAP (as well as the implementation of other state and federal regulations). This is confirmed by local Port air monitoring stations, which show a reduction of overall NO_x by nearly 40% (this is background including Port-related sources). The Harbor Department remains committed to continuing the reduction of NO_x from Port-related sources, and hopes to see continued reductions as implementation of CAAP programs continue. Nevertheless, the Board retains the discretion to approve projects with significant and unavoidable impacts if it makes findings and adopts a statement of overriding consideration.



October 16, 2014

Theresa Stevens, Ph.D.
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Board of Harbor Commissioners
Port of Los Angeles
425 South Palos Verdes St.
San Pedro, CA 90731
commissioners@portla.org

**RE: COMMENTS ON BERTHS 212–224 YTI CONTAINER TERMINAL
IMPROVEMENTS PROJECT FINAAL ENVIRONMENTAL IMPACT
STATEMENT (FEIS)/FINAL ENVIRONMENTAL IMPACT REPORT (FEIR)**

Dear Dr. Stevens, Mr. Cannon, and Members of the Board of Harbor Commission:

I submit these comments on the Final Environmental Impact Report (FEIR)/Environmental Impact Statement (FEIS) for the YTI Terminal. The project suffers from several flaws that have been identified by several commenters that have not been sufficiently addressed in the FEIR/FEIS. However, this letter seeks to highlight a few of the major flaws in the FEIS/FEIR.

I. The FEIR/FEIS Ignores Important Applications Where Electrification Has Been Proven Feasible.

The Port has failed to demonstrate the infeasibility of including electrification components in this Project. For example, the Port ignores applications of electrified technology

that is taking place at the Port of Long Beach, including the electric cargo handling equipment being used at Long Beach Container Terminal.

II. The Project Exceeds the Health Risk Threshold Promised in the Clean Air Action Plan.

The Port pledged in the Clean Air Action Plan¹ not to approve projects with an additional increase in cancer risk of 10 in a million or more. The YTI project exceeds this limit. This knowing disregard for the health and lives of those who reside in the Harbor Region is incompatible with the promises made by the Port and the spirit of CEQA.² The CAAP was explicit in its directive that “Projects *must* meet the 10 in 1,000,000 excess residential cancer risk threshold.”³ Nonetheless, this Project seeks special approval to endanger the public with a cancer risk level exceeding the pledged threshold. This is completely unacceptable and harbor region residents deserve better. Moreover, even levels below the 10 in 1,000,000 cancer risk are important given the cumulative risk associated with living in port adjacent communities. These risks are also concerning given that new scientific evidence demonstrates that the health risk protocol underestimates risks by up to 3 times.⁴

III. The Project Interferes with An Applicable Air Quality Implementation Plan and Achieving Air Quality Standards.

This project extends beyond the attainment date for both the 1-hour and 8-hour ozone standards. Thus, the FEIR/FEIS and the Findings of Fact and Statement of Overriding Consideration incorrectly conclude that “the proposed Project would not conflict or obstruct implementation of an applicable Air Quality Management Plan (AQMP).”⁵ Unfortunately, the FEIR/FEIS fails to disclose that the most recent AQMP approved by EPA, which took effect on October 3, 2014, relies on achieving reductions in many of the exact same emissions sources at this facility on a much more expeditious timeframe.⁶ None of the evidence provided in the FEIR/FEIS shows that this project, which increases Nitrogen Oxide (“NOx”) emissions, does not interfere with this applicable attainment plan. In particular, the FEIR/FEIS arguments about providing projections to the Southern California Association of Governments (“SCAG”) ignores an important aspect of the attainment problem.

¹ San Pedro Bay Ports Clean Air Action Plan (“CAAP”) (2010), available at <http://www.portoflosangeles.org/environment/caap.asp>.

² See Cal. Pub. Resources Code § 21002.1 (b) (“Each public agency shall mitigate or avoid the significant effects on the environment of projects that it carries out or approves whenever it is feasible to do so.”).

³ CAAP, at 51 (italics added).

⁴ SCAQMD Presentation, Potential Impacts of New OEHHA Risk Guidelines on SCAQMD Programs, available at <http://www.aqmd.gov/docs/default-source/Agendas/Governing-Board/2014/may-specsess-8b.pdf?sfvrsn=4> [Attached as Exhibit A].

⁵ Findings of Fact and Statement of Overriding Considerations, at 16.

⁶ See 79 Fed. Reg. 52,526 (Sep. 3, 2014).

Conveniently, the FEIR/FEIS ignores that the 2012 Regional Transportation Plan for the SCAG region the concluded the following:

While emissions from goods movement are being decreased through efforts such as the San Pedro Bay Ports Clean Air Action Plan, these reductions are unlikely to be sufficient to meet regional air quality goals.⁷

The SCAG report further elaborated the following:

It is a regional priority to reduce and mitigate the environmental impacts of moving goods through our region. Ships, trucks, trains and other goods movement equipment are among the largest contributors to regional air pollution, which must be reduced to comply with federal law. Freight emissions contribute to local health risks, which have raised community concerns and opposition, challenging some freight infrastructure projects. Criteria pollutants such as [] NOX, PM2.5, SOX, and CO can have significant public health impacts, including asthma and other respiratory ailments, increased stress, and increased cancer risk. In addition, noise, safety issues, aesthetic changes, vibrations, and natural resource depletion impact quality of life and may have health implications.

Freight transport is also a major producer of greenhouse gas emissions and a user of energy in the form of diesel fuel; cleaner sources of secure, reliable energy must be part of the solution. Much of the SCAG region does not meet federal ozone and fine particulate air quality standards as mandated by the federal Clean Air Act. NOX released from goods movement activities combines with volatile organic compounds (VOCs) in the atmosphere to form ozone pollution. In the South Coast Air Basin, there is a strict deadline to reduce ozone concentrations to 80 parts per billion (ppb) by 2023 with a future deadline of 75 ppb by approximately 2031. Failure to adopt sufficient measures to attain these standards in a timely manner will trigger federal sanctions such as curtailment of transportation funds. To attain the federal ozone standards, the region will need broad deployment of zero-and near-zero-emission technologies in the 2023 to 2035 timeframe.⁸

Thus, it is disingenuous to claim this project does not interfere with an applicable implementation plan because the project does not include the deployment of zero emissions technologies necessary to achieve air quality standards. Moreover, the project interferes with attainment of the state and federal 1-hour ozone standard, which the region failed to meet in November of 2010. The newly approved attainment plan for the 1-hour ozone standard requires broad reductions of emissions in the amount of 150 tons per day from Clean Air Act section 182(e)(5) measures, many of which will come from the freight sector given “Ships, trucks, trains and other goods movement equipment are among the largest contributors to regional air pollution.”⁹

⁷ SCAG, 2012-2035 RTP, Goods Movement Appendix, at 12, *available at* http://rtpscs.scag.ca.gov/Documents/2012/final/SR/2012fRTP_GoodsMovement.pdf.

⁸ *Id.* at 38.

⁹ *Id.*

By utterly failing to acknowledge this interference with the applicable plan and overall achievement of federal and state air quality standard, the FEIR/FEIS misleads the Commission and the public about the consequences associated with moving forward with this project.

Finally, the FEIR/FEIS articulates that the lease measures and the technology review mitigation measure could be effective in achieving the deep penetration of zero and near zero emission technologies necessary for the region to meet clean air standards. However, these measures assure no change from business as usual, and given their weak language will not result in the deep emissions cuts necessary to meet clean air standards and implement the applicable attainment strategies outlined in the most recent clean air plan.

IV. The Project Should Mitigate or Offset the Entire Amount of Significant Greenhouse Gas Emissions (GHG).

This project will emit GHG emissions almost seven times higher than significance threshold for GHG under CEQA in 2026.¹⁰ Moreover, the EIR/EIS indicates that there will be emissions well above significance in the years 2017 and 2020. Thus, the EIR/EIS provides insufficient rationale for the contours of MM GHG-4. First, the mitigation measure should be required sooner than 2026. There is no basis for failure to mitigate the GHG emissions in the 2017 timeframe.¹¹ Here, the impacts from the Project occur much sooner than 2026.¹² In years 2017, 2020 and 2026, the FEIR/EIS reveals significant GHG emissions in all project years. Thus, deferring mitigation “until 2026”¹³ violates CEQA’s contemporaneous mitigation requirements.

Second, the FEIR/FEIS arbitrarily excludes requiring offsets for the entire amount of emissions above significance levels. MM-GHG-4 only requires mitigation of 16,380 metric tons of the GHG emissions by 2026. This approach is arbitrary for several reasons. Initially, the FEIR/FEIS does not even mitigate the entire emissions associated with electricity use. The FEIR/FEIS completely fails to explain why it would only mitigate a subset of electricity use. It even fails to articulate what parts of the energy use were excluded from mitigation and why. Moreover, this approach is arbitrary because it fails to explain why other GHG emissions cannot be offset. While it would be preferable to offset emissions from terminal operations through strategies at the terminal, the FEIS/FEIR provides no explanation why it cannot fully mitigate the impact of GHG emissions through mitigation measures, including offsets.

The FEIR/EIS’s explanation for why it can ignore mitigation of its entire GHG emissions burden is based on claims that the \$10 million figure suggested by the Earthjustice comment

¹⁰ DEIR/DEIS, at 3.6-38.

¹¹ See *POET, LLC v. California Air Resources Board* (2013) 218 Cal.App.4th 681, 740 (“mitigation itself cannot be deferred past the start of the project activity that causes the adverse environmental impact”).

¹² FEIR/EIS, at 3.6-37 -38 [Table 3.6-7]. The analysis concludes the following amounts of GHG pollution: 34,974 MMTCO₂E (2017), 55,844 MMTCO₂E (2020), and 79,760 MMTCO₂E (2026).

¹³ FEIR/FEIS, at 3-7.

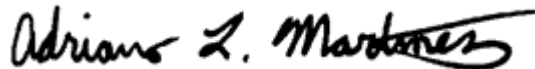
letter on the DEIR/EIS “is not sufficiently related to the project impacts.”¹⁴ This argument is incorrect. Importantly, even if the Port disagrees with the \$10 million figure, this does not absolve the FEIR/FEIS of its duty to implement all feasible mitigation measures. Offsetting project emissions has been determined feasible, even in this project, which has agreed to offset a subset of the project emissions in the amount of 16,380 metric tons. Moreover, the FEIR/FEIS ignores the fact that emitting almost 8 times the significance threshold for GHG emissions also results in major cumulative impacts, and thus, the \$10 million figure is tied to actual impacts from the project.

V. The Project Misses the Opportunity to Invest in Climate Mitigation in Wilmington and San Pedro.

This project will have significant GHG emissions impacts, in addition to important public health impacts. The FEIR/FEIS fails to address the potential to provide GHG offsetting projects in the already overburdened communities of Wilmington and San Pedro. In fact, the major climate implications of this project require that the Port implement GHG mitigation projects that have the added benefit of making the community more resilient in the face of climate change. These projects could include, but are not limited to, microgrids, solar installations in port adjacent areas, urban forests, and other projects that result in an equivalent amount of GHG reductions to address direct, indirect and cumulative GHG impacts.

I appreciate your consideration of these comments.

Sincerely,



Adriano L. Martinez
Staff Attorney
Earthjustice

¹⁴ FEIR/FEIS, at 2-141.

The Project Interferes with an Applicable Air Quality Implementation Plan and Achieving Air Quality Standards

The South Coast Air Quality Management District (SCAQMD) prepares the Air Quality Management Plan (AQMP), in collaboration with the US Environmental Protection Agency (USEPA), the California Air Resources Board (CARB), and the Southern California Association of Governments (SCAG), as a roadmap for regional attainment of Ambient Air Quality Standards (AAQS). The timeframe developed by the AQMP for attainment is shorter than almost any project, whether a port project, a gas station, or a school. A project's existence, beyond the AQMP attainment date does not, in itself, conflict with or obstruct implementation of an AQMP.

The 2012 AQMP recognizes that while there has been much progress in developing and deploying transportation technologies with zero-and near-zero emissions (particularly for light-duty vehicles and passenger transit), additional technology development, demonstration and commercialization will be required prior to broad deployment in freight and other applications. Please refer to Master Response 2: Zero Emission Technologies in Chapter 2 of the Final EIS/EIR for a comprehensive discussion of various LAHD programs designed to further the goal of reducing and mitigating environmental impacts of goods movement in the region.

The AQMP is a roadmap for regional attainment of AAQS. The SCAQMD describes the AQMP as a path to evaluate, develop, demonstrate, fund, and deploy impact-reducing technologies. The SCAQMD states in the 2012 AQMP that a combination of regulatory actions and public funding is the most effective means of achieving emission reductions (2012 AQMP, Chapter 4). Measures identified by the SCAQMD in the AQMP do not prescribe actions to be undertaken by individual projects evaluated under CEQA. The Project will not conflict with or obstruct implementation of the AQMP for the following reasons:

- The attainment strategies in the AQMP, developed in collaboration with SCAG, CARB, and the USEPA are enforced at the state and federal level on engine manufacturers, petroleum refiners, retailers, etc. As a result, Project operation would comply with these control measures. In addition, the SCAQMD adopts AQMP control measures into the SCAQMD rules and regulations, which are then used to regulate sources of air pollution in the region.
- The 2010 CAAP Update goals were developed in collaboration with the SCAQMD, CARB, and the USEPA specifically to assist the region in meeting the 2023 AAQS attainment goals. The CAAP has proven to be an effective means of reducing impact from goods movement in the port area as evidenced by the fact that since 2005, NO_x levels at the San Pedro Ports have decreased by 57% percent, well ahead of the 2014 reduction goal of 22% and on track to meet the 2023 59% reduction goal established by the 2010 CAAP Update.

LAHD agrees that it is a regional priority to reduce and mitigate the environmental impacts of moving goods. LAHD is committed to this goal and has developed the 2010 CAAP Update, the Clean Trucks Program, the Oceangoing Vessel (OGV) Incentive Program, and the TAP program to further this goal. In addition, in 2011 staff developed the Roadmap for Zero Emissions. This

document expresses the ports' commitment to zero-emission technologies by establishing a reasonable framework for future identification, development, and testing of non-polluting technologies for moving cargo.

LAHD recognizes that although many zero emission technologies are not yet feasible for port operations, they are promising and may, in the future, reduce impacts associated with goods movement. For this reason, LAHD has included a lease measure in the Final EIS/EIR that requires technology reviews and allows for the deployment of new technologies when they become commercially viable and are determined to be feasible.

Invest in GHG mitigation in Wilmington and San Pedro

Although GHG emissions and resulting climate change are global issues with global implications, we appreciate the recommendation to offset GHG emissions through local projects. To date, 1.6 megawatts (MW) of photovoltaic solar power have been installed at Port facilities. The Port has committed to coordinate the installation of a total of 10 MW. As described above, the Harbor Department is currently undertaking a planning exercise to develop GHG programs to assure further reductions of greenhouse gas in order to meet goals set by the City and the state for 2030 and 2050 respectively. As part of that process, we are committed to working with the community and local, state and federal regulators to develop programs to reduce greenhouse gas emissions, with particular emphasis, if possible, on programs with local implications.

LAHD engaged in discussions with commenters on the Final EIR and will be recommending that the Board direct staff to investigate and report on the establishment of a local-investment GHG grant program to address impacts of the YTI Project and other future projects.

Additionally, MM GHG-4 has been modified to alternatively allow for contribution of equivalent offset funds to local projects or funding programs for the reduction of GHG emissions, such as the local-investment GHG grant program described directly above. The final measure is as follows:

MM GHG-4: Carbon Offsets for Certain GHG Emissions. YTI shall purchase carbon offsets from sources listed on the American Carbon Registry and/or the Climate Action Reserve (or any other such registry approved by CARB) for a total of 16,38 metric tons of GHG emissions associated with electricity usage for certain terminal operations (Required Offsets) by the year 2026. Alternatively, if LAHD identifies local projects or establishes a local GHG emission reduction funding program, YTI may contribute funding equivalent to the cost of the Required Offsets to such local projects or funding program.



South Coast
Air Quality Management District

21865 Copley Drive, Diamond Bar, CA 91765-4182
(909) 396-2000 • www.aqmd.gov

E-Mailed: October 15, 2014
ceqacomment@portla.org
Theresa.stevens@usace.army.mil

October 15, 2014

Chris Cannon
Director of Environmental Management
Los Angeles Harbor Department
P.O. Box 151
San Pedro, CA 90733-0151

U.S. Army Corps of Engineers
Los Angeles District, Regulatory Division
Ventura Field Office
ATTN: Theresa Stevens, Ph. D
2151 Alessandro Drive, Suite 110
Ventura, CA 93001

**Final Environmental Impact Statement/Report (Draft EIS/EIR)
for the Proposed Berths 212-224 (YTI) Container Terminal Improvements Project**

The South Coast Air Quality Management District (SCAQMD) staff appreciates the opportunity to submit comments on the Final EIS/EIR for the Proposed Berths 212-224 (YTI) Container Terminal Improvements Project. The SCAQMD staff reiterates the concerns raised in our June 27, 2014 comment letter on the Draft EIR/EIS. In particular, the project demonstrates significant air quality and health risk impacts that exceed SCAQMD thresholds and are not consistent with the San Pedro Bay Standards developed as part of the Clean Air Action Plan. In addition, as demonstrated in the project analysis, emissions from terminal operation on its own will exceed federal Ambient Air Quality Standards for NO₂. Besides affecting public health, exceedances of ambient air quality standards can have other repercussions (e.g., economic, regulatory, etc.) to the region due to the federal mandates to address the exceedance. Given these significant air quality and public health impacts, we request that the port reconsider the Final EIR/EIS conclusion that there is no feasible way to commit to Zero/Near-Zero Emissions (ZE/NZE) or other technologies to reduce these impacts.

SCAQMD staff believes that there are several mitigation measures that are available in the life of the project, and today, that can be feasibly implemented to reduce the impacts from project operations. In the next several years these include committing to using ZE/NZE trucks and cargo handling equipment, Tier 4 locomotives, and Tier 3 ocean going vessels. There are no commitments in the Final EIR to actually using any of these technologies.

There are also measures that should be considered today that were not discussed in the Final EIR. First, the port should evaluate the feasibility of using equipment similar to the 72 zero emission cargo handling vehicles purchased by Long Beach Container Terminal for the Port of Long Beach Middle Harbor project.¹ It is our understanding that the decision to purchase these vehicles (that are onsite today) was not required as CEQA mitigation, but rather that these vehicles would be beneficial to the terminal operator. Second, the port should evaluate the ability of the terminal operator to incentivize ZE/NZE trucks. As an example, the terminal operator could provide incentives (e.g., expedited access, reduced fees, etc.) at the gate or in the terminal for ZE/NZE trucks.

We appreciate your willingness to consider these comments, and we look forward to continuing to work with you in developing clean air strategies. If you have any questions, don't hesitate to contact either Susan Nakamura at (909) 396-3105, or myself at (909) 396-3244.

Sincerely,



Ian MacMillan
Program Supervisor
Planning, Rule Development, and Area Sources

¹ http://www.terex.com/port-solutions/en/static/UCM03_074576_Latest_1_UCM03_074576_Web.pdf

Project demonstrates significant air quality and health risk impacts that exceed SCAQMD thresholds and are inconsistent with the CAAP San Pedro Bay Standards

The proposed Project is not inconsistent with the San Pedro Bay Standards in the CAAP. The San Pedro Bay Standards are bay-wide health risk and emission reduction standards that do not apply to specific projects. The Port as a whole is on track to meet and even exceed the San Pedro Bay Standards. The proposed Project also applies all applicable CAAP source-specific control measures. For a discussion of the Project Specific Standards and exceedance of the 10 in one million residential health risk threshold, please see response to the October 15 EarthJustice letter above.

The EIS/EIR assesses and discloses exceedance of SCAQMD thresholds and applies all feasible mitigation measures to reduce those impacts. The Board retains the discretion to approve projects with significant and unavoidable impacts if it makes findings and adopts a statement of overriding consideration.

Emissions from terminal operation on its own will exceed federal Ambient Air Quality Standards for NO₂

The discretionary action is the project being analyzed under CEQA (CEQA Project), as defined in the FEIR; it is not based on the entire YTI terminal. The CEQA analysis, per SCAQMD guidance and LAHD policy is concerned with the physical change from the baseline condition that would occur if the CEQA Project is approved by the Board of Harbor Commissioners. The change from baseline is the CEQA Project increment added to background concentrations, which includes the YTI facility. The FEIR evaluated the impacts associated with the CEQA Project increment in accordance with CEQA. It did not evaluate the impacts from the terminal operation on its own. A project-level exceedance of an AAQS does not indicate that the air basin's attainment status would be compromised, for the following reasons:

1. AAQS Attainment is a cumulative issue.

Pollutant concentrations from large facilities, such as marine terminals, rail yards, oil refineries, warehouses, etc. may exceed AAQS in localized areas, especially for NO₂ because the background levels of NO₂ are often close to the AAQS. However, attainment of AAQS is addressed in terms of the air basin as a whole and is a function of a region's past, present and future development projects and meteorological conditions. All these contribute to a region's air quality impacts on a cumulative basis. In fact, other air quality management districts like the BAAQMD stipulate that no single project is sufficient in size to, by itself, affect the attainment status of an air basin (BAAQMD 2010 CEQA Guidance Document).

2. CAAP NO_x Reductions at the San Pedro Ports.

Since 2005, NO_x levels at the San Pedro Ports have decreased by 57% percent, well ahead of the 2014 22% reduction goal and on track to exceed the 2023 59% reduction goal established by the

2010 CAAP Update. It should also be noted that the 2010 CAAP Update goals were developed in collaboration with the SCAQMD, CARB, and the USEPA to assist the SCAQMD in meeting the 2023 AAQS attainment goals. All port terminals were considered in the 2010 CAAP Update.

3. Air dispersion models are designed to be over-predictive. Modeling of NO₂ represents a very conservative estimate of localized concentrations.
 - The peak 1-hour NO₂ concentrations represent a conservative composite emissions scenario where the peak 1-hour emissions from each source category were modeled together even if they would occur in different analysis years. For most source categories, the peak 1-hour operational NO₂ emissions would occur in 2017. However, peak 1-hour NO₂ emissions for drayage trucks would occur in 2020, and peak 1-hour NO₂ emissions for ship transit, ship hoteling boilers, and TRUs would occur in 2026. All of these emissions were modeled together to estimate the maximum 1-hour NO₂ concentration even though the emissions would not actually occur simultaneously. This is a very conservative approach used to limit the number of modeling runs to a reasonable number (e.g., 100 modeling runs vs. 300 hundred).
 - The modeling approach sums peak 1-hour NO₂ concentrations from each source category even if the concentrations would occur during different hours of meteorological data. This is a very conservative approach done to reduce the time required to run large modeling files.
 - To obtain the total federal 1-hour NO₂ concentration, the maximum modeled NO₂ concentration (which is the 98th percentile of the daily maximum 1-hour averages) was added to the background concentration. The background concentration represents the 3-year average of the 98th percentile of the daily maximum 1-hour averages of monitored concentrations. Adding the maximum modeled project concentration to the high background concentration is conservative because the maximum project concentration may actually occur when the background concentration is much lower than the background concentration described above.
4. In addition to the reasons specified above, a project-level exceedance of an AAQS does not indicate that the air basin's attainment status would be compromised, for the following reasons:
 - Figure R.7 in the DEIR/EIR Response to Comments shows that area of NO₂ AAQS exceedance for the CEQA Project would not overlap the North Long Beach station. The North Long Beach station is the station closest to the project site that is used by SCAQMD and CARB in determining attainment of the air basin with AAQS. Figure R.7 therefore indicates that the project would not compromise the air basin's attainment status.
 - Consistent with CEQA and SCAQMD guidance, localized NO₂ impacts for the CEQA Project were determined by adding the Project increment to the nearest and/or most appropriate background monitor concentrations and compared against the AAQS to determine significance.

In the case of the YTI Terminal CEQA analysis, the Terminal Island Treatment Plant (TITP) monitoring station was used to assess the background NO₂ concentration. The TITP station is close to the YTI Terminal and as such picks up the contribution from the existing YTI Terminal. The TITP station is also close to several other terminals and therefore represents the combined effect from facilities in the vicinity of the YTI Terminal. The fact that the NO₂ concentration at the TITP has never exceeded the 1-hour federal NO₂ AAQS indicates that the combined contribution of YTI and other terminals and facilities in the area has not compromised NO₂ attainment in the area. This also confirms the fact that air dispersion models by their nature are highly over-predictive and do not reflect actual conditions, although they are useful as tools in comparing one project to another or one alternative to another.

- In addition, because the TITP station is close to several other terminals and therefore represents the combined effect from facilities in the vicinity of the YTI Terminal, it would be speculative to assume that the YTI terminal by itself causes or would cause an exceedance of the federal 1-hour NO₂ standard.



South Coast Air Quality Management District

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E-Mailed: October 30, 2014

October 30, 2014

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Final Environmental Impact Statement/Report (Draft EIS/EIR) for the Proposed Berths 212-224 (YTI) Container Terminal Improvements Project

The South Coast Air Quality Management District (SCAQMD) staff appreciates the opportunity to submit these supplemental comments regarding the Final EIS/EIR for the Proposed Berths 212-224 (YTI) Container Terminal Improvements Project. This letter describes mapping of pollutant levels prepared by SCAQMD staff in response to information in the Final EIS/EIR. This mapping indicates that the project has potential for greater impacts on air quality and public health in a residential area than was previously understood. This letter also explains why the mitigation measure for new technologies that was discussed before the Harbor Commission on October 16 does not effectively allow the port to require implementation of new lower emission technologies when they become available. Finally, this letter summarizes our position regarding other key matters included in the Final EIS/EIR. These comments seek to ensure that the Commission and public have a full understanding of the project's air quality impacts, and that significant impacts are mitigated to the extent feasible, as required by the California Environmental Quality Act. (CEQA Guidelines §15002(a)(1); §15002(a)(3)).

Exceedance of Federal NO₂ Ambient Air Quality Standard

NO₂ Analyses in EIS/EIR. The federal government has adopted National Ambient Air Quality Standards (NAAQS) for various pollutants which are set at levels necessary to protect public health. The draft EIS/EIR for the YTI project concluded that the project would cause an exceedance of the “1-hour” NAAQS for nitrogen dioxide (NO₂).¹ The draft EIS/EIR included a map showing the point of maximum NO₂ impact, which was located in the ship channel adjacent to the YTI terminal (Draft EIS/EIR Figure 3-16). SCAQMD staff requested that the Final EIS/EIR include a map of dispersion modeling to allow the public to understand the geographic extent of the exceedance.

The Final EIS/EIR provides a map which depicts the area of NO₂ impact from the project. (Final EIS/EIR Figure R.7, shown below). This map was prepared using a methodology that combined dispersion modeling of emissions and monitoring data from a nearby air monitor.² This map in the Final EIS/EIR shows exceedance of the federal NO₂ standards occurring primarily over water and port waterfront property, and generally not extending into a residential area.

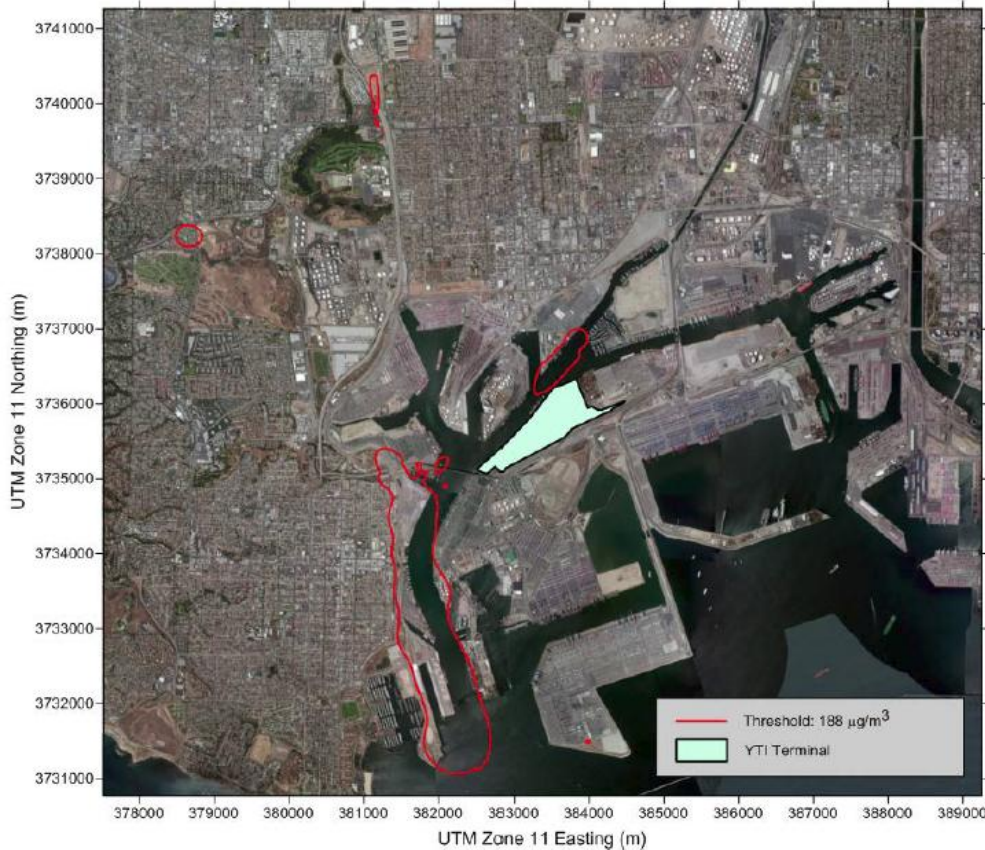


Figure R.7: Mitigated Proposed Project Federal 1-hr NO₂: Operation

¹ Exposure to NO₂ is linked to airway inflammation, respiratory symptoms in people with asthma, emergency room visits and hospital admissions. Children and the elderly are particularly vulnerable.

² This map was prepared by evaluating the NO₂ concentration of the total YTI facility in 2026, subtracting baseline NO₂ levels from the facility in 2012, and adding NO₂ levels monitored at a nearby site.

Recent Plot of Facility-Specific Data. Using the modeling data underlying the above map in the Final EIS/EIR, SCAQMD staff has plotted areas expected to exceed the federal NO₂ standard solely due to emissions from the YTI facility.³ This information is provided in the two maps below. The maps are based solely on data that is specific to the YTI facility, i.e. emissions, source location, wind direction, and other pertinent data. The first map (Figure 1) shows in yellow the area of NO₂ exceedance resulting from baseline emissions in 2012. The second map (Figure 2) shows in yellow the area of exceedance resulting from the YTI facility after the project is completed and in operation. Since these analyses solely modeled emissions from the YTI facility, actual areas of exceedance could be larger in both cases due to cumulative background NO₂ levels created by other sources.

The maps show that the YTI terminal by itself creates NO₂ levels exceeding the federal standard. With the project, the modeled area of exceedance increases to encompass an area with over one thousand residences.

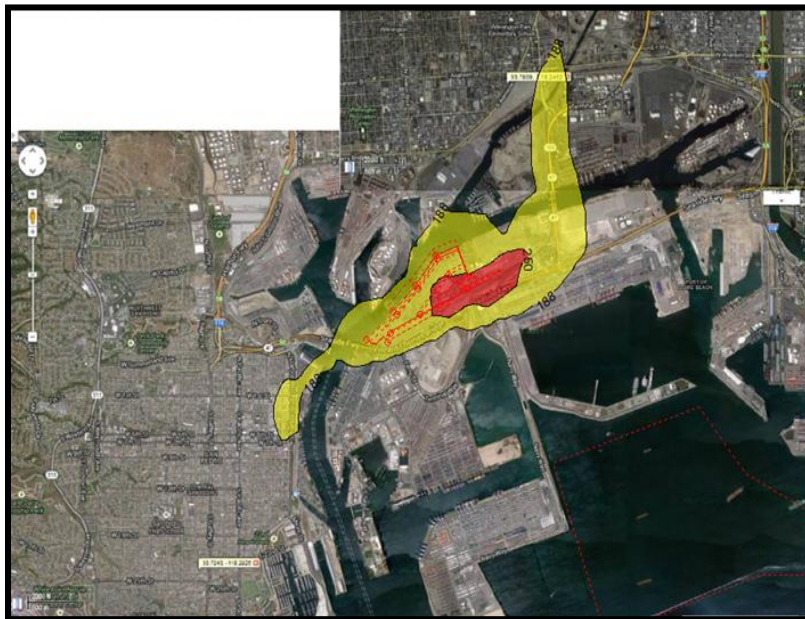


Figure 1. Map Created from Dispersion Modeling Output File Provided to SCAQMD Staff. Yellow shading shows area with NO₂ concentrations that exceed federal NAAQS of 188 ug/m³. Red shading shows areas with NO₂ concentrations that exceed 250 ug/m³.

³ Data comes from 'yti.onsite.coarse/no2.yti.01hr.bl.ops.8th.ALL.plot' and the 'yti.onsite.coarse/no2.yti.01hr.ppm.ops.8th.ALL.plot' model files.



Figure 2. Map Created from Dispersion Modeling Output File Provided to SCAQMD Staff. Yellow shading shows area with NO₂ concentrations that exceed federal NAAQS of 188 ug/m³. Red shading shows areas with NO₂ concentrations that exceed 250 ug/m³.

Implications. The above maps indicate that the project will have a greater impact than previously understood by causing the federal NO₂ standard to be exceeded in a large residential area. This more specific information is available and should be considered by the Commission as part of its implementation of CEQA. These maps provide a more accurate representation of potential air quality impacts from the YTI facility before and after the project is built. CEQA requires that the agency select an approach for analysis "that will give the public and decision makers the most accurate picture practically possible of the project's likely impacts." (*Neighbors for Smart Rail v. Exposition Metro Line Construction Auth.* (2013) 57 Cal.4th 439, 449.)

While the EIS/EIR already determined NO₂ impacts to be significant, this new data emphasizes the importance of making every effort to identify and incorporate all feasible mitigation measures into the project approval. As noted in our prior comment letters, SCAQMD staff does not believe that the project includes all feasible measures to reduce NO₂, cancer risk, and other significant emissions impacts identified in the EIS/EIR.

The above data is also relevant to the Harbor Commission's decision to adopt a Statement of Overriding Conditions. CEQA requires that, in a case such as this where the lead agency is making a decision to approve a project despite finding it infeasible to mitigate its significant adverse environmental impacts, the agency must find that the benefits of the project outweigh its adverse impacts. (CEQA Guidelines § 15093.) The evidence that the project will cause a federal health-based air quality standard to be exceeded in a large residential area must affect this decision.

Mitigation Measure LM AQ-1, Periodic Review of New Technology and Regulations

At the October 16 Harbor Commission meeting, there was discussion regarding a key mitigation measure proposed by the port. This mitigation measure, which was commonly referred to as a “lease reopener,” is claimed to allow the port to require the terminal operator to implement new, lower emission technologies in the future when they become feasible. This measure is important because the EIS/EIR states that a number of low or zero emission technologies, while “promising,” are not currently feasible. Rather than including conditions designed to require or even just incentivize actions to implement such technologies, the EIS/EIR relies on this “lease reopener” to authorize imposition of mitigation in the future.

The characterization of this measure as a lease re-opener is incorrect and, more importantly, the measure is inadequate to enable the port to require implementation of new strategies to mitigate project impacts. The problem is that the measure only applies in two circumstances, neither of which are likely to occur. The first circumstance is at the time of a “lease amendment” or “facility modification”— neither of which are foreseeable or likely during the term of the new lease. The second circumstance is if the tenant and the port reach a mutual agreement on “operational feasibility” and “cost sharing.” Neither of these terms are defined, and the provision effectively gives the tenant the ability to block any new mitigation requirement by declining to agree.

The SCAQMD continues to believe that additional enforceable mitigation measures can be required from this project to ensure actual mitigation of significant impacts. Rather than relying on LM AQ-1, which creates no requirement or even incentive to deploy cleaner technologies, the Commission should incorporate specific mitigation measures that are designed to effectively mitigate the significant adverse impacts.

Other Issues

SCAQMD staff has reviewed the EIS/EIR responses to our comments, but we continue to have the following concerns that should be addressed prior to project approval:

Compatibility with the 2010 CAAP and San Pedro Bay Standards. The project is inconsistent with the San Pedro Bay Standards by allowing an exceedance of the cancer risk threshold in residential areas.

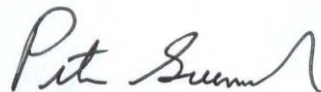
Feasibility of Additional Mitigation Measures. Given the projected exceedance of the federal NO₂ standard and increased cancer risk, the Lead Agency has the burden of identifying and enforcing feasible mitigation measures to reduce those significant impacts. In the Final EIR, the Lead Agency acknowledged the mitigation measures proposed by SCAQMD in its comment letter, but found them to be infeasible. SCAQMD staff disagrees with the Lead Agency’s response and believes that more can feasibly be done to require and incentivize cleaner technologies. Some examples of such technologies include:

- *Zero/Near-Zero Emission Technologies* - SCAQMD staff believes that zero and near-zero emission technologies for cargo handling equipment and trucks can be deployed during the life of the project.
- *Oceangoing Vessel Alternative Marine Power (AMP)* – SCAQMD staff disagrees with the Final EIR’s conclusion that no further mitigation is feasible to reduce ship emissions while at berth. The project could require that either more ships utilize AMP beyond CARB regulations, (and before the final year of the project, as currently proposed), and/or the project could require ships to use collection and control technology (e.g. the “bonnet”) similar to what is currently proposed for the Port of Long Beach Mitsubishi terminal project.
- *Lower Emission Oceangoing Vessel Engines* - The Lead Agency should include measures to deploy ships meeting the Tier III IMO emission standards during the life of the proposed Project.
- *Rail* - The Final EIS/EIR should include a mitigation measure to accelerate the use of Tier 4 line-haul locomotives (similar to CAAP measure RL-3). SCAQMD staff also recommends that the proposed project maximize on-dock rail usage beyond currently projected on-dock demand to reduce the need to send containers to off-dock rail yards.

In closing, we urge the Harbor Commission to ensure full consideration of the above evidence of significant impacts, and include additional measures to mitigate the significant adverse impacts of this project.

Please contact me at (909) 396-2111 if you have any questions regarding the enclosed comments.

Sincerely,



Peter Greenwald
Senior Policy Advisor

PG:IM:JB

Maps Showing YTI Facility Exceedance of Federal Ambient Air Quality Standards for NO₂

As discussed in detail in the response to the October 15 SCAQMD letter directly above, the CEQA impact determinations for the proposed Project are based on the Project plus the background concentration (which includes the YTI facility) and not the operations of the entire YTI facility itself. As such, the figures provided in this letter do not represent a CEQA impact for the proposed Project. Additionally, as described above, the peak 1-hour NO₂ concentrations represent a conservative composite emissions scenario where the peak 1-hour emissions from each source category were modeled together even if they would occur in different analysis years.

The figures provided in this letter indicate exceedance of federal 1-hour NO₂ over portions of Terminal Island and the community of San Pedro for both the existing YTI facility and the facility after implementation of the proposed Project. The Harbor Department supports an air quality monitoring station in the community of San Pedro which overlaps with the area indicated as an area of exceedance in these figures and which monitor actual emission levels from all sources in the area, not just the YTI facility. Since monitoring of NO₂ began in 2008, there has been only a single anomalous exceedance of federal 1-hour NO₂ in December of 2010. The POLA Annual Monitoring Report indicates that the maximum NO₂ level at the San Pedro station during that time was twice as high as any of the other stations and predicts the exceedance was due to paving activities occurring during this time at a parking lot adjacent to the monitoring station and during a time of year when the existence of an atmospheric inversion layer is common. Based on actual air quality monitoring of all emission sources in the area of the monitoring station does not support the assertion that the existing YTI facility or the facility with implementation of the proposed Project causes or will cause the air basin to be in non-attainment status for the federal 1-hour NO₂ standard. Additionally, as described in the response to the SCAQMD's October 15 letter above, the SCAQMD and CARB use the North Long Beach station to determine attainment of the air basin with AAQS. The figures provided in SCAQMD's letter show that the modeled exceedance of the YTI facility do not overlap with that station.

The Harbor Department has created its own figures showing the federal 1-hour NO₂ modeling results of the existing YTI facility (Figure A) and the facility with implementation of the proposed Project (Figure B) as were provided in the SCAQMD letter. In addition, the Harbor Department has created a figure showing the NO₂ modeling results of the facility at capacity if the proposed Project is not implemented (Figure C). Please see these figures below. A comparison of the facility at capacity with and without the proposed Project show very similar isopleths with very similar geographic coverage. This shows that the proposed Project would have similar NO₂ emissions compared to the existing facility at capacity.



Figure A. NO₂ - Existing Facility in 2012



Figure B. NO₂ - At capacity with project



Figure C. NO₂ - At capacity without project



COMMERCIAL REAL ESTATE
DEVELOPMENT ASSOCIATION
SoCAL CHAPTER

November 5, 2014

Ambassador Vilma Martinez, President, and Harbor Commissioners
Port of Los Angeles Harbor Commission
Board Room, 2nd Floor
425 Palos Verdes Street
San Pedro, CA 90731

Sent via Email

Re: Agenda Item 5 – Final EIR for Berths 212-224 YTI – Support

Dear Ambassador Martinez and Harbor Commissioners:

NAIOP, the Commercial Real Estate Development Association, is the leading national organization of developers, owners, and related professionals in office, industrial and mixed-use real estate. NAIOP advances responsible commercial real estate development, researches trends and innovations, and advocates for effective public policy. The NAIOP SoCal Chapter serves Los Angeles and Orange Counties and is the third largest chapter in the United States with a membership of nearly 1,000 members.

The modernization of the Port is essential to assuring the necessary exports and imports can continue to efficiently reach their destinations so as to improve the quality of life and economy of the people not just from Southern California, but the State and the nation. NAIOP strongly supports the approval of the Final Environmental Impact Report (EIR) for the Berths 212-224 (YTI) Container Terminal Improvement Project

This project will help keep the Port of Los Angeles competitive, which is vital in today's complex world of goods movement. By providing a berth that is 53 feet will allow the larger, cleaner and more fuel-efficient class of containership ships to call at the terminal. We are all aware these larger ships are now becoming widely used by the shipping companies, and to not provide appropriate berths would send a strong signal to shippers that they are not welcome here. This could have long-term negative impacts on the future of the Port.

This project would also add a new track to the on-dock rail yard at the YTI terminal. This provides the additional benefit of reducing the number of trucks on local and regional arterials and highways. By doing so this has a double benefit of reducing congestion and lowering emissions from truck traffic.

Here locally, the YTI project will improve our local economy by providing 750 construction jobs over the 22-month construction period and an additional 2,241

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Stephane M. Wandel, The Boeing Company
David Wensley, Cox, Castle & Nicholson LLP
Gregory J. West, Johnson Capital

NAIOP SoCAL EXECUTIVE STAFF

Cynthia G. Fusco, Executive Director
Wickie Talley, Director of Legislative Affairs

permanent jobs. These are vitally needed in this area where over 19% of the people live in poverty. Even worse, over 27% of the children live in poverty, which has tremendous negative health and development impacts on our future, our children. The most heavily impacted communities of these poverty statistics are the African-American and Hispanic populations, of which there many in the immediate Port area. Thus, providing these needed jobs is a social justice issue.

We urge your support for this project to help keep the Port of Los Angeles competitive and help our economy in an environmentally sustainable way. With the expanded Panama Canal in 2016, gulf and east coast ports are aggressively pursuing opportunities to attract cargo away from the San Pedro Bay Ports. Completing the YTI Container Terminal Improvement project signals that the Port of Los Angeles is committed to remaining North America's premier gateway for efficient and environmentally sustainable cargo handling.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter Herzog". The signature is written in a cursive, somewhat stylized font.

Peter Herzog

Assistant Legislative Affairs Director

Letter of Support

The comment is noted and appreciated and will be before the decision-makers for their consideration prior to taking any action on the project.

Ambassador Martinez
President, Port of Los Angeles Harbor Commission
425 Palos Verdes Street
San Pedro, California 90731

November 4, 2014

Dear Ambassador Martinez,

On behalf of the District Export Council of Southern California, we are writing to express our strong support for the Berths 212-224 (YTI) Container Terminal Improvement Project Final Environmental Impact Report (EIR). This project will help keep the Port of Los Angeles competitive by allowing the larger, cleaner and more fuel-efficient class of containership's to call at the terminal!

The YTI improvements will:

- Ensure the terminal's ability to accommodate up to 13,000 TEU ships that are anticipated to call at this terminal through 2026
- Increase on dock rail capacity, increasing the ability to handle discretionary cargo while also removing truck off of the highway and freeways!
- Improve our local economy by providing 750 construction jobs, which are desperately needed, over the 22-month construction period and an additional 2,241 permanent jobs!

YTI and its parent company NYK have demonstrated a strong commitment to the environment. NYK created the NYK Super Eco Ship 2030, which will be able to reduce CO2 emissions by 69%. In fiscal year 2013, NYK reduced CO2 emissions by 18.1% compared with the fiscal year 2006. NYK's new goal is 15% improvement in fuel efficiency above the 2010 level by fiscal year 2018. In addition, YTI's commitment to the environment is evident by being awarded the Clean Air Action Plan Award 3 times, 2008, 2009, and 2012, and the Wilmington Chamber of Commerce Environmental Award in 2013.

We urge your support for this project which will help keep the Port of Los Angeles competitive with the expanded Panama Canal in 2016, as well as the Gulf and East Coast Ports after all of our business, not to mention Prince Rupert in Canada! We need to be aggressive with our infrastructure in order to attract new business, but to also keep the old business and build on that! This project will also give the signal that the Port of Los Angeles is willing to move forward!

Sincerely,



Guy Fox, MBA, LCB
Chairman Emeritus

Letter of Support

The comment is noted and appreciated and will be before the decision-makers for their consideration prior to taking any action on the project.



The Propeller Club of Los Angeles-Long Beach

P.O. Box 4250, Sunland, CA 91041

Phone: 818.951.2842 * Fax: 818.353.5976

Email: propellerclub.lalb@verizon.net * Website: www.propellerclublalb.org

November 4, 2014

Ambassador Martinez
President
Port of Los Angeles Harbor Commission
425 Palos Verdes Street
San Pedro, CA 90731

Dear Ambassador Martinez:

The mission of The Propeller Club of Los Angeles-Long Beach is to promote the interests of international commerce, shipping, terminals, transportation and supporting industries including the local government and communities. The Port of Los Angeles has played an important role in helping our organization realize its mission. Our members, including key stakeholders and local citizens, rely on the success of the Port of Los Angeles for their livelihoods.

The Propeller Club strongly supports the Yusen Terminal Final Environmental Impact Report (EIR). This project will help keep the Port of Los Angeles competitive by allowing the larger, cleaner and more fuel efficient class of containership ships to call at the terminal.

International trade is a job multiplier and the expansion of this operation will further maximize the assets of the Port of Los Angeles by ensuring the terminal's ability to accommodate up to 13,000 TEU ships that are anticipated to call at the terminal through 2026; increasing on dock capacity which allows Yusen to handle discretionary cargo and at the same time remove trucks off local freeways; and improving the local economy by increasing construction jobs.

YTI and its parent company NYK have demonstrated a strong commitment to the environment. NYK created the NYK Super Eco Ship 2030 which will be able to reduce CO2 emissions by 69%. In fiscal 2013, NYK reduced CO2 emissions 18.1% compared with the fiscal 2006 level. NYK's new goal is 15% improvement in fuel-efficiency above the 2010 level by fiscal 2018. In addition, YTI's commitment to the environment is evident by being awarded the Clean Air Action Plan Award 3 times, 2008, 2009 and 2012 and the Wilmington Chamber of Commerce Environmental Award in 2013.

We urge your support for this project which will help keep the Port of Los Angeles competitive. With the expanded Panama Canal in 2016, gulf and east coast ports are aggressively pursuing opportunities to attract cargo away from the San Pedro Bay Ports. Completing the YTI Terminal Improvement project signals that we are committed to remaining the premier gateway for cargo in North America.

Sincerely,

Laura Y. Kovary
President

Letter of Support

The comment is noted and appreciated and will be before the decision-makers for their consideration prior to taking any action on the project.