Chapter 2
Response to Comments

2.1 Distribution of the Draft EIS/EIR

The Draft EIS/EIR prepared for the LAHD and USACE was distributed to the public and regulatory agencies on December 16, 2011, for a 60-day review period. Approximately 224 printed and digital copies (CD) of the Draft EIS/EIR were distributed to various government agencies, organizations, individuals, and Port tenants. The USEPA and USACE also published a Notice of Availability (NOA) of the Draft EIS/EIR in the Federal Register (Volume 76, No. 247 pages 80367 and 80346, respectively), and the USACE published a Public Notice on December 23, 2011. LAHD, in cooperation with the USACE, conducted a public hearing regarding the Draft EIS/EIR on January 19, 2012, to provide an overview of the proposed Project and alternatives and to accept public comments on the proposed Project, alternatives, and environmental document.

Printed and digital copies of the Draft EIS/EIR were available for review at the following locations:

- Los Angeles Harbor Department, 425 South Palos Verdes Street, San Pedro, CA, 90731
- Los Angeles Public Library - Central Branch, 630 West 5th Street, Los Angeles, CA 90071
- Los Angeles Public Library - San Pedro Branch, 931 South Gaffey Street, San Pedro, CA 90731
- Los Angeles Public Library - Wilmington Branch, 1300 North Avalon, Wilmington, CA 90744

In addition to printed copies of the Draft EIS/EIR, digital copies were made available in response to specific requests. Due to the size of the document, the digital copies were prepared as a series of PDF files to facilitate downloading and printing. Members of the public were also invited to request a CD containing the EIS/EIR. The Draft EIS/EIR was available in its entirety on the Port web site at http://www.portoflosangeles.org/environmental/publicnotice.htm, with the public notice available online at www.spl.usace.army.mil/regulatory/POLA.htm. Digital copies of the Draft EIS/EIR on CD were available free of charge to interested parties. The USEPA and USACE NOAs and USACE Public Notice were also made available online at www.federalregister.gov, and www.spl.usace.army.mil/Missions/CivilWorks/Regulatory, respectively.

2.2 Comments on the Draft EIS/EIR

The public comment and response component of the NEPA/CEQA process serves an essential role. It allows the respective lead agencies to assess the impacts of a project based on the analysis of other responsible, concerned, or adjacent agencies and interested parties, and it provides an opportunity to amplify and better explain the analyses that the lead agencies have undertaken to determine the potential environmental impacts of a project. To that extent, responses to comments are intended to provide complete and thorough explanations to commenting agencies and individuals, and to improve the overall understanding of the Project for the decision-making bodies.

The USACE and LAHD received 25 comment letters and comments through the public hearing transcript on the Draft EIS/EIR during the public review period. Table 2-1 presents a list of those agencies, organizations, and individuals who commented on the Draft EIS/EIR.

Table 2-1: Public Comments Received on the Draft EIS/EIR

Letter Code	Date	Individual/Organization	Page
Federal Government			
USEPA	02/23/12	U.S. Environmental Protection Agency, Region IX	2-5 to 2-32
FEMA	12/22/11	U.S. Department of Homeland Security, FEMA Region IX	2-33 to 2-35
NMFS	02/16/12	US Dept of Commerce National Oceanic and Atmospheric Admin National Marine Fisheries Service	2-36 to 2-47
DOI	02/17/12	U.S. Department of the Interior	2-48 to 2-49
State Government			
NAHC	12/21/11	Native American Heritage Commission	2-50 to 2-57
SCAQMD	2/24/12	South Coast Air Quality Management District	2-58 to 2-91
DTSC	01/17/12	Department of Toxic Substances Control	2-92 to 2-99
DOT	02/15/12	Caltrans District 7	2-100 to 2-104
Local Government			
BOS1	03/14/12	City of Los Angeles, Bureau of Sanitation, Wastewater Engineering Services Division	2-105 to 2-107

BOS2	03/29/12	City of Los Angeles, Bureau of Sanitation, Wastewater Engineering Services Division	2-108 to 2-111
Organizations			
PCAC	02/15/12	Port of Los Angeles Community Advisory Committee, Past EIR Subcommittee	2-112 to 2-124
CFASE	02/17/12	Coalition for a Safe Environment	2-125 to 2-210
Individuals/Companies			
RSF	12/18/11	RSF9873	2-211 to 2-212
Crable	01/12/12	Arthur (Dennis) Crable	2-213 to 2-214
RNLDS	02/17/12	William (“Bill”) Reynolds	2-215 to 2-216
TM	02/16/12	Ty McMichael	2-217 to 2-218
RH	02/17/12	Richard Havenick	2-219 to 2-223
MMI	02/14/12	Marine Mechanical Inc.	2-224 to 2-226
MTS	02/14/12	Maintenance Turnaround Services	2-227 to 2-229
HI	02/14/12	Harbor Industrial	2-230 to 2-232
JM	02/16/12	Jesse Marquez	2-233 to 2-234
PFP	02/15/12	PF Properties	2-235 to 2-236
MTSI	02/15/12	Marine Technical Services Inc.	2-237 to 2-238
DMSR	02/16/12	Dockside Machine & Ship Repair	2-239 to 2-241
JT	12/24/2011	Joseph Towers	2-246 to 2-247
Draft EIS/EIR Public Hearing			
APLPH	01/19/12	Draft EIS/EIR Public Hearing Transcript	2-248 to 2-271

2.3 Responses to Comments

In accordance with NEPA (23 CRR Part 771) and CEQA (Guidelines Section 15088), the USACE and LAHD have evaluated the comments on environmental issues received from agencies and other interested parties and have prepared written responses to each comment pertinent to the adequacy of the environmental analyses contained in the Draft EIS/EIR. In implementing regulations 23 CFR Part 771 of NEPA and specific compliance with CEQA Guidelines Section 15088(b), the written responses address the environmental issues raised.

In addition, where appropriate, the basis for incorporating or not incorporating specific suggestions into the proposed Project is provided. In each case, the USACE and LAHD have expended a good faith effort, supported by reasoned analysis, to respond to comments.

This section includes responses not only to the written comments received during the 60-day public review period of the Draft EIS/EIR, but also verbal comments made at the public hearing for the Draft EIS/EIR. Some comments have prompted revisions to the text of the Draft EIS/EIR, which are referenced and shown in Chapter 3, Modifications to the Draft EIS/EIR. A copy of each comment letter is provided, and responses to each comment letter immediately follow.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105-3901

February 23, 2012

Theresa Stevens
U.S. Army Corps of Engineers
Los Angeles District – Regulatory Division, North Coast Branch
2151 Alessandro Drive, Suite 110,
Ventura, California 93001

Subject: Draft Environmental Impact Statement/Environmental Impact Report for Proposed Berths 302-306 (APL) Container Terminal Project, at the Port of Los Angeles, Los Angeles County, CA (CEQ # 20110428)

The U.S. Environmental Protection Agency (EPA) is providing comments on the Draft Environmental Impact Statement (DEIS) for Proposed Berths 302-306 American President Lines (APL) Container Terminal Project, at the Port of Los Angeles. Our comments are provided pursuant to the National Environmental Policy Act (NEPA), Council on Environmental Quality regulations (40 CFR Parts 1500-1508), and our NEPA review authority under Section 309 of the Clean Air Act. Our comments are also prepared under the authority of, and in accordance with, Section 103 of the Marine Protection, Research and Sanctuaries Act (MPRSA) and Section 10 of the Rivers and Harbors Act (RHA), and the provisions of the Federal Guidelines promulgated at 40 CFR 230 under Section 404(b)(1) of the Clean Water Act. We appreciate the Corps of Engineers' willingness to accept this letter as timely, after the close of the comment period, as discussed in your email of February 8, 2012, to Tom Kelly, of my staff.

The project proponent, the Port of Los Angles, along with Port of Long Beach, continues to demonstrate environmental leadership in reducing air pollution, especially diesel particulate matter, yet the APL container terminal project still imposes added burdens on the local community. The local effects include significant emissions of volatile organic compounds, carbon monoxide, nitrogen oxides (NO_2), particulate matter, both 10 microns or less (PM_{10}) and 2.5 microns or less ($PM_{2.5}$), and exceedences of federal, state and local standards for nitrogen dioxide and particulate matter. Numerous scientific studies have linked particulate pollution exposure to a range of health problems, including premature death, increased hospital and emergency room visits for cardiovascular and respiratory effects, and development of chronic respiratory disease. Likewise, exposure to NO_2 has been correlated with increased visits to emergency rooms and hospital admissions for respiratory issues, especially asthma. Because the community impacted by this project is predominantly minority and low income, these impacts constitute a disproportionate high and adverse effect on minority and low income populations. USEPA-1

The Department of Defense is signatory to the August 4, 2011 Memorandum of Understanding (MOU) on Environmental Justice and Executive Order 12898. In addition to reinforcing the federal government's commitment to environmental justice, the MOU is relevant to actions such as the APL Container Terminal Project through its focus on goods movement, NEPA, and Title VI of the Civil Rights Act. In light of this renewed commitment and focus, we recommend that the Corps consider changes to alternatives and mitigation measures, as proposed in this letter and by other stakeholders, to avoid or further mitigate the project's disproportionately high and adverse impacts. Further efforts to reduce environmental justice impacts could assist the Port and the City of Los Angeles, as recipients of Federal funds, to meet their potential obligations under Title VI of the Civil Rights Act. USEPA-2

The Ports, and its partners such as EPA and the South Coast Air Quality Management District, are also working to accelerate the commercial feasibility of new clean air strategies to reduce air pollution through USEPA-3

the Technology Advancement Program or TAP. The TAP is evaluating and demonstrating zero tailpipe emission trucks, locomotives, cargo-handling equipment and retrofit technologies for ocean-going vessels and harbor craft. While the APL DEIS mitigation measures are consistent with the Clean Air Action Plan, the DEIS lacks a clear plan to transition to technologies being demonstrated through the TAP.

USEPA-3 Cont.

APL, the terminal operator and primary shipping line using the terminal, has participated in multiple TAP projects to retrofit existing ships to reduce emissions. Additionally, APL announced the purchase of 12 new, and cleaner, container ships in 2011. Despite these and other fleet-wide environmental improvements by APL, the DEIS does not include a commitment to retrofit older ships with emission reduction technologies demonstrated through the TAP or a commitment to bring new cleaner ships to the Port of Los Angeles.

USEPA-4

Based on our review of the DEIS, we are rating the action alternatives as *Environmental Objections - Insufficient Information (EO-2)* (please see the enclosed "Summary of EPA Rating Definitions"). Please see the enclosed detailed comments for a more thorough discussion of the comments provided above, as well as additional comments on, air quality and water quality and sediment.

We appreciate the opportunity to review this DEIS. When the FEIS is released for public review, please send one hard copy and one electronic copy to the address above (mail code: CED-2). If you have questions, please contact me at (415) 972-3856 or Tom Kelly of my staff at kelly.thomasp@epa.gov.

USEPA-5

Sincerely,

Enrique Manzanilla, Director
Communities and Ecosystems Division

Enclosures: EPA's Detailed Comments
Summary of EPA's Rating Definitions

cc: Christopher Cannon, Port of Los Angeles
Cindy Miscikowski, Los Angeles Board of Harbor Commissioners
Rick Cameron, Port of Long Beach
Susan E. Anderson Wise, Port of Long Beach Harbor Commissioners
Susan Nakamura, South Coast Air Quality Management District
Cynthia Marvin, California Air Resources Board
Hassan Ikrhata, Southern California Association of Governments
David Seep, BNSF Railway
Lanny Schmid, Union Pacific Railroad
Martin Tuttle, Caltrans
Bimla Rhinehart, California Transportation Commission
Alan Hicks, U.S. Department of Transportation, Maritime Administration
Gene Seroka, APL

EPA DETAILED COMMENTS, DRAFT ENVIRONMENTAL IMPACT STATEMENT/ENVIRONMENTAL IMPACT REPORT FOR PROPOSED BERTHS 302 – 306 (APL) CONTAINER TERMINAL PROJECT, LOS ANGELES COUNTY, CALIFORNIA (CEQ # 20110428)

Air Quality

Environmental Justice

The EJ analysis and conclusions in the DEIS state that there will be disproportionately high and adverse effects on minority and low-income populations due to air quality impacts. We recognize the considerable level of analysis in the DEIS, but we note that the proposed mitigation does not fully offset the significant project-related impacts to the local community. The local community is already heavily impacted[1], a condition likely to be exacerbated by the many projects currently planned at and around the Port, such as the Cop of Engineers Pier S project, the Southern California International Gateway, and perhaps the expansion of Interstate 710. Therefore, all impacts, even seemingly small ones, are important to consider and mitigate in order to fully offset the adverse Project-related impacts to the local community.

EPA is helping to develop a growing body of evidence that environmental justice communities are more vulnerable to pollution impacts than other communities[2]. As discussed in EPA's *Framework for Cumulative Risk*[3] and *Integrated Science Assessment for Oxides of Nitrogen – Health Criteria*[4] *(July 2008),* disadvantaged, underserved, and overburdened communities are likely to come to the table with pre-existing deficits of both a physical and social nature that make the effects of environmental pollution more, and in some cases, unacceptably, burdensome. Thus, certain subpopulations may be more likely to be adversely affected by a given stressor than is the general population.

USEPA-6

In the past, EPA has recommended using a Health Impact Assessment (HIA) or an HIA type approach as a means to more creatively mitigate project impacts. While we are not seeking an HIA for this project, we do encourage the Port to identify additional community-supported mitigation, as a means to better address disproportionate and adverse health impacts of the proposed project.

As stated by the Council on Environmental Quality (CEQ)[5], the identification of disproportionately high and adverse human health or environmental effects on a low-income or minority population does not preclude a proposed agency action from going forward nor compel a finding that a proposed project is environmentally unacceptable. Instead, the identification of such effects is expected to encourage agency consideration of alternatives, mitigation measures, monitoring needs, and preferences expressed by the affected community or population.

Recommendations:
Considering the magnitude of potential cumulative health impacts, the FEIS should vigorously consider all feasible mitigation strategies, monitoring measures, and the

[1] Final Report, Multiple Air Toxics Exposure Study in the South Coast Air Basin, MATES-III, September 2008, South Coast Air Quality Management District.
[2] Symposium on the Science of Disproportionate Environmental Health Impacts, March 17 - 19, 2010, see the fourteen scientific reviews commissioned by EPA and published in the American Journal of Public Health at: http://www.epa.gov/compliance/ej/multimedia/albums/epa/disproportionate-impacts-symposium.html .
[3] Available at: http://cfpub.epa.gov/ncea/raf/recordisplay.cfm?deid=54944.
[4] Available at: http://cfpub.epa.gov/ncea/cfm/recordisplay.cfm?deid=194645#Download.
[5] Environmental Justice Guidance Under the National Environmental Policy Act, Council on Environmental Quality, 10 December 1997.

preferences expressed by the local community. Examples of mitigation measures to reduce the community's exposure and reduce community vulnerability are:

- Fund proactive measures to improve air quality and general health in neighboring homes, schools, and other sensitive receptors;
- Provide public education programs about environmental health impacts to better enable residents to make informed decisions about their health and community; and
- Engage in proactive measures to train and hire local residents for construction or operation of the project to improve their economic status and access to health care.
- Expansion and improvement of local community parks and recreation system, in areas where air quality is highest, in order to provide increased access to open space and exercise opportunities.

USEPA-6 Cont.

As an element of the Corps Pier S project, the proponent, the Port of Long Beach, offered grant funds for impacts that could not be fully mitigated. We recommend that Corps discuss this option with the Port of Los Angeles, the proponent for the current Corps project, and include consideration of a similar program to implement these examples in the FEIS

USEPA-7

Ocean Going Vessels

Ships represent the largest category of NOx emissions (Table 3.2-29). Mitigation measure AQ-9 (i.e. shore power) substantially reduces ship hoteling emissions (at port) by more than 85%. The reductions would also be achieved by the California Air Resources Board (CARB) regulation, but MM AQ-9 slightly accelerates implementation of shore power. In contrast to the decreasing hoteling emissions, the ship transit and anchoring emissions subcategory not only increases by 51% by 2027, it exceeds truck and locomotive emissions combined, representing 48% of all project (annual) emissions (Table 3.2-29).

The DEIS proposes three operational mitigation measures for ocean going vessels: AQ-10: Vessel Speed Reduction Program, MM AQ-11: Cleaner OGV Engines; and OGV Engine Emission Reduction Technology Improvements. We support vessel speed reduction as a measure to minimize air impacts and reduce whale strikes. We acknowledge that the Ports of Los Angeles and Long Beach are working with Agency partners, including EPA, to develop corresponding Clean Air Action Plan (CAAP) measures (OGV5 and 6), which correspond to MM AQ-10 and 11. Further development of the CAAP measures and revision of the DEIS mitigation measures is necessary to achieve emission reductions for ocean-going vessels.

USEPA-8

Terminal operators, railroads and the trucking industry have been investing in the expedited turnover to cleaner equipment, often at the urging of the Port of Los Angeles. The FEIS should discuss the contribution of APL to a strategy for expedited turnover. We note that the APL website states the company plans to purchase 32 new ships, a 22% increase when compared to its current fleet. At a minimum, these ships must comply with International Maritime Organizations Tier II standards, but Tier III engines, which are not required until 2016, are available now. APL can readily share their plans to bring cleaner ships and retrofit older ships with demonstrated emissions control technologies. The project's significant impacts and disproportionately high and adverse effects to minority and low income communities call for the best efforts of all sectors in the chain of goods movement, particularly the entity that, along with the Port itself, stands to benefit from the project.

USEPA-9

Recommendations:
The FEIS should revise mitigation measures AQ-10 and 11, consistent with the developing Clean Air Action Plan measures OGV5 and OGV6, to ensure that cleaner ocean-going vessels will use the APL terminal. USEPA-10

Include in the FEIS a discussion of expedited delivery of cleaner equipment and how APL and the Port of Los Angeles are investing in the commitment for cleaner equipment. USEPA-11

Terminal Operations

The DEIS states that the proposed action would not increase capacity, or throughput, by automating the new 41 acres of backlands (Appendix C2). The berth capacity limits the APL terminal throughput, not the processing capacity of the backlands or container yard. Consequently, the proposed action does not fully automate the terminal, but (as stated on p. 2-42) the infrastructure necessary to support an electric automated terminal will be installed. The DEIS discusses a grounded or "stacked" system (containers stacked in high-density arrays) and chassis or "wheeled" system (containers stored on individual wheeled chassis and not stacked), or a combination of the two (p. 1-32).

While the APL terminal may not need to adopt modern high density stacking to maximize throughput, we note that stacking and a higher density system would minimize on-site tailpipe emissions from cargo handling equipment. Direct air emissions from terminal equipment are estimated at 10% of the project emissions initially, but decline to just over 1% by 2027; Automating Berth 306 would reduce these emissions and the need for backlands at Berth 302 to 305, providing more area for on-dock rail. Lease measure LM AQ-2, Substitution of New Technology, if applied on an aggregate basis, appears to require automation. The DEIS notes automated equipment is mostly electric (p. 2-18), while the proposed project includes diesel equipment. USEPA-12

Recommendations:
Consistent with lease measure LM AQ-2, the proposed project should require automated container handling equipment at Berth 306. Should the proposed project allow expansion of traditional diesel operations at Berth 306, the FEIS should quantify emission benefits of maximizing backland automation and on-dock rail.

The DEIS considered, but did not further evaluate, a fully electrified container terminal, expanded rail lines and increased technology to increase efficiency. Because the terminal is "berth-constrained", these options were dismissed, as they do not increase terminal capacity. While adding rail lines to the APL terminal will not increase its throughput, it will reduce the air quality and traffic impacts of the increased trucks used to haul containers to off dock rail yards. For that reason, we support measures to maximize backland automation and on-dock rail throughout the low-density APL backlands (i.e. behind berths 302-305). Alternative 6 is a step in the right direction, as it would increase on dock rail by 100,000 TEU, converting 10 acres of backlands to railyard. Alternative 6 would reduce peak daily truck trips for the project at full throughput by 531 per day (4.7%), cutting NOx emissions by more than 40 pounds per day (3.3%). At a minimum, this concept should be increased so that near-dock rail is no longer necessary for the APL terminal, reducing nearly 1500 truck trips per day and 115 pounds per day of NOx. The proposed project would allow APL to avoid adding on-dock rail and continue business as usual until economic and space considerations dictate stacking is necessary. USEPA-13

In many respects, the container terminals are underutilizing land at the Port of Los Angles. A 2005 APL press release notes "nearly every container at the GGS [Global Gateway South a.k.a APL] USEPA-14

terminal is on a chassis" meaning containers are not stacked. This is confirmed by a recent Google Earth aerial photo showing almost no stacked containers behind berths 302-305[6].

The DEIS recognizes that stacking will be needed for the terminal to reach its full throughput, but even three-high stacking, described as "relatively low" in Appendix C2, is sufficient to meet APLs future need. In contrast, modern terminals like Euromax are designed to stack containers 5-high[7]. In light of the Harbor Commission's recent proposal to locate a new rail yard, the Southern California International Gateway, close to residents, schools, day care centers and senior facilities, we urge recognition of the current underutilization of port property at the APL terminal, and a commitment to create additional space for on-dock rail through high density stacking. Alternative 5 proposes to relinquish 30 acres on current space assignment and electrify a portion of the backlands infrastructure, whileAlternative 6 would expand on-dock rail. An alternative that combines and expands on these elements of Alternatives 5 and 6 would better optimize the cargo-handling efficiency and capacity than the proposed project, and better meeting the purpose and need for the project. USEPA-14 Cont.

Recommendations:
Because the backland behind Berth 302-306 is capable of supporting APL's needs using stacked containers over a much smaller footprint, the FEIS include an alternative with minimized backland footprint and a maximized on-dock rail system.

Should the on-dock rail be larger than necessary to serve APL, it could be made available to nearby container terminals to avoid trucking containers to near and off-dock rail yards (e.g. the Evergreen Container Terminal). USEPA-15

Health Effects

The DEIS concludes that NO_2 emissions are significant and unavoidable, because it exceeds the NO_2 1-hour NAAQS. The DEIS does not include any additional information on the extent of the exceedence. As the DEIS notes, NO_2 has the potential to aggravate chronic respiratory disease and respiratory difficulties in sensitive groups, but it does not evaluate health data to assess the health status of the community, such as asthma rates and asthma-related hospitalization or emergency room visits.

The DEIS concludes that the acute hazard index for occupational acute exposures is significant for industrial exposures, but not significant for residential exposures (3.2-145 and Table 3.2-38b). In both cases, the acute incremental or project-related hazard index is compared to the significance threshold of 1.0. This is consistent with South Coast Air Quality Management District's Air Quality Significance Thresholds; however, the significance level is an effect/no effect threshold. Much like the NO2 significance level, the relative (or project increment) of the hazard index is less important than the total hazard index (background plus project exposure). Additional mitigation, such as altering the construction schedule or using high emitting equipment only when emissions would otherwise be low, may sufficiently change the timing of emissions to avoid an acute residential hazard. USEPA-16

[6] Imagery date March 7, 2011.
[7] Euromax: A New Standard in Container Handling, undated, <http://www.tba.nl/uploads/files/euromax,_a_new_standard_in_container_handling.pdf>

Recommendations:
The FEIS should map the results of NO_2 dispersion modeling, and consider the health status of the local community. The FEIS should identify mitigation measures to reduce emissions causing the acute hazard index to exceed 1.0.

USEPA-16 Cont.

Drayage Trucks

The DEIS summarizes the Clean Truck Program, a key element of the Clean Air Action Plan, that has substantially reduced port-related air emissions, especially diesel emissions, from both San Pedro Bay ports (p. 3.2-34). While we acknowledge the success of the current program, and the challenges that the Port undertook to implement it, the FEIS needs to incentivize and require continuous improvement for drayage trucks. Additionally, the Port of Los Angeles needs to fulfill its promise "to accelerate the verification or commercial availability of new, clean technologies, through evaluation and demonstration, to move towards an emissions free port[8]."

The DEIS offers lease measure LM AQ-1, Periodic Review of New Technology and Regulations, as a means to incorporate the Port's Technology Assistance Program and Zero Emissions Technology Program. This measure could be dramatically improved with a schedule for implementation of zero tailpipe emission trucks, following the Ports determination that a zero tailpipe emission technology is feasible. The Los Angeles Harbor Commission proposed a lease measure that would require low-emission drayage trucks from 2016 to 2026 for the Southern California International Gateway. That requirement could be met by natural gas powered trucks, which we are not suggesting for this project, as it does not fully mitigate the project's high and disproportionate impacts; however, that schedule could serve as a basis for a zero emission drayage truck schedule. Following successful demonstration of zero emissions drayage truck by the Port, the schedule could be adjusted to account for current uncertainties, such as capital and operating costs, incentives and other differences between zero emissions and natural gas trucks.

USEPA-17

Recommendations: The FEIS should describe zero and near zero emission tailpipe demonstration and deployment projects. The FEIS should include lease measure AQ-3 providing a schedule for phase-in of zero emission drayage trucks by the leaseholder, following successful demonstration by the Port. The lease measure could include adjustment criteria to account for current uncertainties.

Mitigation measure AQ-16, Truck Idling Reduction Measure, limits idling to 30 minutes total and 10 minutes at any one time. Many vehicles are commonly limited to 5 minutes or less of idling, such as school busses and sleeper berth heavy duty trucks. Even Mitigation Measure AQ-4, Fleet Modernization for Construction Equipment, limits idling to 5 minutes when not in use. EPA sees no need to justify ten minute idling for trucks at the APL terminal.

USEPA-18

Recommendation:
The FEIS should limit diesel truck idling at the APL terminal to 5 minutes.

Rail

The DEIS analysis appears to have used Tier 2 locomotives for the APL on-dock terminal (Table 3.2-7b), but the DEIS also notes that the Pacific Harbor Line will transition to a cleaner, Tier 3, diesel fleet by the end of 2011 if grant funds are available (p. 3.2-32). We congratulate the Ports and

USEPA-19

[8] Technology Advancement Program, San Pedro Bay Ports, accessed November 18, 2011 < http://www.cleanairactionplan.org/programs/tap/default.asp >.

Pacific Harbor Line on the receipt of California's Carl Moyer grant funds[9] to retrofit 16 locomotives to meet the Tier 3+ standard. As we noted earlier, stacked backland operation offers an opportunity to create additional space for on-dock rail. New rail lines could offer an opportunity to demonstrate zero emission rail transportation systems.

Recommendation:
The FEIS should discuss the potential for zero emission and hybrid rail transportation systems and evaluate layouts that increase the use of on-dock rail.

USEPA-19 Cont.

General Conformity:

General conformity requires federal agencies to demonstrate that the direct and indirect emissions from both the construction and the operational phases of the project conform to the approved State Implementation Plan and do not cause or contribute to violations of the National Ambient Air Quality Standards. While the DEIS estimated (NEPA) construction emissions for the project (Appendix E1), it did not estimate operational emissions.

The emissions associated with reasonably foreseeable action-related activities occurring during the operational phase of the project may be excluded from the general conformity evaluation only if the applicable Federal Agency lacks the authority to practically control these emissions (such as through conditions on permits) or the agency lacks continuing program responsibility for such emissions; however, the DEIS does not make this assertion.

USEPA-20

Recommendation:
The FEIS should include direct and indirect operational emissions as part of the general conformity evaluation.

Emissions Related to Transloaded Goods

The DEIS estimates emissions associated with goods movement for the APL terminal throughout Section 3.2 and Appendix E. These sections do not include an estimate of emissions following transloading of goods from marine shipping containers to domestic containers or trailers for re-shipping. The *Port and Modal Elasticity Study, Phase II*[10] estimates that 36% of the goods shipped into the Ports of Los Angeles and Long Beach were transloaded.

USEPA-21

Recommendation:
The FEIS should include truck and locomotive emissions that occur in the South Coast Air Basin after transloading.

Diesel Emission Standards for Mitigation Measures

DEIS mitigation measures frequently cite compliance with EPA 2007 on-road and Tier 4 non-road emission standards (e.g., MM AQ-13, p. 3.2-110). Some but not all mitigation measures provide PM2.5 and NOx emission levels. As the DEIS notes, EPA on-road standards allowed manufacturers to phase-in compliance with the NOx emission standard of 0.2 grams per brake horsepower-hour (g/bhp-hr) and non methane hydrocarbons or NMHC (p. 3.2-22). EPA is also phasing-in Tier 4 standards for non-road engines beginning in 2008 to 2014; however engines from 75 to 750

USEPA-22

[9] In the News: New Less Polluting Locomotives Arrive at Ports Complex, Anacostia and Pacific Company. (Pacific Harbor Line) accessed 11/21/2011, <http://www.anacostia.com/latestnews/phl110929.html>
[10] Port and Modal Elasticity Study, Phase II,Final Report, Southern California Association of Governments

horsepower, are now available that meet the Tier 4 NOx standard, 0.3 g/bhp-hr. Larger mobile engines (greater than 750 horsepower) have one year of additional flexibility to meet their emissions standard[11].

Mitigation measure AQ-3, Fleet modernization for on-road trucks used during construction, commits to compliance with 2007 on-road standards for NOx, 1.2 g/bhp-hr or better, for on-road trucks. It commits to complying with 2004 on-road emission standards, 2.0 g/bhp-hr, for earth movers and import haulers. Mitigation measures AQ-13, AQ-14 and AQ-15 do not provide a NOx emission level. In view of the significant impacts to the air basin and residents, and the high and adverse impacts to environmental justice communities, the cleanest achievable NOx emission control is justified for trucks and equipment used on this project.

USEPA-22 Cont.

> Recommendation:
> Mitigation measures AQ-3, AQ-13, AQ-14 and AQ-15 should commit to meeting the cleanest available Tier 4 non-road diesel emission standard for NOx (e.g., 0.3 g/bhp-hr for engines from 75 to 750 horsepower) or the 2010 on-road standard for heavy-duty highway compression-ignition (diesel) engines (0.2 g/bhp-hr).

Reasonably Foreseeable Future Actions

The DEIS states the purpose and need for the proposed project "is to optimize the cargo handling efficiency and capacity at the APL Terminal to accommodate projected long-term increases in volume of containerized goods shipped through the port." (p. 2-11) The proposed project would incorporate 7 acres behind Pier 301 as backlands, specifically for parking and storage (p. 2-16); however, none of the action alternatives include a fifth berth at Pier 301. A fifth berth would require the fill of a small channel separating Pier 301 from the 7 acres of backlands. Because the terminal is "berth constricted" as explained in Appendix C-2, an additional berth at Pier 301 could dramatically increase the throughput of the APL terminal. Adding a fourth berth would increase the terminal's throughput more than 1 million TEUs per year in 2027. While the DEIS does not consider a fifth berth, the Port of Los Angeles' *Terminal Island Land Use Plan, Summary Report (1/11/2012)* states[12], "[a] fifth berth at Pier 300 was decided to be a part of all options." All three options also consider filling the channel behind Pier 301 and the Southeast corner of Fish Harbor[13].

USEPA-23

> Recommendation:
> The FEIS should consider a fifth berth at Pier 300 as a reasonably foreseeable action and evaluate the air, water quality and other cumulative impacts resulting from it.

Refrigerated Container Storage Area

The proposed project includes creating a refrigerated container (reefer), storage area with plug-in electric power (p. ES-10). While the current APL terminal has an area of white-roofed containers, which we assume are reefers, in one area, the DEIS does not consider the benefit of a roof over the reefer storage area, to keep the containers cool. The roof might even include photovoltaic solar array to partially off-set the power use of the containers.

USEPA-24

[11] For more details and limits appropriate to smaller non-road diesel engines, see http://www.epa.gov/nonroad-diesel/2004fr.htm.

[12] See page 8, *Terminal Island Land Use Plan, Summary Report,* Port of Los Angeles, Planning and Economic Development Division, 1/11/2012

[13] See page 13, *Terminal Island Land Use Plan, Summary Report,* Port of Los Angeles, Planning and Economic Development Division, 1/11/2012

Recommendation:
The FEIS should consider a roof over the reefer storage area for cooling and/or renewable energy generation purposes.

USEPA-24 Cont.

Harbor Craft Used During Construction

Mitigation measure AQ-1, Harbor Craft Used During Construction, contains practical measure to ensure clean, Tier 3, harbor craft are used during construction. The mitigation measure does not consider new Tier 4 standards applicable to harbor craft in 2015. The mitigation measure makes allowances in the event that the contractor can provide proof that harbor craft are unavailable for leasing in California, but equipment in Oregon and Washington would seem to be available at relatively minor transportation cost.

USEPA-25

Recommendation:
Mitigation Measure AQ-1 should be revised to require Tier 4 harbor craft in construction as of January 2015. It should also be revised to so that the contractor is required to provide proof that the cleanest Tier is unavailable in California, Oregon or Washington, before allowing the use of a lower Tier harbor craft.

Periodic Review of New Technology and Regulations

Lease measure LM AQ-1, Periodic Review of New Technology and Regulations, would require the ports tenant to consider new emissions reduction technologies. If the technology is determined by the Port to be feasible, the tenant will work with the Port to implement it (p. 3.2-111 and 112). This requirement would be required at the time of any lease amendment or facility modification, but "not less frequently than once every 7 years following the effective date of the permit."

USEPA-26

Recommendations:
The FEIS should commit to reviewing new technologies every five years from the date of the most recent facility lease. Additionally, technology reviews and any resulting recommendations should be made available to the public.

Water Quality

Sediment

The DEIS presents three options for disposal of sediment from dredging at Berth 306. Suitable sediment could be used as fill for the Cabrillo shallow water habitat or disposed at the LA-2 Ocean Dredged Materials Disposal Site. Sediment unsuitable for unconfined aquatic disposal would be placed at Port Berths 243-245 (p. 3.3-3). The DEIS also states that the majority of sediments off Berth 306 are unsuitable for unconfined aquatic disposal due to heavy metals and amphipod toxicity (p. 3.14-17); however, the easternmost portion of Berth 306 could qualify for placement at the Cabrillo shallow water habitat or disposal at LA-2.

USEPA-27

On July 27, 2011, the interagency Southern California Dredged Material Management Team (SC-DMMT; agencies include: EPA, Army Corps of Engineers, National Oceanic and Atmospheric Administration, Los Angeles Regional Water Quality Control Board, California Coastal Commission and the California Department of Fish and Game) reviewed the sampling and analysis report for this project (Appendix K) and concurred on several determinations:

- the eastern half of the proposed dredging area off Berth 306 is suitable for aquatic disposal (unconfined ocean disposal) or beneficial reuse placement;
- the western half of the proposed dredging area off Berth 306 contains potential contamination hotspots which requires further specific delineation to minimize the volume to dispose in the Pier 243-245 landfill.
- clean sediments may be too fine for beneficial reuse placement at the Port of Los Angeles Cabrillo Shallow Water Habitat Area; therefore this area needs standards and performance criteria as well as a monitoring plan

Recommendations:
The FEIS should discuss submissions of the following plans to the SC-DMMT:

- standards and sediment placement criteria for the Cabrillo shallow water habitat area
- a dredging plan including specific engineering specifications for the management of the suitable and unsuitable sediments, as well as cap placement over the unsuitable sediments after they are placed in confined aquatic site (Pier 243-245).

USEPA-27 Cont.

Ballast Water Treatment

The DEIS does not discuss the requirement for Vessel General Permits (VGP), under EPA's National Pollution Discharge Elimination System, authorized by the Clean Water Act. The VGP applies to discharges incidental to the normal operation of all non-recreational, non-military vessels of 79 feet or greater in length which discharge in waters of the United States. It requires vessel owners and operators to meet certain requirements, including seeking coverage for most vessels, assuring their discharges meet effluent limits and related requirements, corrective action process for fixing permit violations, and requirements for inspections, monitoring, recordkeeping and reporting. For more information, please see http://cfpub.epa.gov/npdes/vessels/vgpermit.cfm#2008.

The DEIS discusses a shipboard ballast water treatment system that APL is testing, in collaboration with the Ports of Los Angeles and Long Beach and the California State Lands Commission, but also prefaces this discussion with, "no feasible mitigation is currently available to totally prevent introduction of invasive species via vessel hulls or even ballast water, due to the lack of proven technology." (p. 3.3-59) On the contrary, as stated in the federal register notice for EPA's Draft 2013 VGP[14]:

USEPA-28

> The SAB [EPA's Science Advisory Board] found, among other things, that at least five types of ballast water treatments systems are available which treat to the limits found in the International Maritime Organization (IMO) Ballast Water Convention and proposed in today's permit.

As EPA noted in the *Proposed 2013 Vessel General Permit (VGP) Fact Sheet*[15], the ballast water treatment system industry is relatively young and currently and has a limited production capacity, but Lloyd's Register estimated that 119 ballast water treatment systems had been installed world-wide by February 2010, and 200 systems installed by June 2011.

[14] 76 FR 76720, Thursday, December 8, 2011, <http://www.epa.gov/npdes/pubs/vgp_draft_federalregister2011.pdf>
[15] See http://www.epa.gov/npdes/pubs/vgp_draft_factsheet2011.pdf

Recommendation:
The FEIS should include the requirements of the applicable VGP. The FEIS should also consider expedited implementation of ballast water treatment as a mitigation measure to reduce the significant impact of introducing non-native species into the Harbor.

USEPA-28
Cont.

2.3.1 Federal Government

United States Environmental Protection Agency (USEPA)

Response to Comment USEPA-1

Thank you for providing comments on the Draft EIS/EIR. Chapter 5, Environmental Justice, of the Draft EIS/EIR discusses the significant and unavoidable impacts from the proposed Project associated with air quality on minority and low income populations. Responses to specific comments on the proposed Project's air quality impacts from construction and operations to minority and low income populations are provided in more detail below. As stated on page 5-18 of the Draft EIS/EIR (Chapter 5, Environmental Justice), the maximum off-site ambient NO_2 concentrations associated with the proposed Project operations would remain significant and unavoidable after mitigation under NEPA. Since residential areas closest to the proposed Project are predominantly minority and have a higher concentration of low-income population relative to the County of Los Angeles, the elevated ambient concentrations of NO_2 would constitute a disproportionately high and adverse effect on minority and low-income populations. Adverse respiratory and pulmonary human health effects have been linked to exposure to NO_2. In addition, as also discussed on page 5-18 of the Draft EIS/EIR, the proposed Project would have significant effects on acute noncancer risks (i.e. an acute hazard index of 1.0 or greater) relative to the NEPA baseline. Because the populations closest to the proposed Project site are predominantly minority and low income, this elevated acute noncancer risk would represent a disproportionately high and adverse impact on minority and low-income populations. Mitigation to minimize significant NEPA impacts related to air quality during construction and operations is identified in the Draft EIS/EIR, and some mitigation measures were strengthened and are included in Chapter 3, Modifications to the Draft EIS/EIR, of the Final EIS/EIR. Other mitigation measures recommended by the Commenter and others have been determined to be infeasible, as discussed in other responses in this Chapter.

Please note that environmental justice impacts are based on the NEPA impact determination, not the CEQA impact determination, consistent with Executive Order 12898 (Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations) and the Council on Environmental Quality (CEQ) Guidance for Environmental Justice Under NEPA (CEQ 1997). For the proposed Project, cancer risk would be below the significance threshold before and after mitigation, under NEPA. For acute hazard risks, the threshold would be exceeded at occupational receptors located on Terminal Island and would not extend to the mainland (the location of the adjacent communities of San Pedro and Wilmington, which have designated environmental justice populations).

The unavoidable significant impacts related to cancer risk under CEQA identified for the proposed Project would apply to live-aboards at the marina west of Terminal Island Freeway and to a lesser extent, the marina in Fish Harbor. The cancer risk increment would not exceed the threshold at residential receptor locations on the mainland (e.g. the communities of San Pedro and Wilmington). Exceedence of the cancer risk threshold for occupational receptors would be confined to terminal Island and would not extend to the mainland. Unavoidable acute hazard risks under CEQA for occupational receptors on Terminal Island would remain, but these would not extend to the mainland. Mitigation to minimize significant CEQA impacts is identified in the Draft EIR.

Response to Comment USEPA-2

The Commenter's recommendations to add additional mitigation to address impacts to Environmental Justice are noted, and responses to specific comments are provided below.

The LAHD and USACE have prescribed a number of mitigation measures in the Draft EIS/EIR that together would substantially reduce impacts associated with the proposed project and alternatives on minority and low income populations, in particular to air quality. Additional mitigation was not considered available or feasible.

In addition, the LAHD is implementing various other beneficial measures to the surrounding community. Harbor Department Agreement No. 09-2764 (also known as the TraPac Memorandum of Understanding or MOU) requires the establishment of a Port Communities Mitigation Trust Fund (Fund) to fund mitigation and grant projects to help offset past, present, and future impacts from Port Projects on off-port areas in the communities of Wilmington and San Pedro. If the proposed Project were approved, the deposit to this Fund is anticipated to be over $4.2 million. Additional information on the Fund can be found in Response to Comment USEPA-6.

LAHD and the USACE has carefully considered all mitigation measures proposed as part of the public comment period, including those proposed as part of this comment letter, and has added all mitigation that was found feasible and appropriate to mitigate identified impacts to the Final EIS/EIR.

Response to Comment USEPA-3

As highlighted by the Commenter, the Port of Los Angeles is an active partner in the Technology Advancement Program (TAP) Program, along with the Port of Long Beach (POLB), the USEPA (Region 9), California Air Resources Board (CARB), and South Coast Air Quality Management District (SCAQMD). Consistent with the Clean Air Action Plan (CAAP), the TAP seeks to reduce emissions from the five source categories through evaluation and demonstration of emerging technologies. The Draft EIS/EIR includes lease measure LM AQ-1, which requires that the terminal operator to periodically implement new emissions reduction technologies. As new technologies that are proven to be effective in reducing emissions and in serving key functional requirements in the goods movement process in the Ports become commercially available and are applicable to terminal operations, those would be adopted via LM AQ-1. As shown in Chapter 3, Modifications to the Draft EIS/EIR, lease measure LM AQ-1 has also been revised to reflect a revision of the 7 year lease reopener to a more stringent 5 year reopener. It should also be noted many of the technologies being demonstrated under the TAP are more suited to Port-wide implementation once the technologies are ready for production. Because the timing for proving the technical and operational feasibility of the technologies, commercial production, and the ability of other parties in the goods movement chain to fund equipment purchases to implement the new technologies cannot be provided or forecasted at this time with any degree of specificity, the Draft EIS/EIR includes LM AQ-1 to allow for new technologies to be adopted after they become feasible in the future.

Response to Comment USEPA-4

In regards to APL's new ships, as noted in the comment letter, APL is testing the effectiveness of other emission reducing technologies (see the Response to Comment USEPA-8 below) on several of its newest vessels, and is implementing various operational measures to further reduce emission.

With the exception of 10 new-build vessels (described in Response to Comment USEPA-8 (below), the newest ships purchased by APL are the very largest ships in APL's fleets. These large ships are designated for the Asia-Europe routes. Ships on the Asia-Europe routes travel west between Asia and Europe, typically stopping at over 14 ports along their routes (these vessels generally stop at 5 to 6 port calls in the Far East, 3 to 4 port calls in the Mid-East, and 6 to 8 port calls in Europe). This is an effective use of a these sized vessels because it is feasible to filled each ship to capacity. Further, the size of the ship allows for faster port turnarounds because the ship is not fully unloaded or loaded at each individual port. On the Asia-Europe routes, the time in port is approximately 24 hours.

The Transpacific route (Asia –West Coast U.S.) operates quite differently from the Asia-Europe routes and is focused on regular weekly services transporting goods between a few ports. On the Transpacific route, a ship leaves from an Asian port and typically stops at 1-2 ports on the west coast, and then returns to its beginning destination. Fewer port stops means that it is more difficult to fill the largest ships to capacity, while maintaining a schedule that enables weekly deliveries. More importantly, if the largest ships were filled to capacity, then they would need to be in port for more time than the smaller ships, which would make it impossible to operate a weekly service due to the combined time in port and time in transit.

A liner's deployment of particular container vessels is driven by market demand, rates, and fuel prices. Requiring deployment of the newest ships to the Port of Los Angeles would not be considered feasible due to operating cost considerations and would place APL at a severe competitive disadvantage.

In regards to retrofitting older ships, APL has already installed slide valves on all APL owned vessels with MAN B&W engines. However, APL has committed to upgrades to reduce emissions which are detailed in the Draft EIS/EIR and will be required as part of the lease. As an example, ships calling at the Port of Los Angeles will be retrofitted to plug into shore side power (representing a $13.1 million capital investment) and include necessary upgrades to enable low sulfur fuel switching. More detailed information is included in Response to Comment USEPA-8.

Response to Comment USEPA-5

Comment noted. Responses to detailed comments on the Draft EIS/EIR are provided below. The LAHD and Corps respectfully disagree with the USEPA's findings that the Draft EIS/EIR contained insufficient information. A hard copy and electronic copy of the Final EIS/EIR will be sent as requested.

Response to Comment USEPA-6

The Draft EIS/EIR includes a full analysis on Environmental Justice in Chapter 5 based on guidance from CEQ. Regarding health risk impacts from exposure to toxic air contaminants, a complete discussion is provided in the Draft EIS/EIR on pages 3.2-132 – 3.2-149 related to the proposed Project.

The cumulative impact analysis in Chapter 4 and Chapter 5 consider the effects of other related projects in the Port Complex in addition to the proposed Project, on the surrounding community. Cumulative projects include the Port of Long Beach's Pier S Project, the Southern California International Gateway Project, and I-710 project.

As discussed in Response to Comment USEPA-1, the Draft EIS/EIR identifies a disproportionately high and adverse impact on minority and low income populations related to air quality and noise, including cumulative air quality impacts. The maximum off-site ambient NO_2 concentrations associated with the proposed project operations would remain significant and unavoidable after mitigation under NEPA. As the Draft EIS/EIR discusses, adverse respiratory and pulmonary human health effects have been linked to exposure to NO_2. The mitigation measures in the Draft EIS/EIR have been developed to address significant impacts identified in the technical analysis related to the proposed Project. Additional mitigation was not found to be feasible based on technical availability, operational issues and prohibitive costs. However, LAHD has been engaged in numerous Port-wide activities to contribute to the improvement of the Wilmington and San Pedro communities. To help offset past, present, and future impacts from Port projects on off-port areas in the communities of Wilmington and San Pedro, where the majority of low income and minority populations near the Port are located, the Port is implementing Harbor Department Agreement No. 09-2764, to fund mitigation and grant projects (via the Port Communities Mitigation Trust Fund). As discussed above in Response to Comment USEPA-2, if approved, LAHD would deposit approximately $4.2 million in the Fund.

Approximately $11 million has already been allocated to fund mitigation and grant projects identified in the Fund. As detailed in the TraPac MOU, approximately $6 million has been allocated for air filtration systems in schools, and $5 million has been allocated for the following uses: installation of double-paned windows in schools and residences in the Wilmington community, funds to local clinics, health service providers, and other organizations aimed at addressing health impacts that result from air quality impacts from port operations, and job training and hiring programs.

Regarding the suggestion that LAHD invest in the improvement of local community parks and a recreation system, in June 2011, the LAHD opened the Wilmington Waterfront Park, a new 30-acre open space with walking and bike paths, plazas, playing fields, event spaces, and a playground for the Wilmington community. Previously the parcel had been planned as a container terminal expansion area. However, through a multi-year community planning process, the 30 acres became a dedicated open space, one that complements an additional adjacent 90-acre area to provide improved public access and recreational activities at the Wilmington Waterfront. For more details please refer to the Wilmington Waterfront Project EIR that was approved by the LAHD in 2009.

Additional LAHD efforts to address other impacts to the surrounding community include projects completed under the Mitigation Trust Fund related to the Amended Stipulated Judgment for the China Shipping Project. Approximately $34 million has been set aside for various community improvements, including community health measures. As part of this fund, the LAHD has contributed $1 million to the Robert F. Kennedy Health Institute to provide health education and social services in the Wilmington Area. Eight health workshops and two health fairs have already been held through December 2011. The health workshops included topics such as air pollution and health effects, asthma, heart health care, breast cancer, chronic respiratory disease, and emphysema. The two health fairs (held in May and October 2011) were attended by 356 persons.

Regarding the comment to engage in proactive measures to train and hire local residents, the LAHD has entered into a five-year Port-wide Project Labor Agreement (Port-wide PLA) with the building and trade unions affiliated with the Los Angeles/Orange Counties Building and Construction Trade Council (Building Trades). The Port-wide PLA will serve as a blanket agreement between the Harbor and Building Trades hired to work on selected Capital Improvement Program (CIP) projects for a term of five years. The Port-wide PLA seeks to address unemployment and underemployment in concentrated poverty neighborhoods, particularly near to Port, and seeks to advance the skills of the local labor pool. To this end, the Port-wide PLA requires a hiring minimum of local resident workers and disadvantaged workers. The PLA has a goal of at least 30 percent of total work hours to be performed by local residents residing within the targeted areas of the City using a two-tier approach. The first tier includes residents within approximately 10 miles of the Port, and the second tier includes residents of high unemployment zip codes throughout the remainder of the City of Los Angeles. The implementation mechanism for the PLA is the construction contract documents.

Response to Comment USEPA-7

As discussed in the Response to Comment USEPA-2 and USEPA-6, the Port is currently funding community mitigation and grant projects (via the Port Communities Mitigation Trust Fund and the China Shipping Mitigation Trust Fund) to help offset past, present, and future impacts from Port projects on off-port areas in the communities of Wilmington and San Pedro, where the majority of low income and minority populations near the Port are located. These trust funds are mechanisms for moving forward and support the collaborative efforts to grow and sustain the Port in a manner that provides a concrete way to reduce cumulative environmental impacts on the community while creating jobs and economic prosperity to the surrounding region.

Response to Comment USEPA-8

As the Commenter notes, the use of shoreside power during hoteling greatly reduces Port area emissions by allowing the ships' main and auxiliary engines to be turned off. During transit, current main and auxiliary engine emission reduction strategies are more limited and have not matched the effectiveness of AMP.As shown in the Draft EIS/EIR, even with cleaner fuels and other emissions improvements over time, ship transit emissions will not be reduced to a similar extent as shore-side vessel emissions.

Regarding the Commenter's request to further develop CAAP measures and include such measures in the Draft EIS/EIR, the Draft EIS/EIR has identified a process to implement future technology. The CAAP is not a static plan and as the Commenter has noted, LAHD is working on advancing emission reduction strategies through the TAP and regular updates to the CAAP. LAHD is also working with the International Association of Ports and Harbors (IAPH) to develop incentive program strategies to participate in the Environmental Ship Index (ESI) Program. ESI is an international web-based ship-rating system ports can use to promote clean ships by rewarding operators whose vessels exceed current environmental performance standards and regulations. The ESI identifies voluntary engine, fuel and technology enhancements ships can use to exceed current environmental performance standards. The ESI targets primary pollutants, which include nitrogen oxides (NOx), sulfur oxides (SOx), and diesel particulate matter (DPM). The program also contains a component to help reduce greenhouse gases. While future technology identified by these efforts cannot specifically be added to the Draft EIS/EIR, as detailed in Response to Comment USEPA-3, the Draft EIS/EIR includes lease measure LM AQ-1, which requires the terminal operator to periodically implement new emissions reduction technologies, such as those for ocean-going vessels. As shown in Chapter 3, Modifications to the Draft EIS/EIR, lease measure LM AQ-1 has also been revised to reflect a revision of the 7 year lease reopener to a more stringent 5 year reopener.

In addition, APL is a leader in the testing and installation of retrofits to reduce ship emissions. The following are a few examples of APL's commitment to reducing air emissions (the technologies are consistent with the TAP):

- APL retrofitted five vessels for cold ironing almost three years in advance of regulations requiring use of AMP. Theses retrofits, and improvements to the terminal to accommodate the vessels, represented a $13.1 million capital investment. The five APL AMP-capable vessels, which had 41 cold iron events in Oakland in 2011, also call at the Port of Los Angeles and therefore will be available to use AMP facilities once installed (AMP installation at Berths 302-305 would occur in phases from September 2013 through February 2014). By plugging APL's ships in at Oakland three year prior to regulations, APL has eliminated nearly 3,600 pounds of VOC's, 70,000 pounds of CO, 140,000 pounds of NOx, 4,000 pounds of PM, and 425,000 pounds of SOx emissions. It should be noted that LAHD and APL developed plans to install AMP at Berths 302-305 before the Draft EIS/EIR was prepared and the CARB rule became effective (AMP at Berths 302-305 is a related project included in Chapter 4 of the Draft EIS/EIR).

- APL is currently testing a state-of-the-art seawater scrubber aboard the APL England. This $3.6 million project was funded in part by a $1.65 million grant from the TAP. The scrubber features an advanced emission control technology in which seawater is used to scrub, or filter, contaminants from a ship's auxiliary engines and boiler before exiting the exhaust stack of a ship. Once solid carbon contaminants are removed, the seawater used during the scrubbing process is then treated and cleansed before being discharged. A hydro cyclone removes carbons and any liquids that are not water soluble and returns the seawater to a clean, discharge-safe state. This water is then pumped overboard and the solids removed by the hydro cyclone are stored in a plastic container and are offloaded ashore for proper disposal. If it proves to be effective, the scrubber could result

in air emission reductions of approximately 80 – 85 percent PM, 99.9 percent SOx, more than a 90 percent decrease in VOCs and 10 percent NOx from the auxiliary engines and boiler.

- APL has installed slide valves on all APL owned vessels with MAN B&W engines. APL slide valves reduced almost 29 tons of NOx emissions from 2002 – 2011.

- Several ships' auxiliary engines use Constant Water Injection to humidify the scavenge air and lower exhaust gas temperatures thereby reducing NOx emissions by over 20 percent.

- APL is also installing a fuel cavitation system for main and auxiliary engines to produce a fuel emulsification with 20 percent water. This is expected to generate a fuel savings of 10 percent for the main engine and 18 percent for auxiliaries. Less fuel used translates directly into fewer emissions.

- APL participates in the Port's voluntary vessel speed reduction program which resulted in the following annual emission reductions: (2011- 11.08 tons PM_{10}, 11.37 tons DPM, 166.14 NOx, 118.62 tons of SOx, and 6369.81 tons of CO2), (2010- 11.19 tons PM_{10}, 11.47 tons DPM, 166.44 NOx, 118.21 tons of SOx, and 6369 tons of CO2), (2009- 8.8 tons PM_{10}, 9.0 tons DPM, 133 tons NOx, 94.8 tons of SOx, and 5106 tons of CO2),

- APL vessels slow steam (reduced vessels speeds during transit), which further reduce CO2, CO, SOx, NOx, and PM_{10} and DPM emissions.

- APL will introduce approximately 10 new build vessels into the Transpacific service that will call at the Port. These vessels will be AMP capable, they will have an electronic main engine to optimize low load operation with reduced fuel consumption and emissions, they will come equipped with a full spade twisted rudder and propeller with pre-swirl stator for improved performance and efficiency, they will have an optimized hull form and trim for optimized fuel consumption and emissions, as well as self-polishing environmental friendly paint which reduces fuel consumption and emissions.

Response to Comment USEPA-9

Comment noted. Please see Response to Comment USEPA-4 above; APL has been investing significant funds in new ships and ship-board technology. It should also be noted that in 2009, APL's parent company, NOL Group, operated at a net loss of $741 million and in 2011, NOL Group lost $478 million. Losses at APL made up the entirety of this loss.. In 2011, APL's earnings before interest and taxes totaled negative $466 million. Meanwhile, cargo throughput at Pier 300 has fallen as compared to the baseline year, such that 2011 volumes (1,403,845 TEUs) remain below the volumes handled in 2008-2009 (1,128,080 TEUs) and peak volumes handled in 2004(1,644,062 TEUs) (see Response to Comment USEPA-12). Due to market conditions, it is unlikely that APL will have the ability to purchase additional new ships beyond those described in the Response to USEPA-8, before market conditions improve.

Response to Comment USEPA-10

The Commenter incorrectly identified MM AQ-10 as a mitigation measure related to OGV engine technologies when in fact it is a measure associated with the vessel speed reduction program. As it relates to the OGV mitigation measures associated with the proposed Project (MM AQ-11 and MM AQ-12), as the Commenter noted, the OGV5 and OGV6 measures are "developing" CAAP measures. The Draft EIS/EIR analysis assumes compliance with the CAAP. In fact, proposed Project-specific mitigation measures applied to reduce air emissions and public health impacts are consistent with, and in some cases exceed, the

emission-reduction strategies of the CAAP. The mitigation measures prescribed for the proposed Project or alternative would be required in construction contracts or become part of the tenant's lease and would no longer be tied to implementation of the CAAP; however, should the CAAP be strengthened in the future, lease measures LM AQ-1 and LM AQ-2 provides a mechanism for additional measures to be incorporated into the tenant's lease.

Response to Comment USEPA-11

Please see the Response to Comments USEPA-8, USEPA-9, and USEPA-10.

Response to Comment USEPA-12

As the Commenter notes, an automated system is discussed in the Draft EIS/EIR. It should be clarified that the infrastructure that is proposed for installation to support an electronic automated terminal is only for potential automation of Berth 306 backlands. Both wheeled and stacked container management is used at the existing terminal, and both such methods would continue into the future with or without automation at Berth 306. An automated stacking system on the backlands behind Berth 306 is a potential project component that could be implemented if and when the terminal operator determines that the underlying economics and market conditions can support such a capital intensive system. Given that 2011 cargo volumes remain far below the volumes handled at the height of operations in 2004, market conditions will have to improve before such a component can be implemented.

The comment that an automated stacking system could result in more land being made available for on-dock rail is not a correct premise for the Berths 302-206 terminal. The current area allocated for the on-dock railyard is adequate to support terminal operations in the near term. Longer term, an expansion of the on-dock railyard could occur independent of whether an automated stacking system is implemented at Berth 306 as identified in the Terminal Island Plan. LAHD is currently examining ways to increase on-dock rail capacity Port-wide including on Terminal Island. Increasing Terminal Island rail capacity would necessitate a coordinated effort as there are a number of external constraints in the rail system between the Terminal Island and the Alameda Corridor, such as capacity limits on the Badger Bridge (the only rail bridge connecting terminal island to the mainland) and the configuration of main track crossovers and leads to CP Mole.

Regarding the comment that an automated stacking system should be required under the proposed Project to further reduce on-terminal emissions, as noted, terminal emissions would only represent 1 percent of future emissions based on mitigation identified in the Draft EIS/EIR. As discussed in the Draft EIS/EIR, because automation is planned for the backlands behind Berth 306, not the entire terminal, implementing automation would not decrease any remaining significant air quality impacts. Table 1.6-44 in Appendix E1 of the Draft EIS/EIR shows that automation would decrease emissions by approximately 4 percent. As such, automation would not represent an effective mitigation measure to reduce emissions to a less than significant level. In addition, implementation of such a system would require a significant capital investment for EMS, the terminal operator. The decision to implement an automated container handling system is based on market conditions, capital availability, technical feasibility, and acreage. All four elements need to be aligned for the automated container handling system to be feasible. In addition to a large equipment capital investment, dedicated terminal acreage is required with the understanding that once automation is in place the likelihood of reverting is very small. EMS requires the flexibility to weigh all these variables in order to make a decision at the right time based on the business need and ability.

Therefore, the automated stacking system is a potential Project component that is included in the Draft EIS/EIR because it could be implemented in the future. Because the automated stacking system represents a project component and not a lease or mitigation measure, it is disclosed in the Draft EIS/EIR as an option, not a requirement of lease measure LM AQ-2.

EMS estimates that the capital cost of automation will be in the hundreds of millions of dollars (recent reports on the OOCL automated terminal at the Port of Long Beach indicate the capital costs for that terminal will be approximately $1 billion). By contrast, traditional yard operations would require no new equipment in the short term, with the exception of new shore side cranes, which would be required under either an automated or a traditional operation. Recent volatility in liner profitability and container throughput makes it impossible for EMS to commit to a capital expenditure of this magnitude in the near term. In 2009, APL's parent company, NOL Group, operated at a net loss of $741 million and in 2011, NOL Group lost $478 million. The entirety of this loss was due to APL. In 2011, APL's earnings before interest and taxes totaled negative $466 million. Meanwhile, as shown below, cargo throughput at Pier 300 has risen and fallen, such that 2011 volumes remain far below the volumes handled in 2004.

Year	Annual Lifts
2004	931,188 (1,644,062 TEUs)
2005	744,856 (1,289,136 TEUs)
2006	866,064 (1,507,265 TEUs)
2007	924,107 (1,613,098 TEUs)
2008	789,976 (1,381,303)
2009	597,448 (1,050,656)
2010	873,797 (1,558,975)
2011	792,179 (1,403,845)

As a result, EMS intends to move forward with capital expenditures for new cranes at Berth 306 and will not accept a lease that requires installation of automated equipment. Such a lease requirement is therefore not a currently economically feasible component of the proposed Project, but may be so in the future if and when market conditions support such an option.

Response to Comment USEPA-13

The Commenter is correct that a fully electrified terminal was not considered to be a viable alternative at this time, in part, due to the berth constrained nature of the terminal. In addition, the Draft EIS/EIR provides additional reasons why such a terminal was not carried forward for a co-equal evaluation; namely, although several test projects are underway that are intended to demonstrate the feasibility and reliability of the zero-emission trucks and cargo-handling equipment, full electrification of the Berths 302-306 Container Terminal is not considered to be operationally feasible at this time, and therefore was not considered to be a viable or feasible alternative to the proposed Project.

The comment that "Alternative 6 is a step in the right direction but that more on-dock rail is needed so that drayage trucks to near dock yards can be eliminated" appears to be based on a premise that on-dock rail capacity can replace the need for near-dock capacity. If so, that premise is incorrect. Both types of railyards are needed and are complimentary to each other, as described in greater detail below and in Chapters 1 and 2 of the Draft EIS/EIR.

Over the last ten years, on-dock volumes have increased steadily in the Ports of Los Angeles and Long Beach (Ports) for a variety of reasons, including the provision of additional on-dock capacity. Additionally, the total direct (on-dock and off-dock volume, excluding transloading) intermodal volume share has remained fairly constant, at around 40 percent of total Port TEUs. Historically, the APL Terminal total direct intermodal and on-dock shares have been higher than the aggregate Ports proportions (see following information).

On-Dock Rail	2001	2002	2003	2004	2005	2006	2007	2008
% of Vessel Lifts (APL)	22%	20%	16%	17%	22%	27%	30%	38%
% of vessel Lifts (POLA/LB)	n/a	n/a	15.9%	18.1%	20.7%	24.1%	23.0%	23.7%

To help accommodate the anticipated cargo volumes, the Ports plan to expand existing and construct new on-dock railyards and supporting infrastructure over the next 10 to 15 years. In addition, the Ports will seek to maximize the on-dock operations at the marine terminals by encouraging tenants to schedule round-the-clock shifts and optimize labor rules.

Despite the efforts by the Ports to develop additional on-dock capacity and by the railroads to increase utilization of on-dock rail, however, a number of factors will continue to limit the overall percentage of on-dock rail use. First, not all intermodal cargo can be handled at on-dock railyards. As described in Chapter 1, cargo at a marine terminal is sorted by destination. If there are enough cargo containers bound for the same destination, a unit train to that destination will be built at the on-dock facility. If, however, there are containers bound for different destinations, they must be either stored in the terminal, resulting in delays and congestion, or trucked to a near/off-dock facility to be combined with cargo from other marine terminals bound for that same destination. Other limiting factors include shipper and steamship line logistics (e.g. transloading, transportation costs, etc.) and railroad operations (equipment availability, train schedules, and contracts/arrangements with shippers).

Second, as discussed in Chapter 1, detailed rail simulation analyses have determined that even with billions of dollars of rail infrastructure improvements planned/proposed in the POLA/POLA, the projected on-dock volumes for the APL Terminal and all other terminals in the POLA/POLB used in the Draft EIS/EIR is the maximum amount that can be accommodated. Accordingly, there will always be a need for off-dock loading of containers. This detailed rail system simulation has also determined that even the movement of containers on trains via "block swap" and "unsorted" operations will not yield higher capacities or greater use of the on-dock facilities. Accordingly, of the 17.3 million TEUs of intermodal cargo projected by the Year 2035 (see Table 1-5 in Chapter 1 of the Draft EIS/EIR), only 12.9 million TEUs will be handled by existing and planned on-dock railyards. The on-dock railyard capacities accounted for in this data (as well as the SCIG Draft EIR), were updated from what is contained in the *San Pedro Bay Ports Rail Study Update (2006)*.

Consequently, the assumption that 35 percent of the containers would move via on-dock rail, while 10 percent would move via off-dock rail is reasonable. Furthermore, it should be noted that under Year 2027 proposed Project conditions, the existing APL Terminal on-dock railyard capacity (and used for all project alternatives except Alternative 6), would be reached, and could only handle 32.4 percent of the total terminal TEU. It should also be noted that the estimated capacity of the existing and expanded on-dock railyard were updated from what is contained in the *San Pedro Bay Ports Rail Study Update (2006)*. Therefore, by not assuming more than 35 percent for on-dock movements, the Draft EIS/EIR analysis yields conservative results as more truck trips are projected.

Response to Comment USEPA-14

Please see Response to Comment USEPA-13. The comment appears to be based on the premise that operating the APL Terminal using wheeled or low stack heights is impeding the expansion of the on-dock yard, which if implemented, would eliminate the need for drayage trucks to haul containers to near dock yards. The area allocated for container management on the backlands is not preventing the on-dock yard from being expanded. As described in USEPA-13, expanding on-dock capacity will not substantively result in a greater proportion of on-dock rail usage.

The percentage of wheeled versus stacked containers on a terminal is related to many factors, including the cargo origin/destination mix, land availability, and vessel schedules. The Euromax Terminal (Rotterdam) the commenter references handles a broader mix of cargo, meaning it serves as a point where cargo is transferred from very large Asia-Europe route-ships for transport to smaller ships for short sea shipping through Europe. Therefore, the cargo does not need to be sorted much while on Terminal and stacking is an efficient mode of cargo management. Terminals at the Port are receiving ports and must sort cargo for transport to individual destinations, therefore wheeled operations are generally favored over stacked as wheeled operations are more efficient (the exception is for empty cargo containers; empties do not need to be sorted and therefore are stacked up to 5 high at the Port). EMS's current mode of operation is to have as many containers on a chassis as possible so the terminal operator touches the container the fewest number of times. As an example, a container can be discharged from the vessel to a chassis, and a street trucker then can hook up to the container and leave the terminal. The terminal operator will have touched the container only once, minimizing labor cost[1] and terminal equipment usage. As a second example, a container can be discharged to the ground and then stacked, and then delivered to the street trucker. The terminal operator will have touched the container three times: discharge, deck to the ground, delivery from the ground. The second example increases not only labor expense but also potential air emissions. Finally, for the reasons stated in Response to Comment USEPA-13, the on-dock infrastructure for the entire Port Complex has been maximized in the analyses, and more on-dock rail use cannot be assumed. Moreover, detailed rail simulation analyses have determined that even with billions of dollars of rail infrastructure planned/proposed in the Port Complex, the projected on-dock volumes for the APL Terminal and all other terminals in the Port Complex used in the Draft EIS/EIR is the maximum amount that can be accommodated.

The Commenter also recommends combining Alternative 5 and 6 into a single alternative to optimize terminal operations. Because both of those alternatives would have the same throughput and have the same option for an automated staking system behind Berth 306, such a combined alternative would not represent a substantial change from the range of alternatives (or their impacts) analyzed in the Draft EIS/EIR.

Response to Comment USEPA-15

As stated in Response to Comments USEPA-12 and USEPA-13, the on-dock infrastructure for the entire Port Complex has been maximized in the analyses, and more on-dock rail use cannot be assumed. Until the APL Terminal railyard and POLA/POLB rail system reaches capacity, using the APL Terminal on-dock railyard for other terminals containers would result in additional cargo handling which translates to additional air emissions and expenses. The additional revenue from third party terminals necessary to cover these increased expenses would result in an uncompetitive high on-dock rail rate versus alternate transportation modes for near-dock rail yard customers. As detailed above under Response to Comment USEPA-14, EMS's current mode of operation is to have as many containers on a chassis as possible so the terminal operator touches the container the fewest number of times. A decked operation adds $50 per lift compared to a wheeled operation. The current market rate for a rail lift is $100 per lift. If EMS were to handle third party business, it would need to add $50 per lift to cover the increased cost for decking its own containers due to reduced container yard acreage to handle additional on-dock containers, plus another $50 per lift for a gate move into the facility. A fee of $200 per rail move would not be competitive versus a competing terminal operator using its own on-dock rail or draying to a near dock rail facility at a cost of approximately $75 per lift. Based on this, the recommendations to expand the on-dock rail yard and utilize excess capacity as a near –dock yard to other Terminal Island container terminals is neither economically feasible nor an effective means of reducing overall Project impacts.

[1] As a note, fewer times a terminal operator touches a container generally translate to fewer air quality emissions being emitted.

Response to Comment USEPA-16

USEPA's request for additional mitigation is noted. LAHD and USACE are committed to applying all feasible mitigation measures to minimize impacts. The Draft EIS/EIR air quality analysis was conducted based on LAHD protocols and Port-specific methods of environmental analysis used for Port projects over the last several years. These protocols and Port-specific methods are intended to report the maximum potential impacts so a comprehensive set of mitigation requirements can be applied. In addition, the analysis conducted for the Draft EIS/EIR is very conservative. The impacts simply add the future concentrations to the existing background, even though the existing (CEQA baseline) operations contribute to the existing background. The existing background NO_2 concentration is assumed to be uniform throughout the analysis area and consumes almost 80 percent of the NAAQS, therefore the modeled extent of the NO_2 concentrations, when added to the background, exceed the NAAQS in most of the study area.

Regarding the suggestion that the construction schedule could be altered to reduce the potential for acute hazard risks, as described in the Draft EIS/EIR, the proposed Project would emit certain emissions whether constructed over a short or longer period of time. These risks are driven by a combination of operational ship maneuvering and docking, construction cargo ship hoteling, maneuvering, and docking, and the construction equipment active on the APL Terminal. Because acute risks are developed from 1-hour exposure periods, it is unlikely that changing the construction schedule would actually reduce the acute risk. With mitigation, the peak acute risk impact was 1.1, just over the threshold of 1.0, and the impacts occur in a very limited area on Pier 400, directly across the channel from the proposed Project (as shown on Figure E3.2-8 in Appendix E3 of the Draft EIS/EIR). No other locations in the Port or beyond were above the threshold. Given the type of the required major construction components (backlands, wharf, and dredging), shifting periods of heavy work would likely just shift the period of heavy emission generation in time, without reducing the acute hazard risk. Furthermore, alternating construction with other projects would effectively lengthen the total construction schedule, thereby extending other environmental impacts, such as noise. Finally, altering the construction schedule could delay the construction schedule beyond a reasonable amount of time and result in increased construction costs due to escalation of material and labor costs over time. Because of these factors, this measure is not considered practical or feasible.

Response to Comment USEPA-17

The Commenter recommends that the Final EIS/EIR should describe zero and near zero emission demonstration projects and deployment projects. For a zero-emission technology to be considered a good candidate for advancement by the Ports, it must be capable of being implemented successfully and within a reasonable period of time, taking into account economic, environmental, legal, operational, and technological factors. LAHD has funded numerous zero emission projects through the TAP including plug-in battery electric yard tractors and drayage trucks, and a hydrogen fuel cell yard tractor and drayage truck. The LAHD intends to expand these demonstration projects on a larger scale, pending the results of the initial testing. The LAHD will also continue to seek and potentially fund new technologies as they emerge and are evaluated and approved by the TAP. The current roadmap for developing and demonstrating new technologies includes near-term (1-3 years) activities to facilitate on-road drayage, cargo handling, and locomotive technology development and demonstrations through the TAP, as well as longer-term activities (greater than 3 years) that include further technology proving and collaboration with stakeholders and partners in developing implementation strategies. None of the zero emission options considered to date is ready for full-scale implementation; however, the Ports will move forward with demonstration and collaboration efforts that advance promising technologies towards real world implementation.

The Commenter also recommends that the Final EIS/EIR require a phase-in schedule for zero emission trucks. At this time no zero emission truck technologies have been proven feasible. As stated above the LAHD has funded several demonstration projects; however none of the technologies have been thoroughly

tested to large-scale application. The study titled, "Technology Status Report - Zero Emission Drayage Trucks" prepared for the Ports of Los Angeles and Long Beach by TIAX LLC, outlines the anticipated demonstration steps needed for a technology to reach commercial viability. Steps include the completing an in-use demonstration, followed by a large scale demonstration consisting of ten or more units. The technology projects LAHD has funded are either beginning or about to begin the in-use demonstration. It would be only after a successful in-use demonstration that a large-scale demonstration would be pursued. With the current amount of completed testing the LAHD is unable to commit or require a phase-in schedule of zero emission technologies for drayage trucks.

Additionally, once technologies prove to be feasible, LAHD intends to deploy them using a Port-wide strategy rather than a terminal-by-terminal approach. This allows LAHD to develop coordinated, more comprehensive, Port-wide program using a variety of implementation strategies. This also allows the technologies to be deployed uniformly so to not place unbalanced financial burdens or economic disadvantages to single terminals. In addition, please see the Response to Comment SCAQMD-8 below.

For instance, several factors would create a competitive disadvantage for APL if it were required to use zero emission drayage trucks, which render such a requirement economically infeasible:

- Recharge time for an electric battery truck. EMS understands that the current recharge time for an electric battery truck is 4 to 5 hours, and the charge is good for up to 8 hours. These time limits would be insufficient for a truck to be utilized over two contiguous gate shifts. Either the truck would need to be recharged during open gate hours, resulting in reduced utilization or additional trucks would need to be purchased to keep the cargo moving. EMS conservatively estimates that 30 percent more trucks would be needed to provide drayage service to transport containers between Pier 300 and ICTF if electric battery trucks were used to eliminate delays in cargo movement while electric trucks are recharged.

- Increased cost of zero emission truck versus commercially available diesel engine trucks. The companies providing drayage service to the Port recently converted their fleets to 2007 USEPA clean trucks (in accordance with USEPA standards codified under 40 CFR 86.007-11). Under the Port's Clean Truck Program, all trucks had to be replaced by January, 2012. These trucks are not near the end of their useful lives. The near-term cost to replace the 2007 USEPA clean trucks with a truck equipped with zero emissions technology would be equal to the entire cost of the new zero-emissions truck- not the differential cost between a zero-emissions truck and a 2007 USEPA clean truck. In addition, a company providing drayage service to Pier 300 would have to bear the additional cost to provide 30 percent more trucks due to the need to take trucks out of service for 4 to 5 hour periods to recharge batteries.

- Increased rates and lost business. Higher truck costs incurred by the companies providing drayage service would result in higher rates charged by such companies to the liner companies doing business at EMS. These increased rates would drive intermodal business away from EMS, to other liner companies doing business at terminals that are not required to use zero-emission drayage trucks.

Therefore, the best approach to implementing zero emission technologies, such as drayage trucks, is by a Port-wide approach which would allow implementation without creating competitive disadvantages between terminals and Ports.

Response to Comment USEPA-18

Regarding examples cited (i.e., construction activity and school buses), terminal operations are not comparable. The proposed mitigation in the Draft EIS/EIR regarding truck idling during operation (MM

AQ-16) is appropriate for the safe and efficient operation of the container terminal. In addition to the mitigation measure, the APL terminal operator already limits idling from trucks calling at the terminal. Policies such as requiring all on-road trucks being processed at the main gate to shut down their engines before they will be processed and use of control devices on yard equipment that automatically shuts down the engine after being in park and idling for 15 minutes (which would indicate equipment is not in use) are measures that limit unnecessary idling while maintaining safety and efficiency within the terminal.

Response to Comment USEPA-19

Please see Response to Comment USEPA-13 regarding the ability to eliminate the need for near-dock railyard usage by increasing on-dock rail capacity. It should also be noted that under the TAP, new measures to reduce air pollution from locomotives are under evaluation. These measures address emissions from switching, which comprises short movements of rail cars, such as in the assembling and disassembling of trains at various locations in and around the ports (including on-dock yards). As part of the switching fleet modernization under the TAP, all Class 1 line haul and switcher locomotives must meet the emissions reductions associated with the California Air Resources Board's Class 1 railroads Memorandum of Understanding and the 2008 USEPA locomotive engine standards, including:

- By 2007, phase-out all non-essential idling and maximize use of ULSD fuel
- By 2010, all Class 1 locomotives entering the ports will meet emissions equivalent to Tier 2 locomotive standards
- By 2023, all Class 1 locomotives entering the ports will meet emissions equivalent to Tier 3 locomotive standards

On-dock railyard management will be a part of the Terminal Island planning process, which is a more appropriate planning vehicle (than the Final EIS/EIR) for the Commenter's on-dock rail recommendations.

Response to Comment USEPA-20

As detailed in Section 3.2.3.2 of the Draft EIS/EIR, each Federal agency (including USACE) must determine that any action that is proposed by the agency and that is subject to the regulations implementing the conformity requirements will, in fact, conform to the applicable State Implementation Plan (SIP) before the action is taken. According to USEPA guidance, before any approval is given for a Federal action to go forward, the regulating Federal agency must apply the applicability requirements found at 40 CFR Section 51.853(b) to the Federal action and/or determine the regional significance of the Federal action pursuant to 40 CFR Section 51.853(j) to evaluate whether, on a pollutant-by-pollutant basis, a determination of general conformity is required. The guidance states that the applicability analysis can be (but is not required to be) completed concurrently with any analysis required under the NEPA. If the regulating Federal agency determines that the general conformity regulations do not apply to the Federal action, no further analysis or documentation is required. If the general conformity regulations do apply to the Federal action, the regulating Federal agency must next conduct a conformity evaluation in accord with the criteria and procedures in the implementing regulations, publish a draft determination of general conformity for public review, and then publish the final determination of general conformity.

As part of the environmental review of the Federal action, the USACE conducted a general conformity evaluation pursuant to SCAQMD Rule 1901 and 40 CFR Part 51 Subpart W. The general conformity regulations apply at this time to those actions at the Port requiring USACE approval, because the South Coast Air Basin (SCAB) (which includes the Port) is a nonattainment area for O_3, PM_{10}, and $PM_{2.5}$; and a maintenance area for NO_2 and CO. The USACE began the general conformity evaluation by conducting the applicability analysis in which the calculated Federal action emissions are compared to the general conformity *de minimis* thresholds. This applicability analysis is presented in Appendix E1.2 of the Draft

EIS/EIR. Following USACE guidance, the Federal actions for this evaluation included construction emissions for the following project elements:

- Dredging and disposal of 20,000 cubic yards of sediment to build Berth 306.
- Berth 306 wharf construction including support pile and wharf deck installation.
- Development of new 41 acres of backlands adjacent to Berth 306.
- Installation of AMP at Berth 306.
- Installation of wharf cranes at Berths 302-306.
- Construction worker commute trips to one from the project site.

Based on the general conformity evaluation performed for the proposed Project, the USACE determined that the Federal action (i.e., those Project elements listed above) as designed will conform to the approved SIP since the Federal action is not subject to a general conformity determination for CO, VOC (as an O_3 and $PM_{2.5}$ precursor), NOx (as an O_3 and $PM_{2.5}$ precursor), PM_{10}, $PM_{2.5}$, or SOx (as a $PM_{2.5}$ precursor) because the net emissions associated with the Federal action are less than the general conformity *de minimis* thresholds.

Finally, the operational emissions associated with Port operations would be considered "indirect emissions" under the general conformity regulations. In addition, these indirect emissions are specifically not covered by the general conformity rule:

> *Preamble III.C.3.j.(3) - …The indirect emissions from development activities related to [USACE] permit actions are not covered where such emissions are not subject to the continuing program responsibility of the [USACE], or cannot be practicably controlled by the [USACE].*[2]

Response to Comment USEPA-21

Regarding the comment that the Final EIS/EIR should include emissions within the SCAB from trips that would occur after transloading, the LAHD estimates emissions generation to the point of first delivery (e.g. to the transloading company) because once a container is delivered to the transloading company, cargo is reorganized for subsequent transport. During cargo reorganization, cargo from other terminals, other ports, and other suppliers (foreign and domestic) are combined and loaded onto other trucks or containers for subsequent delivery and redelivery to many other common point destinations. The subsequent destinations of the cargo are unknown and are subject to change depending on the cargo and intermediate and end users, as well as changing market conditions. Due to the speculative nature and logistic variables associated with transloaded cargo shipments, including a lack of LAHD jurisdiction and control, the LAHD intends to continue estimating emissions to the first point of delivery.

Response to Comment USEPA-22

Operational mitigation measures MM AQ-13, MM AQ-14, and MM AQ-15, as well as construction mitigation measure MM AQ-3, require Tier 4 or Tier 3 compliance, depending on measure's timing or the presence of other emissions controls. There is a range of emissions allowed under these standards, and rather than focusing on specific emission levels, these mitigation measures implement represent an overall approach to reducing emissions without unnecessarily micromanaging the operations a specific terminal.

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[2] 58 FR 63224, Determining Conformity of General Federal Actions to State or Federal Implementation Plans; Final Rule (November 30, 1993).

APL and EMS do not own or operate an on-road fleet of trucks. Any additional phasing in of Tier 4 standards needs to be associated with a Port-wide strategy, such as part of the effort to reduce emissions though implementation of the CAAP, which allows such technologies to be demonstrated, developed, and implemented uniformly and in a more coordinated manner without creating competitive disadvantages between terminals and Ports.

Response to Comment USEPA-23

The Commenter recommends that the Final EIS/EIR include another alternative with a fifth berth at Pier 300 because the *Terminal Island Land Use Plan, Summary Report* identifies a fifth berth at Pier 300 (along Berth 301). The *Terminal Island Land Use Plan* is in draft planning level document which has not been finalized, approved, or been the subject of environmental clearance. There is currently no foreseeable market demand that a fifth berth (along Berth 301) would accommodate, and because of this, the proposed Project and alternatives in the Draft EIS/EIR do not include a new Berth 301. In essence, proposed Project goals can be met by the existing reasonable range of alternatives. In addition, neither the proposed Project nor the Project alternatives would preclude a future Berth 301 should market conditions later require its addition (however, adding Berth 301 would require additional environmental analysis)

The referenced draft *Terminal Island Land Use Plan* includes features that are possible, but may not be likely in the near or intermediate term. Once the *Terminal Island Land Use Plan is finalized,* the potential improvements at various locations on Terminal Island, including the alternatives presented in the Plan would be subject to environmental evaluation under both CEQA and NEPA. In addition, please see Related Project No. 31 in Table 4-1 of the Draft EIS/EIR. LAHD is in the process of preparing the Port of Los Angeles Master Plan Update, and if a new wharf at Berth 301 is included, it would be evaluated as an anticipated project if considered reasonably foreseeable at that time.

Response to Comment USEPA-24

Regarding the comments that the Final EIS/EIR should consider a roof over the reefer storage area for cooling or renewable energy generation, such a roof is not considered feasible as it would prevent access to the containers, which occurs from above using toppicks. Additionally, even if such a roof could be high enough to accommodate yard equipment, the roof structure would necessitate new lighting beneath the structure for use during nighttime, as the roof would block lighting from fixtures throughout the backlands.

Response to Comment USEPA-25

Regarding the recommendation to change mitigation measure MM AQ-1 to require the contractor to import if available Tier 4 equipment from Oregon or Washington, LAHD respectfully declines this recommendation as infeasible. LAHD would ensure that construction contractors comply with CAAP measures, Project-specific mitigation, and LAHD Sustainable Construction Guidelines through the environmental compliance plan. While LAHD uses restrictions and requirements geared at requiring construction contractors working within its jurisdiction to use the cleanest feasible construction equipment, LAHD does not overly burden the contractors by requiring construction equipment not readily available (such as requiring the leasing of out-of-state equipment) as it would pose an undue economic burden on contractors in California, as well as result in additional emissions associated with transportation of such equipment from those states. The LAHD has performed a screening level calculation of the recommendation by estimating emissions associated with bringing two Tier 4-compliant tugs to the Port from Seattle, and found that the associated transportation emissions substantially outweigh any benefit of using these Tier 4 compliant tugs in the Port (refer to Section 2.4 for an estimate of the tugboat emissions).

Response to Comment USEPA-26

Regarding the recommendation to change the lease reopener period from 7 years to 5 years under lease measure LM AQ-1, LAHD will make the change as requested in the Final EIS/EIR (refer to Chapter 3 – Modifications to the Draft EIS/EIR).

Response to Comment USEPA-27

LAHD has coordinated with the Southern California Dredged Material Management Team (SC-DMMT) regarding placement of the dredge material at Berths 243-245, an approved confined disposal facility. The management of sediment at this facility and the appropriate confinement specifications was established through the Channel Deepening Project.

Response to Comment USEPA-28

Vessel General Permit

The requirements of the Vessel General Permit (VGP), and other ballast water management regulations, will be added in the Final EIS/EIR (refer to Chapter 3 – Modifications to the Draft EIS/EIR), as follows:

> The USEPA VGP was released on December 19, 2008, and applies to all non-military and non-recreational vessels of 79 feet or greater in length. Requirements for the VGP include:
>
> - Submission of a Notice of Intent for vessels over 300 gross tons (or vessels with a capacity to hold or discharge 2,113 gallons (8 cubic meters) or more of ballast water;
> - Corrective actions for violations of VGP limits;
> - Requirements for visual and annual inspections; and
> - Reporting requirements, which vary by vessel class.
>
> In addition to general VGP regulations, states with authority to implement the CWA may add specific provisions, including performance standards, for vessel discharges in state waters through the Section 401 Water Quality Certification process. The state of California has issued additional conditions for vessels while in state waters. The VGP expires in December 2013, and the USEPA recently solicited public comment on a new draft VGP that would take effect upon expiration of the original VGP. The proposed VGP includes numeric criteria for discharged ballast water, and would impose several ballast water management (BWM) best management practices (BMPs) substantially similar to those in the 2008 VGP.
>
> In July 2010, the Ports of Los Angeles and Long Beach published a guidance manual (*Port of Long Beach and Port of Los Angeles Vessel Discharge Rules and Regulations*) that provides interested parties with relevant information on allowable and prohibited maintenance activities and discharges within the Ports. The manual applies to large commercial vessels generally over 79 feet in length. This manual summarizes federal, state, and local provisions governing the management and discharge of ballast water, and has been distributed directly to terminal operators and facility managers, among other parties. Los Angeles Port Pilots have also been distributing the manual to vessel operators as they board inbound vessels. The guidance manual is available at the Port of Los Angeles' web site, and will be updated as necessary.

Shipboard Ballast Water Treatment

USEPA has requested the Final EIS/EIR consider expedited treatment of ballast water treatment to reduce the significant impact resulting from the introduction of aquatic invasive species (AIS) into the Harbor. Treatment of ballast water to reduce or eliminate potential AIS is an emerging field.

As discussed above, states are allowed to include additional conditions under the VGP. The state of California has issued the most stringent requirements related specifically to ballast water and such requirements are more stringent than those issued by the USEPA in the draft 2013 VGP., California has regulations in place to eliminate the introduction of AIS via ballast water discharge by the year 2020.[3] California's ballast water discharge performance standards consist of "no detectable" organisms >50 mm in dimension, <0.01 organisms per milliliter (ml) for organisms in the 10–50 µm range, 10 organisms per ml for living bacteria, and 100 organisms per ml for living viruses within State waters. There are also performance standards for organisms <10 µm in diameter, and vary depending on the type of organism (i.e., virus or bacteria). California's performance standards for new vessels went into effect in January 1, 2010 and January 1, 2012 (depending on ballast water capacity), and will go into effect for existing vessels on January 1, 2014 and January 1, 2016 (depending on ballast water capacity). California's current regulations include the interim performance standards described above, the final discharge standard of zero detectable living organisms discharged by 2020, and reporting requirements. California's current BWM regulations, including the performance standards, are currently more stringent than the Regulation D-2 limits of the International Maritime Convention (IMO), also referred to as the IMO D-2 standards, and proposed 2013 VGP.

The Commenter noted that the USEPA's Science Advisory Board (SAB) determined five types of ballast water treatment systems are available that treat to the Regulation D-2 limits of the International Maritime Convention (IMO), and these same limits (referred to as the D-2 limits) are proposed in the proposed VGP.[4] Although the USEPA's SAB determined there were several types of systems capable of treating to the limits of the IMO D-2 and proposed VGP standards, they also determined:

"The detection limits for currently available test methods preclude a complete statistical assessment of whether BWMS (ballast water management systems) can meet standards more stringent than IMO-D2/Phase I"[5] (page 4).

The Panel also concluded "that it is not reasonable to assume that BWMS are able to reliably meet or closely approach a "no living organisms" standard" (page 4). The California State Lands Commission recently came to a similar conclusion—the inherent uncertainty regarding BWMS performance "is likely to persist over the next several years."[6] The State Lands Commission staff is working with industry experts to develop compliance protocols to ensure that vessel discharges into California waters will be compliant with California law.

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[3] Final discharge standard for California is zero detectable living organisms in all size classes beginning January 1, 2020.

[4] U.S. Environmental Protection Agency, Science Advisory Board (USEPA SAB). 2011. *Efficacy of Ballast Water Treatment Systems:* a Report by the EPA Science Advisory Board. July 12, 2011.

[5] Phase I refers to the Phase I of the U.S. Coast Guard proposed ballast water regulations (74 FR 44632), which are also identical to the IMO D-2 standards. The proposed standards were published on August 28, 2009, but have not been finalized.

[6] Dobroski, N., C. Scianni, and L. Takata. *2011. 2011 Update: Ballast Water Treatment Systems for Use in California Waters*. Prepared for the Calif. State Lands Comm. by the Marine Inv. Sp. Progr. Sept. 1, 2011

California's interim performance standards are extremely stringent, and the technology to effectively treat to such low levels is still in development. Once a specific treatment system shows promise for removing the target organisms from the ballast water, integrating this system onto vessels and training ship crews to effectively operate a new system will take additional time. Therefore, the existing compliance schedule should be considered extremely aggressive.

The U.S. Coast Guard's Shipboard Technology Evaluation Program (STEP) is intended to facilitate the development of effective BWMS technologies, to create more options for vessel owners seeking alternatives to ballast water exchange. The program was established to alleviate concerns regarding the investment in, installation, and operation of an experimental treatment system that might not meet discharge standards mandated by future regulations. Vessels accepted into the STEP may be granted an equivalency to future ballast water discharge standard regulations, for up to the life of the vessel or the system, while their BWM system operates satisfactorily. As summarized in the Draft EIS, the Port of Los Angeles, Port of Long Beach, California State Lands Commission, and University of Maryland are collaborating with APL to test a shipboard ballast water treatment system designed to eliminate AIS from ballast water. The vessel APL England is one of only five ships currently enrolled in the STEP[7].

Vessels currently calling at the APL Terminal are subject to: (1) the BWM provisions of the current VGP; (2) the BWM provisions of the U.S. Coast Guard's Ballast Water Management for the Control of Nonindigenous Species in Waters of the U.S.[8]; (3) the provisions and numeric limits of the State's BWM regulations; and (4) Port Tariff Number 4, which prohibits the discharge of ballast water within the Port without permission from the Executive Director. While the USEPA, the U.S. Coast Guard, and other states consider new or revised BWM regulations, California's numeric limitations are currently among the most stringent in the United States, and for many classes and sizes of organisms, are much more stringent than the IMO D-2 standard.

USEPA's request to consider an expedited BWMS implementation schedule is not supported due to (1) the aggressive compliance schedule for vessels operating in California's waters, (2) the lack of ballast water treatment systems that can meet the stringent standards, and (3) the lack of approved compliance verification protocols at both the state and federal levels. Based on past accomplishments, there will be several advances in the field of BWMS technology in the next decade. At this time, however, it could be counterproductive to require vessels to install technologies that may not meet state or federal standards.

[7] *See*: http://www.uscg.mil/hq/cg5/cg522/cg5224/step.asp

[8] *33 CFR 151. See:* http://www.uscg.mil/hq/cg5/cg522/cg5224/bwm.asp

U.S. Department of Homeland Security
FEMA Region IX
1111 Broadway, Suite 1200
Oakland, CA. 94607-4052

FEMA

December 22, 2011

Theresa Stevens, PhD
U. S. Army Corps of Engineers
Los Angeles District Regulatory Division
Ventura Field Office
2151 Alessandro Drive, Suite 110
Ventura, California 93001

Dear Ms. Stevens:

This is in response to your request for comments on Public Notice No. SPL-2009-00226-TS, Port of Los Angeles Berths 302-306 (APL) Container Terminal Project.

Please review the current effective countywide Flood Insurance Rate Maps (FIRMs) for the City (Community Number 060137) and County (Community Number 065043) of Los Angeles, Maps revised September 26, 2008. Please note that the City of Los Angeles, Los Angeles County, California is a participant in the National Flood Insurance Program (NFIP). The minimum, basic NFIP floodplain management building requirements are described in Vol. 44 Code of Federal Regulations (44 CFR), Sections 59 through 65.

A summary of these NFIP floodplain management building requirements are as follows:

- All buildings constructed within a riverine floodplain, (i.e., Flood Zones A, AO, AH, AE, and A1 through A30 as delineated on the FIRM), must be elevated so that the lowest floor is at or above the Base Flood Elevation level in accordance with the effective Flood Insurance Rate Map.

- If the area of construction is located within a Regulatory Floodway as delineated on the FIRM, any ***development*** must not increase base flood elevation levels. **The term *development* means any man-made change to improved or unimproved real estate, including but not limited to buildings, other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, and storage of equipment or materials.** A hydrologic and hydraulic analysis must be performed *prior* to the start of development, and must demonstrate that the development would not cause any rise in base flood levels. No rise is permitted within regulatory floodways.

FEMA-1

- All buildings constructed within a coastal high hazard area, (any of the "V" Flood Zones as delineated on the FIRM), must be elevated on pilings and columns, so that the lowest horizontal structural member, (excluding the pilings and columns), is elevated to or above the base flood elevation level. In addition, the posts and pilings foundation and the structure attached thereto, is anchored to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all building components.

- Upon completion of any development that changes existing Special Flood Hazard Areas, the NFIP directs all participating communities to submit the appropriate hydrologic and hydraulic data to FEMA for a FIRM revision. In accordance with 44 CFR, Section 65.3, as soon as practicable, but not later than six months after such data becomes available, a community shall notify FEMA of the changes by submitting technical data for a flood map revision. To obtain copies of FEMA's Flood Map Revision Application Packages, please refer to the FEMA website at http://www.fema.gov/business/nfip/forms.shtm.

FEMA-1 Cont.

Please Note:

Many NFIP participating communities have adopted floodplain management building requirements which are more restrictive than the minimum federal standards described in 44 CFR. Please contact the local community's floodplain manager for more information on local floodplain management building requirements. The Los Angeles County floodplain manager can be reached by calling Gary L. Moore, City Engineer, at (213) 485-4935. The Los Angeles County floodplain manager can be reached by calling George De La O, Senior Civil Engineer, at (626) 458-7155.

If you have any questions or concerns, please do not hesitate to call Cynthia McKenzie of the Mitigation staff at (510) 627-7194.

Sincerely,

Gregor Blackburn, CFM, Branch Chief
Floodplain Management and Insurance Branch

cc:
Gary L. Moore, City Engineer, City of Los Angeles
George De La O, Senior Civil Engineer, Los Angeles County, Department of Public Works, Los Angeles County
Garret Tam Sing/Salomon Miranda, State of California, Department of Water Resources, Southern Region Office
Cynthia McKenzie, Senior NFIP Planner, DHS/FEMA Region IX
Alessandro Amaglio, Environmental Officer, DHS/FEMA Region IX

United States Department of Homeland Security, FEMA Region IX (FEMA)

Response to Comment FEMA-1

Thank you for your comment. The comment letter has been forwarded to LAHD's Engineering Division for their consideration during the design process. As described in Section 3.14 of the Draft EIS/EIR, the majority of Pier 300 is mapped by FEMA as Flood Zone X (defined as areas of 0.2 percent annual chance flood; areas of one percent annual chance flood with average depths of less than one foot or with drainage areas less than one square mile; and, areas protected by levees from one percent annual chance flood). A portion of the pier (Berth 301 area) in the vicinity of Earle and Bass Streets is mapped as Flood Zone AE (defined as special flood hazard areas that are subject to inundation by the one percent annual chance flood). The land planned for the proposed Berth 306 wharf extension and backland uses, and the Pier 300 Shallow Water Habitat area have not been mapped for flood risk by FEMA. However, waters of the Harbor near land, plus some of the landfill margins in other areas of the Harbor, are mapped within the 100-year flood zone. Adjacent areas on the landfills are generally within the 500-year flood zone. The Project site is not within a Regulatory Floodway as delineated on the FIRM; therefore, the area of construction and development would not cause any rise in base flood levels. The Project site is also not within a delineated "V" Flood Zone and the proposed Project would not involve development that changes an existing Special Flood Hazard Area. As determined in the impact analysis (Section 3.14 of the Draft EIS/EIR), although the proposed Project would develop the existing 41-acre undeveloped area that has not been mapped for flood risk by FEMA, it is at the same level as the existing terminal. Most of the terminal is designated by FEMA as Flood Zone X (defined as areas of 0.2 percent annual chance flood; areas of one percent annual chance flood with average depths of less than one foot or with drainage areas less than one square mile; and, areas protected by levees from one percent annual chance flood); therefore, the impact would be less than significant.

UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Southwest Region
501 West Ocean Boulevard, Suite 4200
Long Beach, California 90802-4213

FEB 16 2012

Colonel R. Mark Toy
U.S. Army Corps of Engineers
Los Angeles District, CESPL-CO-R
P.O. Box 2711
Los Angeles, California 90053-2325

Dear Colonel Toy:

NOAA's National Marine Fisheries Service (NMFS) has reviewed the Draft Environmental Impact Statement (DEIS) and the U.S. Army Corps of Engineers' (Corps) Public Notice (SPL-2009-00226-TS) for upgrades to Berths 302-306 in the Port of Los Angeles (POLA), California. NMFS offers the following comments pursuant to section 305(b)(4)(A) of the Magnuson-Stevens Fishery Conservation and Management Act (MSA) and the Fish and Wildlife Coordination Act (FWCA).

Proposed Action

For purposes of this consultation, the proposed action is to expand the existing terminal by constructing a 1,250 linear foot concrete wharf at Berth 306 adjacent to the wharf at Berths 302-305. To support the wharf, approximately 515 24-inch concrete piles would be driven using impact hammers with the soft-start technique. According to the written materials provided by the Corps, the new wharf would increase overwater coverage by approximately four acres. However, a recent telephone conversation with the Corps and POLA staff clarified that the overwater coverage would be increased by 2.7 acres. The applicant would also dredge 20,000 cubic yards of material from Berth 306 to a depth of -55 feet Mean Lower Low Water with a two foot overdredge. Dredging would last approximately three months, whereas wharf construction and pile driving would occur over a 22-month period. Dredge material would be disposed of at the Corps-approved Berths 243-245 confined disposal facility (CDF), the Cabrillo Shallow Water Habitat Area (CSWHA) and/or in the open ocean at the LA-2 site.

Magnuson-Stevens Fishery Conservation and Management Act Comments

Action Area

The proposed project occurs within essential fish habitat (EFH) for various federally managed fish species within Coastal Pelagic Species and Pacific Coast Groundfish Fishery Management Plans (FMPs). In addition, the project occurs in the vicinity of eelgrass habitat, which is designated as a habitat area of particular concern (HAPC) for various federally managed fish species within the Pacific Groundfish FMP. HAPC are described in the regulations as subsets of EFH which are rare, particularly susceptible to human-induced degradation, especially

ecologically important, or located in an environmentally stressed area. Designated HAPC are not afforded any additional regulatory protection under MSA; however, federal projects with potential adverse impacts to HAPC will be more carefully scrutinized during the consultation process.

Effects of the Action

The adverse effects of dredging on EFH may include 1) direct removal/burial of organisms; 2) turbidity/siltation effects, including light attenuation from turbidity; 3) contaminant release and uptake, including nutrients, metals and organics; 4) release of oxygen consuming substances; 5) entrainment; 6) noise disturbance; and 7) alteration to hydrodynamic regimes and physical habitat. NMFS expects the waste discharge requirements imposed by the Regional Water Quality Control Board will adequately address the adverse effects of dredging. NMFS-1

Another potential project concern is the spread of the invasive alga *Caulerpa taxifolia* from project activities. This alga was introduced to the southern California coastline in 2000. Evidence of harm that can ensue as a result of an uncontrolled spread of the alga has already been seen in the Mediterranean Sea where it has destroyed local ecosystems, impacted commercial fishing areas, and affected coastal navigation and recreational opportunities. Although it is not known to be present within the Port, it was detected and eradicated in two other locations in Southern California. It is worth noting that the intensive six-year eradication effort cost approximately $7 million. If the invasive alga is present within the project area, the sediment disturbing activities would adversely affect EFH by promoting its spread and increasing its negative ecosystem impacts. According to the DEIS, an underwater survey for *Caulerpa* would be conducted to ensure that no *Caulerpa* is present. If *Caulerpa* is detected, an eradication program would be implemented per the requirements of the *Caulerpa* Control Protocol. NMFS believes this environmental commitment adequately addresses our *Caulerpa* concerns. NMFS-2

The construction activities associated with this project may generate substantial underwater noise. For example, pile driving can generate intense underwater sound pressure waves that may adversely affect the ecological functioning of EFH. These pressure waves have been shown to injure and kill fish. Injuries associated directly with pile driving are poorly studied, but include rupture of the swim bladder and internal hemorrhaging. Of the reported fish kills associated with pile driving, all have occurred during use of an impact hammer on hollow steel piles. In addition, increased noise frequency is a determining factor in lethal and sublethal impacts on fishes. This project requires the driving of 515 24-inch concrete piles. The applicant has proposed using soft-start techniques to minimize effects from sound. NMFS expects that the pile type and driving technique will minimize lethal and sub-lethal impacts to fish. However, NMFS believes that sufficient noise will be generated to elicit avoidance responses that may preclude or reduce use of the project area during pile driving operations. Thus, in consideration of likely avoidance responses associated with dredging and construction, NMFS expects the habitat quality to be diminished over the 25-month period of dredging and pile driving activities. NMFS-3

Wharf development will result in a large overwater structure that will permanently limit light availability to the marine environment. Light is the single most important factor affecting NMFS-4

aquatic plants. Light levels underneath overwater structures have been found to fall below threshold levels for photosynthesis of diatoms, benthic algae, eelgrass, associated epiphytes and other autotrophs. These photosynthesizers are an essential part of nearshore habitat and the estuarine and nearshore food webs that support many species of marine and estuarine fishes.

In addition, fishes rely on visual cues for spatial orientation, prey capture, schooling, predator avoidance and migration. Juvenile and larval fish are primarily visual feeders with starvation being the major cause of larval mortality in marine fish populations. Early life history stages are likely critical determining factors for recruitment and survival, with survival linked to the ability to locate and capture prey and to avoid predation (Britt 2001). The reduced light conditions found under an overwater structure limit the ability of fishes, especially juveniles and larvae, to perform these essential activities. For example, Able and Duffy-Anderson (2005) examined the impacts of man-made structures, especially large piers, on fishes and selected invertebrates in the lower Hudson River over a number of years. They concluded that under-pier areas are poor quality habitats because they support low fish abundances, inhibit feeding, and suppress growth. They attributed the poor habitat quality to the low light levels under piers.

NMFS-4 Cont.

Given the lack of natural hard bottom habitat in estuaries, the addition of artificial hard structures may provide an invasion opportunity for non-indigenous hard substratum species (Glasby et al. 2007; Wasson et al. 2005; Tyrell and Byers 2007). For example, Glasby et al. (2007) argue that artificial structures provide entry points for invasion and increase the spread and establishment of non-indigenous species (NIS) in estuaries. In the Ports of Los Angeles and Long beach, Silva et al. (2002) documented the presence of the Asian kelp, *Undaria pinnatifida,* a non-native algae. It was discovered in southern California in the spring of 2000, and by the summer of 2001 had been collected at several California sites from Los Angeles to Monterey Harbor. With the exception of one site, all observations were found on floating docks, piers, pilings, or other artificial substrate in a protected environment. More recent observations made by various site-specific surveys in southern California continue to observe this trend. For example, a site-specific survey conducted at POLA Berths 145-147 indicated that the dominant flora in the project vicinity was *U. pinnatifida*, which was found exclusively on pilings (Merkel and Associates 2009). The most recent biological baseline survey conducted in the Ports of Los Angeles and Long Beach documented *Undaria* at all eight inner harbor sites and at 7 of 12 outer harbor locations, indicating an expanded distribution since 2000 (SAIC 2010). Another example in the Port of Long Beach is the non-native brown seaweed, *Sargassum horneri.* It was first found in 2003, but by 2004 it had moved to both sides of the harbor's back channel. Since then, the non-native species has been found in Orange County, the Channel Islands, and as far south as San Diego Bay. Thus, NMFS believes that artificial substrate in estuaries may contribute to further proliferation of NIS. Some researchers have recommended that coastal managers should consider limiting the amount of artificial hard substrates in estuarine environments (Wasson et al. 2005, Tyrell and Byers, 2007).

NMFS-5

The hard substrate associated with overwater structures has been reported as a habitat benefit based upon the assumption that these artificial structures mimic natural hard substrate habitat. While some structures are inhabited by invertebrates and fishes similar to those found in rocky reef habitat (Merkel and Associates 2008), an increasing body of evidence is showing significant differences between the biota associated with artificial structures and those on natural reefs

(Bulleri and Chapman 2010). Within southern California, the majority of the overwater structures occur within protected embayments comprised of primarily soft bottom habitats. The novel habitat provided by overwater structures appears to harbor species that are either non-native or native to reef habitats generally found along open coasts. Consequently, while providing an artificial hard substrate within a soft bottom habitat will increase habitat heterogeneity, the habitat will be altered from its original function.

As a result of Southern California's large population and intense economic and recreational activity, there is very little coastal space that has not been subject to construction, mineral extraction, or other forms of resource utilization and habitat alteration. Dredging, fill, shoreline armoring, and overwater structures are the primary causes of habitat alteration within southern California embayments. At the ports of Long Beach and Los Angeles, increasing global economic pressures have resulted in the need for larger, deeper draft ships to transport cargo. This has led to a demand for new construction dredging to widen and deepen channels, turning basins, and slips to accommodate these larger vessels. These activities have led to permanent loss of shallow water habitats and chronic effects on water quality. In addition to the ports, other bays and harbors of Southern California have experienced significant adverse impacts associated with shoreline, intertidal, and shallow subtidal development.

NMFS-5 Cont.

The Corps concludes in your December 16, 2011, letter that shade impacts are not considered cumulatively considerable because shade does not preclude use of the water or substrate by motile, encrusting or benthic species. NMFS does not concur with this assertion. Light is a fundamental, physical factor that regulates the functioning of nearshore ecosystems. As described above, intense shading may preclude primary productivity, which forms the basis of nearshore marine food webs. In addition, there is strong evidence that changes in the lighting regime can cause changes in fish behavior and predator-prey interactions. Over-water structures create a light/dark interface which allows ambush predators to hold in the darkened areas and watch for prey against a bright background. Prey can not see into the dark shadow and therefore are less successful at avoiding predators. Protected embayments are generally acknowledged as nursery areas for fish. Altering ecosystem structure in such a way to confer additional advantages to predators will reduce the nursery function of these systems. Although shading may not preclude use by certain fish species, it results in the permanent reduction in light, a fundamental regulating factor of ecosystem function in nearshore habitat. Moreover, emerging evidence suggests that introducing novel hard substrate into embayments may adversely affect native biodiversity by facilitating the proliferation of non-native species. Therefore, NMFS believes the best available scientific information suggests that overwater structures adversely affect EFH and the ecological functions provided by nearshore waters of the U.S.

As defined in 33 CFR Part 332, riparian areas are lands adjacent to streams, rivers, lakes, and estuarine-marine shorelines. Riparian areas provide a variety of ecological functions and services and help improve or maintain local water quality. Continued modification of estuarine-marine shorelines as a result of overwater structures further reduces the ecological functions and services provided by these unique habitats. In addition, the cumulative impacts associated with reduced tidal circulation and expanded vessel use may degrade water quality. Without compensation for the degradation of aquatic resources, the proposed activity may be contrary to public interest.

EFH Conservation Recommendations

As described in the above effects analysis, NMFS has determined that the proposed action would adversely affect EFH for various federally managed fish species within Coastal Pelagic Species and Pacific Coast Groundfish FMPs. Therefore, pursuant to section 305(b)(4)(A) of the MSA, NMFS offers the following EFH conservation recommendations to avoid, minimize, mitigate, or otherwise offset the adverse effects to EFH.

1) Given the significant modification of estuarine-marine shorelines within Southern California's embayments, NMFS believes additional reductions in habitat quality should be offset via compensatory mitigation. The proposed project will permanently reduce the quality of 2.7 acres of nearshore embayment habitat. Therefore, the POLA should develop, in consultation with the Corps, NMFS, and other relevant resource agencies, a plan to compensate for this reduction in habitat quality. The plan should be approved by the Corps prior to project construction. **NMFS-6**

2) The POLA should notify NMFS of the date of commencement of dredging and disposal operations not less than 14 calendar days prior to commencing work, and shall notify NMFS of the date of completion of operations at least five calendar days prior to such completion. Such notification would provide NMFS the opportunity to monitor impacts to EFH. **NMFS-7**

Statutory Response Requirement

Please be advised that regulations at section 305(b)(4)(B) of the MSA and 50 CFR 600.920(k) of the MSA require your office to provide a written response to this letter within 30 days of its receipt and at least 10 days prior to final approval of the action. A preliminary response is acceptable if final action cannot be completed within 30 days. Your final response must include a description of measures to be required to avoid, mitigate, or offset the adverse impacts of the activity. If your response is inconsistent with our EFH conservation recommendations, you must provide an explanation of the reasons for not implementing those recommendations. The reasons must include the scientific justification for any disagreements over the anticipated effects of the proposed action and the measures needed to avoid, minimize, mitigate, or offset such effects. **NMFS-8**

If the Corps determines that compensatory mitigation for overwater coverage is not warranted, NMFS believes the Corps should provide a detailed response explaining the rationale for not requiring compensation. NMFS recommends that, at a minimum, such a response would include the Corps' scientific opinion as to whether shading results in unavoidable adverse impact to waters of the U.S. Also, if the Corps acknowledges an unavoidable adverse impact, then the Corps should describe the threshold for which an exceedance would trigger the need for compensation.

Supplemental Consultation

Pursuant to 50 CFR 600.920(l), the Corps must reinitiate EFH consultation with NMFS if the proposed action is substantially revised in a way that may adversely affect EFH, or if new

information becomes available that affects the basis for NMFS' EFH conservation recommendations.

Fish and Wildlife Coordination Act Comments

The purpose of the FWCA is to ensure that wildlife conservation receives equal consideration, and is coordinated with other aspects of water resources development [16 U.S.C. 661]. The FWCA establishes a consultation requirement for Federal departments and agencies that undertake any action that proposes to modify any stream or other body of water for any purpose, including navigation and drainage [16 U.S.C 662(a)]. Consistent with this consultation requirement, NMFS provides recommendations and comments to Federal action agencies for the purpose of conserving fish and wildlife resources. The FWCA allows the opportunity to offer recommendations for the conservation of species and habitats beyond those currently managed under the MSA. NMFS has determined that nearshore habitat will be negatively impacted by proposed project activities. As such, EFH Conservation Recommendations provided above also serve as FWCA recommendations to compensate for these negative impacts.

Thank you for consulting with NMFS. Please contact me at (562) 980-4037 or Bryant.Chesney@noaa.gov if you have any questions concerning this EFH consultation or require additional information.

Sincerely,

WB Chesney

W. Bryant Chesney
Acting Assistant Regional Administrator
for Habitat Conservation

Works Cited

Able, K.W., Duffy-Anderson, J.T., 2005. A synthesis of impacts of piers on juvenile fishes and selected invertebrates in the lower Hudson River. Report to the Rutgers Institute of Marine and Coastal Sciences, IMCS Contribution #2005-13. 29 p.

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United States Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service (NMFS)

Response to Comment NMFS-1

As discussed in Section 3.3 and Appendix F3 of the Draft EIS/EIR, the proposed Project is located in an area of the Port designated as Essential Fish Habitat (EFH) for federally managed species described in the Coastal Pelagic Species Management Plan and the Pacific Coast Groundfish Management Plan. The status of federally-managed fish species and effects of the proposed action on them and other marine species as well as EFH are discussed below.

The LAHD and the POLB conduct regular biological surveys of the Los Angeles and Long Beach Harbor (Harbor), with the 2008 survey completed most recently[9]. Of the 95 species included under the Coastal Pelagic and Pacific Coast Groundfish management plans, 19 adult species have been observed within the Harbor during biological surveys, although most have been collected sporadically and in low numbers. Of the 19 species, only two (2) are likely to occur in the proposed Project vicinity: *Engraulis mordax* (northern anchovy) and *Sardinops sagax* (Pacific sardine). In the 2008 survey, the northern anchovy was the most abundant species in both the Inner and Outer Harbor areas; Pacific sardine was less abundant. These surveys also showed a stable incidence of non-indigenous species (NIS), and increased diversity and abundance of native marine species since the prior survey.

Dredging

As stated in the comment letter and described in the Appendix F3 of the Draft EIS/EIR, state-issued waste discharge requirements (WDRs) and best management practices (BMPs) implemented during construction and operations would result in less than significant impacts to water quality and EFH. The proposed in- and over-water construction requires a permit from the USACE, and WDRs and section 401water quality certification from the Los Angeles Regional Water Quality Control Board (Los Angeles RWQCB). During construction and dredging, a water quality monitoring program would be implemented by LAHD with oversight by the USACE and Los Angeles RWQCB, and as required by special conditions of the USACE permit. Over the life of the Project, WDRs would be implemented and monitored by LAHD through LAHD-required lease measures for the APL Terminal.

Response to Comment NMFS-2

As discussed in Section 3.3 of the Draft EIS/EIR and consistent with NMFS requirements in the *Caulerpa* Control Protocol, the LAHD will conduct an underwater survey for *Caulerpa* prior to construction. If any *Caulerpa* is found, an eradication plan will be developed and implemented in conjunction with NMFS and the California Department of Fish and Game (CDFG), and construction will be delayed until subsequent surveys demonstrate full eradication has been achieved. In addition, maintenance dredging in later project years would be evaluated and permitted separately from the proposed Project. The USACE's permit would include special conditions requiring *Caulerpa* surveys in advance of those actions.

[9] Science Applications International Corporation (SAIC).2010. *Final 2008 Biological Surveys of Los Angeles and Long Beach Harbors*. In association with Seaventures, Keane Biological Consulting, Tenera Environmental, ENCORP Consulting Inc. and Tierra Data Inc.

Response to Comment NMFS-3

As discussed in Section 3.3 of the Draft EIS/EIR, SC BIO-1 and the USACE's permit special conditions will require the use of a "soft-start" pile driving technique, to further reduce noise impacts by encouraging fish and marine mammals to avoid the area at the onset of pile driving, and also calls for an observer to be present prior to pile driving to ensure no marine mammals are seen within the area before pile driving commences. In addition, the Project proposes use of concrete rather than hollow steel piles to dampen over- and under water noise levels during pile driving. In addition, the Project proposes use of concrete rather than hollow steel piles which should dampen over- and under water noise levels during pile driving. Therefore, it is the USACEs determination noise due to pile driving is expected to result in a less than significant impact on biological resources.

Response to Comment NMFS-4

The USACE respectfully disagrees with NMFS's conclusions related to permanent impacts to EFH due to shade associated with the proposed wharf at Berth 306. The wharf (including the deck and concrete support piles) at Berth 306 would be oriented in a northeast/southwest configuration and would not extend over any soft-bottom habitat, but would extend over existing artificial substrate consisting of artificial fill and rock riprap placed in 2005 as part of the Channel Deepening Project. Space between the piles would range from 10 to 22 feet, allowing circulation of water and mixing of phytoplankton during tidal exchange (i.e., the proposed piles would not have the effect of fill or impair circulation). The wharf deck would extend over an approximately 2.7-acre area of water, and would be approximately 10-12 feet above the water surface elevation of +4.8, which would not preclude light penetration below the wharf deck. Sand sediment at a depth of -55 feet mean lower low water (MLLW) occurs at the toe of the rock riprap and would not be disturbed or shaded by the proposed concrete piles or wharf deck.

As discussed in Section 3.3 of the Draft EIS/EIR, following wharf construction, shade upon the existing riprap may alter the epifaunal community by selecting for aquatic organisms adapted to shade and locally reduce photosynthesis. However, this potential change does not represent a substantial loss of ecosystem function or a disruption of marine biological communities in the Project area or the Harbor as a whole. Therefore, it is the USACE's determination the potential impact would be localized and less than significant.

The San Pedro Bay Port Complex is highly industrialized with the biggest contributor to improved ecological health and EFH being water quality, which has improved steadily since the 1970s. As stated above, the area under the proposed wharf at Berth 306 is primarily artificial fill and rock riprap placed during construction of the Pier 300 41-acre fill in 2005. Modification to this area following wharf construction is not expected to affect the abundance or diversity of federally-managed species in the Harbor.

The LAHD operates the Port under the legal mandates of the Port of Los Angeles Tidelands Trust (Los Angeles City Charter, Article VI, Section 601; the California Tidelands Trust Act of 1911) and the California Coastal Act (CCA) (PRC Division 20 Section 30700 *et seq*.), which identify the Port and its facilities as a primary economic and coastal resource of the state of California and an essential element of the national maritime industry for promotion of commerce, navigation, fisheries, and harbor operations. These mandates indicate activities should be water dependent and give highest priority to navigation, shipping, and necessary support and access facilities to accommodate the demands of foreign and domestic water-borne commerce. Specifically, the CCA sought to identify and limit areas for industrial activities along the California coast as a way to provide trade opportunities while protecting remaining coastal areas from industrial development. Since its inception, the Port has been a highly engineered harbor. The first dredging events took place in the late 1800s, followed by the construction of an approximately five-mile long jetty in the early 1900s. With industrialization came poor water quality and degraded marine habitat.

For example, as recently as the late 1960s, dissolved oxygen levels at some locations in the Harbor were so low that little or no marine life could survive.[10]

Over the last 40 years, a combination of federal and state regulations restricted industrial and stormwater discharges to the Harbor. LAHD-led sediment remediation and habitat restoration projects have greatly improved water quality and in turn, marine biological resources. For example, in the Pier 300/Seaplane Lagoon area, both shallow water and eelgrass (*Zostera marina*) habitat have been created. The Pier 300/Seaplane Lagoon eelgrass site is comprised of suitable dredged material (fill) with rock revetment and very shallow water habitat (-2 to -6 feet MLLW). Eelgrass was introduced to the site in 2003 and supplemental planting occurred in 2007. Since 2007, eelgrass coverage has remained fairly stable, with approximately 30.6 acres of eelgrass observed at this site during the 2008 biological survey.

The LAHD, in conjunction with POLB, recently released the *Port of Los Angeles and Port of Long Beach Water Resources Action Plan* (WRAP), which included 14 measures aimed at attaining full beneficial uses of Harbor waters and sediments. The WRAP addresses the impacts of past, present, and future Port operations, and provides a framework to prevent Port operations from further degrading water and sediment quality in the Harbor. WRAP implementation will facilitate LAHD's ongoing efforts to improve water quality and restore native marine biological communities throughout the Harbor. The Harbor is also listed for sediment impairments in the recently approved Dominquez Channel and Greater Los Angeles and Long Beach Harbor Water Toxic Pollutants Total Maximum Daily Load (TMDL). Efforts by the LAHD to address these impairments and achieve TMDL compliance will result in further improvement to harbor water and sediment quality.

Response to Comment NMFS-5

As discussed in the comment letter, man-made hard substrates may not support native fish, invertebrate, and algal species. Federally managed species, including Pacific sardine and northern anchovy, are pelagic species and not associated with hard substrates; therefore, these species are not expected to be impaired by the proposed Project. The comment letter also notes that shaded areas and artificial structures may favor NIS populations; however, data from the biological surveys do not support this conclusion. In the 2008 survey, NIS in the Harbor included one (1) species of fish (of 69 species collected), approximately 15 percent of total infauna and macroinvertebrates, and two (2) species of algae (of 22 species collected). Since 1988, NIS populations have remained stable in the Harbor (SAIC, 2010). Such stability is likely due in part to ballast water discharge regulations and improvements in water quality, which have supported recovery of native species populations. Since biological survey data show native fish and algal species have increased and the proportion of NIS has remained relatively constant during a time of significant terminal development and Port expansion, the proposed terminal development at Berth 306 and the resultant shade from the proposed new wharf deck and concrete support piles would not likely result in a significant project-related impact or have a cumulatively considerable impact on marine biological resources in the Harbor.

As discussed previously, the LAHD conducts periodic Harbor-wide studies which inventory and track marine species diversity and abundance and trends of biological communities, water quality, and marine habitat. Over the 20 years since regular surveys began, there has been a measurable improvement in water and sediment quality, abundance and diversity of marine biological communities, and eelgrass and kelp cover within Harbor boundaries, despite extensive expansion of Port-related landfills and terminal

[10] Anderson, J.W., D.J. Reish, R.B. Spies, M. E. Brady, and E.W. Segelhorst. 1993. *Human Impacts*. Ch. 12 in: Ecology of the Southern California Bight: A Synthesis and Interpretation (M.D. Dailey, D.J. Reish, and J.W. Anderson [Eds.]). Univ. Calif. Press, Los Angeles, CA. 926 pages

developments, including the 500-acre Pier 400 fill project, a 232-acre container terminal on Pier 300, and the 41-acre Pier 300 fill project. In total, over 600 acres of new Port-related fill and nine (9) new berths within the Outer Harbor have been created in this time period. Meanwhile, between 1988 and 2008, federally managed northern anchovy populations have increased within the Harbor and these population increases have persisted. While the USACE acknowledges that NIS populations have persisted within the Harbor and the distribution of some algal species has increased, limits on the amount of hard substrate in a location specifically dedicated to maritime commerce is impracticable. Moreover, measures to assess the impact and control the spread of non-indigenous algal species are better addressed through a Harbor-wide initiative, such as through existing measures in the WRAP, than on a project-specific basis.

The USACE and LAHD administrative records of Port development also show the proposed Project has been previously mitigated. In 1998, LAHD and USACE approved the Channel Deepening EIS/EIR project, which proposed discharges of dredged material to create uplands facilitating terminal expansion within the Port. In 2000, the USACE and LAHD prepared a supplemental EIS/EIR and identified the specific area east of Pier 300 as a disposal site for 1.6 million cubic yards of dredged material. This supplemental EIS/EIR also disclosed that the fill at Pier 300 would be developed and used as a marine industrial terminal. As part of this action, the LAHD committed 71.5[11] credits from the NMFS-approved Bolsa Chica Mitigation Bank for the Pier 300 fill. The 71.5 credits included 60 credits for the fill, plus an additional 11.5 credits to address potential degradation of the shallow water habitat in the Seaplane Lagoon. As described above, eelgrass was established for the Pier 300 41-acre fill within the very shallow water habitat [12] in the Seaplane Lagoon as part of the eelgrass mitigation project. Eelgrass was planted at this site in May and August of 2003. Monitoring over the first 36 months post-introduction determined that a portion to the north was not performing to standards, and additional eelgrass was planted in July 2007. This supplemental planting extended the monitoring period to 96 months (from initial planting in 2003), which was completed in August of 2011. Monitoring efforts indicate that performance goals have been met.[13] It is important to note that a reduction in habitat quality and eelgrass cover in Seaplane Lagoon following placement of the Pier 300 41-acre fill has not been observed.

Response to Comment NMFS-6

As discussed above, the USACE has determined further compensatory mitigation for marine biological resources/EFH as described in Conservation Recommendation No. 1 is not warranted because potential impacts to EFH would be localized and less than significant. In addition, LAHD completed the Pier 300 41-acre fill at Berth 306 in 2005, committed 71.5 acres of NMFS-approved Bolsa Chica Mitigation Bank credits to compensate for marine habitat impacts at and near Berth 306, established eelgrass habitat in the Seaplane Lagoon, and in accordance with NEPA and CEQA identified long-term uses at the APL Terminal including Berth 306 as a maritime industrial terminal supporting shipping and terminal operations consistent with the provisions of the Port of Los Angeles Tidelands Trust (Los Angeles City Charter, Article VI, Section 601; the California Tidelands Trust Act of 1911) and the CCA (PRC Division 20 Section 30700 *et seq*.).

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[11] The 71.5 credit value may be adjusted based on final fill acreages as determined by as-built drawing and post construction surveys. All 71.5 credits are Outer Harbor credits from the Bolsa Chica mitigation bank.

[12] The initial shallow water habitat was created years earlier as a result of a previous Port-related development. For the eelgrass mitigation component, this shallow water was filled to create "very shallow water" (-2 to -6) to support eelgrass.

[13] Merkel & Associates. 2011. 96-Month Post-Transplant Survey at the Eelgrass Mitigation Site in Support of the Pier 300 Expansion Project at the Port of Los Angeles, California. Prepared for the Port of Los Angeles.

Response to Comment NMFS-7

With respect to notification, as described in Conservation Recommendation No. 2, the USACE and LAHD agree to NMFS's request. LAHD will notify NMFS no less than 14 calendar days prior to commencing construction, dredging, and disposal operations associated with the proposed Project. LAHD will also notify NMFS no less than five calendar days prior to completion of construction, dredging, and disposal operations. This notification requirement will be included as a special condition of the USACEs permit, added to the Final EIS/EIR (refer to Chapter 3, Modifications to the Draft EIS/EIS for specific details) and included in all construction contracts via the Mitigation Monitoring and Reporting Program. The notification requirement will be added as a new standard condition of approval – SC BIO-2 under Impact BIO-2a. The new standard condition of approval will be as follows:

> "**SC BIO-2**: The Los Angeles Harbor Department (LAHD) will notify the National Marine Fisheries Service (NMFS) no less than 14 calendar days prior to commencing construction, dredging, and disposal operations associated with the proposed Project. LAHD will also notify NMFS no less than five calendar days prior to completion of construction, dredging, and disposal operations"

Response to Comment NMFS-8

As discussed in Section 3.3 of the Draft EIS/EIR and this response to comments section, it is the USACEs determination that the construction and operation of the proposed wharf at Berth 306 would not result in substantial adverse project-related or cumulative impacts to marine biological resources/EFH due to shading of and placement of artificial structures (concrete piles and wharf deck) in the Harbor. Moreover, through voluntary efforts such as the WRAP, and compliance with regulatory programs such as the National Pollutant Discharge Elimination System and TMDL programs, LAHD is working to improve marine habitat within the Harbor to build upon the improvements in water and sediment quality and biological resources observed during the past 20 or more years. WRAP efforts are routinely monitored by several state and federal resource agencies and non-governmental organizations including NMFS, the USACE, the U.S. Environmental Protection Agency, U.S. Fish and Wildlife Service, California Coastal Commission, CDFG, the Los Angeles RWQCB, and Heal the Bay.

United States Department of the Interior

OFFICE OF THE SECRETARY
Office of Environmental Policy and Compliance
Pacific Southwest Region
333 Bush Street, Suite 515
San Francisco, CA 94104

IN REPLY REFER TO:
(ER 11/1172)

Filed Electronically

17 February 2012

Ms. Theresa Stevens
U.S. Army Corps of Engineers
Los Angeles District, Regulatory Division
2151 Alessandro Drive, Suite 110
Ventura CA 93001

Subject: Draft Environmental Impact Statement/Environmental Impact Report (DEIS/EIR) for a Permit Application for the Proposed Berths 302-306 Container Terminal Improvements Project at the Port of Los Angeles, Los Angeles County, CA

Dear Ms Stevens:

The Department of the Interior has received and reviewed the subject document and has the no comments to offer. **DOI-1**

Thank you for the opportunity to review this project.

Sincerely,

Patricia Sanderson Port

Patricia Sanderson Port
Regional Environmental Officer

cc:
Director, OEPC

U.S. Department of the Interior (DOI)

Response to Comment DOI-1

Thank you for your review and comment on the Draft EIS/EIR.

NATIVE AMERICAN HERITAGE COMMISSION
915 CAPITOL MALL, ROOM 364
SACRAMENTO, CA 95814
(916) 653-6251
Fax (916) 657-5390
Web Site www.nahc.ca.gov
ds_nahc@pacbell.net

December 21, 2011

Ms. Jan Green Rebstock
City of Los Angeles City Harbor Department
425 S. Palos Verdes Street
San Pedro, CA 90731

Re: SCH#2009071031 CEQA Notice of Completion; draft Environmental Iimpact Report (DEIR) for the **"Berths 302-306 [APL] Container Terminal Project;"** located in the San Pedro area; Los Angeles County, California

Dear Ms. Green Rebstock:

The Native American Heritage Commission (NAHC) is the State of California 'Trustee Agency' for the protection and preservation of Native American cultural resources pursuant to California Public Resources Code §21070 and affirmed by the Third Appellate Court in the case of EPIC v. Johnson (1985: 170 Cal App. 3rd 604). The court held that the NAHC has jurisdiction and special expertise, as a state agency, over affected Native American resources, impacted by proposed projects including archaeological, places of religious significance to Native Americans and burial sites. The NAHC wishes to comment on the proposed project.

This letter includes state and federal statutes relating to Native American historic properties of religious and cultural significance to American Indian tribes and interested Native American individuals as 'consulting parties' under both state and federal law. State law also addresses the freedom of Native American Religious Expression in Public Resources Code §5097.9.

The California Environmental Quality Act (CEQA – CA Public Resources Code 21000-21177, amendments effective 3/18/2010) requires that any project that causes a substantial adverse change in the significance of an historical resource, that includes archaeological resources, is a 'significant effect' requiring the preparation of an Environmental Impact Report (EIR) per the CEQA Guidelines defines a significant impact on the environment as 'a substantial, or potentially substantial, adverse change in any of physical conditions within an area affected by the proposed project, including ...objects of historic or aesthetic significance." In order to comply with this provision, the lead agency is required to assess whether the project will have an adverse impact on these resources within the 'area of potential effect (APE), and if so, to mitigate that effect.

The NAHC Sacred Lands File (SLF) search resulted as follows: **Native American cultural resources were not identified** within the project area identified. Also, the absence of archaeological resources does not preclude their existence. . California Public Resources Code §§5097.94 (a) and 5097.96 authorize the NAHC to establish a Sacred Land Inventory to record Native American sacred sites and burial sites. These records are exempt from the provisions of the California Public Records Act pursuant to. California Government Code §6254 (r). The purpose of this code is to protect such sites from vandalism, theft and destruction. The NAHC "Sacred Sites,' as defined by the Native American Heritage Commission and the California Legislature in California Public Resources Code §§5097.94(a) and 5097.96. Items in the NAHC

NAHC-1

Sacred Lands Inventory are confidential and exempt from the Public Records Act pursuant to California Government Code §6254 (r).

Early consultation with Native American tribes in your area is the best way to avoid unanticipated discoveries of cultural resources or burial sites once a project is underway. Culturally affiliated tribes and individuals may have knowledge of the religious and cultural significance of the historic properties in the project area (e.g. APE). We strongly urge that you make contact with the list of Native American Contacts on the list of Native American contacts, to see if your proposed project might impact Native American cultural resources and to obtain their recommendations concerning the proposed project. Special reference is made to the *Tribal Consultation* requirements of the California 2006 Senate Bill 1059: enabling legislation to the federal Energy Policy Act of 2005 (P.L. 109-58), mandates consultation with Native American tribes (both federally recognized and non federally recognized) where electrically transmission lines are proposed. This is codified in the California Public Resources Code, Chapter 4.3 and §25330 to Division 15. **NAHC-2**

Furthermore, pursuant to CA Public Resources Code § 5097.95, the NAHC requests that the Native American consulting parties be provided pertinent project information. Consultation with Native American communities is also a matter of environmental justice as defined by California Government Code §65040.12(e). Pursuant to CA Public Resources Code §5097.95, the NAHC requests that pertinent project information be provided consulting tribal parties. The NAHC recommends *avoidance* as defined by CEQA Guidelines §15370(a) to pursuing a project that would damage or destroy Native American cultural resources and Section 2183.2 that requires documentation, data recovery of cultural resources. **NAHC-3**

Consultation with tribes and interested Native American consulting parties, on the NAHC list, should be conducted in compliance with the requirements of federal NEPA and Section 106 and 4(f) of federal NHPA (16 U.S.C. 470 *et seq*), 36 CFR Part 800.3 (f) (2) & .5, the President's Council on Environmental Quality (CSQ, 42 U.S.C 4371 *et seq.* and NAGPRA (25 U.S.C. 3001-3013) as appropriate. The 1992 *Secretary of the Interiors Standards for the Treatment of Historic Properties* were revised so that they could be applied to all historic resource types included in the National Register of Historic Places and including cultural landscapes. Also, federal Executive Orders Nos. 11593 (preservation of cultural environment), 13175 (coordination & consultation) and 13007 (Sacred Sites) are helpful, supportive guides for Section 106 consultation. The aforementioned Secretary of the Interior's *Standards* include recommendations for all 'lead agencies' to consider the historic context of proposed projects and to "research" the cultural landscape that might include the 'area of potential effect.' **NAHC-4**

Confidentiality of "historic properties of religious and cultural significance" should also be considered as protected by California Government Code §6254(r) and may also be protected under Section 304 of he NHPA or at the Secretary of the Interior discretion if not eligible for listing on the National Register of Historic Places. The Secretary may also be advised by the federal Indian Religious Freedom Act (cf. 42 U.S.C., 1996) in issuing a decision on whether or not to disclose items of religious and/or cultural significance identified in or near the APEs and possibility threatened by proposed project activity. **NAHC-5**

Furthermore, Public Resources Code Section 5097.98, California Government Code §27491 and Health & Safety Code Section 7050.5 provide for provisions for accidentally discovered archeological resources during construction and mandate the processes to be followed in the event of an accidental discovery of any human remains in a project location other than a 'dedicated cemetery'. **NAHC-6**

To be effective, consultation on specific projects must be the result of an ongoing relationship between Native American tribes and lead agencies, project proponents and their contractors, in the opinion of the NAHC. Regarding tribal consultation, a relationship built around regular meetings and informal involvement with local tribes will lead to more qualitative consultation tribal input on specific projects.

If you have any questions about this response to your request, please do not hesitate to contact me at (916) 653-6251.

Sincerely,

Dave Singleton
Program Analyst

Cc: State Clearinghouse

Attachment: Native American Contact List

California Native American Contacts
Los Angeles County
December 21, 2011

LA City/County Native American Indian Comm
Ron Andrade, Director
3175 West 6th St, Rm. 403
Los Angeles , CA 90020
randrade@css.lacounty.gov
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(213) 386-3995 FAX

Gabrielino Tongva Nation
Sam Dunlap, Chairperson
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Los Angeles , CA 90086
samdunlap@earthlink.net

(909) 262-9351 - cell

Ti'At Society/Inter-Tribal Council of Pimu
Cindi M. Alvitre, Chairwoman-Manisar
3098 Mace Avenue, Aapt. D Gabrielino
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calvitre@yahoo.com
(714) 504-2468 Cell

Gabrielino Tongva Indians of California Tribal Council
Robert F. Dorame, Tribal Chair/Cultural Resources
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562-761-6417- fax

Tongva Ancestral Territorial Tribal Nation
John Tommy Rosas, Tribal Admin.
Private Address Gabrielino Tongva

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310-570-6567

Gabrielino-Tongva Tribe
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(310) 587-0170 - FAX
760-904-6533-home

This list is current only as of the date of this document.

Distribution of this list does not relieve any person of the statutory responsibility as defined in Section 7050.5 of the Health and Safety Code, Section 5097.94 of the Public Resources Code and Section 5097.98 of the Public Resources Code.

This list is applicable for contacting local Native Americans with regard to cultural resources for the proposed SCH#2009071031; cEQA Notice of Completion; draft Environmental Impact Report (DEIR) for the Berths 302 - 306 {APL] Container Terminal Project; located in the San Pedro Area; Los Angeles County, California.

California Native American Contacts
Los Angeles County
December 21, 2011

Gabrieleno Band of Mission Indians
Andrew Salas, Chairperson
P.O. Box 393 Gabirelino
Covina , CA 91723
(626) 926-4131
gabrielenoindians@yahoo.com

This list is current only as of the date of this document.

Distribution of this list does not relieve any person of the statutory responsibility as defined in Section 7050.5 of the Health and Safety Code, Section 5097.94 of the Public Resources Code and Section 5097.98 of the Public Resources Code.

This list is applicable for contacting local Native Americans with regard to cultural resources for the proposed SCH#2009071031; cEQA Notice of Completion; draft Environmental Impact Report (DEIR) for the Berths 302 - 306 {APL] Container Terminal Project; located in the San Pedro Area; Los Angeles County, California.

2.3.2 State Government

Native American Heritage Commission (NAHC)

Response to Comment NAHC-1

Thank you for your review and comment on the Draft EIS/EIR. As described in Section 3.4.2 and Appendix G of the Draft EIS/EIR, the Native American Heritage Commission (NAHC) was contacted by letter on November 4, 2009, during the Notice of Intent/Notice of Preparation (NOI/NOP) phase of the Draft EIS/EIR, to request information about traditional cultural properties such as cemeteries and sacred places that might exist in the proposed Project area. As with your current letter, the record search of the Sacred Lands file failed to indicate the presence of Native American cultural resources in the immediate Project area. As you noted, the absence of archaeological resources does not preclude their existence; therefore, as detailed in Section 3.4.4.3 of the Draft EIS/EIR, SC CR-1 would be applied as a standard condition of approval involving surface soil disturbing activities on the proposed Project site.

SC CR-1: Stop Work in Area if Prehistoric and/or Archaeological Resources are Encountered. In the unlikely event that any artifact, or an unusual amount of bone, shell, or non-native stone is encountered during construction, work shall be immediately stopped, the area secured, and work relocated to another area until the found materials can be assessed by individuals competent to assess their value. Examples of such cultural materials might include concentrations of grinding stone tools such as mortars, bowls, pestles, and manos; chipped stone tools such as projectile points or choppers; flakes of stone not consistent with the immediate geology such as obsidian or fused shale; historical trash pits containing bottles and/or ceramics; or structural remains. The contractor shall stop construction within 10 meters (30 feet) of the exposure of these finds until a qualified archaeologist can be retained by the Port to evaluate the find (see 36 CFR 800.11.1 and California Code of Regulations, Title 14, Section 15064.5(f)). If the resources are found to be significant, they shall be avoided or shall be mitigated consistent with Section 106 or State Historic Preservation Officer Guidelines. All construction equipment operators shall attend a preconstruction meeting presented by a professional archaeologist retained by the Port that shall review types of cultural resources and artifacts that would be considered potentially significant, to ensure operator recognition of these materials during construction.

Prior to beginning construction, the Port shall meet with applicable Native American Groups, including the Gabrieliño/Tongva Tribal Council, to identify areas of concern. A trained archaeologist shall monitor construction at identified areas. In addition to monitoring, a treatment plan shall be developed in conjunction with the Native American Groups to establish the proper way of extracting and handling all artifacts in the event of an archaeological discovery.

Response to Comment NAHC-2

As with your current letter, the 2009 letter received from the NAHC contained a list of nine Native American tribes and individuals interested in consulting on development projects. As detailed in Section 3.4.2 and Appendix G of the Draft EIS/EIR, LAHD contacted the Native American tribes and individuals previously provided by the NAHC. Letters were sent via U.S. mail to the nine Native American contacts on December 16, 2009, requesting information regarding potential cultural resources that may be located within the proposed Project vicinity. Three responses were received. A follow-up attempt was made to

contact each of these individuals/groups by phone in January 2010. Of those contacted, none provided information about traditional cultural properties in the proposed Project area. In addition, standard condition of approval for the proposed Project, SC CR-1 (above), includes a provision that … "*Prior to beginning construction, the Port shall meet with applicable Native American Groups, including the Gabrieliño/Tongva Tribal Council, to identify areas of concern. A trained archaeologist shall monitor construction at identified areas. In addition to monitoring, a treatment plan shall be developed in conjunction with the Native American Groups to establish the proper way of extracting and handling all artifacts in the event of an archaeological discovery*."

Furthermore, in accordance with USACE regulations at 33 CFR 325 Appendix C, and 36 CFR 800, Subpart B, 800.3(a)(1), the USACE requested a sacred lands file search from the NAHC on December 7, 2011. The NAHC responded on December 8, 2011 and indicated no sacred lands or Native American cultural resources were identified from their inventory, and provided contact information for nine (9) Native American representatives; these individuals were contacted by letter dated December 12, 2011, and given 30 days to respond. No responses from Native American representatives were received. To complete the USACE's cultural resources consultation process requirements, the USACE contacted the State Historic Preservation Officer (SHPO) by letter dated February 22, 2012 with a determination that the proposed Project would have no potential to cause effects to historic properties and a request for concurrence within 30 days. On May 2, 2012, the USACE received a letter from the SHPO with their concurrence that there will be no historic properties affected by the proposed Project (refer to Section 2.4 of this chapter for a copy of the SHPO letter). This concludes the USACE's cultural resources consultation process.

Response to Comment NAHC-3

As described in Response to Comments NAHC-1 and NADC-2, and detailed in Appendix G of the Draft EIS/EIR, on November 4, 2009, Native American coordination was initiated for the proposed Project in compliance with Section 106 of the National Historic Preservation Act. Letters were sent to the nine Native American contacts in December 2009, requesting information regarding potential cultural resources that may be located within the Project vicinity. The letters included pertinent project information, such as location maps and a description of the proposed Project and its related Area of Potential Effect. Follow-up phone calls and emails were sent in January 2010, and subsequent follow-ups via telephone or email, or both, were made as necessary. Of those contacted, none provided information about traditional cultural properties in the proposed Project area. The results of the Native American coordination and the letters describing the proposed Project are in Attachment A of Appendix G of the Draft EIS/EIR. Regarding the recommendation of avoiding cultural resources, the comment is noted.

Response to Comment NAHC-4

As described in Response to Comment NAHC-3 above, consultation with tribes and interested Native American consulting parties on the NAHC list has occurred in compliance with the National Environmental Policy Act and Section 106. As detailed throughout Section 3.4 of the Draft EIS/EIR (specifically Sections 3.4.2 and 3.4.4.3) the geologic formation within the proposed Project area consists of imported/modern fill material placed in the early 20th century. Specifically, the landform that makes up Pier 300 (location of the current APL Terminal) was created in the early 1980s by material dredged from the inner and outer Los Angeles harbors during the Channel Deepening Project. Additional expansions to Pier 300 have occurred from harbor and channel deepening projects; including the 41-acre expansion area in 2005 (details on the background of the site can be found in Section 2.2 of Chapter 2 of the Draft EIS/EIR). Therefore, the site was created using imported/modern fill dredged material placed within the ancestral San Pedro Bay and no intact prehistoric or historical archaeological resources would be expected to exist in soils. In addition, any soil excavation on the existing terminal site (which began operating in 1997) would be in a previously disturbed area, and therefore, would not be expected to adversely impact archaeological or paleontological

resources or unique geologic features. Based on the timeframe that the site was created (1980s and 2005), material that the landform was created from (imported/modern fill from harbor and channel deepening projects), and the sites disturbed condition, the "cultural landscape" of the Project site or vicinity was considered in the analysis performed in Section 3.4.4.3 of the Draft EIS/EIR, which led to a finding of a less than significant impact on historic resources.

Response to Comment NAHC-5

LAHD and USACE understand that the confidentiality of "historic properties of religious and cultural significance" should be considered and will make every attempt to ensure confidentiality.

Response to Comment NAHC-6

As detailed in Response to Comment NAHC-1 above, the proposed Project includes a standard condition of approval (SC CR-1) that provides for the accidental discovery of archaeological resources during construction (i.e., surface disturbing activities).

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

E-Mailed: February 24, 2012
ceqacomments@portla.org

February 24, 2012

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

Dear Mr. Cannon:

Review of the Draft Environmental Impact Report/Statement (Draft EIR/EIS) for the Proposed Berths 302-306 (APL) Container Terminal Project

The South Coast Air Quality Management District (AQMD) staff appreciates the opportunity to comment on the Draft EIR/EIS for the Proposed Berths 302-306 (APL) Container Terminal Project, and thanks the Port of Los Angeles (POLA) for accommodating our request on an extension past the comment deadline until February 24, 2012.

The proposed Project involves the expansion of the existing marine terminal from 291 to 347 acres and an increase of 1,250 linear feet of available wharf space. At completion, the projected container annual capacity will increase from 2.15 million TEUs to 3.20 million TEUs. As discussed in the Draft EIR/EIS, the proposed project would result in 390 annual vessel calls, 2,953 annual train trips, and 3.0 million annual truck trips or 8,342 truck trips per day at full operation. Based on the Draft EIR/EIS, the proposed Project will cause significant impacts after mitigation for construction and operation. **SCAQMD-1**

Under the proposed Project, the on-dock railyard capacity will be unchanged. The existing on-dock railyard consists of 8 sets of double track with a capacity of 1.04 TEUs per year (pg. 2-56). The proposed Project is inconsistent with the future expansion scenarios envisioned in the San Pedro Bay Ports Rail Study. The San Pedro Bay Ports Rail Study Update (Rail Enhancement Program) included an enhancement to Pier 300 (APL Terminal) which specified the addition of an extra set of rail tracks[1]. According to the San Pedro Bay Ports Rail Study Update, this enhancement will increase the on-dock rail capacity by approximately 600,000 TEUs per year. Maximizing use of on-dock rail **SCAQMD-2**

[1] San Pedro Bay Ports Rail Study Update, December, 2006.

can reduce the number of drayage truck trips. The proposed Project will result in a significant increase in the number of drayage trucks. If the proposed Project increases on-dock rail capacity, off-site drayage truck trips (and the resulting emission and health impacts) to near and off-site railyards can be decreased.

While Alternative 6 is projected to increase the capacity of the existing on-dock railyard, its projected capacity is still below what was predicted in the San Pedro Bay Ports Rail Study. In order to address impacts from drayage trucks, the proposed Project should include the expansion of the on-dock railyard as envisioned in the San Pedro Bay Ports Rail Study. **SCAQMD-2 Cont.**

The localized NO_2 and health risk significant impacts from the proposed Project will impact residents and local workers that surround the proposed Project site and necessitate the lead agency to mandate additional mitigation measures. These findings of significance show that all feasible mitigation measures including zero emission technologies are necessary, and should be incorporated as enforceable project requirements. **SCAQMD-3**

In Attachment A, the SCAQMD staff has provided a discussion of changes to existing mitigation measures and some additional mitigation measures which the lead agency should implement. Attachment B includes a description of zero-emission container transport systems (ZECMS) with supporting evidences that zero-emission transport between the APL Terminal and near dock railyards is feasible early in the life of the proposed Project, specifically, between 2016 and 2020. The proposed Project should incorporate a mitigation measure or alternative to mitigate significant localized NO_2 health risk impacts to the surrounding community using zero-emission container movement between the marine terminals and the near-dock railyard. **SCAQMD-4**

The proposed Project is one of several major port projects that have either recently been approved or are currently going through the approval process that will more than double the current number of containers flowing through the ports. It is important that these projects are developed in a complementary and coordinated manner to achieve the long-term goal of reducing the significant air quality impacts the Ports of Los Angeles and Long Beach create in the South Coast Air Basin. **SCAQMD-5**

Pursuant to Public Resources Code Section 21092.5, please provide the SCAQMD staff with written responses to all comments contained herein prior to the adoption of the Final EIR/EIS. Further, staff is available to work with the lead agency to address these issues and any other questions that may arise. Please contact me, at (909) 396-3105, if you have any questions regarding the enclosed comments. **SCAQMD-6**

Sincerely,

Susan Nakamura

Susan Nakamura
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SN:EE
Attachment

ATTACHMENT A

CEQA Baseline

- The Draft EIR/EIS should include a realistic baseline which accurately reflects the improvements in air quality that will occur, independent of the proposed project. The Draft EIR/EIS uses a CEQA baseline for determination of air quality impacts from criteria pollutants based on a 12-month period from July 2008 to June 2009 which corresponds to the release of the Notice of Preparation (NOP) for the proposed Project. For analysis purposes under Air Quality Impacts AQ-1 through AQ-5, and AQ-9, this baseline is held constant and compared to future years under the proposed Project. However, this approach uses a comparison between the proposed Project impacts and a baseline that is not reflective of future emission reductions from existing air quality rules and regulations. As mentioned in previously submitted comment letters[2], the SCAQMD staff believes that CEQA not only allows but actually requires a determination of significant impacts that does not credit the project with unrelated improvements in air quality that will occur anyway. The lead agency did take this baseline approach when determining significance for cancer and other health risks of the proposed Project, and for consistency, this approach should be used when determining significance for regional criteria emissions. **SCAQMD-7**

  The purpose of CEQA is to give the public and government agencies the information needed to make informed decisions. Not taking into account future emission reductions from existing air quality rules in the baseline results in the appearance that the proposed Project benefits air quality, while in fact the effect of existing rules and regulations is contributing most of the air quality benefits. CEQA's intent is to provide the public and decision makers the actual changes to the environment from the proposed Project.

Zero Emission Container Transport System

- The on-dock rail yard will not be large enough to handle all the containers imported at this terminal, and the number of annual truck trips which will be trucked to near or off-dock rail yards will increase by 250% (Appendix E1 - Table 1.7.3). Because of the significant NO_2 and health risk impacts from the proposed Project operations (including trucking activities) identified in the Draft EIR/EIS, CEQA requires the lead agency to implement all feasible mitigation (CEQA Guidelines 15126.4). As is described in Attachment B, the proposed project can include a measure that requires transport of containers using a zero-emission technology that does not create tailpipe emissions from the vehicle or system that is transporting containers. Zero-emission container transport technologies can be implemented beginning 2016 as follows: **SCAQMD-8**

  - By 2016, at least 25% of container transport between the APL terminal and the near-dock railyards shall be by zero-emission technology.
  - By 2020, 100% of container transport between the APL terminal and the near-dock railyards shall be by zero-emission technology.

[2] SCAQMD letters dated November 30, 2011 and January 19, 2012, to Mr. Christopher Cannon on the Draft Environmental Impact Report: Southern California International Gateway

Considering the current levels of product development, it is clear that, if the lead agency provides a clear message to technology providers that zero emission will be needed and when, zero-emission container transport technologies can be commercialized in sufficient time to begin operational deployment between the APL terminal and the near-dock railyards between by 2016, with 100% deployment for such transport by 2020. (See Attachment B - Zero-Emission Container Transport). The measure described above will send a clear market signal to technology developers and allow this schedule to be met.

SCAQMD-8 Cont.

Project Alternatives

- Under Alternative 6 – Proposed Project with Expanded On-Dock Railyard, all elements of the proposed Project will be developed with the addition of a redeveloped and expanded on-dock railyard. The existing on-dock railyard consists of 8 sets double track with a capacity of 1.04 TEUs per year (pg. 2-56). Under Alternative 6, one additional set of double tracks will be added increasing the capacity to 1.14 million TEUs per year (pg.2-56). SCAQMD staff considers this alternative to have benefits over the proposed Project because of the increase in on-dock rail capacity. However, the projected on-dock rail capacity of Alternative 6 still falls short of the expansion scenarios envisioned in the San Pedro Bay Ports Rail Study Update[3] for the Pier 300 on-dock railyard (APL Terminal).

  The San Pedro Bay Ports Rail Study Update (Rail Enhancement Program) included an enhancement to Pier 300 which specified the addition of an extra set of rail tracks. According to the San Pedro Bay Ports Rail Study Update, this enhancement increased the on-dock rail capacity by approximately 600,000 TEUs per year. According to the Draft EIR/EIS, the increase in capacity under Alternative 6 is projected to be 100,000 TEUs per year (1.14 million minus 1.04 million TEUs).

  SCAQMD-9

  Another area where Alternative 6 is inconsistent with the San Pedro Bay Ports Rail Study Update is that the Rail Study Update projects the on-dock rail utilization to be 38% once the planned enhancements are completed, while the on-dock rail utilization of Alternative 6 is estimated to be 32% (Appendix E1, Table 1.4-21). The lead agency needs to explain why there is a discrepancy between the San Pedro Bay Ports Rail Study Update planned enhancements to Pier 300 and the projections for Alternative 6 in Draft EIR/EIS, and if necessary re-evaluate the operational profile of Alternative 6.

[3] San Pedro Bay Ports Rail Study Update, December, 2006.

Mitigation Measures

- *MM AQ-3: Fleet Modernization for On-road Trucks (used during construction)*

  MM AQ-3 requires that all on-road heavy-duty diesel trucks used during construction should comply with the EPA 2007 on-road PM and NOx emission standards. MM AQ-3 specifies exceptions from this requirement for import haulers and earth movers. SCAQMD sees no reason for these exceptions. It has been five years since the 2007 on-road standards went into effect and even with the known slow turn-over of these trucks, it is very likely that trucks used for import haulers and earth movers, meeting the 2007 on-road standards are in service. The lead agency should remove these exceptions and require as part of this mitigation measure, use of the cleanest available trucks. Specifically, trucks used during construction should operate on engines with the lowest certified NOx emissions levels, and if the cleanest available truck does not meet the EPA 2007 on-road PM emission standards, then the lead agency shall require all trucks be equipped with CARB certified Level 3 DECS. Mitigation Measure MM AQ-3 should also apply during circumstances where a piece of compliant equipment becomes available during the timeframe of construction. **SCAQMD-10**

- *MM AQ-4: Fleet Modernization for Construction Equipment*

  MM AQ-4 requires that prior to January 1, 2015, all off-road diesel–powered construction equipment greater than 50 horsepower meet Tier 3 non-road emission standards and be equipped with CARB certified Level 3 diesel emission control system (DECS). Beginning in January 1, 2015, the mitigation measure requires all off-road diesel-powered construction equipment greater than 50 horsepower meet Tier 4 non-road emission standards with CARB certified Level 3 DECS. This mitigation measure does not represent the cleanest technology available since Tier 3 certified construction equipment has been available since 2006, and construction equipment meeting Tier 4 non-road emission standards became available beginning 2011. Mitigation Measure MM AQ-4 should be revised to require all construction equipment to meet the cleanest off-road engine emission standard available, and be equipped with Level 3 CARB verified DECS. **SCAQMD-11**

- *MM AQ-11: Cleaner OGV Engines*

  MM AQ-11 seeks to maximize the number of vessels calling at the APL terminal meeting the International Maritime Organization (IMO) January 1, 2016, NOx limit of 3.4 g/kW-hr (Tier 3). The SCAQMD staff supports this goal since it has a significant potential to decrease NOx emissions from ships, but the mitigation measure lacks any real commitment from the shipping line to actually reroute or purchase ships that meet the new IMO emission standard. Because the project will have significant regional and localized air quality impacts, the lead agency must implement additional feasible mitigation measures for all sources, including vessels. Additional vessel strategies should be incorporated into MM AQ-11 which includes incentives or requirements to preferentially route IMO-compliant Tier 3 vessels to the APL terminal. Mitigation measure MM AQ-11 should also be amended to include a minimum commitment on the percentage of ships calling at the proposed Project site which meet the new emissions standard. **SCAQMD-12**

- *MM AQ-12: OGV Engine Emissions Reduction Technology Improvements*

  MM AQ-12 requires that the Tenant determine the feasibility of incorporating advanced emissions reduction technologies and/or design options when using or retrofitting existing ships bound for the proposed Project terminal. Similar to mitigation measure MM AQ-11, this measure lacks any real implementation commitment on the part of the Tenant to actually perform any retrofits on existing ships. In order for the proposed Project to benefit from this measure, mitigation measure MM AQ-12 should be amended to include a detailed schedule for operators to perform a feasibility study on retrofitting their existing ships, including a requirement to contact engine manufacturers, and a commitment on the percentage of ships calling at the proposed Project site which would be retrofitted to use the advance emission reduction technologies, once they are deemed feasible. **SCAQMD-13**

- *MM AQ-13: Yard Tractors at Berths 302-306 Terminal*
  MM AQ-14: Yard Equipment at Berths 302-306 Railyard
  MM AQ-15: Yard Equipment at Berths 302-306 Terminal

  Mitigation measures MM AQ-13, MM AQ-14, and MM AQ-15 require yard tractors and other yard equipment to meet the most stringent U.S. EPA emissions standards by a specified date. Unfortunately, this would still result in diesel-powered equipment being used at the proposed Project site. Under Air Quality Impacts AQ-4: *Would the Operations Result in Off-site Ambient Air Pollutant Concentrations that Exceed a SCAQMD Threshold*, the lead agency concluded that NO_2 concentrations exceeded significant thresholds after mitigation. In addition, for Air Quality Impact AQ-7: *Would the Proposed Project Expose Receptors to Significant Levels of TACs*, the residential and occupational cancer risk remain significant after mitigation. Electric battery yard tractors are currently being tested at the Ports and if successful could reduce emissions NOx and DPM emissions (as compared to diesel-powered yard tractors) from the proposed Project. Other yard equipment such as existing diesel-powered rubber tire gantry cranes could be replaced with electric rail-mounted gantry cranes as a means of further reducing NOx and PM emissions (as compared to diesel-powered yard equipment). In order to reduce the impacts of Air Quality Impacts AQ-4 and AQ-7, mitigation measures MM AQ-13, MM AQ-14, and MM AQ-15 should contain a zero-emission yard tractor/yard equipment component. **SCAQMD-14**

- *Rail Mitigation Measure*

  The Draft EIR/EIS does not contain any mitigation measures for rail operations. Instead the lead agency relies on existing CAAP measure RL-2 to further reduce emissions from Class 1 locomotives operating at the APL terminal. The CAAP control measure RL-2 relies on the existing CARB MOUs and the existing U.S. EPA 2008 locomotive engine rulemaking to achieve emission reductions from rail operations. While most of the switching and building of trains under the proposed Project is done by PHL, line haul locomotives do operate at the proposed Project site and total rail emissions represent the third highest contributor to NOx and PM2.5 emissions, after mitigation. In order to reduce the impacts under Air Quality Impacts AQ-4 and AQ-7, the lead agency should add mitigation that requires accelerated introduction of Tier 4 line haul locomotives used at the APL on-dock railyard. **SCAQMD-15**

Proposed Project Emission Quantification Analysis and Assumptions

- *Locomotive Emission Factors*

  The Draft EIR/EIS references the U.S. EPA Technical Highlights Document from the 2008 locomotive emission standard rulemaking as being the source of emission factors used in the emission calculations for rail operations.[4] SCAQMD staff is very familiar with this document and our understanding is that the emission factors for future Tiers are not based on actual engine testing but are projections based on what the future locomotive Tiers are likely to achieve. These projections are not appropriate for estimating locomotive emissions when determining impacts under CEQA and can underestimate potential impacts from locomotives. The emission factors in future years should be based on the locomotive emission standards and a projected fleet mix based on natural turnover. Locomotive emission standards represent the "not to exceed level" and are more conservative than projected emission rates. The lead agency should re-calculate the locomotive emissions for future years using emission standards rather the projections provided by U.S. EPA. **SCAQMD-16**

- *Ocean Going Vessel Fuel Sulfur Content*

  In the Draft EIR/EIS, the lead agency assumes in the unmitigated scenario for general cargo and container ships, a sulfur content of 0.1 percent out to 24 nm and 0.2 percent from 24 nm to 40 nm during the construction period (2012 to 2014) when shore-side cranes are delivered (pages 3.2-39 and 3.2-42). However, the SCAQMD staff considers this assumption to be less than conservative since there is no requirement that fuels with these sulfur contents be used by container or general cargo ships operating within California state waters. Beginning August 1, 2012, both CARB's marine diesel fuel rule for ocean going vessels and the IMO fuel sulfur requirements under the federal Emission Control Area (ECA) specifications, limit the maximum fuel sulfur content to 1.0 percent. CARB's regulation applies out to a distance of 24 nm, while the IMO requirements apply out to 200 nm. It isn't until January 2014, when CARB requires ocean going vessels to use a maximum sulfur content of 0.2 percent that assumptions for lower sulfur content marine fuels are justified. Therefore, there is no reason to believe that all general cargo or container vessels will be using 0.2 percent sulfur when they are allowed a maximum limit of up to 1.0 percent. The unmitigated emission calculations for ocean going vessels during the construction period (i.e., 2012 to 2014) should be revised to reflect the higher conservative sulfur limits. **SCAQMD-17**

[4] U.S. EPA "Technical Highlights: Emission Factors for Locomotives" EPA-420-F-09-025, 2009

- *AMP Construction Emissions*

In calculating operational emissions from hotelling, the lead agency assumes container ships will use AMP in the percentages and time frames which are required under CARB's Shore-side Power Regulation. In order to meet these percentages all or most of the berths at the proposed Project site must have AMP infrastructure installed. However, according to Appendix E1 Table 1.1-6, construction emissions were only calculated for the newly constructed Berth 306. In addition, the 2010 CAAP Update describes that the POLA will install AMP infrastructure for all berths at Pier 300 by the end of 2013 (page 92). This implies that the lead agency is only attributing the construction of AMP infrastructure at Berth 306 to the proposed Project, while in fact the infrastructure construction improvements for all the other berths (which are integral to the proposed Project) are going on at the same time as the construction activities for the proposed Project. This underestimates the construction emissions of the proposed Project and the lead agency should include the remaining berth AMP upgrades in the emission quantification analysis for the proposed Project.

SCAQMD-18

- *Quantifying Mortality and Morbidity*

On page 3.2-60 of the DEIR, the lead agency describes the methodology that was used to determine when a mortality and morbidity analysis would be conducted for the proposed Project. Mortality is a measure of the number of deaths in a population, scaled to the size of that population, per unit time. Morbidity refers to the number of individuals who have contracted a disease during a given time period (the incidence rate) or the number who currently have that disease (the prevalence rate), scaled to the size of the population. The lead agency specifies that the POLA has determined that mortality and morbidity will be calculated when the incremental operational emissions would result in off-site 24-hour PM2.5 concentrations that exceed the SCAQMD significance criterion of 2.5 $\mu g/m^3$."

The SCAQMD staff does not agree with the use a screening threshold of 2.5 $\mu g/m^3$ for determining mortality and morbidity. The SCAQMD's PM2.5 significance threshold of 2.5 $\mu g/m^3$ is designed to determine the significance of localized impacts on nearby receptors. The PM2.5 significance threshold of 2.5 $\mu g/m^3$ was not intended to be used as a screening tool to further analyze mortality and morbidity impacts and is too high. With a screening threshold this high, it is unlikely that any project would conduct a mortality and morbidity analysis.

SCAQMD-19

The lead agency set precedent for conducting mortality and morbidity analyses in three of its own previous EIRs: TraPac, China Shipping, and San Pedro Waterfront EIRs. In all three cases there was no threshold used to determine if an analysis for mortality and morbidity would be done. The SCAQMD staff considers this to be sufficient precedent for the POLA to continue this practice for the proposed Project.

- *NO_2/NOx ratio*

  In the dispersion modeling files for NOx impacts, the analysis appears to be based on two different in-stack NO_2/NOx ratios: 0.5 and 0.1. The U.S. EPA recommends a default ratio of 0.5 for stationary sources. It is also not clear whether this ratio applies to mobile sources. The SCAQMD staff recommends that the lead agency provide further clarification regarding this choice of in stack ratios. **SCAQMD-20**

- *Use of SIL as a significance threshold*

  In determining the potential significance of annual PM 2.5 concentrations, the lead agency used the Significant Impact Level (SIL) of 0.3 ug/m3. Although the most recent SCAQMD guidance on CEQA thresholds does not list a value for PM2.5 annual impacts, SCAQMD staff recommends that the ambient air quality standards be used rather than the SIL to determine significance under CEQA. **SCAQMD-21**

ATTACHMENT B
SCAQMD COMMENTS ON DRAFT EIR/EIS FOR THE PROPOSED BERTHS 302-306 (APL) CONTAINER TERMINAL PROJECT
ZERO-EMISSION CONTAINER TRANSPORT: NEEDS AND TECHNOLOGIES

SCAQMD-22

Overview

SCAQMD comments regarding the Draft EIR/EIS for the Proposed Berths 302-306 (APL) Container Terminal Project propose a commitment by the lead agency to require deployment of zero-emission technologies to move containers between ports and the near-dock railyards. The specific technology or technologies used to implement this alternative would be determined by the lead agency. This alternative would be implemented according to the schedule set out in the comment, with deployment beginning by 2016. By 2020, all container moves between the APL Terminal and near-dock railyards would be by zero emission technologies.

Any of several types of zero-emission container movement systems could be used to implement this measure. As is described below, these include, but are not limited to, on-road technologies such as battery-electric trucks, fuel cell trucks, hybrid-electric trucks with all-electric range (AER) and zero-emission hybrid or battery-electric trucks with "wayside" power (such as electricity from overhead wires). The measure could also be implemented by fixed-guideway systems such as maglev or linear synchronous motor propulsion.

Such systems are not currently in use for full-scale port operations and, depending on the technology, may require different levels of additional development and optimization. But, as is described below, a variety of these technologies are being demonstrated, and there is substantial evidence that they can be made commercially available within a few years after commencement of proposed Project operation, particularly if the lead agency sends a market signal to technology developers by requiring the use of zero-emission technologies. In addition, many of these zero-emission technologies are expected to be operationally feasible to serve the APL Terminal. For example, electric trucks with adequate range, power and reliability -- such as are being developed and demonstrated at the Ports -- could fit into current operating procedures as a replacement for fossil fuel-powered trucks, and their implementation could be required and co-funded through mechanisms similar to those employed to implement the ports' Clean Truck Program (see below). Drayage service to the proposed Project is particularly conducive to implementation of zero-emission trucking technologies because of the relatively short distance involved and because the near-dock railyards could be served by a relatively limited number of trucks compared to the total number serving the ports and region.

Reasons for Zero-Emission Transport

As is described in the SCAQMD comment letter regarding the Draft EIR/EIS for the Proposed Berths 302-306 (APL) Container Terminal Project, deployment of zero-emission technologies for transport between the APL Terminal and the proposed Project will mitigate significant project impacts as required by CEQA.

In addition, zero emission transport is important for the following reasons:

- In the 2010 Update to the San Pedro Bay Ports Clean Air Action Plan, the ports underscored their commitment to air quality improvement by adopting San Pedro Bay Standards. These targets for port air quality programs are comprised of two components: 1) reduction in health risk from port-related diesel particulate matter (DPM) emissions in residential areas surrounding the ports, and 2) "fair share" reduction of port-related air emission to assist the region in achieving federal air quality standards. These components reflect the ports' stated goals of reducing health risks to local communities from port-related sources, and reducing emissions to support the attainment of health-based ambient air quality standards on a regional level.

  Specifically, the ports' Health Risk Reduction Standard is to reduce the population-weighted cancer risk of ports-related DPM emissions by 85% by 2020, relative to 2005 conditions, in highly impacted communities located near port sources and throughout the residential areas in the port region. The San Pedro Bay Emission Reduction Standards are to, by 2014, reduce emissions by 22% for nitrogen oxides, 93% for sulfur oxides, and 72% for DPM; and to, by 2023, reduce emissions by 59% for nitrogen oxides, 93% for sulfur oxides and 77% for DPM.

  While the ports have made significant progress toward meeting these goals, as reflected in each port's annual emission inventories, emissions forecasts indicate that CAAP measures and existing emissions control regulations will not be adequate to achieve and maintain the San Pedro Bay Standards. Implementation of zero-emission technology options would provide significant benefits to the ports, bringing them closer to achieving the San Pedro Bay Standards, addressing community concerns about pollution from port operations and projects, and assisting the region in attaining National Ambient Air Quality Standards. The South Coast Air Quality Management District and the California Air Resources Board have determined that, in order to attain currently-adopted federal ozone standards, zero-emission technologies will need to be broadly deployed in transportation sources. Absent timely adoption of sufficient plans and measures to attain the national standards as required by the Clean Air Act, federal transportation funds for infrastructure projects will be jeopardized, and restrictions on construction of stationary sources will be imposed.

- Deployment of zero-emission technologies for the transport corridor between the APL Terminal and the near-dock railyards is particularly important for the following reasons:

- Emissions in this transport corridor occur relatively close to locations where people live, work and go to school.

- These areas are also impacted by cumulative emissions from other port-related sources: ships, harbor craft, cargo handling equipment, locomotives and trucks.

- Achieving emission reductions beyond current regulations and CAAP measures, as needed to attain the San Pedro Bay Standards, will be relatively challenging in the case of some port-related sources (e.g. vessel main engines) compared to further reducing emissions from other sources such as trucks.

- The transport corridor to near dock rail yards is in an area where existing regulations and CAAP measures are projected to achieve a lower percentage level of risk reduction than other areas. *See* 2010 CAAP Update, Figure 2.2: Percent Reduction in DPM-Related Health Risk Between 2005 and 2020 for Areas Located Closest to the Ports (p.35).

- The transport corridor to near dock rail yards--as a high volume, relatively short (approximately five mile)--route, is particularly suited to deployment of new technologies such as electric trucks, which ultimately could be deployed by the ports, and then in broader areas as technologies evolve.

- In addition to air quality benefits, utilization of zero-emission technologies could be a significant strategy for reducing greenhouse gas (GHG) emissions. Each port, in cooperation with their respective cities, has initiated a process to quantify, evaluate and implement strategies to reduce GHG emissions from their administrative operations as well as from port-related activities of their tenants and customers.

- Finally, energy security (i.e. reducing dependence on foreign oil) is also a significant consideration as the ports transition into the future. Uncertainty about potential future supplies of oil and rising costs provide another reason for moving away from technologies that rely on petroleum to technologies that are powered by electricity, ideally produced using renewable energy sources.

Zero-Emission Container Transport Technologies

A variety of zero-emission technologies can be available for deployment early in the life of the proposed Project if the port requires them. The following is a discussion of key technology options.

Zero-Emission Trucks

Zero-emission trucks can be powered by grid electricity stored in a battery, by electricity produced onboard the vehicle through a fuel cell, or by ―wayside" electricity from outside sources such as overhead catenary wires, as is currently used for transit buses and heavy mining trucks (discussed below). All technologies eliminate fuel combustion and utilize

electric drive as the means to achieve zero emissions and higher system efficiency compared to conventional fossil fuel combustion technology. Hybrid-electric trucks with all electric range can provide zero emissions in certain corridors and flexibility to travel extended distances (e.g. outside the region) powered from fossil fuels or fuel cells.

Vehicles employing electrified drive trains have seen dramatic growth in the passenger vehicle market in recent years, evidenced by the commercialization of various hybrid-electric cars, and culminating in the sale of all-electric, plug in, and range extended electric vehicles in 2011. A significant number of new electric light-duty vehicles will come on the market in the next few years. The medium- and heavy-duty markets have also shown recent trends toward electric drive technologies in both on-road and off-road applications, leveraging the light-duty market technologies and component supply base. Indeed, the California-funded Hybrid Truck and Bus Voucher Incentive Project (HVIP) website' currently lists more than 75 hybrid-electric on-road trucks and buses available for order from eight manufacturers.

Battery-Electric Trucks

Battery-electric vehicles operate continuously in zero-emissions mode by utilizing electricity from the grid stored on the vehicle in battery packs. Battery-electric technology has been tested, and even commercially deployed for years in other types of heavy-duty vehicles (e.g., shuttle buses). Technologically mature prototypes have recently become available to demonstrate in drayage truck applications. (TIAX, *Technology Status Report - Zero Emission Drayage Trucks*, 1 (June 2011)).

The Port of Los Angeles is testing the Balqon Nautilus XE30 battery-electric truck prototype. Early tests of the Balqon E-30 began in 2008 with a lead-acid battery pack. In subsequent manufacturer tests the truck was equipped with a larger and more advanced lithium-ion battery pack, and the port has stated it will demonstrate this upgraded vehicle commencing in fall of 2011. Manufacturer's tests of the upgraded vehicle have shown a maximum range of between 125 – 150 miles loaded, and dynamometer results indicate ability to climb a 15% grade while fully loaded for two hours. (TIAX, 7). The port demonstration will test performance in actual operations against these and other metrics.

The performance metrics being targeted by the manufacturer would be sufficient to meet the needs of service between near dock rail yards and the APL Terminal. These needs are relatively limited, primarily due to the short distance between the APL Terminal and near dock rail yards: approximately 10 miles round trip. This limits the required number of trucks, as well as their needed range and charging time.

Number of Trucks. Regarding number of trucks needed, at full build out, at least 2,100,000 annual round trip truck trips are anticipated between proposed near dock rail yards and the ports -- an average of 5,753 per day. TIAX assumed that a Balqon truck would make 12 round trips per day, assuming three shifts per day (TIAX, 14). This would total 120 miles per day per truck (within the loaded range estimated by the manufacturer for a single charge), and would indicate a need for 480 trucks to fully serve the rail yards. Adding 8% to account for seasonal variation (TIAX, 9) indicates a need for 518 trucks to serve the near-dock yards. Balqon has estimated that it could produce as many as three trucks per day due to modular truck design, which would enable it to deliver more than 750 trucks per year. This would, in one year and for one manufacturer,

be well in excess of the fleet size needed to serve proposed near-dock railyards.

Charging Time. Regarding charging time, Balqon offers a 60kW charger that would require 4.5 hours for a full charge. Balqon is working on a 100kW charger that would reduce charging time, as well as the number of required chargers and peak electrical demand. (TIAX, 14). In addition, quick charge technologies are now being manufactured, e.g. by AeroVironment which are in use by Foothill Transit electric buses to allow continuous service for a set route. Such technologies could be adapted to allow charging of trucks in much less than one hour. In addition, various charging strategies are available that could further reduce time dedicated to charging. These include battery swapping and ~~–o~~pportunity charging." (TIAX at 13). Even assuming a 4.5 hour charging time every day, however, would allow 12 round trips to near dock rail yards per day (TIAX at 14; assuming round-trip duration of 1.6 hours. (Id. at 15)).

Implementation Time. TIAX recommends 6 to 12 months of tests in real world drayage operations, followed by an assessment and an additional larger scale demonstration of 12 to 18 months duration. (TIAX, 20-21).

To the extent that in-use performance testing indicates a need for improvements such as greater range or gradability for a battery-electric truck such as Balqon, resolving such technical issues is, in general, a matter of appropriately sizing and engineering key components—notably the battery. A variety of battery sizes are feasible, although there are trade-offs such as weight and cost. The limited range requirements of service to near dock rail yards will, however, minimize the impact of any such trade-offs.

Given these factors, it is expected that battery-electric trucks can be developed and manufactured in sufficient time and quantities to fully serve near dock rail yards by 2016, even if modifications in response to demonstration tests are required.

Costs. As with most new technologies, capital costs are higher for electric-drive trucks compared to conventional diesel trucks. However, operating and maintenance (O&M) costs of electric-drive trucks can be significantly lower, due to higher vehicle fuel economy (reduced fuel costs per energy used) and lower maintenance costs. TIAX calculated a ten-year cost for the Balqon truck, including capital cost of truck, operation and maintenance, at $363,841 - $391,233, about $30,000 - $60,000 more than the $335,041 cost for a diesel truck. This differential cost is, however, well within the amount of government incentive funding for relatively clean technologies that has been provided in the past for vehicles such as LNG trucks, and which is currently available (see below). Cost of charging infrastructure would vary greatly based on conventional or quick charging, and charging strategy (e.g. whether battery swapping and opportunity charging occur). TIAX estimated costs of one approach at between $26.4 and 30.4 million for a fleet of 720 trucks (TIAX, 14) -- well in excess of the number needed to serve near-dock railyards. Again, various government funding programs have been and continue to be available for installation of charging infrastructure.

Since the electric drayage truck is still in its early commercialization phase, the costs are expected to come down as the technology matures, unit volumes increase and economies of scaled production and supply take effect. Balqon estimates that with large scale

purchase commitments and its partnership with Winston Battery Limited, the largest heavy-duty lithium battery manufacturer in China, battery costs will come down to half their current costs.

Operational Issues. The ports have devoted substantial resources to developing and demonstrating electric trucks in part because they would fit well into current operating modes, with minimal or no need for new transportation infrastructure such as roads or new fixed guideway systems. Operational issues thus are expected to be manageable.

It should also be noted that the successful deployment of nearly 900 natural gas drayage trucks since 2008 indicates that the drayage industry can adapt to operational changes and adapt to new fueling procedures and limitations. Most of these natural gas drayage trucks are routinely being refueled at a small number of public stations located near the ports, although some motor carriers are installing onsite natural gas refueling stations. Refueling can take longer than diesel, and during peak times, the waiting time at the limited number of natural gas fueling stations can exceed one hour. Motor carriers have been able to make adjustments to this process. Weight and payload considerations significantly restrict the amount of onboard energy that LNG drayage trucks can carry compared to diesel trucks. However, in a local delivery application such as drayage, LNG trucks can provide plenty of driving range to meet daily operational requirements. In these ways and others, drayage truckers using natural gas rigs have been able to accommodate fuel-related changes in operational requirements. (TIAX, 16).

Implementation Mechanisms. The ports have shown ability to craft programs to transition on-road trucks to new technologies. The successful Clean Trucks Program provides one model of a feasible mechanism to do this for the near-dock railyards related drayage. Through progressive bans of older vehicles and funding and fee mechanisms to provide incentives, the ports succeeded in transitioning from relatively old diesel truck drayage to thousands of new diesel trucks, and nearly 900 LNG trucks. The number of vehicles needed in connection with near-dock railyards is far less. In addition, through approval conditions on the marine terminal project, the lead agency has the ability to ensure cooperative actions by the applicant to assist in the transition.

Figure 1 Balqon Electric Battery Truck

Fuel Cell Battery-Electric Trucks

Fuel cell vehicles utilize an electrochemical reaction of hydrogen and oxygen in fuel cell ―stacks" to generate electricity onboard a vehicle to power electric motors. Fuel cells are typically combined with battery packs, potentially with plug-in charging capability, to extend the operating range of a battery-electric vehicle. Because the process is combustion free, there are no emissions of criteria pollutants or CO2.

Fuel cell vehicles are less commercially mature than battery-electric technologies, but have been successfully deployed in transit bus applications, and are beginning to be deployed in passenger vehicles. The Port of Los Angeles recently awarded Vision Motor Corporation (Vision) of El Segundo, California a contract to outfit fifteen battery electric trucks with fuel cells for demonstration purposes. Total Transportation Services, Inc. (TTSI), a port drayage company, has stated an intent to buy 100 ―Tyrano" fuel cell Class 8 trucks from Vision for $27 million, subject to an initial vehicle (which was delivered on July 22, 2011) performing as expected. TTSI also stated it may acquire an additional 300 vehicles. TTSI intends to test the initial truck for 18 months by using it to haul containers between the ports, rail yards and distribution facilities.

Vision estimates that its fuel cell electric battery trucks would have an operating range of 200 miles on a single charge, with the proposed 20 kg of hydrogen storage and 130 kWh battery pack, while at the same time lowering operating and maintenance costs as compared to diesel-powered trucks. The company's engineers report the vehicle has a rated gradability of 13% when fully loaded at 80,000 GVWR; this should enable it to meet all grades that will be encountered in short-haul drayage. (TIAX, 7).

TIAX recommends an 18 month demonstration period in drayage operations, followed by an assessment and a further large scale demonstration for 12 to 18 months. (TIAX, 21). Given these factors, it is expected that fuel cell battery-electric trucks can be developed and manufactured in sufficient time and quantities to fully serve near-dock railyards before 2016, even if modifications in response to demonstration tests are required.

The discussions above regarding number of vehicles needed, operational issues and implementation mechanisms are generally applicable to fuel cell trucks, although hydrogen fueling time would be less than Balqon truck charging time, and would be similar to fueling time for current LNG trucks. (TIAX, 17). Per vehicle combined capital and operating costs, as well as fueling infrastructure costs, are projected by TIAX to be higher than for the Balqon truck, although costs could be below the TIAX projections if certain cost reductions expected by Vision are realized, and if cost of fueling infrastructure is recovered through revenue sales. (TIAX, 12, 15). In addition, as noted above, Vision does have a private purchaser with a potential sale of at least 100 units.

Figure 2 Vision Zero-Emission Fuel Cell Battery Electric Truck

Hybrid-Electric with All-Electric Range (AER) Trucks

Hybrid vehicles combine a vehicle's traditional internal combustion engine with an electric motor. Hybrid-electric heavy-duty trucks that improve fuel mileage are in commercial operation today. Hybrid-electric technologies can also be designed to allow all electric propulsion for certain distances, similar to the Chevrolet Volt passenger automobile which is currently being marketed. The large vehicle drive-train manufacturer Meritor has developed such a heavy-duty truck and it is being demonstrated by Walmart Inc. in the Detroit area. This ―dual-mode" vehicle was developed as part of a U.S. Department of Energy program. Besides the advantages of increased range flexibility, dual-mode hybrid trucks can incorporate smaller battery packs as compared to those for all-battery electric trucks. This saves weight and cost while increasing range.

The Meritor truck is powered solely by battery power (i.e. produces zero emissions) at speeds less than 48 mph. (http://walmartstores.com/sustainability/9071.aspx). This speed is likely sufficient to serve proposed near-dock railyards drayage needs. The vehicle can maintain zero-emission operation for 20 miles, sufficient for two round trips to near dock rail yards with zero emissions, but the vehicle could be coupled with plug-in charging capability. The latter would open the potential for 24-hour zero-emission operation using existing quick-charge technologies. Battery capacity could also be augmented in production units, based on specific needs.


Figure 3: Dual-Mode Hybrid (Meritor)

The discussions above regarding number of vehicles needed, operational issues and implementation mechanisms are generally applicable to hybrid AER trucks. Costs for commercially available units are unknown at this time, but would likely be slightly more than conventional hybrids as larger battery packs would be needed for the electric only mode. The incremental cost of a hybrid AER truck compared to a diesel truck is anticipated to be approximately $50,000-70,000 depending on the capacity of the battery pack. This incremental cost is similar for LNG trucks which were successfully funded through a combination of grants for the Ports' Clean Truck Program (see below).

Since this technology is currently being demonstrated and is similar to hybrid electric technologies that are currently being marketed, it is expected that hybrid AER trucks could be deployed in a similar timeframe as full battery-electric trucks. As with the other zero-emission technologies described here, a key need to ensure timely deployment is a clear message from the ports to technology developers that such technologies will be required.

Trucks With Wayside Power (e.g. "Trolley Trucks")

As noted above, given the relatively short distance between the ports and near dock rail yards, several types of zero-emission trucks can feasibly be made available in coming years. One largely existing technology that could be used to serve this need, as well as move trucks regionwide, is wayside power to power motors and/or charge vehicle batteries. Wayside power from overhead catenary wires is commonly provided to on-road transit buses, and has been used for heavy mining trucks. Other potential wayside power technologies that serve the same purpose include linear induction, which can charge batteries from electromagnetic systems in roadbeds without a physical connection or exposed wires.

An example of how wayside power is feasible would be to outfit a battery-electric or hybrid AER truck with a connection to overhead catenary wires. Many cities operate electric transit buses that drive on streets with overhead wires, as well as streets without them. In such cities, "dual-mode" buses have capability to disconnect from the overhead wire and drive like a conventional bus. In Boston and other cities, such buses are propelled "off wire" by diesel engines. In Rome, such buses are propelled off wire by battery power to the same electric motors used on wire. The batteries are charged as the

bus operates on the wired roadways. Figure 4 shows a dual-mode electric and battery-electric transit bus with detachable catenary connection in Rome, Italy.[5]

Figure 4 Dual-Mode Battery Electric Transit Bus (Rome)

The global technology manufacturer Siemens has developed a prototype truck to catenary wire connection for this purpose. Figure 5 shows a photo of this system on a prototype roadway in Germany. The truck is a hybrid electric with zero emission all electric operation when operated under the overhead wire. The truck automatically senses the wire which allows the driver to raise the pantograph connection while driving at highway speeds. The pantograph automatically retracts when the truck leaves the lane with catenary power. The powered lane can be shared by cars and traditional trucks. The truck may be operated off the powered lane propelled by a diesel engine, or could be configured with battery or fuel cell power sources.

Figure 5 Truck Catenary (Siemens)

As applied to hybrid AER trucks, wayside power could provide zero-emission operation and battery charging on key transport corridors, allowing the vehicle to operate beyond such corridors in zero-emission mode. As the battery is depleted, the vehicle would have the flexibility for extended operation on fossil fuel power.

As existing technologies long used in the transit bus sector, an application of wayside power for trucks would be technologically feasible and could be implemented relatively soon. Siemens retrofitted existing trucks for its prototype road in Germany.

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[5] Other proposals have been evaluated and awarded by the SCAQMD and the CEC to develop catenary trucks and hybrid trucks with AER. Similarly, in 2010, Volvo announced an award by the Swedish Energy Agency to develop a "slide in" technology for both automobiles and trucks which would provide wayside power from the road to the vehicle using a connection from the bottom of the vehicle to a slot in the roadway (http://www.energimyndigheten.se/en/Press/Press-releases/New-initiatives-in-electrical-vehicles/).

The key feasibility and cost issues presented by wayside power are associated with need for power infrastructure such as overhead catenary wires. Rights of way must have room for such infrastructure, although they could be limited to key corridors and still provide the battery charging benefits described above. Cost of overhead catenary wires would have to be estimated by corridor as it varies by circumstance, e.g. based on available space, but would likely be from one to a few million dollars per mile. Operational cost benefits due to reduced fuel and maintenance costs for electric technologies would offset a portion of these costs. Based on communications with Siemens and other equipment manufacturers, AQMD technology advancement staff concludes it would be feasible to deploy catenary electric trucks within a few years and early in the life of the near-dock railyards.

Fixed-Guideway Systems

Fixed guideway systems, as the name implies, are mechanisms that move the containers on rails, magnetic levitation tracks, or other fixed structures. An example of a fixed guideway zero-emission container movement system in use today is an electric locomotive pulling a train of containers. Such electric locomotives receive power from overhead catenaries or electric third rails, and are used for freight transport in Europe, Asia and other locations, but not in the United States. Figure 6 shows an electric freight locomotive in Europe.

Figure 6 European Electric Freight Locomotive

The fixed guideway approach would consist of development of infrastructure to move containers between the APL Terminal and the near-dock railyards using magnetic levitation, linear motor technologies, or catenary/third rail power. Unless existing rail lines could be utilized without impeding other operations, the guideways would be purpose-built, which would likely require right-of-way acquisition. Several technology developers have proposed to the ports to use linear motors to propel containers on purpose-built fixed guideway systems, including maglev systems. Under this approach, containers would be loaded onto specialized shuttles conveyed between port terminals and the near-dock railyards. In another variation, electric or diesel trucks would interact with ports and rail terminals as conventional trucks do today, but would be propelled on certain roads by linear synchronous motors in the roadbed. Linear motors propel vehicles using electromagnetic force created by a wire coil embedded in the road.

Light rail train and subway lines have operated for years using linear motor technology, and it is expected that, given sufficient resources, this technology can technologically be adapted for freight movement. The staffs of the two ports have, however, focused their zero-emission technology development and demonstration efforts on truck technologies and, recently, technologies to move line-haul rail. (*See*, *Roadmap for Moving Forward with Zero Emission Technologies,* presented by port staffs on July 7, 2011 at a joint meeting of the Harbor Commissions of the Ports of Long Beach and Los Angeles). The port staffs have stated concerns about (1) congestion on existing rail lines if they are used to move containers between the ports and near-dock railyards, and (2) about cost and operational feasibility of creating new types of fixed guideway systems. Regarding the latter, the port staffs have cited the results of a "Request for Concepts and Solutions" (RFCS) the ports issued in conjunction with the Alameda Corridor Transportation Authority to design, build, finance and operate a zero emission container movement system (ZECMS). The seven responses to the RFCS included six fixed-guideway systems and one truck-based system (hybrid truck with all electric range).

The responses to the RFCS were reviewed by a panel chosen by the Keston Institute at USC, which determined that none of the proposals demonstrated that the intended ZECMS objectives would be achieved. The Keston panel stated that, prior to selection and deployment of any system, additional testing needs to be carried out in an environment that simulates actual container handling operations. The panel also concluded that a ZECMS would have difficulty competing economically with conventional truck drayage.

It should be noted, however, that the Keston panel did not conclude that zero-emission transport is infeasible, and, indeed, concluded that it is technologically feasible. As the panel stated:

> *"(T)he panel believes that the submissions illustrate that the concept of a ZECMS is well within the realm of technological feasibility and that potentially viable technologies either already exist or could believably be available within a relatively short timeframe. In other words, a ZECMS is, or could be shortly, technically feasible."*

(The panel also noted that the one truck technology proposed—hybrid trucks with all electric range—had achieved the target level of technology readiness for selection and deployment.[6])

A key issue found by the Keston panel for fixed guideway systems was that the solicitation prohibited any public funding of, or government requirement for, zero-emission technologies, even during the initial development and startup phase. The panel said:

> *In light of the capital intensive nature of fixed guideway systems and the best case assumptions regarding growth in container volume, market share, capital costs,*

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[6] The panel stated: *"Although not strictly a „zero emission" technology in all operational modes, the panel believes that the hybrid truck has achieved the equivalent of TRL 8. Under the assumption that hybrid trucks would be operating in the electric mode in the port environs, this technology would be viewed as compliant with the goal of removing combustion emissions from port operations."*

> *and system availability used in many of the proposers" analyses, the panel believes that, absent other drivers (e.g., environmental regulations or a subsidy provided by the Ports or others), a ZECMS will have difficulty competing economically with conventional truck drayage, particularly given the rapid advances being made in hybrid-electric vehicles and their inherent flexibility and scalability. . . . The RFCS was quite clear that a ZECMS would be in direct competition with the existing system of truck drayage, so that it had to match or improve the total economic value it offered compared to the existing system—the Ports would not provide any subsidy nor would they compel port users to use the ZECMS.*

It should be noted, however, that public funding has in the past been considered appropriate to develop and deploy new clean technologies, including by the ports, and such funding is and will likely continue to be available in the future (see below). In addition, the JPA and ports have clear authority, which they have exercised in the past, to require and incentivize use of new technologies.

Rail

In addition to implementing zero-emission technologies such as electric trucks to move containers between the APL Terminal and the near-dock railyards, the measure proposed by SCAQMD would require the ports to take actions to evaluate and demonstrate zero-emission technologies for line-haul locomotives. Zero-emission electric locomotives are an existing technology in use around the world for freight and passenger transport. One issue to be addressed in implementing such technology in Southern California would be the transition to non-electrified track outside of the region. One potential solution is to switch between electric and diesel locomotives at the edge of the region. It should be noted, however, that the railroads have in the past objected to the time, expense and railyard space needed to switch to cleaner locomotives when trains enter this region. A second major issue is the expense of electrification infrastructure such as overhead catenary wires, and the cost of electric locomotives.

Among the technologies to be evaluated under this alternative would be technologies that could eliminate the need for catenary wires, or to switch locomotives at the edge of the electrified region. These include dual-mode locomotives, such as are currently in use for passenger trains; battery tender cars to provide power to locomotives in certain areas; and hybrid-electric locomotives with all electric range. Finally, linear synchronous motor (LSM) technology has the potential to move trains on existing rail lines that are retrofitted with such technology.

Zero Emission Implementation Timeline Overview

A Gantt chart of the likely zero-emission technologies is shown in Figure 7, which illustrates expected timeframes for development, validation and evaluation of technologies. The timeframes are based on status of the specific technologies, and on typical timeframes for the referenced actions. These timeframes are based on proposals received for such technologies as well as technical experience by the Technology

Advancement Office at the SCAQMD. Although each technology provider and manufacturer may describe these phases differently, the cycles are all on the order of five to seven years from development to commercialization. The development phase includes design and non-recurring engineering activities for the prototype technology. This phase also typically includes limited testing or simulation in preparation for field trials. The validation phase is testing and demonstration of the technology in the field, including data collection for design changes and optimization. During this phase, the technology design is tested to the actual performance standards (e.g., towing capability, gradability, speed, etc.). The final fleet evaluation phase includes multiple units in actual fleet or real-world use with potential for accelerated durability testing to gauge maintenance and reliability issues. During this phase, testing is conducted to ensure safety as well as working with the appropriate agencies for commercial certification.

It should be noted that the development phases for many of the truck projects were already initiated in 2008-2009 through efforts at the Ports, the SCAQMD and the DOE. The last phase of ~~–e~~valuation" includes durability and certification activities, which may lengthen the phase depending on the field-trial experiences. Timeframes could also be shortened if sufficient funding is applied to increase resources toward that effort by the manufacturer. However, considering the current levels of product development and uncertainty, it is clear that, given sufficient clarity of purpose, all described technologies can be commercialized by 2016-2020, with some at earlier dates.

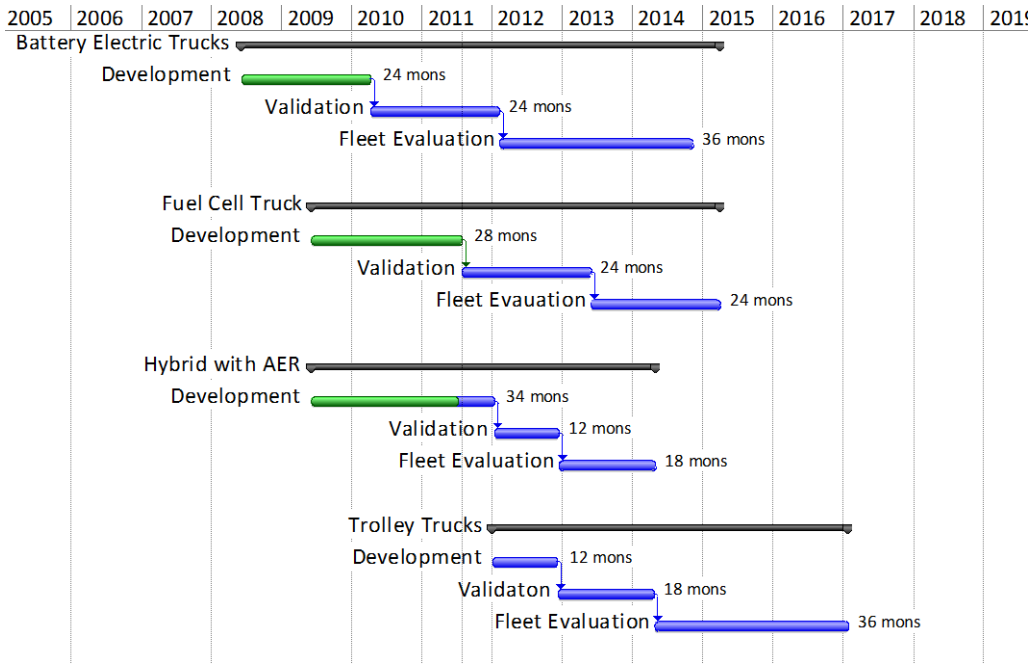

Figure 7: Commercialization Timeframes For Zero Emission Truck Technologies

Financing Support for Zero-Emission Technologies

A key aspect of technology development and commercialization is initiating and ensuring activities by technology manufacturers. Government can play a critical role by ensuring a market for the end product (e.g. by adopting emission control requirements), and by offsetting the typically high cost of technology development and initial deployment through funding incentives. This strategy has been used in Europe for zero-emission technologies, which is why manufacturers are working on zero-emission trucks, namely Siemens and Volvo. State and local governments in California have a long history of

successfully requiring and incentivizing deployment of new technologies. Actions by the ports to require and incentivize clean technologies are thus of critical importance.

As noted above, the ports have implementation mechanisms such as project approval conditions and port rulemaking that can require transition to new technologies. In addition, a variety of sources exist for development and incentive funding. Potential sources of funding for air quality technologies include, but are not limited to, the ports, AQMD, and the future tenant. State and local governments have a long history of incentivizing cleaner technologies through collaborative efforts. A recent example is the partnership with CARB, the Port of Los Angeles, the Port of Long Beach, U.S. Department of Energy, California Energy Commission and U.S. EPA for the buydown of the cleaner but more expensive natural gas trucks as part of the Ports Clean Truck Program. The AQMD utilized the existing Proposition 1B incentive of $50,000 per truck but augmented this with an additional $50,000 through grants from the U.S. Department of Energy, California Energy Commission and U.S. EPA as well as AQMD funds and the Ports. With the $100,000 incentive, fleets and independent operators were able to offset the higher cost of natural gas trucks which are approximately $150,000 – 170,000. Through this collection of incentives, the AQMD was successfully able to purchase over 690 natural gas trucks as part of the Ports' Clean Truck Program.

Other funding examples include the Hybrid Voucher Incentive Program (HVIP), which provides $20,000 per hybrid truck, including all-electric technologies. The AQMD further supplemented the HVIP by adding $1.5M for vehicles deployed in the South Coast Region. In May 2011, the California Energy Commission added an additional $4M to the HVIP to further incentivize electric vehicles making the per-truck funding $40,000 to $50,000. A list of currently available incentives for heavy-duty zero-emission trucks is included in the table below.

Although some of these programs may not be in place at the time of the project initiation, it is anticipated that, given market demand, similar or renewed funding will be available.

Conclusion

Based on the above, there is substantial evidence to conclude that zero emission technologies can be deployed in the 2016 to 2020 timeframe (or earlier) to move containers between the APL Terminal and near-dock railyards — if the port requires such deployment.

Incentive Program	Sunset Date	Project Category	Current Maximum Potential Funding/Credit Amounts
Carl Moyer Program	2015	New Purchase	25% of Total Purchase Price (Up to Cost-Effectiveness Limit of $16,640 per ton)
		Repower	$30,000 per truck
Proposition 1B	2013	Replacement	$60,000 per truck
		Repower	$30,000 per truck
HVIP	2015	New Purchase	$25,000 per truck (33 - 38K GVWR)
			$30,000 per truck (>38K GVWR)
Hybrid and Electric Trucks and Infrastructure Act (S. 1285)	Proposed to end by Dec. 2015	New Purchase	$24,000 per truck

South Coast Air Quality Management District (SCAQMD)

Response to Comment SCAQMD-1

Comment noted.

Response to Comment SCAQMD-2

Comment noted. Please see Response to Comment USEPA-13 for details regarding the APL Terminals on-dock rail capacity and the San Pedro Bay Ports Rail Study. It should be noted that the study, which was based on planned capacity and did not take into consideration market demand or specific company or lease holder (like APL) business needs, estimated 1.24 million TEUs at the Pier 300 on-dock. In contrast, site- and proposed Project-specific information estimated 1.04 million TEUs at the Pier 300 on-dock.

Response to Comment SCAQMD-3

Comment noted. Please see Response to Comment USEPA-17 regarding the Port's Technology Advancement Program (TAP) and use of zero emission technologies. In addition, lease measure LM AQ-1 is being revised in the Final EIS/EIR (refer to Chapter 3, Modifications to the Draft EIS/EIR) to reflect a 5-year lease reopener for new technologies (from 7-years).

Response to Comment SCAQMD-4

Comment noted. Responses to the Commenter's Attachment A are made in specific responses (Response to Comments SCAQMD-2 through SCAQMD-21). The response to the Commenter's Attachment B is also provided below (Response to Comment SCAQMD-22).

Response to Comment SCAQMD-5

Comment noted. Cumulative impacts are discussed in Chapter 4 of the Draft EIS/EIR and there is a Port-wide (including both Ports of Los Angeles and Long Beach) effort at working to implement improvements on a Port-wide scale via the CAAP.

Response to Comment SCAQMD-6

Comment noted.

Response to Comment SCAQMD-7

The Commenter suggests that the Draft EIS/EIR should include a future baseline under CEQA for air quality impact analysis. LAHD has followed the same methodology in developing the CEQA baseline on the APL Draft EIS/EIR as it has on all of its EIR documents over the last decade.[14,15,16,17,18,19,20] The approach used is consistent with State CEQA Guidelines:

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[14] Los Angeles Harbor Department (LAHD). 2003. *Final Supplemental Environmental Impact Report for the West Channel/Cabrillo Marina Phase II Development Project (Cabrillo Way Marina).* State Clearinghouse No. 98041086.

> … In assessing the impact of a proposed project on the environment, the lead agency should normally limit its examination to changes in the existing physical conditions in the affected area as they exist at the time the notice of preparation is published, … [State CEQA Guidelines, 15126.2 (a)]

LAHD believes that the analysis, as conducted in the Draft EIS/EIR appropriately characterizes the proposed Project impacts. The LAHD also notes that it has imposed numerous mitigation measures both on the individual Project and on Port-wide activities to reduce environmental impacts of construction and operation activities associated with the proposed Project and with Port-operations as a whole. The LAHD continues to lead U.S. maritime facilities in developing and installing technologies and approaches to reduce of these activities. Where feasible, the LAHD has required acceleration of compliance with regulations that have future compliance dates, and has invested over $189 million to reduce air pollution in the San Pedro and Wilmington communities through technology advancement projects and emissions reduction programs like the Clean Truck Program, Alternative Maritime Program, Low Sulfur Fuel Switching Program, Vessel Speed Reduction Program, and others. Please also see Responses to Comments USEPA-6 and USEPA-8.

One of the statements in the Comment SCAQMD-7 is incorrect. In the last sentence of the first paragraph, the following statement is made:

> "The lead agency did take this baseline approach when determining significance for cancer and other health risks of the proposed Project, and for consistency, this approach should be used when determining significance for regional criteria emissions."

The statement suggests that a future CEQA baseline was used for the cancer and non-cancer health risk assessment. However, the future baseline concept was only used for the calculation of cancer risk because cancer risk is the only impact that assumes 70-year or 40-year exposure durations[21] for the effect (cancer) to occur. Due to the uniquely long-range nature of cancer risk impacts, LAHD determined that comparison of those impacts to future CEQA baseline would provide a realistic disclosure of those impacts. LAHD further determined, however, that comparison to a 2008-2009 CEQA baseline adequately discloses relevant information about other health risk impacts that would be experienced more immediately after the Project is implemented. The other health risks (chronic non-cancer and acute non-cancer) were based on the peak annual concentrations and peak hourly concentrations, respectively, which occurred between 2012 and 2027, the proposed Project horizon years. The peak CEQA baseline concentrations (annual and hourly) that occurred during the baseline period (July 2008-June 2009) were subtracted from the future proposed Project concentrations to determine the incremental proposed Project non-cancer risk impacts. This approach is the

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[15] Los Angeles Harbor Department (LAHD). 2009. *Final Environmental Impact Report for the Wilmington Waterfront Development Project.* State Clearinghouse No. 2008031065.

[16] U.S. Army Corps of Engineers (USACE) and Los Angeles Harbor Department (LAHD). 2007. *Final Environmental Impact Statement/Environmental Impact Report for the Berth 136-147 [TraPac] Container Terminal Project*.

[17] USACE and LAHD. 2008. *Final Supplemental Environmental Impact Statement/Final Subsequent Environmental Impact Report for the Pacific LA Marine Terminal LLC, Pier 400, Berth 408 Project.* State Clearinghouse No. 1992102975.

[18] USACE and LAHD. 2008. *Final Environmental Impact Statement/Environmental Impact Report for the Berth 97-109 [China Shipping] Container Terminal Project*. State Clearinghouse No. 2003061153.

[19] USACE and LAHD. 2009. *Final Environmental Impact Statement/Environmental Impact Report for the Port of Los Angeles Channel Deepening Project*. State Clearinghouse No. 1999091029.

[20] USACE and LAHD. 2009. *Final Environmental Impact Statement/Environmental Impact Report for the San Pedro Waterfront Project.* State Clearinghouse No. 2005061041.

[21] The 70-year exposure period is assumed for residential receptors. Off-site workers are assumed to be exposed for 40 years, and an appropriate 40-year exposure concentration is used for off-site worker receptors.

same used for analysis of criteria pollutant impacts, which likewise will be experienced on a more immediate basis than cancer-risk impacts. Therefore, only the cancer risk estimate used a future CEQA baseline approach, which is warranted because the impact being considered is assumed to be associated with very long exposure periods, beyond the build-out year of the Project. This practice is consistent with the approach taken in prior LAHD environmental documents.

If the future CEQA baseline approach were to be used as a standard methodology for projects with long-term horizon years, such as the 25-year period for the proposed Project, then that approach should incorporate growth of population, goods movement and traffic into the future baseline where such growth is unrelated to the proposed Project. Such an approach was used in developing the NEPA baseline included in the Draft EIS/EIR, and related impacts have already been disclosed in the document.

Response to Comment SCAQMD-8

The on-dock railyard under the proposed Project and alternatives is not intended to handle all of the containers managed by the APL Terminal. Rather, it is intended to assemble unit trains comprised of containers that would travel to a single destination. Other containers that are destined to other locations are consolidated into unit trains at the near-dock yards. The Response to Comment USEPA-13 provides additional detail regarding the use splits between on-dock and off-dock (including near dock) railyards.

Regarding the recommended schedule for implementing zero emission drayage trucks, the LAHD intends to utilize a Port-wide approach to implementing zero-emission drayage trucks. In taking a wider approach, the LAHD can consider the relative effectiveness and readiness of zero emission drayage trucks, and how they can be implemented without creating competitive disadvantages between terminals and Ports. Such an approach has the advantage of ensuring that appropriate policies are developed for consistent implementation rather than forcing an early direction in the marketplace that may not be the best solution for the LAHD to support from a Port-wide implementation perspective. The LAHD also notes numerous mitigation measures have been imposed on individual Port projects and on Port-wide activities to reduce environmental impacts of construction and operation activities. The Port continues to lead U.S. maritime facilities in developing and installing technologies and approaches to reduce of these activities. Where feasible the LAHD has required acceleration of compliance with regulations that have future compliance dates, and has invested over $189 million to reduce air pollution in the San Pedro and Wilmington communities through technology advancement projects and emissions reduction programs like the Clean Truck Program, Alternative Maritime Program, Low Sulfur Fuel Switching Program, Vessel Speed Reduction Program, and others.

In evaluating zero emission drayage options and implementation, the LAHD must also consider the substantial improvements that the Clean Truck Program and the investment that both ports and private partners have made in upgrading the trucking fleet that serves the two Ports. Over the last several years, the LAHD provided $44 million in payments to licensed motor carriers in order to incentivize their purchase of 2,200 Clean Trucks. Another $12.5 million was approved for incentive payouts on the purchase of 500 natural gas fueled trucks. These incentives, coupled with the effect of the truck ban schedule and associated fees, have led to over $1 billion in private investment toward the purchase or lease of approximately 7,000 more Clean Trucks, making a total of more than 9,800 Clean Trucks currently operating at the Ports of Los Angeles and Long Beach.

Given that private companies that serve the Ports have recently invested over $1 billion in upgrading their trucking fleets, time is required for those firms to adequately recoup their investment. The Commenter recommends establishing a schedule for implementing zero-emission drayage trucks as part of the proposed Project; however, the technology is not commercially available at this time, and once the technology is demonstrated as feasible, commercial production and fleet turnover feasibility must also be considered.

Although a schedule to implement zero emission drayage trucking may be desirable by the Commenter, because of the factors above, the LAHD must take a Port-wide approach that considers not just the demonstration of zero emission technologies, but their commercial feasibility and implementation options and incentives.

However, the LAHD has made policy statements to send clear messages to various market participants that zero-emissions technologies are indeed needed via the CAAP and the TAP, and continues to reiterate and support that message. Specifically, the Port's recently adopted 2012 – 2017 Strategic Plan includes an initiative to increase the number of zero emission trucks in the Port drayage fleet, focusing on trips to and from rail yards. An action plan to address this initiative will be completed by 2014.

The Response to Comments USEPA-17 and USEPA-22 also contains additional information on this subject.

Response to Comment SCAQMD-9

Please see Response to Comments USEPA-9 and USEPA-13. Regarding the comment that Alternative 6 is inconsistent with the 2008 San Pedro Bay Ports Rail Study Update, the LAHD has since prepared a more thorough analysis of on-dock rail capacity, throughput projections, and modal mix with the tenant. Those assumptions for Berths 302-306 are reflected in the throughput assumptions table (Table 2-1) in Draft EIR/EIS and convey the most current information. It should be noted that the 2008 rail study represented a snapshop in time, and the current projections utilize for the proposed Project are more representative of current and future modal mix conditions.

Response to Comment SCAQMD-10

Comment noted. Mitigation measure MM AQ-3 has been revised to remove the exceptions for import haulers and earth moving equipment (refer to Chapter 3, Modifications to the Draft EIS/EIR). Revised MM AQ-3 is as follows:

MM AQ-3: Fleet Modernization for On-Road Trucks Used During Construction

1. Trucks hauling material such as debris or any fill material will be fully covered while operating off Port property.
2. Idling will be restricted to a maximum of 5 minutes when not in use.
3. USEPA Standards:

~~a.~~ For On-road trucks with a gross vehicle weight rating (GVWR) of at least 19,500 pounds ~~(except for Import Haulers and Earth Movers)~~: Comply with USEPA 2007 on-road emission standards for PM_{10} and NOx (0.01 grams per brake horsepower-hour (g/bhp-hr) and 1.2 g/bhp-hr or better, respectively).

~~b.For Import Haulers with a GVWR of at least 19,500 pounds used to move dirt and debris to and from the construction site via public roadways: Comply with USEPA 2004 on-road emission standards for PM_{10} and NOx (0.10 g/bhp-hr and 2.0 g/bhp-hr, respectively).~~

~~c.For Earth Movers with a GVWR of at least 19,500 pounds used to move dirt and debris within the construction site: Comply with USEPA 2004 on-road emission standards for PM_{10} and NOx (0.10 g/bhp-hr and 2.0 g/bhp-hr, respectively).~~

Response to Comment SCAQMD-11

The comment is noted. Mitigation measure MM AQ-4 has been revised (refer to Chapter 3, Modifications to the Draft EIS/EIR). Revised MM AQ-4 is as follows:

MM AQ-4: Fleet Modernization for Construction Equipment (except Vessels, Harbor Craft and On-Road Trucks

1. Construction equipment will incorporate, where feasible, emissions-savings technology such as hybrid drives and specific fuel economy standards.
2. Idling will be restricted to a maximum of 5 minutes when not in use.
3. Equipment Engine Specifications:
   a. Tier 4 equipment shall be considered based on availability at the time the construction bid is issued.
   b. At a minimum, ~~P~~prior to January 1, 2015~~:~~, ~~A~~all off-road diesel-powered construction equipment greater than 50 hp will meet Tier 3 off-road emission standards at a minimum. In addition, this equipment will be retrofitted with a CARB-verified Level 3 DECS.
   c. From January 1, 2015 on: All off-road diesel-powered construction equipment greater than 50 hp will meet Tier 4 off-road emission standards at a minimum.

Response to Comment SCAQMD-12

As described in the response to USEPA-4, the APL planned vessel routes to and from the Port is based on their global fleet needs and specific routing and throughput considerations. Although rerouting the newest ships to the Port may seem at first glance to be a viable solution to reduce vessel emissions, this is not feasible. The Port primarily serves as a terminus for APL cargo shipped from other locations. As a result, the ships calling at the Port are smaller than the ships serving ports in several countries, where a vessel will call at multiple ports over a longer period of time before making its return trip. The newest ships in the APL fleet are larger than current ships and are designed to serve markets outside of the United States (refer to Response to Comment USEPA-4 for additional information). It should be noted that APL has already installed slide valves on all APL owned vessels with MAN B&W engines. The slide valves reduced NOx emissions from 2002 – 2011 by almost 29 tons (credit for these reductions have not been taken and therefore, the evaluation in the Draft EIS/EIR is conservative). APL is also testing the effectiveness of other emission reducing technologies (see the Response to Comment USEPA-8) on several vessels, and is implementing various operational measures to further reduce emission.

Response to Comment SCAQMD-13

The Commenter recommends establishing a specific schedule for implementing emission –reducing vessel retrofits through MM AQ-12. One of the primary purposes of MM AQ-12 is to serve as a mechanism to implement vessel retrofit improvements that are demonstrated to be feasible through the TAP. As discussed above, APL has been a leader is testing and installing retrofits designed to reduce emissions, including installation of slide valves that call at the Port. Because the technology evaluations are on-going, and feasibility determination cannot be predicted in advance, no schedule for implementation has been provided, as to do so would be considered speculative. In addition, developing a detailed schedule to perform feasibility studies would similarly be speculative prior to technologies becoming feasible.

Response to Comment SCAQMD-14

The Commenter recommends replacing diesel powered cargo handling equipment at the terminal with electric equipment, and requiring mitigation measures MM AQ-13, MM AQ-14, and MM AQ-15 to include zero-emission component. As discussed in Response to Comments USEPA-17 and SCAQMD-8, zero emission yard equipment is being tested but has not yet been determined to be feasible. Although the three specific mitigation measures do not specifically require zero emission equipment, they are not precluded from requiring such technology if and when they become technologically, operationally and economically feasible.

Currently, electric rail mounted gantry (RMG) cranes are in use at the terminal. Also in use at the terminal are diesel powered rubber tire gantry (RTG) cranes; however, it is not feasible to replace these with electric rail mounted gantry cranes due to the need to maintain flexibility at the locations those crane operate. RMG cranes run on rails, which are in a fixed position within the terminal. The acreage that an RMG covers is dedicated to the RMG and not easily converted to alternate methods of container storage, such as storage on chassis. RTG cranes are more versatile since they can gantry from one stacking row to another and can move aside to free up acreage for alternate methods of container storage solutions market conditions fluctuate. In addition, the infrastructure for RTGs is much less expensive since RTGs do not require an external power source such as an electrical grid and rails for RMGs.

At the on-dock railyard at Pier 300, the tracks are in a fixed position, making it feasible to run rails parallel to the tracks for the electric RMGs. By contrast, on the container yard, the configuration is not fixed, making RMGs impractical. For this reason, the operational flexibility of being able to switch operations between wheeled chassis and RTGs throughout the container yard was part of the original design criteria for the terminal.

In addition, EMS has been replacing their existing equipment with cleaner running equipment to comply with state requirements. EMS already has replaced 125 yard tractors at Pier 300 in order to comply with CARB rules. EMS plans to replace 16 top-handlers/side-handlers and 70 additional tractors in the next two years, pursuant to CARB regulations and the proposed mitigation measure identified in the Draft EIS/EIR.

The same time-related disadvantages outlined in the discussion of zero emission trucks in Response to Comment USEPA-17 apply to electrical yard tractors. The runtime of 8 hours does not permit the use of one tractor for two connecting shifts. The 4 to 5 hour battery charge time would necessitate purchase of additional yard tractors to maintain the same cargo velocity or operation at a reduced velocity, which would result in a competitive disadvantage compared to other terminals that can stevedore vessels faster, maintain on-time trains schedules, and timely availability of local cargo.

Because all of the cargo equipment on the terminal, including yard tractors is undergoing replacement with cleaner equipment meeting state law requirements, all of the equipment has a remaining useful life. As a result, if zero emission equipment were to be required in the near-term, the cost to EMS would equal the entire cost of the equipment, not the differential cost between zero emission equipment and diesel equipment. Purchase of additional yard tractors to use while tractors are recharging would add even more cost.

Response to Comment SCAQMD-15

Although the Commenter may desire early implementation of Tier 4 standards for locomotives in the project area, the USEPA has jurisdiction on the implementation schedule. As a note, the Port does not have control over main line locomotives, which enter the South Coast Air Basin from all parts of the U.S. (although CARB has had some success in reducing locomotive emissions through their MOU with the rail lines). The railroads are a federal source and controlled by federal regulation under the purview of USEPA. The Ports, therefore, defer speeding up implementation of emission controls on main line locomotives to the

USEPA. In the meantime, the Port will continue to negotiate with Class 1 railroads to work toward reducing emissions from line-haul locomotives using on-dock rail yards. Based on this, the LAHD respectfully declining the recommendation to implement Tier 4 standards to line haul locomotives at the on-dock railyard.

Response to Comment SCAQMD-16

The Commenter suggests that emission factors for locomotives should be recalculated for future years, based on emission standards rather than USEPA projections. The LAHD used the locomotive emission factors developed by USEPA. These emission factors account for the penetration of various Tier technologies into the market over time. Since the emission standard tiers typically apply to newly manufactured or rebuilt engines, it will be some time before a given tier standard is incorporated into the fleet. The LAHD believes that the USEPA methodology for estimating future locomotive emission factors is appropriate and more conservative. These emission factors have been used in the LAHD's 2009 and 2010 Emission Inventories, and in the 2010 CAAP Update.

Response to Comment SCAQMD-17

The comment suggests that the unmitigated emission calculations for ocean going vessels during the construction period (2012-2014) be revised to reflect the higher allowed fuel sulfur content during this period. The LAHD has revised the cargo ship emission calculation to use a fuel sulfur content of 1.0 percent, but notes that when the study was initially conducted, the lower limits were anticipated to be in place by 2012. The revised construction emissions are presented in Chapter 3, Modifications to the Draft EIS/EIR, of this Final EIS/EIR. Construction emissions of sulfur dioxide (SO2) remain less than significant after changing the ship fuel sulfur content to 1.0 percent.

Response to Comment SCAQMD-18

Comment noted. The installation of AMP at Berths 302-305 is planned to occur as a separate but related project (see "Alternative Marine Power" in Table 4-1 in Chapter 4, Cumulative Analysis, of the Draft EIS/EIR), and is included in the cumulative impact discussions in Chapter 4. Because AMP will be installed at Berths 302-305 as a related project regardless if the proposed Project is approved or denied, AMP facilities at Berths 302-305 have "independent utility" compared to the proposed Project. Because of this, AMP at Berths 302-305 and its associated construction emissions are not included in the emission estimates in the Draft EIS/EIR.

Response to Comment SCAQMD-19

All recent LAHD and USACE CEQA/NEPA documents have assessed criteria pollutant impacts both regionally and locally. Regional impacts are assessed by comparing peak daily project emissions to emission thresholds set by the SCAQMD. Local impacts are assessed by performing air dispersion modeling of project emissions and comparing the predicted concentrations to the AAQS set by CARB and USEPA, and ambient concentration thresholds set by the SCAQMD. Because mortality and morbidity effects were considered by these agencies while establishing the standards and thresholds, mortality and morbidity are already implicitly accounted for in CEQA air quality impact analyses by virtue of comparing modeled concentrations against the standards and thresholds set by these regulatory agencies.

Recently, various citizens, environmental groups, and regulatory agencies (CARB and OEHHA, among others) have requested that a quantitative analysis of mortality be included in several recent LAHD CEQA documents. In response to their request, and without specific or formal guidance from OEHHA, quantitative mortality analyses were developed and included in the TraPac, China Shipping, and San Pedro Waterfront environmental documents. It should be noted that CARB's mortality methodology was

primarily developed for and applied to large populations (statewide and air basins) exposed to relatively high concentrations. Notwithstanding the three mortality evaluations conducted previously, going forward the LAHD does not believe that it is appropriate to apply these methods to project-level analyses with relatively small populations and concentrations significantly lower than those analyzed in the studies CARB used to develop its methodology.

For the APL CEQA document, CARB also requested that, for the first time, morbidity effects be quantified. Therefore, the LAHD developed a protocol to describe the approaches and techniques that will be used to develop quantitative mortality and morbidity impact analyses in future LAHD CEQA documents. The protocol provides general descriptions of the overall approach to addressing mortality and morbidity in LAHD CEQA documents, the threshold for quantifying mortality and morbidity impacts, the geographic scope of the analyses, and the references and equations used to calculate mortality and morbidity impacts. The protocol was submitted to CARB, SCAQMD and OEHHA for review and comment. Formal comments were not received from SCAQMD.

In general, the threshold was set to be equal to the SCAQMD PM2.5 daily concentration threshold for operational impacts, or 2.5 micrograms per cubic meter (μg/m3). This value is less than one-tenth (1/10) of the current daily national ambient air quality standard (NAAQS), 35 μg/m3, and is one-sixth (1/6) of the annual NAAQS, 15 μg/m3, and is approximately one-fifth (1/5) of the state annual ambient air quality standard, 12 μg/m3. Therefore, it is considered a reasonable threshold for defining the geographic extent mortality and morbidity calculations since this value is lower (more stringent) than any of the standards, and the methods for calculating mortality and morbidity are those previously reviewed by CARB and USEPA to set the $PM_{2.5}$ standards.

Response to Comment SCAQMD-20

The comment recommends clarifying the choice of in-stack NO_2/NOx ratios used in calculating ambient NO_2 concentration impacts from project sources. A review of the air dispersion modeling input files for all alternatives indicates that the in-stack NO_2/NOx ratio used for all combustion sources was 0.1. The selection of this value was based on the following:

- Ships transiting, maneuvering, and hoteling represent the largest NOx emission source category. Ship NOx emissions contribute 55 to 72 percent of the proposed project peak daily total facility NOx emissions in the unmitigated case (Section 3.2 of the Draft EIS/EIR, pages 3.2-94 to 3.2-96). The typical NO_2/NOx ratio for ships has been reported by USEPA to be 0.06.[22]
- Trucks represent the next largest source category of facility NOx emissions. Previous studies of heavy duty diesel truck emissions indicate that the NO_2/NOx ratio could be as low as 0.02, and average values would be less than 0.1.[23,24] While several studies suggest that installation of control devices may increase this ratio, the magnitude of this increase varies widely, with

[22] U.S Environmental Protection Agency, 2000. *Analysis of Commercial Marine Vessels Emissions and Fuel Consumption Data,* EPA420-R-00-002 (February).

[23] Jimenez, J.L., G.J. McRae, D.D. Nelson, M.S. Zahniser, and C.E. Kolb, 2000. *Remote Sensing of NO and NO2 Emissions from Heavy-Duty Diesel Trucks Using Tunable Diode Lasers*, Environmental Science and Technology, Vol. 34, No. 12, pp. 2380-2387.

[24] Yao, X., N.T. Lau, C.K. Chan, and M. Fang, 2005. *The Use of Tunnel Concentration Profile Data to Determine the Ratio of NO2/NOx Directly Emitted From Vehicles,* Atmospheric Chemistry and Physics Discussions, Vol. 5, pp. 12723-12740

heavy-duty diesel motor vehicle engine NO_2/NOx ratios ranging from 0.05 to ~0.50[25,26] Shortly after the publication of the Draft EIS/EIR, a study was released which examined emissions, including the NO_2/NOx ratio, from container trucks leaving the Port of Los Angeles.[27] This study indicated that trucks built before 2008 had NO_2/NOx ratios around 0.1. The newer model year trucks (those built between 2008 and 2010) had ratios around 0.2 when measured in 2009; but after these trucks aged a year, the ratios had dropped to less than 0.15 when measured again in 2010.

- The Localized Significance Threshold (LST) Methodology developed by SCAQMD to analyze NO_2 concentrations near construction sites indicates that near-field (within 20 meters of the site) NO_2/NOx ratios are roughly 0.05.[28] This was assumed to be representative of all offroad equipment, including construction and cargo handling equipment.

Taken together, this information led modelers to select an NO_2/NOx ratio of 0.1 and apply this value as the default ratio for all combustion sources. The dispersion analysis included in the Draft EIS/EIR provides reasonable impact estimates of all Project-related air pollutants, including NO_2.

Response to Comment SCAQMD-21

The comment recommends the PM2.5 annual ambient air quality standard be used to determine significance under CEQA rather than the PM2.5 Significant Impact Level (SIL) developed by USEPA. The significance of PM2.5 concentration impacts under CEQA were determined solely by comparison to the SCAQMD significance threshold for 24-hour average PM2.5 concentrations. This approach follows the methodology used in a number of recent LAHD EIS/EIRs, as well as in SCAQMD-produced CEQA EIRs and MNDs.

The use of the USEPA-developed SIL was only applied to determine significance under NEPA. The project area is designated non-attainment for the PM2.5 national ambient air quality standards (NAAQS), and the measured background annual PM2.5 concentration was approximately equal to the annual PM2.5 NAAQS (Section 3.2 of the Draft EIS/EIR, Table 3.2-2, page 3.2-10). Therefore, a Project-specific, appropriate threshold was selected to use which, if exceeded, could contribute to an exceedance of the standard.

Response to Comment SCAQMD-22

The LAHD appreciates the SCAQMD providing a status of the demonstration projects for zero emission container hauling technologies, including the fixed guideway systems included in the July 2010 Keston report on Zero Emission Container Movement Systems. As discussed in the Response to Comments SCAQMD-8, above, and Response to Comment USEPA-17, in considering implementation of zero emission container transport options, the LAHD is utilizing a Port-wide approach that considers not only whether a given technology is expected to prove suitable for container hauling, but also includes the ability of the technologies to be commercially produced, the ability of fleet businesses to finance higher cost

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25 Hesterberg, T.W., .C.A. Lapin, and W.B. Bunn, 2008. *A Comparison of Emissions from Vehicles Fueled with Diesel or Compressed Natural Gas*, Environmental Science and Technology, Vol. 42, No. 17, pp. 6437-6445.

26 Shorter, J.H., S. Herndon, M.S. Zahniser, D.D. Nelson, J. Wormhoudt, K.L. Demerjian and C.E. Kolb, 2005. *Real-Time Measurements of Nitrogen Oxide Emissions from In-Use New York City Transit Buses Using a Chase Vehicle*, Environmental Science and Technology, Vol. 39, No. 20, pp. 7991-8000.

27 Bishop, G.A., B.G. Schuchmann, and D.H. Stedman, 2012. *Emission Changes Resulting from the San Pedro Bay, California Ports Truck Retirement Program,* Environmental Science and Technology, Vol. 46, pp. 551-558.

28 South Coast Air Quality Management District, 2008. *Final Localized Significance Threshold Methodology* (July).

vehicles and fleet turnover phasing, available incentive options, and whether or not such requirements can result in competitive disadvantages between terminals or ports.

Appendix A of the comment letter concludes that zero emission technologies for trucks and rail will be available between 2016 and 2020. This conclusion is based primarily on documents that assess the current commercial availability and technology readiness levels of zero emission technologies. The studies stated that the technologies may be feasible in the future, however noted that no technologies are currently available. The prediction of when any of the technologies may be available is speculative and the timelines outlined in Appendix B of the comment letter represent a best-case scenario and accelerated time frame. Without further in-use and large scale testing, a determination of when a technology will be viable cannot be made with a high level of confidence.

There are many factors that enter into a program to transition to zero emission container hauling (using either truck or rail), and the majority of these factors are not in a state of readiness for commercial implementation. The availability of financing and the ability of partners to finance new technologies once they are technologically feasible is of critical importance. Because of this, the LAHD does not agree that there is yet substantial evidence to conclude that zero emission technologies can be deployed within the time frames provided. The LAHD also believes that it is not appropriate to immediately require the APL Terminal (or any other container terminal in either Port) to comply with presumed zero emission technologies without the benefit of an overall Port-wide approach to zero emissions technologies.

In addition, as noted in the Response to Comment USEPA-17, requiring zero emission drayage trucks (assuming they are determined to be technically and commercially feasible) in the absence of a Port-wide program would create a competitive disadvantage for APL, which would render it economically infeasible. However, the LAHD has made policy statements to send clear messages to various market participants that zero-emission technologies are indeed needed via the CAAP and the TAP, and continues to reiterate and support that message. Specifically, the Port's recently adopted 2012 – 2017 Strategic Plan includes an initiative to increase the number of zero emission trucks in the Port drayage fleet or increase the number of zero emission trucks serving existing or future near-dock rail yards. An action plan to address this initiative will be completed by 2014.

Department of Toxic Substances Control

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Edmund G. Brown Jr.
Governor

January 17, 2012

Ms. Jan Green Rebstock
City of Los Angeles, Los Angeles Harbor Department
425 S. Palos Verdes Street
San Pedro, California 90731

NOTICE OF AVAILABILITY OF A DRAFT IMPACT STATEMENT/ENVIRONMENTAL IMPACT REPORT FOR THE BERTHS 302 TO 306 AMERICAN PRESIDENT LINES CONTAINER TERMINAL PROJECT, (SCH #2009071031), LOS ANGELES COUNTY

Dear Ms. Rebstock:

The Department of Toxic Substances Control (DTSC) has received your submitted Draft Environmental Statement/ Environmental Impact Report (EIS/EIR) for the above-mentioned project. The following project description is stated in your document: "The proposed Project consists of expansion and redevelopment of the existing American President Lines (APL). The proposed project encompasses approximately 347 acres and includes improvements to the existing 291-acre APL Terminal and an expanded area of 56 acres. The proposed Project would be constructed in two phases. The proposed Project is located at Pier 300 on Terminal Island, within the Port of Los Angeles Community Plan area within the City of Los Angeles which is adjacent to the communities of San Pedro and Wilmington. The APL Terminal site encompasses the majority of Pier 300 within Los Angeles Harbor Department (LAHD) property, and is generally bounded by Terminal Way to the north, Pier 300 Shallow Water Habitat and Sea Plane Lagoon to the east, Earle Street to the west, and the Pier 300 Channel to the south. The proposed Project area is largely surrounded by industrial activities associated with the Port Complex as well as harbor water".

Based on the review of the submitted document DTSC has the following comments:

1) The EIS/EIR should evaluate whether conditions within the Project area may pose a threat to human health or the environment. Following are the databases of some of the regulatory agencies: **DTSC-1**

    - National Priorities List (NPL): A list maintained by the United States Environmental Protection Agency (U.S.EPA).

- Envirostor (formerly CalSites): A Database primarily used by the California Department of Toxic Substances Control, accessible through DTSC's website (see below).
- Resource Conservation and Recovery Information System (RCRIS): A database of RCRA facilities that is maintained by U.S. EPA.
- Comprehensive Environmental Response Compensation and Liability Information System (CERCLIS): A database of CERCLA sites that is maintained by U.S.EPA.
- Solid Waste Information System (SWIS): A database provided by the California Integrated Waste Management Board which consists of both open as well as closed and inactive solid waste disposal facilities and transfer stations.
- GeoTracker: A List that is maintained by Regional Water Quality Control Boards.
- Local Counties and Cities maintain lists for hazardous substances cleanup sites and leaking underground storage tanks.
- The United States Army Corps of Engineers, 911 Wilshire Boulevard, Los Angeles, California, 90017, (213) 452-3908, maintains a list of Formerly Used Defense Sites (FUDS).

DTSC-1 Cont.

2) The EIS/EIR should identify the mechanism to initiate any required investigation and/or remediation for any site within the proposed Project area that may be contaminated, and the government agency to provide appropriate regulatory oversight. If necessary, DTSC would require an oversight agreement in order to review such documents.

DTSC-2

3) Any environmental investigations, sampling and/or remediation for a site should be conducted under a Workplan approved and overseen by a regulatory agency that has jurisdiction to oversee hazardous substance cleanup. The findings of any investigations, including any Phase I or II Environmental Site Assessment Investigations should be summarized in the document. All sampling results in which hazardous substances were found above regulatory standards should be clearly summarized in a table. All closure, certification or remediation approval reports by regulatory agencies should be included in the EIS/EIR.

DTSC-3

4) If buildings, other structures, asphalt or concrete-paved surface areas are being planned to be demolished, an investigation should also be conducted for the presence of other hazardous chemicals, mercury, and asbestos containing materials (ACMs). If other hazardous chemicals, lead-based paints (LPB) or products, mercury or ACMs are identified, proper precautions should be taken during demolition activities. Additionally, the contaminants should be remediated in compliance with California environmental regulations and policies. **DTSC-4**

5) Future project construction may require soil excavation or filling in certain areas. Sampling may be required. If soil is contaminated, it must be properly disposed and not simply placed in another location onsite. Land Disposal Restrictions (LDRs) may be applicable to such soils. Also, if the project proposes to import soil to backfill the areas excavated, sampling should be conducted to ensure that the imported soil is free of contamination. **DTSC-5**

6) Human health and the environment of sensitive receptors should be protected during any construction or demolition activities. If necessary, a health risk assessment overseen and approved by the appropriate government agency should be conducted by a qualified health risk assessor to determine if there are, have been, or will be, any releases of hazardous materials that may pose a risk to human health or the environment. **DTSC-6**

7) If the site was used for agricultural, livestock or related activities, onsite soils and groundwater might contain pesticides, agricultural chemical, organic waste or other related residue. Proper investigation, and remedial actions, if necessary, should be conducted under the oversight of and approved by a government agency at the site prior to construction of the project. **DTSC-7**

8) If it is determined that hazardous wastes are, or will be, generated by the proposed operations, the wastes must be managed in accordance with the California Hazardous Waste Control Law (California Health and Safety Code, Division 20, Chapter 6.5) and the Hazardous Waste Control Regulations (California Code of Regulations, Title 22, Division 4.5). If it is determined that hazardous wastes will be generated, the facility should also obtain a United States Environmental Protection Agency Identification Number by contacting (800) 618-6942. Certain hazardous waste treatment processes or hazardous materials, handling, storage or uses may require authorization from the local Certified Unified Program Agency (CUPA). Information about the requirement for authorization can be obtained by contacting your local CUPA. **DTSC-8**

9) DTSC can provide cleanup oversight through an Environmental Oversight Agreement (EOA) for government agencies that are not responsible parties, or a Voluntary Cleanup Agreement (VCA) for private parties. For additional information on the EOA or VCA, please see **DTSC-9**

www.dtsc.ca.gov/SiteCleanup/Brownfields, or contact Ms. Maryam Tasnif-Abbasi, DTSC's Voluntary Cleanup Coordinator, at (714) 484-5489.

10) Also, in future CEQA document, please provide your e-mail address, so DTSC can send you the comments both electronically and by mail. **DTSC-10**

If you have any questions regarding this letter, please contact Rafiq Ahmed, Project Manager, at rahmed@dtsc.ca.gov, or by phone at (714) 484-5491.

Sincerely,

Greg Holmes
Unit Chief
Brownfields and Environmental Restoration Program

cc: Governor's Office of Planning and Research
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CEQA # 3448

California Department of Toxic Substances Control (DTSC)

Response to Comment DTSC-1

Thank you for your review and comment on the Draft EIS/EIR. Section 3.7.2, Groundwater and Soils, and Section 3.8.2, Hazards and Hazardous Materials, of the Draft EIS/EIR provides details on the historic uses of the Project site, as well as a summary of known and potential contamination due to those prior uses. The Commenter listed several databases that could provide information for the EIS/EIR to evaluate whether conditions within the Project area may pose a threat to human health and the environment. Appendix I of the Draft EIS/EIR includes the results of the database search conducted by Environmental Data Resources Inc. (EDR) for the Project site and vicinity. The EDR searched approximately 22 standard and 50 additional environmental records associated with federal, state and local databases, including the National Priority List (NPL), Comprehensive Environmental Response Compensation and Liability Information System (CERCLIS), two Resource Conservation and Recovery Act (RCRA) databases, and the Cortese list (the DTSC complied list pursuant to Government Code Section 65962.5). The Solid Waste Information System (SWIS) database was consulted in the preparation of the solid waste analysis of Section 3.11, Public Services and Utilities, of the Draft EIS/EIR. In addition, as the Commenter suggested, we have reviewed the Envirostor, GeoTracker, and Formerly Used Defense Sites (FUDS) databases, and no new or additional information was found related to the Project site or vicinity.

The Commenter does not give any indication as to what these additional databases might provide different or beyond the information from the approximately 72 reviewed as part of the EDR. As described in Section 3.7.4.3 of the Draft EIS/EIR, during proposed Project construction, if potentially hazardous materials are found, any remediation would be performed in accordance with applicable federal, state and local laws, regulations, andrules. Furthermore, the following lease measures (in Section 3.7 of the Draft EIS/EIR), LM GW-1 and LM GW-2, would further reduce potential impacts:

> **LM GW-1: Site Remediation Lease Requirement.** Unless otherwise authorized by the lead regulatory agency for any given site, the Tenant (i.e., APL) shall address all contaminated soils within proposed Project boundaries discovered during demolition and grading activities. Contamination existing at the time of discovery shall be the responsibility of the past and/or current property owner. Contamination as a result of the construction process shall be the responsibility of the Tenant and/or Tenant contractors. Remediation shall occur in compliance with local, state, and federal regulations, as described in Section 3.7.3 and Section 3.8.3, and as directed by the lead regulatory agency for the site (such as the Los Angeles RWQCB or DTSC).
>
> Soil removal shall be completed such that remaining contamination levels are below risk-based health screening levels for industrial sites established by OEHHA and/or applicable action levels (e.g., Environmental Screening Levels, Preliminary Remediation Goals) established by the lead regulatory agency with jurisdiction over the site. Soil contamination waivers may be acceptable as a result of encapsulation (i.e., paving) and/or risk-based soil assessments for industrial sites, but are subject to the review of the lead regulatory agency and LAHD. Excavated contaminated soil shall be properly disposed of off-site unless use of such material on-site is beneficial to construction and approved by the agency overseeing environmental concerns. All imported soil to be used as backfill in excavated areas shall be sampled to ensure that it is suitable for use as backfill at an industrial site.

LM GW-2: Contamination Contingency Plan Lease Requirement. The following contingency plan shall be implemented to address contamination discovered during demolition, grading, and construction.

a) All trench excavation and filling operations shall be observed for the presence of free petroleum products, chemicals, or contaminated soil. Soil suspected of contamination shall be segregated from other soil. In the event soil suspected of contamination is encountered during construction, the contractor shall notify the LAHD's environmental representative. The LAHD shall confirm the presence of the suspect material and direct the contractor to remove, stockpile or contain, and characterize the suspect material. Continued work at a contaminated site shall require the approval of the LAHD Project Engineer.

b) Excavation of VOC-impacted soil may require obtaining and complying with a South Coast Air Quality Management District Rule 1166 permit.

c) The remedial option(s) selected shall be dependent upon a suite of criteria (including but not limited to types of chemical constituents, concentration of the chemicals, health and safety issues, time constraints, cost, etc.) and shall be determined on a site-specific basis. Both off-site and on-site remedial options may be evaluated.

d) The extent of removal actions shall be determined on a site-specific basis. At a minimum, the impacted area(s) within the boundaries of the construction area shall be remediated to the satisfaction of the LAHD and the lead regulatory agency for the site. The LAHD Project Manager overseeing removal actions shall inform the contractor when the removal action is complete.

e) Copies of hazardous waste manifests or other documents indicating the amount, nature, and disposition of such materials shall be submitted to the LAHD Project Manager within 60 days of project completion.

f) In the event that contaminated soil is encountered, all on-site personnel handling or working in the vicinity of the contaminated material must be trained in accordance with USEPA and Occupational Safety and Health and Administration (OSHA) regulations for hazardous waste operations or demonstrate they have completed the appropriate training. Training must provide protective measures and practices to reduce or eliminate hazardous materials/waste hazards at the work place.

g) When impacted soil must be excavated, air monitoring will be conducted as appropriate for related emissions adjacent to the excavation.

h) All excavations shall be backfilled with structurally suitable fill material that is free from contamination.

Response to Comment DTSC-2

Sections 3.7 and 3.8 of the Draft EIS/EIR identify the applicable soil and groundwater contamination and hazardous materials regulations associated with the proposed Project. In addition, Section 3.7 of the Draft EIS/EIR includes two lease measures that will be required in the lease to address the mechanisms to initiate remediation and oversight if contamination is present (refer to Response to Comment DTSC-1 above for detailed description of the lease measures). As described in Section 3.7.4.3 of the Draft EIS/EIR, during proposed Project construction, if potentially hazardous materials are found, any remediation would be performed in accordance with applicable federal, state and local laws, regulations, and rules.

In addition, lease measure LM GW-1 specifically requires the handling, treatment, and disposal of contaminated material in accordance with oversight agency requirements, including but not limited to the Regional Water Quality Control Board, Department of Toxic Substances Control, and the Office of Environmental Health Hazard Assessment.

Response to Comment DTSC-3

Section 3.7.2.3 of the Draft EIS/EIR summarizes the existing soil and groundwater investigations associated with the Project site and vicinity. In addition, should contamination be discovered during construction, remediation would be performed in accordance with applicable federal, state and local laws, regulations, and rules. In addition, lease measure LM GW-2 would reduce potential impacts (refer to Response to Comments DTSC-1 above for detailed description of the lease measure). It should be noted that an approved workplan, if applicable, is inherent in the remediation requirements contained in the regulations and LM GW-2.

Response to Comment DTSC-4

The proposed Project includes demolition and relocation of the Roadabilty Facility, as well as the expansion of the existing Power Shop Building. Due to the age of the buildings (both buildings were built in 1995), it is not anticipated that asbestos containing material or lead-based paint were used in their construction. During proposed Project construction, if potentially hazardous materials are found, any remediation would be performed in accordance with applicable federal, state and local laws, regulations, and rules. In addition, lease measure, LM GW-1: Site Remediation Lease Requirement, would further reduce potential impacts (refer to Response to Comment DTSC-1 above for detailed description of the lease measure).

Response to Comment DTSC-5

As detailed in Section 3.7.4.3 of the Draft EIS/EIR, although significant impacts related to the potential for exposure to underlying contaminants would not occur, lease measures LM GW-1 and LM GW-2 would further reduce potential impacts (refer to Response to Comments DTSC-1 above for detailed description of the lease measures).

Response to Comment DTSC-6

As detailed in Section 3.2 of the Draft EIS/EIR, a human health risk assessment (HRA) was prepared by a qualified health risk assessor to address the potential impacts of the proposed Project on sensitive receptors. Please refer to Section 3.2.4.1.3 for the HRA methodology, Section 3.2.4.3, Impact AQ-7 for the detailed HRA analysis (including Figures 3.2-4 through 3.2-11 for residential and occupational cancer risks under CEQA and NEPA baselines for the unmitigated and mitigated Project), and Appendix H3 of the Draft EIS/EIR. In addition, lease measure LM GW-2: Contamination Contingency Plan Lease Requirement (detailed in Section 3.7.4.3 of the Draft EIS/EIR and provided in Response to Comment DTSC-1 above) includes provisions ("f" and "g") that in the event contaminated soil is encountered, all on-site personnel handling or working in the vicinity of the contaminated material must be trained in accordance with USEPA and OSHA regulations for hazardous waste operations or demonstrate they have completed the appropriate training. Training must provide protective measures and practices to reduce or eliminate hazardous materials/waste hazards at the work place. When impacted soil must be excavated, air monitoring will be conducted as appropriate for related emissions adjacent to the excavation. Comment noted.

Response to Comment DTSC-7

The historical uses of the Project site are included in Section 3.7.2 of the Draft EIS/EIR and do not include agricultural, livestock or related activities or uses.

Response to Comment DTSC-8

As detailed in Section 3.8.1.1 of the Draft EIS/EIR (and specifically in Table 3.8-2), the proposed Project site includes several facilities that contain small amounts of hazardous material and/or hazardous wastes. Section 3.8.1.6 of the Draft EIS/EIR describes in detail the regulations applicable to the proposed Project or alternatives are designed to regulate hazardous materials and hazardous wastes. These regulations also are designed to limit the risk of upset during the use, transport, handling, storage, and disposal of hazardous materials. Regulations described in the Draft EIS/EIR include California Hazardous Waste Control Law (California Health and Safety Code, Division 20, Chapter 6.5), the Hazardous Waste Control Regulations (California Code of Regulations, Title 22, Division 4.5), as well as the requirements associated with the local Certified Unified Program Agency (CUPA).

Response to Comment DTSC-9

Thank you for your comment and information regarding clean-up oversight by DTSC.

Response to Comment DTSC-10

Thank you for your comment. E-mail addresses for submittal of comments on the Draft EIS/EIR to the USACE and LAHD were provided in the public notice enclosed with the CD of the document you received, the Reader's Guide (which was provided on the CD), as well as listed on both the USACE and LAHD websites for the Draft EIS/EIR. Also note that the contact persons and postal mailing addresses for USACE and LAHD are included at the end of Chapter 1 of the Draft EIS/EIR.

DEPARTMENT OF TRANSPORTATION
DISTRICT 7, OFFICE OF REGIONAL PLANNING
IGR/CEQA BRANCH
100 MAIN STREET, MS # 16
LOS ANGELES, CA 90012-3606
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Flex your power!
Be energy efficient!

February 15, 2012

Ms. Jan Green-Rebstock
Port of Los Angeles
425 South Palos Verdes Street
San Pedro, CA 90733

Re: Berths 302-306 American President Lines (APL) Container Terminal Project
SCH# 2009071031; IGR#111230/CS
Vic: LA-710/47/103/91/110/405/1-VAR

Dear Ms. Green-Rebstock:

Thank you for including the California Department of Transportation (Caltrans) in the environmental review process for the construction and operation of the Berths 302-306 American President Lines (APL) Container Terminal Project. The proposed project involves expansion and redevelopment of the existing 291-acre APL Terminal to approximately 347 acres to support future cargo throughput demand at the APL Terminal. Based on the information received we have the following comments:

Caltrans does not concur with the traffic report and analysis for the Port of Los Angeles Berths 302-306 Projects. Without major highway and rail improvements, we anticipate that significant project related traffic impacts will occur due to the additional truck trips generated by the APL Berths 302-306 Project, along with the cumulative impacts from all related port projects in the area. The report did not fully analyze the cumulative impacts of all port related projects in the area. When project trips contributes to saturated conditions on a highway, mitigation measures including capacity enhancement and fair-share funding contributions are warranted. Caltrans is available to discuss any mitigation measures and alternatives for necessary improvements to impacted State Highways. **DOT-1**

Goods movement related highway studies in the area include the I-710 Corridor Study, the East-West Freight Corridor Study and the SR-91/I-605 Corridor Study. Two major bridge replacement projects in the area include the Gerald Desmond Bridge and the Commodore Schuyler Heim Bridge replacement projects. Freeway ramp projects are also scheduled in the vicinity of the I-110/SR-47 freeway interchange. Fair-share funding contribution may be considered towards these studies and other freight movement related highway projects. **DOT-2**

To mitigate the impact of port related truck trips on the State Highway System, Caltrans strongly encourages the development and coordination of the Southern California International Gateway Project (SCIG), a near dock truck/rail intermodal container transfer facility. To minimize the impact of future truck container trips from the ports, projects within the Port of Los Angeles complex will need to contribute funding towards the development and operation of the SCIG Project in order to divert future containers from trucks to rail operations. Development of the SCIG project could **DOT-3**

eliminate substantial existing and future truck trips between the ports and BNSF's Hobart Yard. Where feasible, on-dock rail facilities should be constructed to minimize port related truck operations. Diverting container cargo to rail operations could eliminate substantial truck trips throughout the region. DOT-3 Cont.

Caltrans requests that all traffic analyses for the project be consistent with the Highway Capacity Manual (HCM) methodology And ITE trip generation rates and trip distribution used for the traffic analysis. Caltrans should be consulted in respect to calibration of micro simulation models, queue length analysis of freeway ramps, turn movement storage, geometrics and radii, level-of-service (LOS) calculations using adjusted PCE values, etc. All truck haul routes should be clearly defined in order to determine impacts to State Highway operations. DOT-4

It is recommended that construction related truck trips on State Highways be limited to off-peak commute periods. The contractor should avoid bunching of truck trips on mainline freeways, on freeway ramps and at freeway ramp intersections. Transport of over-size or over-weight vehicles on State highways will need a Caltrans Transportation Permit. DOT-5

If you have any questions regarding these comments, you may contact Carl Shiigi, Project Coordinator at (213) 897-1726. Please refer to record number 111230/CS.

Sincerely,

DIANNA WATSON
IGR/CEQA Program Manager
Caltrans, District 7

California Department of Transportation, Caltrans District 7 (DOT)

Response to Comment DOT-1

Comment noted. The APL Draft EIS/EIR addresses potential traffic impacts on the State Highway system (refer to Section 3.6 and Appendix H of the Draft EIS/EIR). The planning level demand-capacity methodology for the mainline freeway system is more appropriate (than the HCM analysis) for analyzing potential project-specific impacts of a development project, and as such is the prescribed methodology contained in METRO's Congestion Management Program Traffic Impact Analysis Guidelines for development project EIRs, and the planning level demand analysis is consistent with other LAHD CEQA and NEPA documents. Caltrans HCM analysis of the operational conditions of highway facilities for transportation projects in the Port area where forecasted growth at Pier 300 is included as cumulative growth are listed below. The Draft EIS/EIR evaluates the traffic impacts of the Project in the context of existing and anticipated future non-Project traffic (including anticipated future non-Project traffic related to the Port), and concludes that there would be no significant project-specific impacts or cumulatively considerable Project contributions to cumulatively significant impacts on adjacent state highways using NEPA methodology (floating baseline), CEQA methodology without cumulative projects and CEQA methodology with cumulative projects. Therefore, capacity enhancement and fair-share funding contributions are not warranted.

The LAHD has conducted numerous operational studies (using the HCM) for the State Highway system in the vicinity of the Port via other environmental impact reports consistent with the Draft EIS/EIR for the proposed Project. Each of these studies account for cumulative estimated future traffic (autos and trucks) growth of the Ports of Los Angeles/Long Beach facilities and other regional growth to the year 2035. The APL Draft EIS/EIR also includes cumulative improvements to the State Highway system that are fully funded in its analysis. The analysis of the impact of Port-related traffic on State Highway facilities has been addressed in several specific studies of the Port area transportation infrastructure, including the I-710 Corridor Project, the Southern California Association of Governments (SCAG) Comprehensive Regional Goods Movement Plan and Implementation Strategy, the Schuler Heim Bridge Replacement and SR 47 Expressway Project, the Gerald Desmond Bridge Replacement, and the I-110 Connectors: I-110 Freeway Ramp & SR 47/I-110 NB Connector Widening. In each case, forecasted growth at Pier 300 (the APL Terminal) was included as cumulative Port-related growth. These studies have identified projects to address cumulative traffic growth from all sources, and to improve traffic operating conditions on the State Highway System.

The LAHD is voluntarily constructing and/or contributing funding for several significant transportation improvement projects on the State Highway System which account for the proposed Project under study in the APL Draft EIS/EIR. These studies and improvements include:

1. **I-710 Corridor Project**: Although the APL project would not have significant project-specific or cumulative impacts on adjacent freeways nor result in a significant, LAHD is voluntarily collaborating with the State in addressing future traffic conditions on I-710 via volumes via the I-710 Corridor Project EIR/EIS. The LAHD is a funding and technical partner to Caltrans and METRO for the Project Approval/Environmental Documentation (PA/ED) phase. The soon to be released Draft EIS/EIR identifies improvements to the entire 20-mile corridor to accommodate all Year 2035 POLA/POLB and regional traffic. The corridor area includes the mainline freeway and adjacent arterial street system. The I-710 EIS/EIR utilizes HCM methodologies (weaving, mainline, ramp diverge/merge), which is appropriate for a transportation facility environmental document and preliminary engineering. The LAHD

contributed $5 million towards the PA/ED phase and participates directly and extensively by providing technical guidance/input for the: preliminary engineering; Administrative, Draft, and Final EIS/EIRs; and Caltrans Project Report. This input is provided on all technical studies as well, that includes (but is not limited to): air quality, transportation, goods movement, rail/intermodal, and alternative technology. For these studies, the LAHD provided all POLA/POLB traffic volumes for direct incorporation into the I-710 EIS/EIR model (which is a focus model of the SCAG RTP model). These projections are consistent with the Draft EIS/EIR for the proposed Project. The LAHD also worked directly with the consultants and METRO in the development of the port area transportation model, ensuring consistency with the LAHD's transportation model used for transportation analysis in POLA and POLB environmental documents. Additionally, the POLA/POLB jointly conducted several alternative technology (zero emission container movement systems - ZECMS) studies which guided the I-710 EIS/EIR studies, and ultimately led to the recommendation of a separate truckway with zero emission technology.

If the entire I-710 Corridor project, or components thereof, is ultimately approved for construction, the LAHD may voluntarily contribute funding in the future. This funding would of course be in addition to revenue from tolls on the truck facility and funds from other public sources such as METRO (e.g., Measure R, CMAQ, RTSP, etc.), the State, and/or the federal government. The LAHD is also providing input to METRO's private-public partnership study, which includes tolls as a fund source.

2. **Southern California Association of Governments (SCAG) Comprehensive Regional Goods Movement Plan and Implementation Strategy**: Similar to the I-710 EIS/EIR, the LAHD participated directly and extensively in the technical analyses and also was a member of the steering committee which concurred with the East-West Corridor recommendations for incorporation into the 2012 RTP. This proposed new corridor improvement program is still in conceptual phase, in which extensive analysis and preliminary engineering is required even before the environmental document phase can begin.

3. **Schuler Heim Bridge Replacement and SR 47 Expressway Project:** The traffic studies prepared in 2007 for the EIS/EIR for this project were managed by the Alameda Corridor Transportation Authority (ACTA), in conjunction with Caltrans, which was lead agency under CEQA. The ACTA is a Joint Powers Authority of the Cities/Ports of Los Angeles/Long Beach. The LAHD participated directly and extensively in the technical analyses for this EIS/EIR, including providing its transportation model. Traffic micro-simulation modeling and Highway Capacity Manual Operational analyses were done for the EIR/EIS, and approved by Caltrans. These analyses indicated that the planned replacement Heim Bridge and SR 47 Expressway Project can adequately accommodate year 2030 POLA/POLB and non-port (cumulative) traffic volumes, with level of service (LOS) D or better. An analysis was done to isolate the potential contribution of the proposed Project to projected cumulative traffic conditions. Given the projected cumulative LOS D or better as contained in the Heim Bridge EIS/EIR, the proposed Project (APL expansion) would not have an impact. Additionally, a demand-capacity analysis using the APL Draft EIS/EIR for the proposed Project Year 2027 traffic projections, which are in fact now projected to be lower than those contained in the Heim Bridge EIS/EIR, also indicates there would be no impacts (see attached table). Finally, it should be noted that ACTA/POLA/POLB are the funding agencies for the SR 47 Expressway project. The SR 47 Expressway project was previously contained in the POLA/POLB Infrastructure Cargo Fee (ICF) program. However, it now has been reprioritized and deferred due to funding constraints and the deferral of the ICF, caused primarily by the recent decline in cargo volume. The decline in cargo volume and slow economic recovery also substantially defers the need for the

SR 47 Expressway project. This decision has been confirmed by recent detailed transportation studies.

4. **Gerald Desmond Bridge Replacement**: The Desmond Bridge Replacement has been designed, and will be, constructed to accommodate all Year 2035 POLA/POLB and regional traffic, including the proposed Project traffic. Moreover, the LAHD collaborated with the POLB and other southern California transportation agencies to obtain about $500 million in State funds as part of the State Proposition 1B Trade Corridors Improvement Fund (TCIF) program.

5. **I-110 Connectors: I-110 Freeway Ramp & SR 47/I-110 NB Connector Widening**: This is a LAHD TCIF project that is currently in the final design phase, and will commence construction in mid-2013. This project will eliminate an existing weaving condition of slow uphill moving trucks and fast downhill moving vehicles with the addition of a lane on the westbound to northbound S.R. 47/I-110 connector. This additional lane will continue through the I-110 Off-Ramp at John S. Gibson Boulevard. This project has been designed, and will be constructed to accommodate all Year 2035 POLA/POLB and regional traffic, including the proposed Project traffic.

Response to Comment DOT-2

Please refer to Response to Comment DOT-1, above. The Draft EIS/EIR analysis concludes that the proposed Project would have no significant Project-specific or cumulative considerable impacts on adjacent freeways.

Response to Comment DOT-3

The proposed Project would not make a cumulatively considerable contribution to a significant cumulative impact that could feasibly be mitigated by contributing funding for the SCIG project. The LAHD is the Lead Agency for proposed SCIG Facility EIR and the SCIG project is a separate project that is addressed under Chapter 4, Cumulative Analysis of the APL Draft EIS/EIR (project #17). The LAHD owns the land where the facility would be located. If the SCIG project is constructed, the BNSF railroad would pay for construction and operations/maintenance of the facility. The BNSF would lease land from the LAHD. To yield be conservative traffic results in the APL Draft EIR/EIS, the proposed SCIG project was included in the off-dock international intermodal allocation; and some of the APL terminal off-dock trips were assumed to go to/from the existing ICTF (which occurs today), the BNSF Railway Hobart yard located in the City of Vernon, and the and UP Railroad ELA intermodal yards, located on Washington Boulevard in the cities of Vernon and Commerce, respectively. However, if the SCIG facility were to be approved and constructed, it is anticipated that cargo from the APL facility could use the new near-dock rail facility. Please indicate your support for the SCIG Project by participating in the related environmental process for that project.

Response to Comment DOT-4

Regarding the HCM methodology and associated operational analyses see Response to Comment DOT-1. Also, appropriate PCE values were utilized in the APL Draft EIS/EIRS, along with trucks routes that were coded into the LAHD's transportation model, including all local truck prohibitions. Regarding the use of ITE Trip Generation Manual, the Port's trip generation methodology is considered by the Port's traffic analysts to be vastly more appropriate and valid, as the Port's methodology was developed specifically to address circumstances unique to the Port and the transportation infrastructure that serves the Port. The POLA/POLB terminals are unique trip generators which are not adequately described by ITE trip generation rates. The container terminal truck trip estimates and reductions have been quantified using the

POLA/POLB trip generation model, termed "QuickTrip". This model was developed in 1999 by the LAHD/POLB, and since then, has been used in all POLA/POLB EIRs and all SCAG RTP modeling (and subsequent corridor studies such as the I-710 Corridor and East-West Freight Corridor Study). The QuickTrip model is documented in detail in the Ports of Long Beach and Los Angeles Transportation Study (2001). This methodology allows for the variation of several critical independent operating parameters, such as rail mode split, hours of operation, and dual truck transactions. The QuickTrip model was also recognized by ITE, and received the ITE 2002 "Innovative Intermodal Solutions for Urban Transportation" award. The Port auto trips assumptions were also developed with specialized rates as documented in the Ports Transportation Study and the APL Draft EIS/EIR derived from extensive survey data at Port terminals. Hence, the use of the Port's methodology has been the accepted practice by the USACE, USEPA, Caltrans, CARB, SCAG, SCAQMD, the City of Los Angeles, and the City of Long Beach for many years. Moreover, the ITE Trip Generation Manual rate derivation yielded a poor statistical correlation (R2=0.58), and only based upon seven studies, none from the POLA or POLB, the largest port complex in the western hemisphere.

Response to Comment DOT-5

Thank you for your comment.

CITY OF LOS ANGELES
CALIFORNIA

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FAX: (323) 342-6210 OR 342-6211

March 14, 2012

File: SC.CE.

Christopher Cannon, Director
Environmental Management Division
LOS ANGELES HARBOR DEPARTMENT
425 South Palos Verdes Street
San Pedro, CA 90731

Theresa Stevens, Ph.D.
Regulatory Division
U.S. ARMY CORPS OF ENGINEERS, LOS ANGELES DISTRICT
2151 Alessandro Drive, Suite 110
Ventura, CA 93001

Dear Mr. Cannon and Mrs. Stevens:

Berths 302-306 [APL] Container Terminal Project – Draft EIR

This is in response to your December 16, 2011 letter received February 17, 2012 requesting a review of your proposed project to improve and expand the existing APL Terminal at the port of Los Angeles. The Bureau of Sanitation has conducted a preliminary evaluation of the potential impacts to the wastewater and stormwater systems for the proposed project.

WASTEWATER REQUIREMENT

The Bureau of Sanitation, Wastewater Engineering Services Division (WESD) is charged with the task of evaluating the local sewer conditions and to determine if available wastewater capacity exists for future developments. The evaluation will determine cumulative sewer impacts and guide the planning process for any future sewer improvements projects needed to provide future capacity as the City grows and develops.

BOS1-1

Projected Wastewater Discharges for the Proposed Project:

Type Description	Average Daily Flow per Type Description (GPD/UNIT)	Proposed No. of Units	Average Daily Flow (GPD)
Proposed			
Office	150 GPD/1000 SQ.FT	52,620 SQ.FT	7,893
Industrial Uses	80 GPD/1000 SQ.FT	86,661 SQ.FT	6,933
Employees	24 GPD/CAPITA	2,152 CAPITA	51,648
Total			**66,474**

SEWER AVAILABILITY

The sewer infrastructure in the vicinity of the proposed project includes an existing 15-inch line on Earle St. The sewage from the existing 15-inch line feeds into an 18-inch line on Earle St before discharging into the Terminal Way Pumping Plant. According to our existing pumping data, the Terminal Way Pumping Plant appears to have sufficient capacity to handle the proposed flow. Figure 1 shows the details of the sewer system within the vicinity of the project. The current flow level (d/D) in the 15-inch and 18-inch lines cannot be determined at this time without additional gauging.

The current approximate flow level (d/D) and the design capacities at d/D of 50% in the sewer system are as follows:

Pipe Diameter (in)	Pipe Location	Current Gauging d/D (%)	50% Design Capacity
15	Earle St	*	1.06 MGD
18	Earle St	*	1.41 MGD

* No gauging available

BOS1-1 Cont.

The estimated flow that would be generated from your proposed project exceeds 20,000 GPD and therefore may have a significant impact on the sewer system capacity. Thus, detailed gauging is necessary to determine whether the sewer system is capable of safely accommodating the total flow for your proposed project. We have initiated a work order to gauge the designated critical locations in the project area. This process usually takes approximately three (3) to four (4) weeks. A detailed evaluation and response will be provided to you within one (1) to two (2) weeks upon receipt of gauging data. If this schedule is not acceptable, please call us to discuss options.

If you have any questions, please call Kwasi Berko of my staff at (323) 342-1562.

Sincerely,

Ali Poosti, Acting Division Manager
Wastewater Engineering Services Division
Bureau of Sanitation

Attachments:
Figure 1 – Sewer Map

cc: Kosta Kaporis, BOS
Daniel Hackney, BOS
Rowena Lau, BOS

CITY OF LOS ANGELES
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DEPARTMENT OF
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March 29, 2012

Christopher Cannon, Director
Environmental Management Division
LOS ANGELES HARBOR DEPARTMENT
425 South Palos Verdes Street
San Pedro, CA 90731

File: SC.CE

Theresa Stevens, Ph.D.
Regulatory Division
U.S. ARMY CORPS OF ENGINEERS, LOS ANGELES DISTRICT
2151 Alessandro Drive, Suite 110
Ventura, CA 93001

Dear Mr. Cannon and Ms. Stevens:

FINAL RESPONSE: Berths 302-306 [APL] Container Terminal Project – Draft EIR

This is in response to your December 16, 2011 letter received February 17, 2012 requesting a review of your proposed project to improve and expand the existing APL Terminal at the port. The Bureau of Sanitation, Wastewater Engineering Services Division (WESD), has conducted a preliminary evaluation of the potential impacts to the wastewater system for the proposed project.

Projected Wastewater Discharges for the Proposed Project:

Type Description	Average Daily Flow per Type Description (GPD/UNIT)	Proposed No. of Units	Average Daily Flow (GPD)
Proposed			
Office	150 GPD/1000 SQ.FT	52,620 SQ.FT	7,893
Industrial Uses	80 GPD/1000 SQ.FT	86,661 SQ.FT	6,933
Employees	24 GPD/CAPITA	2,152 CAPITA	51,648
Total			**66,474**

BOS2-1

SEWER AVAILABILITY

The sewer infrastructure in the vicinity of the proposed project includes an existing 15-inch line on Earle St. The sewage from the existing 15-inch line feeds into an 18-inch line on Earle St before discharging into the Terminal Way Pumping Plant. According to our existing pumping data, the Terminal Way Pumping Plant appears to have sufficient capacity to handle the proposed flow. Figure 1 shows the details of the sewer system within the vicinity of the project.

Since our last response on March 14, 2012 detailed gauging data has been obtained. The current approximate flow level (d/D) and the design capacities at d/D of 50% in the sewer system are as follows:

Pipe Diameter (in)	Pipe Location	Current Gauging d/D (%)	50% Design Capacity
15	Earle St	*	1.06 MGD
18	Earle St	29	1.41 MGD

* No gauging available

BOS2-1 Cont.

Based on the estimated flows, it appears the sewer system might be able to accommodate the total flow for your proposed project. Further detailed gauging and evaluation may be needed as part of the permit process to identify a specific sewer connection point. If the public sewer has insufficient capacity then the developer will be required to build sewer lines to a point in the sewer system with sufficient capacity. A final approval for sewer capacity and connection permit will be made at that time. Ultimately, this sewage flow will be conveyed to the Terminal Island Water Reclamation Plant, which has sufficient capacity for the project.

If you have any questions, please call Kwasi Berko of my staff at (323) 342-1562.

Sincerely,

Ali Poosti, Acting Division Manager
Wastewater Engineering Services Division
Bureau of Sanitation

Attachments:
Figure 1 – Sewer Map

Wastewater Engineering Services Division
Bureau of Sanitation
City of Los Angeles

FIGURE 1
Berths 302-306 [APL] Container Terminal Project
Sewer Map

City of Los Angeles, Bureau of Sanitation, Watershed Engineering Services Division – Letter Dated 03/29/12 (BOS2)

Response to Comment BOS2-1

Comment noted. Thank you for providing detailed current flow gauging for the sewer infrastructure in the vicinity of the proposed Project. Based on the gauging, it appears that the sewer system might be able to accommodate the total flow from the Project. In the event that during the permit process flow gauging does indicate a d/D equal to or greater than 0.5, the LAHD will coordinate with the Bureau to discuss options (such as specific connection points) for ensuring adequate conveyance exists to serve the Project while maintaining adequate protection from overflows.

Feb. 15, 2012

To:
Los Angeles Harbor Dept
Christopher Cannon
Director, Environmental Management Division
425 South Palos Verdes St
San Pedro, CA 90731

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

Regarding: Comments on Draft EIES/EIR for the Berths 302-306 (APL) Container Terminal Project

From: Port of Los Angeles Community Advisory Committee's EIR Subcommittee

We thank the agencies for the opportunity to comment on this DEIS/DEIR.

Health Impacts: This Committee has repeatedly called for a Health Impact Assessment (HIA) for all Port related activities. The US E.P.A. and the Los Angeles County Department have also requested that the Port carry out an HIA. To date, POLA has been unable or unwilling to perform this HIA. Once again we call for POLA to perform a HIA, not merely a health risk assessment. We request a Health Impact Assessment for the APL EIR/EIS. PCAC-1

The Gateway Cities, which include Long Beach, Compton, Paramount, Lynwood , South Gate, Commerce, and multiple other cities along the I-710 Corridor, are at present finishing a Health Impact Assessment in conjunction with the Gateway Cities Air Quality Action Plan. This is being prepared in conjunction with I-710 Corridor Project EIR/EIS. The Gateway Cities AQAP HIA will be peer reviewed by the National Academy of Sciences as this will be a truly groundbreaking and unique study of the broad impacts of a transportation project which has become necessary as a result of growth at the twin Ports of Los Angeles and Long Beach. The HIA is scheduled for release early in the Spring of 2012, with the Peer Review to follow later in the year. A public input session will be conducted by NAS as part of the peer review process. PCAC-2

We request that the abovementioned HIA and its Peer Review be examined in the context of the APL EIR/EIS to determine if it documents further impacts, especially health impacts that are unrecognized and unmitigated in the EIR/EIS. Further we see it as possible that the HIA and Peer Review will include ideas for mitigation measures that we have not previously considered.

We request that these documents be made a part of the Public Record on the APL EIS/EIR.

These documents may reveal significant off-Port, off the Tidelands impacts of Port related activities. Identification of these impacts would help the Port in its efforts to provide off Port mitigation measures. PCAC-3

Mitigation Monitoring Reporting Program:

We recommend that the project not go forward until a working Mitigation Monitoring Reporting Program (MMRP) for all POLA projects is in place. The idea has been for decision makers and an apprehensive public to be able to followup on the status of mitigation measures promised in EIRs to determine if they are actually being carried out and what the real world results of these mitigation measures are. We see a functioning MMRP as a benefit both to the Port and to the community.

Many project EIRs have promised a MMRP but to date this has not been accomplished. It is this committee's understanding that Port staff are working on the software to have a working MMRP. We are asking the Port to get this done. After all , many projects promising mitigation monitoring in their EIRs have been done or are in progress. We see the MMRP as a key component of any and all expansion projects at the Port. We wonder why this system is not in place? It has been years since the public was promised the MMRP. We wonder what is causing the delay on this? PCAC-4
The project should not go forward until the Port demonstrates to the Public that it has a functioning MMRP *for the projects that are already underway or completed.* This should include a periodic easily publicly available report on the status of mitigation measures that have been promised for these projects. For years now we have been hearing that POLA staff is "working on it" and "working on the software" but this "the dog ate my software" sort of excuse is wearing thin.

Recognition:

We appreciate and recognize the Port for the following:

1) Requirements applicable to Construction in MM AQ-3 that On-Road truck idling will be restricted to five minutes and in MM AQ-4 that dredging equipment be electric.
2) Requirement applicable to Operations in MM AQ-15 that Yard Equipment shall meet an accelerated schedule for USEPA standards compliance and a designated schedule for installation of Verified Diesel Emission Controls. PCAC-5
3) Recognition in LM AQ-1 and LM AQ-2 of the significant reduction in impacts that can result from advancing technologies.
4) Inclusion of the chronic non-cancer hazard index and acute non-cancer hazard index in the Health Risk Assessment.

Recommendations

As the Proposed Project would increase criteria pollutants related to air quality and the resulting impacts are defined as significant and unavoidable in the area already considered a Federal non-attainment area for Air Quality, the following revisions are requested to reduce impacts as possible.

Requested Revisions:

Applicable to Construction

1) Revise in MM AQ-1, Harborcraft utilization of USEPA Tier 3 engines or cleaner, the exceptions #2 and #3 to clarify that such excepted equipment cannot be utilized until enhanced reduction controls (e.g., particulate trap, catalytic reduction device, etc.) are placed on the uncontrolled equipment. PCAC-6
2) Revise MM AQ-3 # 1 to require that trucks hauling any debris or fill material will be fully-covered while operating on and off Port property and # 3 b) and c) to require that Import Haulers and Earth Movers used in construction will be required to comply with EPA 2007 or better on-road emission standards for PM10 and NOx. PCAC-7
3) Require in MM AQ-4 that construction equipment incorporate latest emissions-saving technology without qualification for. "if feasible." or define feasibility exclusions and eliminate possibility for exceptions referenced on page 3.2-2 applicable to requirement for trucks' compliance with USEPA standards. PCAC-8
4) Revise MM AQ-7 to require that, if a CARB-certified technology with better emission performance than MM AQ-1 through MM AQ-6 becomes available, the tenant/contractor will be required to obtain/implement the better technology within a defined schedule such as within 90 days of availability. PCAC-9
5) Require that Off-Road Construction Equipment idling be restricted to maximum of five (5) minutes when not in use without qualification or exception. PCAC-10

Applicable to Operations

6) Increase implementation rate for MM AQ-9 Alternative Marine Power to require 80 percent of total ship calls in 2017 and 95 percent by 2020. PCAC-11
7) Require incorporation in MM AQ-12 of all available emission reduction technology when using or retrofitting ships bound for the Port of Los Angeles rather than allowing, "the tenant to determine the feasibility of incorporation" of such technology. PCAC-12
8) Define specific requirements for implementation of new technologies referenced in LM AQ-1 rather than allowance for, "the tenant shall work with the Port to implement," and/or require implementation of newly identified emissions-reduction technology at a rate of incorporation such as 25 percent within one year of identification, 50 percent within two years, and 100% within five years. PCAC-13

9) Require in LM AQ-2 the replacement of existing measure(s) with new technology proven to yield better emissions reduction performance within a defined implementation schedule without allowance for, "the technology could replace the existing measure pending approval by the Port." PCAC-14

LAND USE CONCERNS

We note that the bulk of land at POLA is under a "Q" overlay.

Two specific issues exist regarding the examination of land use in the EIR, policy P4 in the circulation element and failure to address methane gas:

Policy P4 in the City of Los Angeles Transportation Element calls for a review of port planning. The on-line version was adopted in 1999 http://cityplanning.lacity.org/cwd/gnlpln/transelt/index.htm , but the web page includes a note to check the hard copy for any changes.

Policy P4
Review the policies of current plans such as the Port of Los Angeles 2020 Plan (Pier 300/400 Implementation Program) and the LAX Master Plan and where needed, resolve any inconsistencies with the Citywide General Plan Framework and Transportation Element. PCAC-15

Schedule
Ongoing

Responsibility:
Departments of City Planning, Transportation, Harbor, Airports and Public Works.

The LAX Master Plan has been studied and revised. Not so the Port of Los Angeles Plan. By law, all general plan amendments must be reviewed by the City Planning Commission. While BHC would no doubt be involved at some level, legal authority is invested in the Planning Commission and City Council. It is noted that for some reason the 2020 plan is viewed here as the Port of Los Angeles Plan when the 2020 Plan is actually a different animal from the Community Plan and addresses only a portion of Port land.

The need for an updated plan is reflected in Transportation Element Policy P4.

We question how this DEIR can determine that the Project conforms to relevant plans when the relevant plan was designed thirty years ago for a planning horizon long since past?

The City of Los Angeles on-line zoning information system (ZIMAS) indicates that the site is in a methane gas area. That didn't seem to be discussed anywhere in the EIR, whether under land use or hazards. (ran an electronic search for "methane".)

PCAC-16

Background: The General Plan

Section 65300 of the California Government Code requires all cities in California, including charter cities, to prepare a comprehensive, long-term general plan for the physical development of the city. A general plan has seven mandatory elements, though other optional elements may be added.

While all elements of the general plan have equal status, with no element taking precedence over another, the land use element is often considered the core element of the general plan. The land use element is required to designate the type and extent of various land uses and to include quantifiable standards of land use intensity (Sec. 65302(a)). The specific standard is not defined, but varies with land use. For example residential development is defined in dwelling units per acre or population per acre. Commercial uses are typically defined in terms of floor area ratios, but are sometimes defined in terms of traffic generation. The last intensity standard is important in coordinating the land use element with the circulation element.

The circulation element must identify major thoroughfares and other transportation infrastructure. In accordance with Government Codes Section 65302 (b), the circulation element must be correlated with the land use element. As stated in *Concerned Citizens of Calaveras County v. Board of Supervisors (1985) 166 Cal.App.3d 90*:

PCAC-17

> "Correlated" means "closely, systematically, or reciprocally related . . . ." [Webster's Third New International Dictionary (1981) p. 511].
>
> Section 65302 therefore requires that the circulation element of a general plan, including its major thoroughfares, be closely, systematically, and reciprocally related to the land use element of the plan.
>
> In its more concrete and practical application, the correlation requirement in subdivision (b) of [Government Code] §65302 is designed to insure that the circulation element will describe, discuss and set forth "standards" and "proposals" respecting any change in demands on the various roadways or transportation facilities as a result of changes in uses of land contemplated by the plan. (See *Twain Harte Homeowners Assn. v. Tuolumne County (1982) 138 Cal.App.3d* at p. 701 and *Camp v. County of Mendocino (1981) 123 Cal.App.3d* at p. 363.) The statutory correlation requirement is evidently designed in part to prohibit a general plan from calling for unlimited population growth in its land use element, without providing in its circulation element, "proposals" for how the transportation needs of the increased population will be met. ...

> We conclude the [Calaveras County] general plan cannot identify substantial problems that will emerge with its state highway system, further report that no known funding sources are available for improvements necessary to remedy the problems, and achieve statutorily mandated correlation with its land use element (which provides for substantial population increases) simply by stating that the county will solve its problems by asking other agencies of government for money. To sanction such a device would be to provide counties with an abracadabra by which all substance in §65302's correlation requirement would be made to disappear.

Thus, if intensity of use is not defined in a manner adequate to anticipate future traffic generation and transportation demand , one is left with an "abracadabra" approach to meeting future transportation infrastructure needs. Because throughput at the Port in a major determining element for traffic generation, employment generation/housing demand, air emissions and other factors, it would be appropriate define land use intensities in terms of throughput for planning purposes. In any case, the intensity standard must provide a quantifiable means of correlating land use with infrastructure. **PCAC-17 Cont.**

All other elements of the general plan must also be consistent and coordinated (G.C. 65300.5). For example, the noise element must address sound generated along circulation corridors; the housing element must address the need for housing generated by non-residential uses as well as regional growth; and the land use element must provide adequate sites for provision of the identified housing need.

Updates

While the general plan must be stable enough to actually provide long range guidance, with amendments limited to four times per year (GC 65358(c)), the general plan must also be kept current. The housing element must be revised at least every five years (G.C. 65588). No specific schedule has been established for updating other elements of the general plan. However, in accordance with Government Code Section 65040.5 (a), the Governor's Office of Planning and Research must notify a city which has not updated its general plan in eight years that the plan may be out of date. If the plan has not been updated in ten years, the Attorney General must be notified (GC 65040.5(b)). **PCAC-18**

Los Angeles General Plan

The Los Angeles General Plan consists of a Framework Element providing general city wide policies to serve as a foundation for the other elements, separate city wide elements addressing state requirements for all areas except land use, and several optional elements. State requirements for the land use element are fulfilled by thirty five community plans

for different areas of the city. The plans are prepared by the City of Los Angeles Planning Department.

Community planning areas in the vicinity of the Port of Los Angeles are San Pedro, Wilmington-Harbor City, and Port of Los Angeles. The Harbor Gateway CPA which consists primarily of the narrow strip connecting the harbor area with the remainder of the city is also considered part of the harbor area for planning purposes.

According to the Community Plans Adoption Status posted by the City of Los Angeles Planning Department , the last comprehensive revision of the San Pedro Community Plan was approved by the Planning Commission August 13, 1998 (CPC 97-0045CPU) and was approved by the City Council March 17, 1999 (CFC 98-1771). The plan is implemented through Zoning Ordinance No. 172547, adopted May 15, 1999. An update is currently underway, though progress has slowed due to budgetary constraints.

The last comprehensive revision of the Wilmington-Harbor City Community Plan was approved by the Planning Commission on July 9, 1998 (CPC 97-0050CPU) and was approved by the City Council July 14, 1999 (CF 98-1619). The plan is implemented through Zoning Ordinance 172853, adopted November 14, 1999.

PCAC-18 Cont.

The last comprehensive revision of the Port of Los Angeles Plan was adopted on September 28, 1982 (CPC 19712/CF 82-400). The City Council subsequently adopted Ordinances 165406 (CF 88-1479; January 1990) (attached) and 165862 (CF-1479;May 1990) (attached), which established a [Q] classification for most of the land within Port boundaries, but does not apply to areas north of Anaheim Street. As stated in Ordinance 165406, the [Q] classification replaces and supersedes land use standards which would normally apply in the M-2 and M-3 Districts. Ordinance 165406 specifically gives the City Planning Commission authority over planning actins at the Port.

Since 1990, City planning actions applicable to the Port have been very limited. The only Port specific action recorded on the City's Zone Information and Map Access System (http://zimas.lacity.org/) is Ordinance No. 169960 (CF 93-0168) which was approved in 1994 and applied to the Pier 300/400 area. Remaining ordinances consist primarily of city wide actions such as the addition of footnotes to all Community Plans (CF 90-1422) or incorporation of policies to implement the Mello Act throughout the Coastal Zone (CPC-2005-8252-CA).

Port of Los Angeles Plan

There is currently no planning vehicle which defines intensity of use in the Port of Los Angeles Community Plan Area. This renders it extremely difficult, if not impossible, to coordinate other planning programs with Port activities. This includes other general plan elements and community plans, such as the circulation element, as well as other planning efforts such as the Air Quality Management Plan (AQMP) prepared by the South Coast Air Quality Management District (SCAQMD). As a result various agencies find themselves in a catch up situation, in which, for example, transportation infrastructure is

PCAC-19

overwhelmed and air quality standards are exceeded in the basin, despite ever more stringent controls on non-port uses.

Unfortunately, there is no abracadabra solution to the problems affecting the communities around the Port, including air pollution, traffic congestion, and blight. A comprehensive update of the Port of Los Angeles Plan is well past overdue. An update including the required statements of intensity must be prepared by the City of Los Angeles.

PCAC-19 Cont.

We assert that this project should not be approved until a planning vehicle that defines intensity of use has been made for the Port of Los Angeles Community Planning Area. Additionally an up to date Port Master Plan must be in place.

PCAC-20

Thank you again for the opportunity to comment on this DEIR.

John G. Miller MD FACEP

John G. Miller, M.D. FACEP

2.3.4 Organizations

Port of Los Angeles Community Advisory Committee, Past EIR Subcommittee (PCAC)

Response to Comment PCAC-1

Thank you for your comment. Because the Draft EIS/EIR discloses the health-related implications of the Project's environmental impacts, including health risk impacts, of the proposed Project and alternatives; the Draft EIS/EIR is not required to additionally include a separate HIA. Methodologies employed by HIAs may not be able to adequately differentiate health effects from the proposed project versus health effects from many of the other non-project factors that could be considered in an HIA. In addition, it does not appear that an HIA methodology has been reviewed by or approved for use in environmental documents by California Office of Environmental Health Hazards Assessment, as has the HRA methodology used in the Draft EIS/EIR. Nevertheless, the Draft EIS/EIR included a number of health assessment tools to accomplish many of the goals of an HIA. These tools include a full project-specific health risk assessment (HRA), criteria pollutant modeling, morbidity/mortality screening analysis, environmental justice analysis, and socioeconomic analysis. These analyses are presented in the Draft EIS/EIR for the proposed Project and all project alternatives (including the No-Project Alternative and the No-Federal Action Alternative), allowing the reader, and subsequently the Board of Harbor Commissioners and the USACE (the decision-makers), to compare and contrast the benefits and costs among all alternatives.

The Project-specific HRA, as presented in Section 3.2, Air Quality, Meteorology and Greenhouse Gases, and Appendix E3, Health Risk Assessment Technical Memorandum, of the Draft EIS/EIR, examines the cancer risks and the acute and chronic noncancer health risks associated with the proposed Project and all Project alternatives 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).

The Draft EIS/EIR also includes a screening level particulate matter mortality analysis that assesses the incidence (as opposed to risk) of premature death that could occur as a result of the proposed Project and alternatives. The analysis is based on guidance developed with California Air Resources Board (CARB) input.

Furthermore, as part of the development of the 2010 CAAP Update, the Ports of Los Angeles and Long Beach completed a Port-wide HRA. This Port-wide HRA covered both ports and included a quantitative estimate of health risk impacts from diesel particulate matter (DPM) emissions of the Ports' overall existing and planned operations.

Response to Comment PCAC-2

Thank you for your comment. The LAHD would review the health impact assessment associated with the Gateway Cities Air Quality Action Plan and I-710 Corridor Project EIS/EIR, which are efforts and projects separate from the proposed Project. Although APL traffic could utilize I-701, the APL project would be a related but separate project to the I-710 project, as they both have independent utility and logical termini.

Response to Comment PCAC-3

The Commenter's request has been noted. As the requested documents (associated with Response to Comment PCAC-2 above) are not finalized and therefore are not available to be used in the Final EIS/EIR for the proposed Project, these documents would not be made a part of the proposed Projects administrative record.

Response to Comment PCAC-4

Thank you for your comment. Assembly Bill 3180 (AB 3180) codified in Section 21081.6 of the California Public Resources Code, became effective January 1, 1989, and requires a Lead or Responsible Agency to adopt a mitigation monitoring and reporting program (MMRP) when approving or carrying out a project. The purpose of this program is to ensure that when an environmental document, either an EIR or a negative declaration, identifies measures to reduce potential adverse environmental impacts to less than-significant levels that those measures are implemented as detailed in the environmental document. As lead agency for the proposed Project, and pursuant to AB 3180, LAHD is responsible for implementation of this MMRP.

An EIR[29] has been prepared for the proposed Project that addresses the potential environmental impacts, and where appropriate, recommends measures to mitigate these impacts. As such, an MMRP is required to ensure that adopted mitigation measures are successfully implemented and a monitoring strategy was prepared for each mitigation measure identified in the Draft EIS/EIR for the proposed Project. As part of the decision-making process, the Board of Harbor Commissioners would adopt the MMRP, and the applicable LAHD division(s) will incorporate the mitigation monitoring/reporting requirements in the appropriate permits (i.e., engineering specifications, engineering construction permits, real estate entitlements, and/or coastal development permits). Therefore, in accordance with the aforementioned requirements, this Final EIR lists each mitigation measure, describes the methods for implementation and verification, and identifies the responsible party or parties as detailed below in the MMRP Implementation section. The preparation and adoption of MMRPs are completed for Port projects on a project by project basis, as applicable. Compliance tracking for projects performed within the Port and LAHD's jurisdiction is currently being performed by designated LAHD staff. It should be noted that all LAHD EIRs approved since AB 3180 have included MMRPs and project-specific MMRPs can be found on the LAHD's public website for projects approved since 2003.

Response to Comment PCAC-5

Thank you for your comment.

Response to Comment PCAC-6

Please see Response to Comment USEPA-25. Regarding the recommendation to change mitigation measure MM AQ-1, the comment is noted. As LAHD's Sustainable Construction Guidelines requires construction contractors working within its jurisdiction to use the cleanest feasible construction equipment. The mitigation measure MM AQ-1 is in compliance with the Sustainable Construction Guidelines measures and appropriate as written for the proposed Project.

Response to Comment PCAC-7

Regarding the recommendation to change mitigation measure MM AQ-3, the comment is noted. Please see the Response to Comment SCAQMD-10. The mitigation measure MM AQ-3 is in compliance with LAHD's Sustainable Construction Guidelines measures and appropriate as written for the proposed Project. In addition, mitigation applied to the proposed Project, such as MM AQ-3, is consistent with the LAHD's Sustainable Construction.

[29] The proposed Project is part of a joint EIS/EIR

Response to Comment PCAC-8

Regarding the recommendation to change mitigation measure MM AQ-4, the comment is noted. In addition, mitigation measure MM AQ-4 has been modified in response to an SCAQMD comment (please see the Response to Comment SCAQMD-11). The mitigation measure MM AQ-4 is in compliance with Sustainable Construction Guidelines measures and appropriate as written for the proposed Project.

Response to Comment PCAC-9

Regarding the recommendation to change mitigation measure MM AQ-7, the comment is noted. Because LAHD enters into contracts with contractors, it cannot establish more stringent equipment requirements on the contractor.

Response to Comment PCAC-10

Regarding the recommendation to change off-road construction equipment idling to maximum of 5 minutes, the comment is noted. Mitigation measure MM AQ-4 includes an idling restriction of a maximum of 5 minutes that would be applied to off-road construction equipment being used at the Project site during construction. In addition, please see the Response to Comment USEPA-18.

Response to Comment PCAC-11

Regarding the recommendation to change mitigation measure MM AQ-9, the comment is noted. The mitigation measure MM AQ-9 is in compliance with CAAP measures and appropriate as written considering the worldwide APL fleet and vessels anticipated under the proposed Project. Please also see Response to Comment USEPA- 4.

Response to Comment PCAC-12

Regarding the recommendation to change mitigation measure MM AQ-12, the comment is noted. As it relates to the OGV mitigation measures associated with the proposed Project (MM AQ-11 and MM AQ-12), the Draft EIS/EIR analysis assumes compliance with the CAAP. In fact, proposed Project-specific mitigation measures applied to reduce air emissions and public health impacts are consistent with, and in some cases exceed, the emission-reduction strategies of the CAAP. The Draft EIS/EIR also includes lease measures prescribed for the proposed Project or alternative that provides a means for additional measures to be incorporated into the applicant's/tenant's lease should the CAAP be strengthened or new technology be feasible in the future. In addition, please see the Response to Comments USEPA-4, USEPA-8, and SCAQMD-13.

Response to Comment PCAC-13

Regarding the recommendation to change lease measure LM AQ-1, the comment is noted. LAHD's approach to facilitate the demonstrations, development and implementation of new emission-reduction technologies is to utilize a Port-wide strategy rather than a terminal-by-terminal approach. A Port-wide approach allows such technologies to be demonstrated, developed, and implemented uniformly without creating competitive disadvantages between terminals and Ports, as well as in a more coordinated manner. Refer to Response to Comments USEPA-3 and USEPA-17 for additional discussion to LM AQ-1 and a Port-wide strategy to future technologies to reduce air emissions. Regardless, as a company APL is a leader in participating in the piloting of new technologies and is a welcome partner for the LAHD in addressing future technologies (refer to Response to Comment USEPA-8 for details on commitments made by APL to reduce air emissions). In addition, LM AQ-1 is structured to provide greater implementation flexibility than

the Commenter's suggested revisions, as timing and implementation under existing language can be added once the specific technology has been identified. In addition, please see the Response to Comment SCAQMD-8.

Response to Comment PCAC-14

Comment note. Please refer to Response to Comment PCAC-13 above.

Response to Comment PCAC-15

Comment noted. The proposed Project conforms to all approved land use plans. The Port of Los Angeles Plan, a land use element of the City's General Plan, is the land use element that is intended to serve as the official 20-year guide for the continued development and operation of the Port (City of Los Angeles, 1982 plus amendments). Both the Port of Los Angeles Plan and Transportation Element are under the City of Los Angeles Department of City Planning domain, and the update of those plans are not within the jurisdiction of the LAHD. Regardless, the LAHD Port Master Plan (PMP) is consistent with the Port of Los Angeles Plan and the proposed Project is consistent with the PMP. The LAHD will be preparing a comprehensive Port Master Plan Update to the original PMP certified by the California Coastal Commission in April 1980. Since that date, the Coastal Commission has certified 22 amendments to the PMP, addressing land use changes and new projects and landfills. Thus, the PMP is considered current. While the amendments addressed changes relating to specific projects, a comprehensive review and update of the PMP is being completed. This effort is a work in progress and a completion date has not been set, however, the PMP update is not expected to change the overall zoning of the proposed Project area or general land use mix within the Port as such use is defined by California's Coastal Act as described in Chapter 1 of the Draft EIS/EIR.

Response to Comment PCAC-16

The Commenter is correct. Per ZIMAS, areas identified by the City of Los Angeles to be a methane buffer zone have a risk of methane intrusion emanating from geologic formations. However, for such areas, the City has established regulations that require compliance through the Building Code. Requirements, if applicable, could include ventilation and methane gas detection systems depending on designation category. Section 91.7101 of the Building Code set forth the methane buffer zone requirements within the City of Los Angeles. New structures located within a methane buffer zone may have to comply with the Code's methane mitigation standards, depending on site specific conditions. Per the Code, buildings located in the methane buffer zone are not required to provide a methane mitigation system, if the Design Methane Pressure is less than or equal to two inches of water pressure and is either of the following:

A. Areas which qualify as Site Design Level I or II; or

B. Areas which qualify as Site Design Level III and the utilities are installed with Trench Dams and Cable or Conduit Seal Fitting.

As part of the design process, the applicability of methane mitigation standards will be evaluated and if applicable, the relevant methane mitigation standards will be applied, as required by the Building Code.

Response to Comment PCAC-17

The comment is noted and has been incorporated into the Final EIS/EIR for review and consideration by the decision-makers prior to any action on the proposed Project. It should be noted that land use intensities throughout the City are based on zoning designations, not throughput. The proposed Project would be

consistent with the land use designations of the Project site. In addition, throughput projections for the APL Terminal are conservative, and therefore, the traffic analysis and other analyses in the Draft EIS/EIR are also considered conservative.

Response to Comment PCAC-18

The comment is noted and has been incorporated into the Final EIS/EIR for review and consideration by the decision-makers prior to any action on the proposed Project. In addition, please see the Response to Comment PCAC-15.

Response to Comment PCAC-19

The comment is noted and has been incorporated into the Final EIS/EIR for review and consideration by the decision-makers prior to any action on the proposed Project. Refer to Response to Comment PCAC-15 regarding a planned comprehensive update to the PMP.

Response to Comment PCAC-20

The comment is noted and has been incorporated into the Final EIS/EIR for review and consideration by the decision-makers prior to any action on the proposed Project. As detailed in Section 3.9.4.3 of the Draft EIS/EIR and discussed in Response to Comment PCAC-15, the proposed Project would be consistent with the site zoning and generalized land use designations in the Port of Los Angeles Plan. In addition, the proposed Project would be consistent with the PMP's designated land uses for Area 9, and by accommodating the high priority for water-dependent uses. Thus, the proposed Project would be consistent with the overall intent of the PMP. In addition, the general uses of the Port are governed by the California Coastal Act. The proposed Project, therefore, would not result in significant impacts because it would be consistent with current site zoning and land use designations of applicable plans.

Coalition For A Safe Environment

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February 17, 2012

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Re: Berths 302-306 American President's Line (APL) Container Terminal Project
Draft Environmental Impact Statement (DEIS)/Draft Environmental Impact Report (DEIR)
SPL-2009-00226-TS
SCH No. 2009071021
ADP No. 081203-131

Su: Public Comments Regarding Significant Deficiencies & Unacceptability of DEIS/DEIR

The Coalition For A Safe Environment (CFASE) wishes to request the U.S. Army Corps of Engineers and Port of Los Angeles Board of Harbor Commissioners (POLABOHC) direct its management and staff to completely rewrite the DEIR or Rescind the DEIR and BNSF SCIG Project application do to significant deficiencies, errors, omissions of information, inadequate assessments, missing required assessments, misrepresentations of facts, unsubstantiated information, invalidated data, missing assessments, inappropriate assumptions, fails to eliminate where feasible all negative impacts, fails to mitigate negative impacts where feasible to less than significant and fails to include all reasonable and available feasible mitigation measures, discriminates against Environmental Justice Communities composed of people of color, high poverty and low income. CFASE-1

The following information, data, points, concerns, references, examples, issues, recommendations and requests describe the deficiencies and inadequacies of the DEIS/DEIR:

0. **CFASE resents the fact the Port of Los Angeles intentionally and with malice intent to suppress and obstruct public participation and public comments password protected the DEIS/DEIR.**

The Port of Los Angeles in past EIS/EIR's has never password protected documents, by doing so CFASE and member of the public are unable to copy sections, paragraphs, tables, diagrams, illustrations, information etc. and include them in our public comments. This prevents the U.S. Army Corps of Engineers, Board of Harbor Commissioners, Regulatory Agencies, Decision Makers and members of the public from being able to read public comments in a more clear context DEIS/DEIR omissions, misrepresentations, discrepancies and errors. The time to retype or recopy information is significant and limits CFASE and members of the public from being able to fully comment and engage in the legally protected public participation process. CFASE-2

CFASE Requests: The U.S. Army Corps of Engineers and the Port of Los Angeles a public agency cease and desist this practice and provide all CEQA/NEPA required documents in a unlocked, unpassword protected PDF and Microsoft Word document format. There is an extra cost to CFASE and members of the public to purchase special PDF software, pay for regular future upgrades and its is more difficult to copy and paste PDF documents and information than the standard word processing Microsoft Word program. It is also a fact that the original document is typed by the Port of Los Angeles and its consultants in Word and then converted to a PDF.

1. **Chapter ES.2.1 CEQA Introduction. References "section 15121(a) of the CEQA Guidelines," but falls to disclose state that the DEIS/DEIR does not comply with this reference.**

a. All significant environmental impacts of the project were not disclosed.
b. All sources of all related environmental impacts information was not identified
c. All sources of all related environmental impacts information was not fully assessed.
d. All possible ways to minimize the significant effects were not disclosed.
e. Disclosed ways to minimize the significant effects were not included or dismissed.

CFASE Requests: The DEIS/DEIS: CFASE-3

a. Identify, disclose and include all Port known and public identified impacts, sources of impacts, source impact assessment and available mitigation.
b. Where no assessment exists that the Port hire an independent third party to conduct an assessment and include it in the DEIS/DEIR.
c. That all potential and alternative mitigation that has been currently been proven to be feasible and cost-effective or will be proven feasible and cost-effective in the next 12 months be required and included in the DEIS/DEIR.

2. **Chapter ES.2.3 – CEQA Purpose. States the project purposes and objectives but fails to disclose state that the DEIS/DEIR does not entirely comply with the stated purposes and objectives, because it has only included items Port staff prefers, not necessarily those which are the best, most efficient or most optimal which are also feasible and cost-effective.**

The DEIS/DEIR fails to disclose that:

a. The most efficient and optimal way to unload and transport containers that will go to near dock railyards and non-near railyards is to have on-dock rail built dockside to ships. The DEIS/DEIR proposes to use outdated, inefficient logistics methods which will require the majority of containers to be dropped to the ground, picked-up and relocated one or two times to one or more backlands staging areas. CFASE-4
b. The most efficient and optimal way to accommodate increased container throughput is to eliminate and significantly reduce travel time, idling time, cue time and staging time by having on-dock rail built dockside to ships and incorporating more efficient and faster freight transportation systems such as the American MagLev technology, Inc. Zero Emissions - Environmental Mitigation & Mobility Initiative "EMMI" MagLev Train.

c. Invest in demonstration projects for more efficient container unloading, staging and transferring systems such as the Green Rail Intelligent Development (GRID) - ON-DOCK Ship-to-Rail interface platform called "SuperDock" powered exclusively by electrification.
d. Invest in demonstration projects for more efficient and optimal terminal designs such as unloading containers using a U-Shape Terminal Dock Design where containers can be unloaded and loaded from both sides of a ship at the same time vs the outdated technology currently being used. This design concept was previously proposed to the Port of Los Angeles for the China Shipping Terminal and unfortunately not considered.

CFASE-4 Cont.

CFASE Requests: The DEIS/DEIS: Include information and assessments of the best, most efficient or most optimal which are also feasible and cost-effective.

3. **Chapter ES.2.4 – USACE Purpose and Need. States that the purpose of the proposed project is to "optimize the cargo-handling efficiencies and capacity," but fails to disclose that the DEIS/DEIR does not entirely comply with the stated purposes, because it has only included items Port staff prefers, not necessarily those which are the best, most efficient or most optimal which are also feasible and cost-effective and that POLA and the USACE have conducted no studies or comprehensive assessments of cargo-handling efficiencies.**

The Port of Los Angeles and the USACE have conducted no comprehensive assessments of optimal cargo-handling technologies even though many have be presented to the POLA by their perspective manufacturers, have been recommended during public comments by both governmental agencies and the public, are known to exist and a simple internet search would disclose many others.

CFASE-5

There is no emergency or urgency to build another out-dated inefficient 20th century technology terminal at this time, when new state-of-the-art 21st century alternative and zero-emission technologies have been validated, are currently undergoing validation or can be demonstrated within 1-3 years to achieve all desired purposes and objectives.

The POLA will not achieve a domestic or international leadership role in "economic growth in maritime trade," when it is using outdated 20th century technologies.

CFASE Requests: The DEIS/DEIR: Include information and assessments of the best, most efficient technologies which "optimize the cargo-handling efficiencies and capacity," and which are also feasible and cost-effective. The DEIS/DEIR include and require investment and/or demonstration of optimal cargo-handling technologies which have been proposed.

4. **Chapter ES.4.2 – Alternatives Considered. The DEIS/DEIR included discussion on 6 alternatives but failed to consider and equally assess viable public and manufacturer recommended alternatives.**

The DEIS/DEIR inadequately describes the feasibility and cost effectiveness of Alternative Technologies discussed in 2.8.2.11 Alternative Container Transport Systems. The DEIS/DEIS failed to disclose that there are in fact two Zero Emissions MagLev Train Technologies that already have on-site operating test demonstration tracks and that the only reason one has not been demonstrated at the POLA is POLA's and the Port of Long Beach's (POLB) refusal to allow them to conduct a demonstration project at an on-port site terminal location or off-port property location.

CFASE-6

The DEIS/DEIR failed to disclose that both POLA and POLB Board of Harbor Commissioners, Regulatory Agencies and port staff have traveled to these locations and witnessed the successful on-site MagLev Train Demonstrations.

The DEIS/DEIR also failed to disclose that American MagLev Technologies, Inc. has for 4 years offered to build an on-site demonstration project at the POLA or POLB at its own expense. Questions as to its actual construction and operating costs would be further disclosed to quell any port concerns and current false

accusations. The DEIS/DEIR also failed to disclose that a POLB Terminal Operator has offered its location as a possible demonstration site and that Union Pacific Railroad has also stated it would allow a test demonstration at its ICTF Facility location. The DEIS/DEIR fails to disclose that a MagLev Train would use the exact same type of carrier as that currently used by diesel fuel locative train carriers. It would be loaded and unloaded the exact same way as it is done today. It also failed to disclose the benefits of a MagLev Train such as Zero Emissions, Near Noiseless, Less Maintenance, Lower Long Term Operating Costs, 3x-4x faster an does not need to wait 1 to 1-1/2 days to connect enough cars to form a full train length.

The public supports investment in zero emissions, near noiseless and more efficient technologies and would support a planned phase-in and integration of more cost-effective and optimal alternative technologies. The DEIS/DEIR gives the inappropriate impression that a slow phase-in is impossible when in fact it is possible. CFASE believes that the 1st phase could be from the ports to the Union Pacific ICTF Facility and/or the Alameda Corridor. The DEIS/DEIR fails to disclose the Alameda Corridor is already designed to be converted into an All-Electric Zero Emissions Freight Transportation System.

CFASE-6 Cont.

The APL Terminal can be planned to be built or converted into a Zero Emissions, Efficient and Optimized Freight Transportation System just like it can be planned to be an All-Automated Container Terminal.

The DEIS/DEIR Inadequately describes the feasibility and cost effectiveness of Alternative Technologies discussed in 2.8.2.12 Fully Electrified Container Terminal. The DEIS/DEIS failed to disclose that the roadmap referenced is flawed because of the ports management and staff bias and limited vision to incorporate 21st Century Technologies asap. An All-Electric Zero Emissions MagLev Train could already be built and demonstrated while the port can continue with its research of other technologies.

The DEIS/DEIR misrepresents the facts when it states that the "electrification could, theoretically allow for marginal increases in throughput," as already stated MagLev Trains are Zero Emissions, Near Noiseless, Less Maintenance Costs, Lower Long Term Operating Costs, 3x-4x faster an does not need to wait 1 to 1-1/2 days to connect enough cars to form a full train length.

The DEIS/DEIR misrepresents the facts when it fails to disclose that the most efficient and optimal way to unload and transport containers that will go to near dock railyards and non-near railyards is to have on-dock electric rail built dockside to ships which is not proposed at the APL Terminal.

CFASE-7

The DEIS/DEIR misrepresents the facts when it fails to disclose that the Vision Motor Corp - Hydrogen Fuel Cell Electric Battery Zero Emissions Near Noiseless Tyrano a Class VIII 80,000lbs. Drayage Truck and ZETT (Zero Emission Terminal Tractor) a Class VIII 130,000 lbs. Terminal Tractor (yard dog) for off-road port terminal, rail yard and intermodal facility operations exists. POLA has purchased only 2 trucks for demonstration when in fact they are operating successfully, have a higher torque ratio, have lower maintenance costs that diesel trucks and cost less over the life-time of a comparable diesel fuel truck. The DEIS/DEIR should require that 50% of the fleet that services APL should be replaced with Vision Motor Corp trucks and the phase-in plan should be included.

The DEIS/DEIR fails to disclose that the Advanced Cleanup Technologies, Inc. - Advanced Maritime Emissions Control System (AMECS) and Advanced Locomotive Emissions Control System (ALECS) technologies have been successfully tested and not included or referenced as viable, feasible and cost-effective technologies to reduce air pollution and green house gases.

The DEIS/DEIR fails to disclose that a Fully or Near Fully Electrified Container Terminal is viable and feasible within 1-3 years, which is adequate time to meet future APL Terminal growth demands.

The DEIS/DEIR inadequately describes the feasibility and usage of expansion or Improvements of rail lines discussed in 2.8.2.13 Accelerate Expansion of Rail Lines to Handle Cargo.

CFASE-8

The DEIS/DEIS failed to disclose that the Alameda Corridor is currently only being used at less than 35% of capacity because the POLA and POLB refuse to require in the Lease Agreements that Tenants maximize the use of the Alameda Corridor.

The DCESI/DEIR fails to disclose that the most efficient and optimal way to unload and transport containers that will go to near dock railyards and non-near railyards is to have on-dock rail built dockside to ships. The DEIS/DEIR proposes to use outdated, inefficient logistics methods which will require the majority of containers to be dropped to the ground, picked-up and relocated one or two times to one or more backlands staging areas.

CFASE Requests: The DEIS/DEIR: Include information, investments, demonstrations and assessments of current available and near term (1-3 years) available efficient technologies which optimize the cargo-handling, freight transportation, which are zero emissions, near noiseless and electric, which maximize land footprint capacity usage, decrease negative environmental, public health, public safety and socio-economic impacts. The DEIS/DEIR require that all feasible and cost-effective technologies be required in the project proposal. **CFASE-8 Cont.**

DEIS/DEIR require the APL lease and terminal project expansion to maximize usage of the Alameda Corridor.

DEIS/DEIR require the APL Terminal design to incorporate on-dock rail built dockside to shipside.

The DEIS/DEIR inadequately describes the feasibility of expansion but increased technology to increase efficiency discussed in 2.8.2.14.

The DEIS/DEIR fails to consider the variety of alternative technologies that would facilitate more efficient and optimal cargo-handling and destination freight transportation. When considered as a whole package of solutions the following are in fact feasible and cost-effective for no expansion:

a. The benefits of a MagLev Train such as Zero Emissions, Near Noiseless, Less Maintenance, Lower Long Term Operating Costs, 3x-4x faster an does not need to wait 1 to 1-1/2 days to connect enough cars to form a full train length.
b. The Alameda Corridor is currently only being used at less than 35% of capacity because the POLA and POLB refuse to require in the Lease Agreements that Tenants maximize the use of the Alameda Corridor.
c. The most efficient and optimal way to unload and transport containers that will go to near dock railyards and non-near railyards is to have on-dock rail built dockside to ships.
e. The more efficient container unloading, staging and transferring systems such as the Green Rail Intelligent Development (GRID) - ON-DOCK Ship-to-Rail interface platform called "SuperDock" powered exclusively by electrification. **CFASE-9**
f. The more efficient and optimal terminal designs such as unloading containers using a U-Shape Terminal Dock Design where containers can be unloaded and loaded from both sides of a ship at the same time vs the outdated technology currently being used. This design concept was previously proposed to the Port of Los Angeles for the China Shipping Terminal and unfortunately not considered.

CFASE Requests: The DEIS/DEIR: Include information, investments, demonstrations and assessments of current available and near term (1-3 years) available efficient technologies which optimize the cargo-handling, freight transportation, which are zero emissions, near noiseless and electric, which maximize land footprint capacity usage, decrease negative environmental, public health, public safety and socio-economic impacts. The DEIS/DEIR require that all feasible and cost-effective technologies be required in the project proposal as described in a-f.

5. **Section ES.5.2.1 – Unavoidable Significant Impacts. The DEIS/DEIR and Table ES-3 fails to identify and list all air pollution sources, noise, traffic congestion and safety impact sources.**

The DEIS/DEIR and conclusions by port staff when they state, "No feasible mitigation measures are available that would avoid all of the potential impacts or reduce all impacts to less than significant levels," is a lie. The DEIS/DEIR fails to include all emissions from all train and truck sources. This indicates that the traffic study data is inadequate and incomplete, the traffic projections are not accurate therefore it has underestimated the significance of emissions, the future emissions, the environmental, public health, public safety impacts and necessary mitigation. It appears that there has been no accounting for the fact that trains and trucks will age and in time release more emissions. The DEIS/DEIR fails to include all train emissions from the time the train locomotives must leave their point of origin to the Port, when they must have their maintenance and after they leave the rail facilities. The DEIS/DEIR fails to include all truck emissions from the time the trucks leave their point of origin to the Port, all other truck destinations. Off-Port Tidelands Property emissions and impact sources include:

Off-Port Tidelands Property - Truck Transportation Corridors
Off-Port Tidelands Property - Container Storage Yards
Off-Port Tidelands Property - Chassis Storage Yards
Off-Port Tidelands Property - Container Inspection Facilities
Off-Port Tidelands Property - Fumigation Facilities
Off-Port Tidelands Property - Truck Fuel/Gas Stations
Off-Port Tidelands Property - Truck Maintenance Garages
Off-Port Tidelands Property - Truck Storage Areas
Off-Port Tidelands Property - Truck Staging Areas
Off-Port Tidelands Property - Truck Lunch/Rest Stop Areas
Off-Port Tidelands Property - Truck Idling Locations i.e. bridges & intersections
Off-Port Tidelands Property - Truck Detour Locations
Off-Port Tidelands Property - Truck & Reefer Container A/C HFC's Due to Leaking
Off-Port Tidelands Property - Train Transportation Corridors
Off-Port Tidelands Property - Train Idling Locations
Off-Port Tidelands Property - Train Maintenance Yard Locations

CFASE-10

Therefore additional new studies must be conducted such as an Off-Port Tidelands Property Community Nexus Impact Study and Health Impact Assessment to assess the impacts from the annual increase of 2,004,432 more truck trips, 1,277 more train trips and 143 more ships due to this APL expansion proposal.

The following are feasible mitigation measures:

a. The benefits of a MagLev Train such as Zero Emissions, Near Noiseless, Less Maintenance, Lower Long Term Operating Costs, 3x-4x faster an does not need to wait 1 to 1-1/2 days to connect enough cars to form a full train length.
b. The Alameda Corridor is currently only being used at less than 35% and at times less than 25% of capacity because the POLA and POLB refuse to require in the Lease Agreements that Tenants maximize the use of the Alameda Corridor.
c. The most efficient and optimal way to unload and transport containers that will go to near dock railyards and non-near railyards is to have on-dock rail built dockside to ships.
d. The more efficient container unloading, staging and transferring systems such as the Green Rail Intelligent Development (GRID) - ON-DOCK Ship-to-Rail interface platform called "SuperDock" powered exclusively by electrification.
e. The more efficient and optimal terminal designs such as unloading containers using a U-Shape Terminal Dock Design where containers can be unloaded and loaded from both sides of a ship at the same time vs the outdated technology currently being used. This design concept was previously proposed to the Port of Los Angeles for the China Shipping Terminal and unfortunately not considered.

f. The Vision Motor Corp - Hydrogen Fuel Cell Electric Battery Zero Emissions Near Noiseless Tyrano a Class VIII 80,000lbs. Drayage Truck and ZETT (Zero Emission Terminal Tractor) a Class VIII 130,000 lbs. Terminal Tractor (yard dog) for off-road port terminal, rail yard and intermodal facility operations exists.
g. The Advanced Cleanup Technologies, Inc. - Advanced Maritime Emissions Control System (AMECS) and Advanced Locomotive Emissions Control System (ALECS) technologies have been successfully tested to capture 92%-98% of all emissions and is not included or referenced as viable, feasible and cost-effective technologies to reduce air pollution and green house gases. AMECS captures more emissions than what Electric Shorepower prevents.
h. Noise suppression technologies exist for rail lines, engines, equipment, sound walls, the use of near noiseless trucks and trains, sound-proofing using a STC Rating of 90 and above for residential homes, public schools, child care centers and other sensitive receptors located adjacent and near train and truck transportation corridors.
i. More frequent inspection and maintenance of Truck and Reefer Container A/C units to prevent fugitive HFC's emissions which are a greenhouse gases.
j. Installation of Air Purification Systems in residential homes, public schools, child care centers and other sensitive receptors located adjacent and near train and truck transportation corridors.

CFASE-10 Cont.

CFASE Requests: The DEIS/DEIR include information and assessments of current available mitigation measure technologies and the DEIS/DEIR require that all feasible and cost-effective technologies that have been identified during the public comment period be required in the project proposal as described in a-j.

The DEIS/DEIR require the inclusion of an Off-Port Tidelands Property Community Nexus Impact Study and Health Impact Assessment in order to document all impacts and needed mitigation. That the project not be approved or the EIS/EIR certified if no study or assessment is included.

The DEIS/DEIR require the inclusion of all identified feasible mitigation measures in the APL Tenant Lease Agreement.

6. **Section ES.5.2.2 – Summary of Significant Impacts that can be Mitigated, Avoided or Substantially Lessened. The DEIS/DEIR Table ES-3 fails to identify and include all impacts that were identified during the public comment period and additional impacts that would have been identified if the port had conducted an Off-Port Tidelands Property Community Nexus Impact Study and Health Impact Assessment.**

The DEIS/DEIR fails to include all emissions from all train and truck sources in Table ES-3. This indicates that the traffic study data is inadequate and incomplete, the traffic projections are not accurate therefore it has underestimated the significance of emissions, the future emissions, the environmental, public health, public safety impacts and necessary mitigation. It appears that there has been no accounting for the fact that trains and trucks will age and in time release more emissions. The DEIS/DEIR fails to include all train emissions from the time the train locomotives must leave their point of origin to the Port, when they must have their maintenance and after they leave the rail facilities. The DEIS/DEIR fails to include all truck emissions from the time the trucks leave their point of origin to the Port, all other truck destinations. Off-Port Tidelands Property emissions and impact sources include:

CFASE-11

Off-Port Tidelands Property - Truck Transportation Corridors
Off-Port Tidelands Property - Container Storage Yards
Off-Port Tidelands Property - Chassis Storage Yards
Off-Port Tidelands Property - Container Inspection Facilities
Off-Port Tidelands Property - Fumigation Facilities
Off-Port Tidelands Property - Truck Fuel/Gas Stations
Off-Port Tidelands Property - Truck Maintenance Garages
Off-Port Tidelands Property - Truck Storage Areas
Off-Port Tidelands Property - Truck Staging Areas

Off-Port Tidelands Property - Truck Lunch/Rest Stop Areas
Off-Port Tidelands Property - Truck Idling Locations i.e. bridges & intersections
Off-Port Tidelands Property - Truck Detour Locations
Off-Port Tidelands Property - Truck & Reefer Container A/C HFC's Due to Leaking
Off-Port Tidelands Property - Train Transportation Corridors
Off-Port Tidelands Property - Train Idling Locations
Off-Port Tidelands Property - Train Maintenance Yard Locations

Therefore additional new studies must be conducted such as an Off-Port Tidelands Property Community Nexus Impact Study and Health Impact Assessment to assess the impacts from the annual increase of 2,004,432 more truck trips, 1,277 more train trips and 143 more ships due to this APL expansion proposal. **CFASE-11 Cont.**

CFASE Requests: The DEIS/DEIR be required to identify and include all impacts and mitigation that were identified during past and recent public comment periods.

The DEIS/DEIR require the inclusion of an Off-Port Tidelands Property Community Nexus Impact Study and Health Impact Assessment in order to document all impacts and needed mitigation. That the project not be approved or the EIS/EIR certified if no study or assessment is included.

7. **Section ES.5.2.4 – Mitigation Measures, Standard Conditions of Approval And Lease Measures. The DEIS/DEIR needs to be updated with the information identifying other impacts and mitigation measures that have been identified in these and past public comments.**

The Air Quality, meteorology & Greenhouse Gases, Ground Transportation and Noise categories need to be updated with the information identifying other impacts and mitigation measures that have been identified in these and past public comments. **CFASE-12**

CFASE Requests: The DEIS/DEIR Air Quality, meteorology & Greenhouse Gases, Ground Transportation and Noise categories need to be updated to include information identifying other impacts and mitigation measures that have been identified in these and past public comments.

8. **Section ES.5.2.4.3 – Lease Measures. The DEIS/DEIR Lease Measures language does not guarantee that new technologies will be identified, researched, recommended or required.**

LM AQ-1 restricts new technologies to what the POLA deems feasible in terms of cost, technical and operational feasibility. It was the Port of Los Angeles in 2001 that claimed that Electric Shorepower was not feasible or cost-effective, it took a lawsuit settlement by San Pedro Homeowner Associations to force the POLA to incorporate Electric Shorepower at the China Shipping Terminal. It was CFASE a non-profit public organization as a member of the AB32 Environmental Justice Advisory Committee that first proposed that Electric Shorepower be included as an AB32 Early Action Measure which has made Electric Shorepower mandatory for all ports in the State of California by 2020. The POLA historically has been shown to be untrustworthy, unwilling to incorporate new technologies and biased in spite of scientific evidence, technical studies and successful test performances of new emerging technologies.

Historically there have been very few rare instances where a port Tenant has voluntarily adopted a new technology or mitigation measure and in most cases they were just ahead of a new law or rule making requirement. **CFASE-13**

Every current port Tenant is aware of the success of the Advanced Cleanup Technologies, Inc. - AMECS Technology but not one has volunteered to purchase the technology. AMECS reduces more emissions than Electric Shorepower from all ships and from ships which are not or cannot be retrofitted.

Every port Tenant is aware of the Vision Motor Corp - Hydrogen Fuel Cell Electric Battery Zero Emissions Near Noiseless Tyrano a Class VIII 80,000lbs. Drayage Truck and ZETT (Zero Emission Terminal Tractor) a Class VIII 130,000 lbs. Terminal Tractor (yard dog) for off-road port terminal, rail yard and intermodal

facility operations exists. Vision Motor Corp drayage trucks have a lower fuel costs, higher torque ratio, have lower maintenance costs that diesel trucks and cost less over the life-time of a comparable diesel fuel truck, but not one Tenant has purchased one.

CFASE Requests: The DEIS/DEIR Lease Measures language require inclusion of new technologies authorized by law, approved, validated or certified by a governmental regulatory agency or meets the requirements of a adopted national trade association standard. CFASE-13 Cont.

9. **Section ES.5.2.7 – Socioeconomic and Growth-Inducing Impacts. The DEIS/DEIR discusses only the positive socioeconomic impacts benefits and fails to include an assessment of the numerous negative socioeconomic impacts.**

The DEIS/DEIR fails to include information of the numerous negative socioeconomic impacts such as:

a. Cost to the state of California public for public health care from ports and goods movement air pollution. One ARB study identified a minimum cost of $ 20 billion annually from only two air pollution sources.
b. Cost to the state of California public for transportation infrastructure repair, maintenance and replacement from increased truck usage and weight. The typical freeway and bridge now only has a 50 year lifespan vs the 100 year life design. The public pays for 80%+ of all costs not the ports and goods movement industry.
c. Cost to the state of California public for off-port property truck and port worker traffic accidents, increased costs of insurance, emergency response.
d. Cost to the state of California public for loss of income and employment due to truck and port worker traffic accidents, traffic congestion, failure to report to work on time, public health illnesses & disabilities and children sick.
e. Cost to the state of California public for utility infrastructure repair, maintenance, replacement and contract purchases of electricity from out of state. The public pays for 80%+ of all costs not the ports and goods movement industry. CFASE-14
f. Cost to the state of California public for the loss of job employment. Even though the port creates jobs via its preference of container terminals it is a fact that only 1-2 jobs is created per acre for a container terminal vs other potential port site industries which create up to 50 or more jobs per acre.

The POLA has never conducted a study of the number of jobs per acre a particular industry creates.

The POLA restricts other potential industries by designing a master plan that eliminates other potential industries and by not soliciting proposals for port land uses. When a non-container facility company proposes or submits an application its does everything to prevent it from occurring even if it is marine industry oriented. A recent example is the ports intentional campaign to prevent a ship repair facility on port property, because it wants the land for future container backlands.

The POLA waited over 10 year to finally build 1-mw of solar electricity and has not moved forward since then to meet its commitment to build on-site 10mw of solar electricity. The POLA has the financial capacity to take itself off-the-public grid by incorporating solar energy, fuel cells, wind and wave energy. The public has for over 10 years requested this and supports this investment of public funds.

The POLA has never conducted a comprehensive negative socioeconomic and cost impacts assessment, even though it has been requested numerous times in the past.

CFASE Requests: The DEIS/DEIR include an on-port property and off-port property comprehensive negative socioeconomic and cost impacts assessment. That the project not be approved or the EIS/EIR certified if no assessment is included. We request that POLA contract with Economist John Haveman Ph.D. for this type of study.

10. **Section 3.2 – Air Quality, Meteorology & Greenhouse Gases. The Section Summary discusses the Health Risk Impacts but fails to disclose the limited public health impacts information Health Risk** CFASE-15

Assessment's provide and fails to disclose that all emission sources were not included in the emissions inventory

Excluded Emission Sources. The DEIS/DEIR discusses only the impacts from the APL Terminal facility but failed to include all emissions from all train and truck transportation corridor and destination sources. This indicates that the traffic study data is inadequate and incomplete, the traffic projections are not accurate therefore it has underestimated the significance of emissions, the future emissions, the environmental, public health, public safety impacts and necessary mitigation. It appears that there has been no accounting for the fact that trains and trucks will age and in time release more emissions. The DEIS/DEIR fails to include all train emissions from the time the train locomotives must leave their point of origin to the Port, when they must have their maintenance and after they leave the rail facilities. The DEIS/DEIR fails to include all truck emissions from the time the trucks leave their point of origin to the Port, all other truck destinations. Off-Port Tidelands Property emissions and impact sources include:

Off-Port Tidelands Property - Truck Transportation Corridors
Off-Port Tidelands Property - Container Storage Yards
Off-Port Tidelands Property - Chassis Storage Yards
Off-Port Tidelands Property - Container Inspection Facilities
Off-Port Tidelands Property - Fumigation Facilities
Off-Port Tidelands Property - Truck Fuel/Gas Stations
Off-Port Tidelands Property - Truck Maintenance Garages
Off-Port Tidelands Property - Truck Storage Areas
Off-Port Tidelands Property - Truck Staging Areas
Off-Port Tidelands Property - Truck Lunch/Rest Stop Areas
Off-Port Tidelands Property - Truck Idling Locations i.e. bridges & intersections
Off-Port Tidelands Property - Truck Detour Locations
Off-Port Tidelands Property - Truck & Reefer Container A/C HFC's Due to Leaking
Off-Port Tidelands Property - Train Transportation Corridors
Off-Port Tidelands Property - Train Idling Locations
Off-Port Tidelands Property - Train Maintenance Yard Locations

Therefore additional new studies must be conducted such as an Off-Port Tidelands Property Community Nexus Impact Study and Health Impact Assessment to assess the impacts from the annual increase of 2,004,432 more truck trips, 1,277 more train trips and 143 more ships due to this APL expansion proposal.

CFASE-15 Cont.

Health Risk Impacts. The DEIS/DEIR failed to include a Health Impact Assessment (HIA) that was requested by the public during the Scoping Meeting public comment period and its benefits discussed vs. HRA's. POLA has stated in previous scoping meetings that the public should ask for such a study at the earliest possible time during the scoping public comment period. POLA has once again ignored public and medical professionals' requests for an HIA to be included in all POLA project proposals. POLA has no expert medical professional on staff to base its decision making to not include an HIA.

Section 3.2 – Fails to state that CEQA requires a comprehensive analysis and discussion of health impacts.

"The environmental effects of a project will cause substantial adverse effects on human beings, either directly or indirectly." CCR§15065(a)

CFASE-16

"The discussion should include relevant specifics of health and safety problems caused by the physical changes." CCR§15126(a)

"If the physical change causes adverse economic or social effects on people, those adverse effects may be used as a factor in determining the physical change is significant." CCR§15064

The DEIR states that only a Health Risk Assessment (HRA) was performed, HRA's provide limited public health information. HRA's do not provide information as to how many people are ill, how many are ill with what illness, what is the cause of their illness, how long they have been ill, how grave their illness is, what type of health care do they have, what type of health care is available and what has been the cost of their health care. If you do not know this information how can the Port accurately determine what is the appropriate mitigation? The Port does not have a public health baseline from which to base its findings, mitigation and final decision making. The Port does not have a health professional on staff who is qualified to make appropriate public health decisions and recommendations.

HRA's only include deaths and risk factors from cancer and fails to include all categories of death such as but not limited to:

a. Asthma
b. COPD
c. Premature Birth
d. Heart Attack
e. Port worker, truck driver or truck passenger death
f. Public death due to an accident

CFASE-16 Cont.

The Port was requested to include a Health Impact Assessment (HIA) during the public scoping meeting and public comment period and has refused to include one in the DEIR, The International Association of Impact Assessment defines HIA as: a combination of procedures, methods and tools that systematically judges the potential and sometimes unintended effects of a policy, plan, program or project on the health of a population and the distribution of these effects within a population. HIA identifies appropriate actions to manage those effects.

CFASE has included in these public comments a Letter of Expert Witness from Dr. Jonathan Heller, PHD addressing the merits and significant new information in a HIA vs HRA. Included with his letter is his CV and a copy of the, "Minimum Elements and Practice Standards for HIA, published by the North American HIA Practice Standards Working Group. See Appendix AQ-1, AQ-2, AQ-3.

CFASE has included in these public comments our Public Health Studies List which list numerous medical health studies related to Ports and Goods Movement that the Port did not consider in their assessment of public health impacts and in their Health Risk Assessment. See AQ-4.

Container Ships. Some assumptions used are a gross misrepresentation of facts.

The DEIS/DEIR states that only ship emissions from a one-way trip were included in the inventory when they should have included a round trip. Therefore the emissions were intentionally underestimated and not mitigated.

The DEIS/DEIR states that APL will comply with CARB requirements that ships use of AMP will be 50% by 2014, 70% by 2017 and 80% by 2020 which is untrue. It is impossible for APL to retrofit 50% of its fleet by 2014 which is less than 2 years from now. In addition, the cost to retrofit a container ship ranges from $500,000 to $ 1 million.

CFASE-17

The DEIS/DEIR fails to require APL to use an Alternative Emissions Control or Capture Technology mitigation method such as the Advanced Cleanup Technologies, Inc. - Advanced Maritime Emissions Control System (AMECS) which captures 92%-98% of all emissions and has been successfully tested at the Port of Long Beach on three ship. See the attached test report: Evaluation of the Advanced Maritime Emissions Control System (AMECS), AMECS Demonstration at the Port of Long Beach dated 11-19-2008 by TIAX, LLC. The DEIS/DEIR fails to disclose that he POLA was a witness and financial sponsor of the testing and has copies of all successful test results.

The DEIS/DEIR further fails to require the use of Advanced Cleanup Technologies, Inc. - Advanced Maritime Emissions Control System (AMECS) technology when a ship is not retrofitted for electric shorepower or will never be retrofitted.

The DEIS/DEIR fails to disclose that AMECS reduces more emissions than Electric Shorepower from all ships and from ships which are not or cannot be retrofitted.

CFASE-17 Cont.

Trucks. Some assumptions used are a gross misrepresentation of facts.

The DEIS/DEIR states that only truck emissions from a one-way trip were included in the inventory when they should have included a round trip. Therefore the emissions were intentionally underestimated and not mitigated.

The DEIS/DEIR discusses only the emissions impacts from the APL Terminal facility but failed to include all emissions from all truck transportation corridor and destination sources. This indicates that the traffic study data is inadequate and incomplete, the traffic projections are not accurate therefore it has underestimated the significance of emissions, the future emissions, the environmental, public health, public safety impacts and necessary mitigation. It appears that there has been no accounting for the fact that trucks will age and in time release more emissions. The DEIS/DEIR fails to include all truck emissions from the time the trucks leave their point of origin to the Port, all other truck destinations. Off-Port Tidelands Property emissions and impact sources include:

Off-Port Tidelands Property - Truck Transportation Corridors
Off-Port Tidelands Property - Container Storage Yards
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Off-Port Tidelands Property - Truck Storage Areas
Off-Port Tidelands Property - Truck Staging Areas
Off-Port Tidelands Property - Truck Lunch/Rest Stop Areas
Off-Port Tidelands Property - Truck Idling Locations i.e. bridges & intersections
Off-Port Tidelands Property - Truck Detour Locations
Off-Port Tidelands Property - Truck & Reefer Container A/C HFC's Due to Leaking

CFASE-18

Therefore additional new studies must be conducted to include a Traffic Study and an Off-Port Tidelands Property Community Nexus Impact Study to assess the impacts from the current and annual increase of 2,004,432 more truck trips due to this APL expansion proposal.

The DEIS/DEIR discusses truck idling time calculation methods but the calculations failed to include all idling circumstances such as:

a. When the Shuyler Heim Bridge lifts idling time is 15-20 minutes.
b. The numerous times a truck breaks down on the Vincent Thomas Bridge and Gerald Desmond Bridge.
c. The numerous times there is an accident on the LA Harbor I-110, Long Beach I-710 and other freight transportation corridor connecting freeways.
d. The idling time waiting for a container shipside.
e. The idling time at container storage yards.
f. The idling time at fumigation facilities.
g. The idling time at inspection facilities or gates.
h. The idling time during lunch breaks.

CFASE requests: That the DEIR disclose that it failed to include all train and truck transportation corridors and destination air emission sources, idling times and revise its data, data analysis methods and assumptions to reflect correct information. The DEIR must revise its data to reflect accurate traffic impacts studies information.

The DEIR include a Health Impact Assessment and Public Health Survey in order to establish a Public Health Baseline.

CFASE requests that the Port of Los Angeles establish a Public Health Care and Socio-Economic Mitigation Trust Fund which can provide financial assistance for immediate, short term and long term health care and other negative socio-economic impacts:

a. Public health care & treatment. **CFASE-19**
b. Financial assistance to pay for health care at local clinics & county hospitals.
c. Financial assistance to pay for health insurance.
d. Financial assistance to pay for medical equipment.
e. Financial assistance to pay for medical supplies.
f. Financial assistance to pay for medical prescriptions.
g. Financial assistance for funeral expenses.
h. Financial assistance for short & long term convalescent care.
i. Financial assistance for rehabilitation.
j. Financial assistance for job retraining.
k. Financial assistance for lost income.

CFASE requests that the POLA provide evidence that APL will meet the proposed CARB schedule.

11. **Section 3.11 – Noise. The section only discusses noise studies that were conducted near the APL Terminal but fails to disclose that no noise studies along the freight transportation corridors and destination points were conducted and no mitigation considered.**

The DEIS/DEIR fails to disclose that there are residential areas, public schools, child care centers and other sensitive receptors that border the APL freight transportation corridors and destination points which were not studied or impacts mitigated.

The DEIS/DEIR fails to indentify all noise sources such as:

Off-Port Tidelands Property - Truck Transportation Corridors
Off-Port Tidelands Property - Container Storage Yards
Off-Port Tidelands Property - Chassis Storage Yards
Off-Port Tidelands Property - Container Inspection Facilities
Off-Port Tidelands Property - Fumigation Facilities
Off-Port Tidelands Property - Truck Fuel/Gas Stations **CFASE-20**
Off-Port Tidelands Property - Truck Maintenance Garages
Off-Port Tidelands Property - Truck Storage Areas
Off-Port Tidelands Property - Truck Staging Areas
Off-Port Tidelands Property - Truck Lunch/Rest Stop Areas
Off-Port Tidelands Property - Truck Idling Locations i.e. bridges & intersections
Off-Port Tidelands Property - Truck Detour Locations
Off-Port Tidelands Property - Train Transportation Corridors
Off-Port Tidelands Property - Train Railyards, Staging Areas, Maintenance Facilities

The DEIS/DEIR fails to state that the measured sound levels fail to comply with the Los Angeles Noise Ordinance – Chapter XI Noise Regulation, Article 1 General Provisions Sec. 111.00 Declaration of Policy and Sec. 111.03 Minimum Ambient Noise Level Table II Zone A1, A2, RA, RE, RS, RD, RW1, RW2, R1, R2, R3, R4, R5 Presumed Ambient Noise Level Day dBA 50 and Night 40dBA and Article 6 General Noise Sec.116.01 Loud, Unnecessary and Unusual Noise.

The DIES/DEIR fails to state that the measured sound levels fail to comply with the recommendations of World Health Organization – Guidelines for Community Noise, Table 1 & Table 4.1 Guidelines Values for Community Noise in Specific Environments – Specific Environment: Inside Bedrooms 30dBA, Preschool Sleep 30dBA and School Class Rooms 35dBA the American National Standards Institute (ANSI) ANSI S12.60-2002 Acoustical Performance Criteria, Design Requirements, and Guidelines for Schools. See Appendix N-1, N-2, N-6.

The DIES/DEIR further fails to comply with the World Health Organization – Guidelines for Community Noise, 4.2.3 Sleep Disturbance Effects states, "For noise with a large proportion of low frequency sounds a still lower guideline lower than 30dBA is recommended," and "Since A-weighting underestimates the sound pressure level of noise with low frequency components, a better assessment of health effects would be to use C-weighting." See Appendix N-1, N-2. CFASE-21

The Port of Los Angeles and BNSF Railway failed to establish a Community Advisory Committee (CAC) to discuss noise, noise sources, noise impacts, noise studies and noise mitigation which would have identified the deficiencies in the noise studies conducted, inadequate assumptions adopted and failure to incorporate noise mitigation measures in the DEIR.

The Port of Los Angeles and BNSF Railway failed to conduct a Community Advisory Committee Environmental Justice Community Preconstruction Noise Survey which would have revealed deficiencies in the noise studies conducted, assumptions adopted and failure to incorporate noise mitigation measures in the DEIR.

Request: CFASE requests that the DEIR include a study and assessment of long term continuous public exposure to noise, high frequency loud noise and low frequency sound levels measurement up to 3 miles from the project site, other off-site truck destinations and transportation corridors which is the normal audible distance of sound.

CFASE request that a Environmental Justice Community Fence-Line Monitoring Program be established and supervised by the Community Advisory Committee. See Appendix N-7.

CFASE requests that the DEIS/DEIR clearly state that referenced and recorded sound level measurements do not comply with the Los Angeles Noise Ordinance Standards or the World Health Organization – Guidelines for Community Noise the American National Standards Institute (ANSI) ANSI S12.60-2002 Acoustical Performance Criteria, Design Requirements, and Guidelines for Schools. See Appendix N-1, N-2, N-6. CFASE-22

CFASE further requests that the DEIS/DEIR require the establishment of a Community Advisory Committee (CAC) made up of Wilmington, Long Beach and Carson residents and consist of 90% community residents and 10% other stakeholders. The CAC will be established prior to commencement of construction and will end at the completion of the project. The purpose of the CAC is to provide a forum to address DEIR, FEIR deficiencies, provide project statuses and address problems that may occur during construction and post operation. See Appendix N-4

CFASE further requests that the DEIS/DEIR require that a Environmental Justice Community Preconstruction Noise Survey be conducted prior to construction. See Appendix N-5

CFASE requests that the DIES/DEIR include, identify and list the locations of the numerous off-port tidelands property truck destinations in San Pedro and Wilmington.

CFASE requests that the impact zone for noise sensitive receivers be a minimum 3 miles radius from the BNSF SCIF Facility and all train and truck transportation corridors and that a new list of sensitive receptors be established that reflects an accurate record of those within 3 miles.

CFASE-22 Cont.

CFASE requests that you mitigate all noise impacts to less than significant as required by CEQA.

CFASE requests that the following Environmental Justice Community Noise Standards be incorporated in the DEIS/DEIR to protect Wilmington, Long Beach, Carson and Transportation Corridor EJ Communities. See Appendix N-3.

In all the proposed project alternatives and mitigation, sound noise levels are high, will continue to be high in perpetuity and are unacceptable to the communities who will be impacted significantly short term during construction and long term when fully operational. The project sponsors have intentionally mislead the public and decision makers by inferring that they have considered all alternatives noise abatement measures when in fact they have they have not. They have referenced standards that allow high noise levels and fail to disclose that standards can be adopted which provide better health protection for Environmental Justice Communities that have been historically disproportionately impacted and discriminated against. We submit the following as our EJ Community proposed Noise Standards:

CFASE-23

Environmental Justice Community Noise Standards

Environment	Day	Night	Night Sleep Time
	7:00am – 5:00pm	5:00pm-7:00am	9:00pm – 7:00am
Outdoor	50dBA	40dBA	
School Indoor	35dBA	35dBA	
Preschool Sleep Time	30dBA		
Residence Indoor	35dBA	35dBA	
Residence Indoor Sleep Time			30dBA
Residence Indoor Low Frequency			25dBA

12. Section 5.0 – Environmental Justice.

The DEIS/DEIR Cumulative Impacts Assessments and Environmental Justice Assessments do not comply with the California Government Codes and California Public Resources Codes as described throughout these public comments. The DEIS/DEIR fails to demonstrate how it has complied with each code requirement.

The DEIS/DEIR fails to identify and include a discussion on CEQA requirements such as CCR§15064, CCR§15065(a), CCR§15126.2(a) and other applicable California Health & Safety Code requirements. The DEIR fails to demonstrate how it has complied with each code requirement.

The DEIS/DEIR fails to identify and include an assessment of the APL Terminal negative impacts to other Environmental Justice Communities and cities not in the City of Los Angeles, who border the project and border the Freight Transportation Corridors and Destination Point that will service the project.

The Port of Los Angeles through its decision making, actions, inactions, misrepresentations, assumptions and omittances of information has made premeditated decisions to willfully cause disproportionally higher risks, premature death, significant and permanent acute and chronic health impacts, negative socioeconomic impacts, mental and physical bodily harm, increased risk to hazards to port harbor, transportation corridor and warehouse distribution center residents, lower working-class people in general, low income, ethnic minorities, foreign language residents, the poor, children, pregnant woman, the elderly and sensitive receptors in Environmental Justice Communities without consideration, remorse, compensation, mitigation or adequate mitigation for the purpose of significant financial gain and economic benefits of others. CFASE-24

The Port of Los Angeles, its management, staff and APL is systemically a highly classist and racist private business interest entity because its political, business, economic and environmental decision making is structured and operates to systematically disadvantage lower working-class people in general, low income, ethnic minorities, foreign language residents, the poor, children, pregnant women, the elderly and sensitive receptors in particular and to systemically advantage a largely white upper class.

The DEIS/DEIR fails to acknowledge, address and mitigate the fact that there is no Port or Apl Project - Public Emergency, Disaster & Response Plan. The DEIR fails to discuss if there is adequate public liability and disaster insurance to protect the public and cities. The Port and APL have created no emergency funds pool, contracted no third party support services, contracted no relocation areas, contracted no food or water services etc. to assist EJ Communities that could be impacted by the APL Project, Facilities and Freight Transportation Corridors.

The Port has put every Harbor EJ Community and Freight Transportation Corridor EJ Community in extreme danger from its business operations. All planning that has been conducted has been to protect "Port Assets" not Harbor EJ Communities or Freight Transportation Corridor EJ Communities lives, livelihoods and property. If there is a Port or APL catastrophe"

a. There are inadequate Port and City Police to protect and assist the public.
b. There are inadequate Fire Department Personnel & Equipment to provide assistance.
c. There are inadequate medical & hospital services & beds available.
d. There is no relocation place for displaced families to go to.
e. There are no emergency food & water resources for displaced families.
f. There are no financial aid assistance programs available.

Summary of Impact Determinations, conclusion is rejected by Environmental Justice Organizations as incomplete, inaccurate assessment, fails to acknowledge and incorporate the best public health standards CFASE-25

and guidelines and fails to mitigate all noise impacts to less than significant as described in these public comments.

Mitigation Monitoring, conclusion is rejected by Environmental Justice Organizations as incomplete, inaccurate assessment, fails to acknowledge and incorporate the best public health standards and guidelines and fails to mitigate all noise impacts to less than significant as described in these public comments.

Significant Unavoidable Impacts, conclusion is rejected by Environmental Justice Organizations because it fails to acknowledge that significant unavoidable impacts will occur during both daytime and nighttime which can be mitigated to less than significant as described in these public comments.

CFASE-25 Cont.

CFASE Request. That the DEIS/DEIR identify all applicable city, county, regional, state and federal environmental, environmental justice, public health and public safety and community sustainability legal compliance requirements.

CFASE requests that the DEIS/DEIR include an assessment, discussion and matrix chart that demonstrates compliance to all legal requirements.

CFASE request that the DEIS/DEIR an assessment and discussion of other Environmental Justice Communities and cities not in the City of Los Angeles, who border the project and border the Freight Transportation Corridors that will service the project.

CFASE requests that the Port hire an Environmental Justice Attorney and Environmental Justice Consultant to advise and supervise the revision of Port policies, procedures, practices, rules, regulations, programs and projects to comply with all applicable civil rights, social justice, environmental, environmental justice, public health and public safety laws, rules, regulations, policies, programs and projects.

CFASE requests that the DEIR include an Environmental Justice Plan which includes a monitoring and compliance elements to reduce all negative individual environmental, public health, public safety, transportation and socioeconomic impacts, cumulative impacts and risks to less than significant.

CFASE-26

CFASE requests that an Environmental Justice Advisory Committee be established with community residents and organization representatives from all impacted EJ Communities.

CFASE requests that the DEIR include a Health Impact Assessment, Public Health Survey, Off-Port Tidelands Port Property Community Impact Nexus Study, Micro-EJ Community Climate Change Impact Assessment, Negative Socio-Economic Impact Assessment and Public Emergency, Disaster & Response Plan.

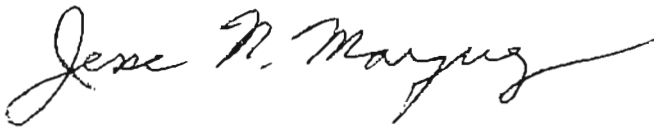
CFASE requests that the DEIR include a Port and APL Project - Public Emergency, Disaster & Response Plan which has involved the proposed Environmental Justice Advisory Committee and residents.

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 and every harbor city.

CFASE-27

The Coalition For A Safe Environment requests another 30 days for public comment and reserves the right to submit additional public comments as may be deemed necessary.

Respectfully Submitted,



Jesse N. Marquez
Executive Director

And

Jesse N. Marquez
A Negatively Health, Safety & Socio-Economically Impacted
Resident of Wilmington, California

Table 4.1: Guideline values for community noise in specific environments.

Specific environment	Critical health effect(s)	LAeq [dB]	Time base [hours]	LAmax, fast [dB]
Outdoor living area	Serious annoyance, daytime and evening Moderate annoyance, daytime and evening	55 50	16 16	- -
Dwelling, indoors Inside bedrooms	Speech intelligibility and moderate annoyance, daytime and evening Sleep disturbance, night-time	35 30	16 8	 45
Outside bedrooms	Sleep disturbance, window open (outdoor values)	45	8	60
School class rooms and pre-schools, indoors	Speech intelligibility, disturbance of information extraction, message communication	35	during class	-
Pre-school bedrooms, indoors	Sleep disturbance	30	sleeping -time	45
School, playground outdoor	Annoyance (external source)	55	during play	-
Hospital, ward rooms, indoors	Sleep disturbance, night-time Sleep disturbance, daytime and evenings	30 30	8 16	40 -
Hospitals, treatment rooms, indoors	Interference with rest and recovery	#1		
Industrial, commercial shopping and traffic areas, indoors and outdoors	Hearing impairment	70	24	110
Ceremonies, festivals and entertainment events	Hearing impairment (patrons:<5 times/year)	100	4	110
Public addresses, indoors and outdoors	Hearing impairment	85	1	110
Music through headphones/ earphones	Hearing impairment (free-field value)	85 #4	1	110
Impulse sounds from toys, fireworks and firearms	Hearing impairment (adults) Hearing impairment (children)	- -	- -	140 #2 120 #2
Outdoors in parkland and conservation areas	Disruption of tranquillity	#3		

#1: as low as possible;
#2: peak sound pressure (not LAmax, fast), measured 100 mm from the ear;
#3: existing quiet outdoor areas should be preserved and the ratio of intruding noise to natural background sound should be kept low;
#4: under headphones, adapted to free-field values

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GUIDELINES FOR COMMUNITY NOISE

Edited by

Birgitta Berglund
Thomas Lindvall
Dietrich H Schwela

This WHO document on the *Guidelines for Community Noise* is the outcome of the WHO-expert task force meeting held in London, United Kingdom, in April 1999. It bases on the document entitled "Community Noise" that was prepared for the World Health Organization and published in 1995 by the Stockholm University and Karolinska Institute.

World Health Organization, Geneva
Cluster of Sustainable Development and Healthy Environment (SDE)
Department for Protection of the Human Environment (PHE)
Occupational and Environmental Health (OEH)

Environmental Justice Community Noise Standard

1. Environmental Justice Community Noise Standard

Environment	Day	Night	Night Sleep Time
	7:00am – 5:00pm	5:00pm-7:00am	9:00pm – 7:00am
Outdoor	50dBA	40dBA	
School Indoor	35dBA	35dBA	
Preschool Sleep Time	30dBA		
Residence Indoor	35dBA	35dBA	
Residence Indoor Sleep Time			30dBA
Residence Indoor Low Frequency			25dBA

1.1 General Ambient Noise Level

Los Angeles Noise Ordinance – Chapter XI Noise Regulation, Article 1 General Provisions Sec. 111.00 Declaration of Policy and Sec. 111.03 Minimum Ambient Noise Level Table II Zone A1, A2, RA, RE, RS, RD, RW1, RW2, R1, R2, R3, R4, R5 Presumed Ambient Noise Level Day dBA 50 and Night 40dBA and Article 6 General Noise Sec.116.01 Loud, Unnecessary and Unusual Noise.

1.2 Community Ambient Noise Protection

World Health Organization – Guidelines for Community Noise, Table 1 & Table 4.1 Guidelines Values for Community Noise in Specific Environments – Specific Environment: Inside Bedrooms 30dBA, Preschool Sleep 30dBA and School Class Rooms 35dBA.

1.3 Specific Low Frequency Noise Protection

World Health Organization – Guidelines for Community Noise, 4.2.3 Sleep Disturbance Effects states, "For noise with a large proportion of low frequency sounds a still lower guideline lower than 30dBA is recommended," and "Since A-weighting underestimates the sound pressure level of noise with low frequency components, a better assessment of health effects would be to use C-weighting."

1.4 American Industry Standard

The American National Standards Institute (ANSI) ANSI S12.60-2002 Acoustical Performance Criteria, Design Requirements, and Guidelines for Schools, Table 1 pg. 5 for Learning space 35dBA.

Noise Appendix N - 4

Environmental Justice Project Community Advisory Committee

1.0 Project Community Advisory Committee Purpose

TBD

2.0 PCAC Goals & Objectives

TBD

3.0 PCAC Membership

Community Advisory Committee membership shall consist of 80% local residents, 10% stakeholders and 10% representatives from local community organizations. All residents and stakeholder members must live in Wilmington, Long Beach or Carson.

4.0 PCAC Meetings

TBD

5.0 PCAC Website

TBD

6.0 Project Noise Monitoring Program

TBD

7.0 Project Traffic & Equipment Monitoring Plan

Preconstruction, Construction and Post Construction TBD

8.0 Community Noise Survey

8.1 Preconstruction Community Noise Survey
8.2 During Construction and Post Construction Community Noise Survey TBD.

9.0 Community Noise Complaint Procedure

4.1. Community Information & Complaint Hotline
4.2. Community Complaint Form
4.3. Complaint Investigation
4.4. Problem Corrective Action
4.5. Complaint Resolution

9.0 Project Noise Monitoring Status Reporting

TBD

10.0 Community Complaints Status Reporting

TBD

11.0 PCAC Termination

TBD.

Noise Appendix N - 5

Environmental Justice Community Preconstruction Noise Survey

1. The community should have a say in defining the Community Noise Standard?

   Strongly Agree [ ] Agree [ ] Disagree [ ] Undecided [ ]

2. The community should have a say in determining construction work days and hours?

   Strongly Agree [ ] Agree [ ] Disagree [ ] Undecided [ ]

3. There should be no construction work on weekends and holidays?

   Strongly Agree [ ] Agree [ ] Disagree [ ] Undecided [ ]

4. All construction contractors and subcontractor workers should attend a noise class?

   Strongly Agree [ ] Agree [ ] Disagree [ ] Undecided [ ]

5. The noise standards should provide the maximum public health & welfare protection?

   Strongly Agree [ ] Agree [ ] Disagree [ ] Undecided [ ]

6. Indoor school classrooms should have a stricter noise standard than day?

   Strongly Agree [ ] Agree [ ] Disagree [ ] Undecided [ ]

7. Preschool classrooms should have a stricter noise standard than day?

   Strongly Agree [ ] Agree [ ] Disagree [ ] Undecided [ ]

8. Senior housing & Hospice Facilities should have a stricter noise standard than day?

   Strongly Agree [ ] Agree [ ] Disagree [ ] Undecided [ ]

9. Hospitals should have a stricter noise standard than day?

   Strongly Agree [ ] Agree [ ] Disagree [ ] Undecided [ ]

10. Day time residential near Intermodal facilities should have a stricter noise standard?

    Strongly Agree [ ] Agree [ ] Disagree [ ] Undecided [ ]

11. Night time residential areas should have a stricter noise standard than day?

    Strongly Agree [ ] Agree [ ] Disagree [ ] Undecided [ ]

12. Sleep times should have a stricter noise standard than standard night?

    Strongly Agree [ ] Agree [ ] Disagree [ ] Undecided [ ]

13. A noise monitoring plan should be required as part of the project?

    Strongly Agree [ ] Agree [ ] Disagree [ ] Undecided [ ]

14. A Community Advisory Committee should be required as part of the project?

Strongly Agree [ ] Agree [ ] Disagree [ ] Undecided [ ]

15. Penalties and fines should be established for noise violations?

Strongly Agree [ ] Agree [ ] Disagree [ ] Undecided [ ]

16. There should be a public information hotline & complaint line?

Strongly Agree [ ] Agree [ ] Disagree [ ] Undecided [ ]

17. Project Noise should be mitigated to eliminate and reduce noise to less than significant?

Strongly Agree [ ] Agree [ ] Disagree [ ] Undecided [ ]

18. Port truck traffic volume near residential homes & schools should be limited to prevent increasing noise?

Strongly Agree [ ] Agree [ ] Disagree [ ] Undecided [ ]

19. Port train traffic volume near residential homes & schools should be limited to prevent increasing noise?

Strongly Agree [ ] Agree [ ] Disagree [ ] Undecided [ ]

20. Project sponsors should require and provide incentives to purchase zero emissions and near noiseless trucks?

Strongly Agree [ ] Agree [ ] Disagree [ ] Undecided [ ]

21. Project sponsors should require and provide incentives to purchase zero emissions and hear noiseless trains?

Strongly Agree [ ] Agree [ ] Disagree [ ] Undecided [ ]

22. Schools, residential homes and all sensitive receptors locations should be sound proofed to eliminate noise or reduce to less than significant?

Strongly Agree [ ] Agree [ ] Disagree [ ] Undecided [ ]

23. Environmental and public health mitigation costs should be included in project budget?

Strongly Agree [ ] Agree [ ] Disagree [ ] Undecided [ ]

24. Excessive noise disturbs my ability to sleep?

Strongly Agree [ ] Agree [ ] Disagree [ ] Undecided [ ]

25. Excessive noise disturbs my mental peacefulness?

Strongly Agree [ ] Agree [ ] Disagree [ ] Undecided [ ]

26. Excessive noise disturbs my ability to relax, watch TV and listen to music?

Strongly Agree [ ] Agree [ ] Disagree [ ] Undecided [ ]

27. Excessive noise makes me unable to concentrate and perform my daily activities?

Strongly Agree [ ] Agree [ ] Disagree [ ] Undecided [ ]

28. Train & Truck noise is a major problem in my community and has been increasing?

Strongly Agree [ ] Agree [ ] Disagree [ ] Undecided [ ]

ANSI S12.60-2002

AMERICAN NATIONAL STANDARD

ACOUSTICAL PERFORMANCE CRITERIA, DESIGN REQUIREMENTS, AND GUIDELINES FOR SCHOOLS

Accredited Standards Committee S12, Noise

Standards Secretariat
Acoustical Society of America
35 Pinelawn Road, Suite 114E
Melville, NY 11747-3177

Noise Appendix N - 7

Environmental Justice Community Fence-Line Monitoring Program

1.0 Noise Monitoring Program

Complete detail description TBD.

2.0 Community Advisory Committee Establishment

Community Advisory Committee to be established 90 days before construction begins.

3.0 Environmental Justice Community Noise Standard

3.1 Environmental Justice Community Noise Standard

Environment	Day	Night	Night Sleep Time
	7:00am – 5:00pm	5:00pm-7:00am	9:00pm – 7:00am
Outdoor	50dBA	40dBA	
School Indoor	35dBA	35dBA	
Preschool Sleep Time	30dBA		
Residence Indoor	35dBA	35dBA	
Residence Indoor Sleep Time			30dBA
Residence Indoor Low Frequency			25dBA

3.2 General Ambient Noise Level

Los Angeles Noise Ordinance – Chapter XI Noise Regulation, Article 1 General Provisions Sec. 111.00 Declaration of Policy and Sec. 111.03 Minimum Ambient Noise Level Table II Zone A1, A2, RA, RE, RS, RD, RW1, RW2, R1, R2, R3, R4, R5 Presumed Ambient Noise Level Day dBA 50 and Night 40dBA and Article 6 General Noise Sec.116.01 Loud, Unnecessary and Unusual Noise.

3.3 Community Ambient Noise Protection

World Health Organization – Guidelines for Community Noise, Table 1 & Table 4.1 Guidelines Values for Community Noise in Specific Environments – Specific Environment: Inside Bedrooms 30dBA, Preschool Sleep 30dBA and School Class Rooms 35dBA.

3.4 Specific Low Frequency Noise Protection

World Health Organization – Guidelines for Community Noise, 4.2.3 Sleep Disturbance Effects states, "For noise with a large proportion of low frequency sounds a still lower guideline lower than 30dBA is recommended," and "Since A-weighting underestimates the sound pressure level of noise with low frequency components, a better assessment of health effects would be to use C-weighting."

3.5 American Industry Standard

The American National Standards Institute (ANSI) ANSI S12.60-2002 Acoustical Performance Criteria, Design Requirements, and Guidelines for Schools, Table 1 pg. 5 for Learning space 35dBA.

4.0 Technical Approach

Community On-Site Monitoring Technical Approach TBD.

5.0 Real Time Ambient Noise Level Monitoring

5.1 Real Time Ambient Noise Level Monitoring shall as a minimum measure Leq, L10, Ldn, Lmax, SEL and CNEL. A-Frequency Weighting and C-Frequency Weighting shall be monitored and recorded.

5.2 All measurements must be continuous and recorded.

6.0 Real Time Noise Sound Recording

6.1 Real time ambient noise shall be recorded to determine source and types of noises.

6.2 Noise sound recording will be continuous non-stop recording either analog or digital 24hrs. per day with digital preferred.

7.0 Noise Sound Level Meter

7.1 The Noise Sound Level Meter shall be a Type I to ANSI S1.4-1998 or most recent revision.

7.2 A Sound Level Meter with data-logging capability for recording a minimum of 24 hrs. continuously recording and 7 days non-stop is preferred.

7.3 A Sound Level Meter capable of recording ambient noise sound a minimum of 24 hrs. continuously and 7 days non-stop is preferred.

7.4 Sound Level Meters, Data Logging and Sound Recording Equipment and accessories must be capable of withstanding outdoor inclement weather.

8.0 Noise Monitoring Locations

Locations TBD.

9.0 Noise Monitoring

Protocol TBD

10.0 Noise Monitoring Schedule

Schedule TBD.

11.0 Frequency of Noise Monitoring

11.1 Measurements shall as a minimum be every 15 minutes for 24hrs. per day or as may be determined necessary.

12.0 Equipment Calibration

12.1 Equipment calibration shall be traceable to the National Bureau of Standards and the American National Standards Institute (ANSI) S1.4-1998 or most recent revision.

12.2 Records shall be maintained and provided upon request.

13.0 Equipment Inspection & Monitoring

On-Site Equipment Inspection & Monitoring Plan TBD.

14.0 Record Keeping Procedures

Procedures TBD.

15.0 Noise Monitoring Quality Assurance

QA Plan TBD.

16.0 Noise Monitoring Reports

Noise Monitoring Reports will be produced monthly, quarterly and annually.

17.0 Data Analysis & Review

Format TBD.

18.0 Corrective Action

CA TBD.

NOISE CONTROL ACT OF 1972

HISTORY: Public Law 92-574, Oct. 27, 1972; 86 Stat. 1234; 42 USC 4901 et seq.; Amended by PL 94-301, May 31, 1976; PL 95-609, Nov. 8, 1978; PL 100-418, Aug. 23, 1988

SEC. 1 [42 U.S.C. 4901 nt], Short Title.

This Act may be cited as the "Noise Control Act of 1972."

SEC. 2 [42 U.S.C. 4901]Findings and Policy.

(a) The Congress finds--

(1) that inadequately controlled noise presents a growing danger to the health and welfare of the Nation's population, particularly in urban areas;

(2) that the major sources of noise include transportation vehicles and equipment, machinery, appliances, and other products in commerce; and

(3) that, while primary responsibility for control of noise rests with State and local governments, Federal action is essential to deal with major noise sources in commerce control of which require national uniformity of treatment.

(b) The Congress declares that it is the policy of the United States to promote an environment for all Americans free from noise that jeopardizes their health or welfare. To that end, it is the purpose of this Act to establish a means for effective coordination of Federal research and activities in noise control, to authorize the establishment of Federal noise emission standards for products distributed in commerce, and to provide information to the public respecting the noise emission and noise reduction characteristics of such products.

SEC. 3 [42 U.S.C. 4902] Definitions.

For purposes of this Act:

(1) The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) The term "person" means an individual, corporation, partnership, or association, and (except as provided in sections 11(e) and 12(a)) includes any officer, employee, department, agency, or instrumentality of

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Air Quality Appendices

AQ-1 Expert Witness Letter Dr. Jonathan Heller, PHD

AQ-2 Jonathan Heller CV

AQ-3 Health Impact Assessment Information

AQ-4 Medical Health Studies Index A-1 / A-10

HUMAN IMPACT PARTNERS
304 12th St. Suite 3B Oakland CA 94607 510 452 9442

January 27, 2012

Jesse N. Marquez
Executive Director
Coalition For A Safe Environment
1601 N. Wilmington Blvd.
Wilmington, CA 90744

Dear Mr. Marquez,
This letter describes why, in the opinion of Human Impact Partners, Environmental Impact Reports under the California Environmental Quality Act (CEQA) and Environmental Impact Statements the National Environmental Protection Act (NEPA) require a comprehensive analysis of health, how Health Impact Assessments (HIAs) can be conducted to address that requirement, and how Health Risk Assessments (HRAs) as currently conducted do not meet that requirement and are different from HIAs.

About Human Impact Partners (HIP)

Founded in June 2006, Human Impact Partners is an independent non-profit corporation (501(c)3) based in Oakland, California. HIP's mission is to increase the consideration of health and equity in decision-making. In doing so, we work to transform the policies and places people need to live healthy lives. As research indicates that approximately 55% of health status is determined by social and environmental conditions, the fundamental premise of our work is that decision-makers must understand how community-level factors, such as housing, land use, and transportation systems affect health and health disparities in order to take action to improve those conditions, and thereby improve health.

While it seems commonsense that major decisions regarding land use and transportation planning should incorporate health considerations, mechanisms for doing so often do not exist, and local and regional agencies do not have the resources or expertise to incorporate health into planning-related decisions. HIP is addressing this through its work conducting Health Impact Assessments and similar health-based analyses in collaboration with government agencies and community organizations, with a focus on communities facing health disparities. Human Impact Partners has conducted HIAs and similar analyses on the local, state and federal levels – with experience in communities across the country, from California to Maine. Our findings have been integrated into policy-making, planning and projects. To date, HIP has conducted over fifteen HIAs on land use and transportation plans and development projects.

Health Impact Assessments

Understanding and consideration of health and equity consequences of land use, transportation, goods movement, and other decisions and of potential mitigations to adverse consequences could yield policies, plans, and projects that result in better outcomes for all, but especially for vulnerable populations that currently face inequities. HIA is a public engagement and decision-support tool that can be used to assess the

health impacts of planning and policy proposals, and make recommendations to improve health outcomes associated with those proposals. In a recent book by the National Research Council, HIA is formally defined as "a systematic process that uses an array of data sources and analytic methods and considers input from stakeholders to determine the potential effects of a proposed policy, plan, program or project on the health of a population and the distribution of those effects within the population. Health impact assessment provides recommendations on monitoring and managing those effects."[1]

Environmental, social, demographic, and economic conditions drive the health and wellbeing of communities. Factors such as housing, transportation, employment and income, noise, air quality, access to goods and services, access to parks, and social networks have well-demonstrated and reproducible links to health outcomes. An HIA analyzes health from a broad perspective by evaluating how a proposed project, plan, or policy affects these factors – often collectively referred to as "determinants of health" in the public health literature – and in turn, how impacts to these factors are likely to positively or adversely influence health.

Overall, the information from an HIA, and close collaboration between public health experts, affected communities, and the decision-makers on a project, lead to practical, evidence-driven recommendations that address identified health concerns to the extent possible within the limitations of the regulatory or decision-making process. Conducting an HIA can offer many benefits:

- HIAs provide sound, objective data on health impacts. By using this information, potentially unexpected health consequences and unanticipated costs can be identified and thus avoided.
- HIA helps develop healthier communities by identifying design solutions that address the root causes of many prominent health problems like asthma, diabetes, and cardiovascular disease.
- The HIA process can be used to build consensus and buy-in by addressing the affected community's fears about a project directly and transparently and by providing practical solutions.
- HIAs help focus community involvement on real health concerns and on feasible mitigations to those health issues.
- Health issues are typically important to community members and HIA can serve to engage community residents in decisions that impact their lives.
- HIAs give project proponents a way to recognize positive health contributions of projects on communities. It also given businesses the information they need to distinguish themselves as smart planners and build positive working relationships with the community.
- HIAs help decision-makers by ensuring that any potential concerns about a project are identified and addressed early on.

HIA may use both qualitative and quantitative data and methods to predict potential impacts. Where feasible and data allows, HIA uses quantitative modeling to increase the precision of analysis and to support significance judgments. Because of substantial data requirements, using quantitative forecasting methods exclusively may

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[1] National Research Council (NRC). 2011. Improving Health in the United States: The Role of Health Impact Assessment. Available at: http://www.nap.edu/catalog.php?record_id=13229.

present a partial or biased accounting of health effects. Quantification can also be resource intensive and divert from other impact assessment activities. Qualitative analyses provide valuable data when quantitative analyses are not possible.

In 2011, the National Research Council of the National Academies of Science formed a Committee on Health Impact Assessment and released a book entitled Improving Health in the United States: The Role of Health Impact Assessment.[2] The book provides guidance on conducting HIAs and makes a strong case that HIAs should be integrated into the environmental review process. Additionally, The North American Health Impact Assessment Working Group released a second edition of practice standards for conducting HIAs in 2010. Those standards are attached to this letter.

The Human Impact Partners website (http://www.humanimpact.org/) contains information, tools, and resources regarding HIA. Other good resources include the Centers for Disease Control website (http://www.cdc.gov/healthyplaces/hia.htm), the Health Impact Project website (www.healthimpactproject.org), and the UCLA HIA Clearinghouse website (http://www.ph.ucla.edu/hs/hiaclic/).

NEPA and CEQA require a comprehensive analysis of health impacts and HIA is a tool that can fill this requirement

As stated in "Public Health Analysis Under the National Environmental Policy Act", a white paper by Aaron Wernham (the Director of the Health Impact Project, a collaboration of the Robert Wood Johnson Foundation and the Pew Charitable Trusts) and Dinah Bear (former General Counsel for the Council on Environmental Quality):

> The inclusion of a robust, systematic approach to public health is supported by NEPA, the regulations issued by the Council on Environmental Quality (CEQ), the agency in the Executive Office of the President charged with overseeing implementation of NEPA, Executive Orders 12898 and 13045, and available guidance on NEPA and environmental justice.
>
> *Congressional Intent*
> In using the term "human environment," Congress signaled that protection of human communities was a fundamental purpose of the legislation. In the debates leading to NEPA's enactment, Senator Henry Jackson stated: "When we speak of the environment, basically, we are talking about the relationship between man and these physical and biological and social forces that impact upon him. A public policy for the environment basically is not a public policy for those things out there. It is a policy for people."
>
> *Health in NEPA*
> NEPA mentions health a total of six times. Among NEPA's fundamental purposes is: "promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man." NEPA § 102 [42 USC § 4321]
>
> NEPA is intended, furthermore, to: "assure for all Americans safe, healthful, productive, and aesthetically and culturally pleasing surroundings." [42 USC § 4331]
>
> And finally to: "attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences." [42 USC § 4331]
>
> *Health in the CEQ Regulations*

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[2] National Research Council (NRC). 2011. Improving Health in the United States: The Role of Health Impact Assessment. Available at: http://www.nap.edu/catalog.php?record_id=13229.

Several general provisions of CEQ's NEPA regulations support the inclusion of health.

First, agencies respond to substantive public concerns in the draft EIS [40 CFR § 1503.4]. When, therefore, an agency can anticipate substantive health concerns based on scoping, it is sensible to include these issues for analysis in the DEIS.

Second, in determining whether an effect may be significant (and therefore require analysis in the EIS) one of the factors that agencies should consider is "the degree to which the effects on the human environment are likely to be highly controversial" [40 CFR § 1508.27 (b) 4]. Commonly, health often figures among the strongest concerns expressed by affected communities.

The CEQ regulations also specifically define health as one of the effects that must be considered in an EIS or an EA. In defining "effects," the regulations state that: "Effects" includes ecological, aesthetic, historic, cultural, economic, social, or health, whether direct, indirect, or cumulative." [40 C.F.R. § 1508.8] And, the regulations instruct agencies to consider "the degree to which the proposed action affects public health or safety" in determining significance. [40 C.F.R. § 1508.27]

Health in Executive Orders

Executive Order 12898 instructs agencies to: "make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations in the United States."

Similarly, Executive Order 13045 states that agencies must: "make it a high priority to identify and assess environmental health risks and safety risks that may disproportionately affect children; and ... shall ensure that its policies, programs, activities, and standards address disproportionate risks to children that result from environmental health risks or safety risks."

Statements relevant to NEPA-based health analysis in Federal Guidance

CEQ guidance on implementing Executive Order 12898 contains several suggestions relevant to public health analysis, including:

- Lead agencies should involve public health agencies and clinics
- Agencies should review relevant public health data (as for any other resource)
- Agencies should consider how interrelated cultural, social, occupational, historical, or economic factors may contribute to health effects of the proposed action and alternatives.

The California Environmental Quality Act contains similar requirements for conducting comprehensive health analyses. Potentially significant impacts on health trigger Environmental Impact Reports:

A lead agency shall find that a project may have a significant effect on the environment and thereby require an EIR to be prepared for the project where there is substantial evidence, in light of the whole record, that any of the following conditions may occur ...(4) ***The environmental effects of a project will cause substantial adverse effects on human beings, either directly or indirectly****. (CCR§15065(a))*

EIRs under CEQA must discuss public health impacts:

The discussion should include relevant specifics of the area, the resources involved, physical changes, alterations to ecological systems, and changes induced in population distribution, population concentration, the human use of the land (including commercial and residential development), ***health and safety problems*** *caused by the physical changes, and other aspects of the resource base such as water, historical resources, scenic quality, and public services. (CCR§15126.2(a))*

Several court opinions in California support the inclusion of health impacts in EIRs, including, for example, Bakersfield Citizens for Local Control vs. City of Bakersfield (2004) and Californians for Alternatives to Toxics v. CDFA (2005).

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Education

University of California Berkeley, CA

1993 - 1997. Ph.D., Biophysics. Howard Hughes Fellow. Dissertation: "Solid-State Nuclear Magnetic Resonance Studies of Prion Proteins and Peptides." Advisor: Professor David Wemmer; Collaborators: Professors Alexander Pines and Stanley Prusiner. Experience in structural biology, protein chemistry, molecular biology and physical chemistry.

Harvard University Cambridge, MA

1985 - 1989. B.A., *Cum Laude*, Applied Mathematics.

Experience

Human Impact Partners Executive Director & Co-founder

May 2006 – Present. HIP, a non-profit, believes that health should be considered in all decision making. We raise awareness of and collaboratively use innovative data, processes and tools that evaluate health impacts and inequities in order to transform the policies, institutions and places people need to live healthy lives. Through training and mentorship we also build the capacity of impacted communities and their advocates, workers, public agencies, and elected officials to conduct health-based analyses and use them to take action. To pursue this mission, we are applying Health Impact Assessment as our primary approach to identifying and mitigating adverse policy and development impacts on health.

Responsibilities

- Carry out all aspects of Health Impact Assessments (HIAs) including: outreach to communities, working with residents of communities and staff of community organizations, forming stakeholder groups and collaborations, leading/facilitating HIA meetings, collaborating with and informing county health departments and elected officials, screening and scoping projects, research, reporting, evaluation;
- Conduct HIA training and mentoring;
- Strategic planning;
- Grant writing and other fundraising;
- Legislative strategy development;
- Overseeing day-to-day operations of HIP;
- Personnel management.

Accomplishments

- Built relationships and secured funding for carrying out HIAs across California, in other states, and at the federal level;
- Built HIP to a staff of 8 FTEs;
- Completed over 15 HIAs on land use, transportation and other policies;
- Improved health outcomes for several plans and projects and built awareness regarding the connections between health and policy among elected officials and the general public;
- Conducted over 20 HIA trainings and provided technical assistance to over 15 organizations, nation-wide, conducting HIAs.

Predicant Biosciences Vice President, Information and Project Planning
Mar. 2002 – Dec. 2005. Predicant developed a novel platform to transform patient care by providing physicians a clinically reliable method of detecting, diagnosing and monitoring complex disease states through the analysis of protein patterns in blood. We developed an integrated system incorporating proprietary separation, detection and informatics technologies to provide reliable, reproducible and sensitive measurements for protein pattern discovery and clinical assay. I was the first employee at Predicant and participated in founding the company.

Responsibilities
- Provided technical leadership in informatics, pattern recognition, and bioanalytical chemistry as well as overall company leadership (business, IP, cultural, etc.);
- Project planning and management – developed strategy and timelines for research and development towards product introduction;
- Business development – in-licensing, clinical sample acquisition, collaboration with academic labs, and assessment of external technologies and opportunities for partnership;
- Intellectual property – led company's efforts in working with counsel to patent novel technologies;
- Communication and presentation – developed and delivered key presentations to Board of Directors, potential investors, potential corporate partners, and scientific community;
- Management of 11 employees.

Accomplishments
- Built company to ~50 employees (including hiring a CEO); raised ~$37M of funding from 4 top-tier venture capital firms; established cooperative, collaborative company culture;
- Led planning and development of a novel microfluidics-mass spectrometry based diagnostics platform and data analysis methods; set key performance characteristics for components and the platform (e.g. reproducibility, sensitivity) and designed system characterization plan to demonstrate that the platform met specifications;
- Designed studies, acquired samples for and led first clinical studies that led to the discovery of protein biomarkers in prostate cancer and lung cancer;
- Developed corporate strategies (e.g. technology, business, IP, hiring, etc.) and business plan;
- Led in-licensing efforts to allow us freedom-to-operate and to build a competitive advantage;
- Represented company in Congressional hearings.

SurroMed
Oct. 2000 – Mar. 2002. Director, Informatics

Exelixis
Dec. 1999 – Sept. 2000. Research Scientist II
Dec. 1998 – Nov. 1999. Research Scientist I
Sept. 1997 – Nov. 1998. Associate Research Scientist II

Peace Corps, Papua New Guinea Volunteer
1990 – 1992. Taught high school science and mathematics. Chaired science department. Supervised dormitories for 150 boarding students. Raised funds and initiated construction of school water supply. Had chloroquine-resistant malaria twice.

Awards

1993 – 1997. Howard Hughes Medical Institute Predoctoral Fellow
1993. National Science Foundation Fellowship (declined)
1987 and 1989. Harvard College Scholarship

Publications

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Minimum Elements and Practice Standards for Health Impact Assessment

North American HIA Practice Standards Working Group

Version 2
November 2010

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This document represents a revision of version one of Practice Standards for Health Impact Assessment (HIA) published by the North American HIA Practice Standards Working Group in April 2009. This review and revision was conducted by a working group including the following individuals: Rajiv Bhatia,[1] Jane Branscomb,[2] Lili Farhang,[3] Murray Lee,[4] Marla Orenstein,[4] and Maxwell Richardson.[5] In producing this document, the working group solicited review and comment from participants attending the second annual HIA in the Americas Workshop held in Oakland, California in March of 2010.

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Endorsements

The following HIA practitioners and organizations are committed to utilizing these working practice standards, to the greatest extent possible, in their health impact assessment practice. These organizations are listed below:

Environmental Resources Management
Georgia Health Policy Center
Habitat Health Impact Consulting Corp.
Human Impact Partners
San Francisco Department of Public Health
University of California Berkeley Health Impact Group

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Introduction

Health Impact Assessment (HIA) is a practice to make visible the interests of public health in decision-making. The International Association of Impact Assessment defines HIA as: *a combination of procedures, methods and tools that systematically judges the potential, and sometimes unintended, effects of a policy, plan, program or project on the health of a population and the distribution of those effects within the population. HIA identifies appropriate actions to manage those effects.* With roots in the practice of Environmental Impact Assessment (EIA), HIA aims to inform the public and decision-makers when decisions about policies, plans, programs, and projects have the potential to significantly impact human health, and to advance the values of democracy, equity, sustainable development, the ethical use of evidence and a comprehensive approach to health.

While available guidance documents for HIA describe the procedural steps and products of each stage of the HIA process, there exists considerable diversity in the practice and products of HIA due to the variety of decisions assessed, diverse practice settings, and the nascent evolution of the field. This document, a collective product of a HIA practitioners' workgroup in North America, intends to translate the values underlying HIA along with key lessons from HIA practice into specific "standards for practice" for each phase of the HIA process. Participants at the first *North American Conference on Health Impact Assessment* held in Oakland, California in September 2008 identified the development of standards as a priority need for the field. Subsequent to the 2008 conference, participants collectively developed the first version of these practice standards. This document reflects the second version of those standards, and has been revised to include a set of "minimum elements" of HIA practice.

In this document, *Minimum Elements* answer the question of "what essential elements constitute an HIA"; this is distinct from *Practice Standards*, which answer the question, "how to best conduct an HIA."

Minimum Elements can serve as a basis to identify and promulgate examples of HIA within the field of practice and in broader social discourse, distinguishing HIA from other practices and methods that also aim to ensure the consideration of and action on health interests in public policy. These *Minimum Elements* apply to HIA whether conducted independently or integrated within an environmental, social or strategic impact assessment.

The *Practice Standards* are not rigid criteria for acceptability but rather guidance for effective practice. A practitioner may use the *Practice Standards* as benchmarks for their own HIA practice, to stimulate discussion about HIA content and quality, and to evaluate this emerging field.

These standards are intended support the development and institutionalization of HIA, and are aligned with the central concepts and suggested approaches described in the World Health Organization's 1999 Gothenburg Consensus Paper on HIA, a guiding document in the HIA field. The members of the North American HIA Practice Standards Working Group recognize that real-world constraints and varying levels of capacity and experience will result in appropriate and ongoing diversity of HIA practice. Every practice standard in this document may not be achieved in every example of HIA. Overall, we hope that these standards will be viewed as relevant, instructive and motivating for advancing HIA quality.

Minimum Elements of HIA

A health impact assessment (HIA) must include the following minimum elements, which together distinguish HIA from other processes. An HIA:

1. Is initiated to inform a decision-making process, and conducted in advance of a policy, plan, program, or project decision;
2. Utilizes a systematic analytic process with the following characteristics:
   - 2.1. Includes a scoping phase that comprehensively considers potential impacts on health outcomes as well as on social, environmental, and economic health determinants, and selects potentially significant issues for impact analysis;
   - 2.2. Solicits and utilizes input from stakeholders;
   - 2.3. Establishes baseline conditions for health, describing health outcomes, health determinants, affected populations, and vulnerable sub-populations;
   - 2.4. Uses the best available evidence to judge the magnitude, likelihood, distribution, and permanence of potential impacts on human health or health determinants;
   - 2.5. Rests conclusions and recommendations on a transparent and context-specific synthesis of evidence, acknowledging sources of data, methodological assumptions, strengths and limitations of evidence and uncertainties;
3. Identifies appropriate recommendations, mitigations and/or design alternatives to protect and promote health;
4. Proposes a monitoring plan for tracking the decision's implementation on health impacts/determinants of concern;
5. Includes transparent, publicly-accessible documentation of the process, methods, findings, sponsors, funding sources, participants and their respective roles.

HIA Practice Standards

Adherence to the following standards is recommended to advance effective HIA practice:

1. **General standards for the HIA process**
   - 1.1. An HIA should include, at a minimum, the stages of **screening, scoping, assessment, recommendations,** and **reporting** described below.
   - 1.2. **Monitoring** is an important follow-up activity in the HIA process. The HIA should include a follow-up monitoring plan to track the outcomes of a decision and its implementation.
   - 1.3. **Evaluation** of the HIA process and impacts is necessary for field development and practice improvement. Each HIA process should begin with explicit, written goals that can be evaluated as to their success at the end of the process.
   - 1.4. HIA should respect the needs and timing of the decision-making process it evaluates.
   - 1.5. HIA requires integration of knowledge from many disciplines; the practitioner or practitioner team must take reasonable and available steps to identify, solicit and utilize the expertise, including from the community, needed to both identify and answer questions about potentially significant health impacts.
   - 1.6. Meaningful and inclusive stakeholder participation (e.g., community, public agency, decision-maker) in each stage of the HIA supports HIA quality and effectiveness. Each HIA should have a specific engagement and participation approach that utilizes available participatory or deliberative methods suitable to the needs of stakeholders and context.
   - 1.7. HIA is a forward looking activity intended to inform an anticipated decision; however, HIA may appropriately conduct or utilize analysis, or evaluate an existing policy, project or plan to prospectively inform a contemporary decision or discussion.
   - 1.8. Where integrated impact assessment is required and conducted, and requirements for impact assessment include responsibility to analyze health impacts, HIA should be part of an integrated impact assessment process to advance efficiency, to allow for inter-disciplinary analysis and to maximize the potential for advancing health promoting mitigations or improvements.
   - 1.9. HIA integrated within another impact assessment process should adhere to these practice standards to the greatest extent possible.

2. **Standards for the screening stage**
   - 2.1. Screening should clearly identify all the decision alternatives under consideration by decision-makers at the time the HIA is considered.
   - 2.2. Screening should determine whether an HIA would add value to the decision-making process. The following factors may be among those weighed in the screening process:
     - 2.2.1. The potential for the decision to result in substantial effects on public health, particularly those effects which are avoidable, involuntary, adverse, irreversible or catastrophic
     - 2.2.2. The potential for unequally distributed impacts
     - 2.2.3. Stakeholder and decision-maker concerns about a decision's health effects
     - 2.2.4. The potential for the HIA to result in timely changes to a policy plan, policy or program
     - 2.2.5. The availability of data, methods, resources and technical capacity to conduct analyses

Coalition For A Safe Environment

Public Health Impact Studies Index

(1.15.2011)

APPENDIX A:

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Note:
1. Primary Public Health Studies Research Conducted By: USC Southern California Environmental Health Sciences Center - Children's Environmental Health Center
2. Petroleum Industry & light Pollution Public Health Studies Research Conducted By: Coalition For A Safe Environment
3. List is periodically updated by the Coalition For A Safe Environment

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Coalition for a Safe Environment (CFASE)

Response to Comment CFASE-1

As the Commenter mentions the SCIG project, which was recently available for public review, it is uncertain whether the Commenter is making a request regarding the proposed Project and its Draft EIS/EIR or just the SCIG project. The commenter is making an overall request that the Draft EIS/EIR be rescinded and rewritten due to "deficiencies, errors, omissions of information, inadequate assessments, missing required assessments, misrepresentative of facts, unsubstantiated information, invalidated data, inappropriate assumptions, fails to eliminate where feasible all negative impacts, and fails to include all reasonable and available mitigation measures, and environmental justice impacts, as detailed in subsequent comments." The comment is noted, however without clarification to which Project the commenter is referring to and details regarding the suggestions that the Draft EIR/EIS is inadequate, the LAHD and USACE cannot respond to this request.

Response to Comment CFASE-2

Comment noted. The PDF files being password protected was not intentional; however, the LAHD and USACE provided the Draft EIS/EIR in a manner consistent with CEQA and NEPA, and USACE regulations regarding public noticing requirements. However, for the posting of future electronic files on the Port's website, LAHD will verify that the files are not password protected.

Response to Comment CFASE-3

The comment asserts that the Draft EIS/EIR does not comply with CEQA because it does not disclose all significant environmental impacts, does not identify all sources of related environmental impact information, does not fully assess all sources of environmental impact information, does not disclose all possible ways to minimize significant impacts, and dismisses or does not disclose ways to minimize significant impacts. The Commenter also requests that the Draft EIS/EIR identify, disclose, and include all Port known and public identified impacts, sources of impacts, source impact assessment, and available mitigation. The Commenter also requests that, where no assessment exists, LAHD hire an independent third party to conduct an assessment and include it in the Draft EIS/EIR. The Commenter also requests that all potential and alternative mitigation that has been currently proven to be feasible and cost effective, or that will be proven feasible and cost effective in the next 12-months be required and included in the Draft EIS/EIR.

The Draft EIS/EIR analysis complies with NEPA and CEQA by evaluating significant impacts and disclosing the significant impacts, as well as identifying feasible alternatives and mitigation measures to reduce or avoid impacts (these evaluations and discussion are contained in Chapter 3 and Chapter 4 of the Draft EIS/EIR. Sources of information utilized in the impact discussion are referenced in each section of the Draft EIS/EIR, and in Chapter 10 (References). The mitigation measures in the Draft EIS/EIR are all currently feasible; however, the Draft EIS/EIR does not require specific measures that are not yet feasible because feasibility has not yet been determined. The Draft EIS/EIR does; however, include lease measure LM AQ-1, which reopens the terminal lease every 5 years to allow the incorporation of new technologies that have become feasible after adoption of the Draft EIS/EIR.

In addition, the document evaluates and discloses disproportionate impacts on the minority and low income community in Chapter 5, Environmental Justice, of the Draft EIS/EIR. Despite the application of all feasible mitigation measures, significant unavoidable adverse Project-level and cumulative impacts would remain. These impacts have been identified in the Draft EIS/EIR, and the decision-makers will consider them as part of their deliberations to approve or disapprove the Project or an alternative.

Response to Comment CFASE-4

The Commenter asserts that that Project and alternatives are not fully consistent with the Project objectives because they are not the most optimal, efficient, or cost effective, and these opinions are noted; however LAHD disagrees with these opinions.

The Commenter asserts that the most efficient way to operate a container terminal is to have on-dock rail extend to the dockside, presumably to directly transfer containers between rail and vessels, and to use zero emission transport technologies for subsequent transport. Contrary to the Commenter's recommendation, extending on-dock rail infrastructure to the wharf would impede transfer of containers between vessels and backlands. As part of terminal operations, containers are managed in several ways, including stacking, storage on chassis, transfer to on-dock rail, and transfer to near dock rail yards. Although extending rail to dockside may make sense for terminals that transfer the containers primarily for rail transport, it doesn't make sense to do so for the proposed Project or alternatives, as such an approach would accommodate one mode while ignoring the others. Currently, zero-emission technologies are still in the evaluation phase. When they are deemed to be technologically, economically, and commercially feasible, the Port intends to implement zero-emission drayage options on a Port-wide basis (see the Response to Comments USEPA-17 and SCAQMD-8)

The Commenter recommends that the Draft EIS/EIR or the LAHD implement demonstration projects that for more efficient container handling and transferring. The LAHD is involved in demonstrating new technologies via the Technology Advancement Program (TAP), which is focused on new and emerging technologies. The TAP has the objectives of streamlining the process for reaching consensus on the emission reductions achieved by various technologies and facilitating development of new technologies and their adoption throughout the port industry. It should be noted that the Draft EIS/EIR contains lease measure LM AQ-1 that includes the incorporation of new technologies as these new technologies become commercially available.

The Commenter also states that they previously recommended investing in more efficient terminal designs such as "U" Dock where containers are loaded and unloaded from both sides of the vessel, and that such a design should be considered for the proposed Project. Although such a concept could make sense for a new terminal if terminal operations would be improved, it is not a viable alternative for the proposed Project and the Project alternatives, which are expansions of the existing terminal configuration. Such an alternative would also have the effect of reducing backlands and requiring extensive terminal and channel reconfiguration to accommodate vessel maneuvering, and reduced and modified backland areas and configurations. Such a terminal (and associated channel) reconfiguration would likely result in greater environmental impacts than the proposed Project or Project alternatives.

Response to Comment CFASE-5

The Commenter reiterates their opinion that the proposed Project and alternatives are not fully consistent with the proposed Project objectives because they are not the most optimal, efficient, or cost effective. These opinions are noted; however LAHD disagrees with these opinions.

The Commenter states that LAHD and USACE have not conducted an assessment of optimal cargo handling technologies and that there is no reason to build another outdated terminal when new state of the art 21st century alternatives and zero-emission technologies have been validated or will be within the next 1-3 years, The LAHD would like to note that the proposed Project, Alternatives 5 and 6 include an option for an automated stacking system at on the backlands behind Berth 306, should market conditions support it (see the Response to Comment USEPA-12), LAHD and USACE also evaluated a fully electrified terminal and alternative transportation systems in Chapter 2 of the Draft EIS/EIR, but determined that they are not feasible at this time. Although some zero-emission drayage technologies are in the demonstration phase,

full feasibility has not yet been determined, and it would be speculative to place a timeframe on when those technologies would become technologically, economically, and commercially feasible to be implemented on a port-wide basis (see the Response to Comments USEPA-13 and USEPA-17). It should be noted that the Draft EIS/EIR includes lease measure LM AQ-1 that includes a lease reopener every five years to allow for the incorporation of new technologies after they become commercially available (consistent with a Port-wide implementation approach).

Response to Comment CFASE-6

The Commenter asserts that the Draft EIS/EIR fails to equally evaluate public and manufacturer recommended alternatives that inadequately describes the feasibility of an Alternative Transportation System Alternative, fails to disclose that there are two MagLev technologies, and fails to disclose that LAHD and POLB staff have visited MagLev demonstrations. These opinions are noted; however LAHD disagrees with these opinions. As discussed in the Draft EIS/EIR, an Alternative Transportation System was deemed not to be a feasible Project alternative because such a system would require extensive integration and capital investment on the part of rail companies; and a method for integration into the existing rail system that is based on diesel locomotives would still have to be developed. Development of such an alternative therefore must occur on a regional basis, would require extensive coordination by many stakeholders (including railroad companies), and likely would require external funding commitments. Because of this, an Alternative Transportation System does not represent an alternative that can be implemented in lieu of the proposed Project or one of its feasible alternatives. Magnetic Levitation technologies would be included in an Alternative Transportation System. Although LAHD staff has researched MagLev technologies, such a system still would not be a feasible alternative to the proposed Project or Project alternative because it would need to occur on a Port-wide basis rather than a terminal specific basis, and because terminal expansion and improvements would still be required. The Commenter notes that the public supports zero-emission technologies, and LAHD also supports the development of such technologies, as exemplified by the zero-emission demonstration projects in the TAP. However, although several zero-Emission technologies look technically promising, economic and commercial feasibility would still need to be determined.

Response to Comment CFASE-7

The Commenter asserts that the Draft EIS/EIR fails to discuss the feasibility of an Alternative Transportation System, misrepresents facts by stating that a fully electric terminal could result in only marginal throughput increases; fails to identify extending on-dock rail to dockside as a more efficient way of managing containers; fails to disclose that zero-emission drayage and yard tractors exist; fails to disclose that AMECs is tested and feasible; and fails to disclose that a fully electric terminal is viable within 1-3 years. The Commenter also requests that the 50 percent of the fleet serving the APL Terminal be required to use zero-emission technologies. All these assertions are noted; however LAHD disagrees with these assertions. As discussed in the Response to Comment CFASE-6, implementation of an alternative transportation system, such as MagLev, is not a feasible alternative or mitigation for the impacts of the proposed Project. These systems generally require very large capital investments, have extensive geographical coverage, and are disproportionate to the impacts of an individual project. Additionally, the Project applicant has no means to implement such system-wide transportation improvements. The recommendations of alternative transportation systems are better implemented on a Port-wide or regional basis. 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 Project alternatives represent a reasonable range of alternatives, as required by CEQA that would reduce or avoid the significant impacts of the proposed Project.

The Commenter is correct that a fully electrified terminal was not considered to be a viable alternative at this time, in part, due to the berth constrained nature of the terminal. In addition, the Draft EIS/EIR provides additional reasons why such a terminal was not carried forward for a co-equal evaluation. Although several test projects are underway and are intended to demonstrate the feasibility and reliability of the zero-emission trucks and cargo-handling equipment, full electrification of the APL Terminal is not considered to be technologically feasible at this time, and therefore was not considered to be a viable or feasible alternative to the proposed Project.

Contrary to the Commenter's opinion, extending electric on-dock rail infrastructure to the wharf would not improve efficiency; on the contrary, it would impede the transfer of containers between vessels and backlands. In addition, please see the Response to Comment CFASE-4.

Although the Commenter recommends that specific drayage truck technologies be required for the fleet the serves the APL Terminal, those technologies are not yet commercially available. In addition, the fleet that services the APL Terminal (and other container terminals throughout both Ports) is actually many smaller fleets that are independently owned and operated by various trucking firms or individual owner-operators. Because of this, the LAHD is taking a Port-wide approach to implementing zero emission trucks. Please see the Response to Comments USEPA-17, SCAQMD-8, and SCAQMD-14.

Regarding the comment about AMECS, please see the Response to Comment CFASE-17 below.

Response to Comment CFASE-8

The Commenter asserts that the Draft EIS/EIR inadequately describes the feasibility of expanded rail lines; fails to disclose that he Alameda Corridor is operating at less than full capacity, allegedly because both Ports refuse to require its usage in lease agreements; and fails to disclose that the most efficient way to manage a terminal is by extending on-dock rail lines to dockside. These assertions are noted; however, LAHD disagrees with these assertions. The commenter also requests that the Draft EIS/EIR include a description of current and near-term (1-3 years) technologies that optimizes cargo handling and reduce emission, and require all feasible new technologies.

Regarding the comment on expanding rail lines, the Draft EIS/EIR disclosed that current and future terminal operations are and would be berth-constrained, such that providing for more Port-wide rail capacity would not increase projected throughput or make operations more efficient. Because the recommended alternative would not meet the Project objectives, the expansion or improvements to area rail lines was not considered to be a viable or feasible alternative to the proposed Project.

Regarding the comments on usage of the Alameda Corridor, the Alameda Corridor serves both Ports, and utilization of that rail corridor is not a function of container terminal lease terms; rather, it is a function of throughput, cargo destinations, transportation modes, and other factors. The Alameda Corridor is considered adequate to support the Project's anticipated demand for container shipment by rail, and establishing a lease requirement to maximize use of the Alameda Corridor would not increase the use of the corridor beyond demand. The recommendation is therefore not an effective way of reducing impacts.

Regarding the comment about extending on-dock rail to the dockside, please see the Response to Comment CFASE-4 above. In addition, it should be noted that only a portion any container terminal throughput is transported via rail.

The Draft EIS/EIR proposes mitigation that is considered feasible and implementable. Although the commenter may desire requiring new technologies that may be determined to be feasible in the next 1-3 years, to do so would be speculative. For a technology to be considered viable from a Port-wide

perspective, it must be technologically, economically, and commercially feasible, not just technologically feasible.

Response to Comment CFASE-9

The Commenter states that the Draft EIS/EIR fails to adequately describe alternative technologies to optimize cargo handling, fails to disclose the benefits of alternative transportation systems such as MagLev, fails to disclose that the Alameda Corridor is used less than 35 percent of its capacity, fails to disclose that the most efficient way to manage containers is to extend rail to dockside, fails to discuss more efficient cargo handling technologies, fails to consider a U shaped terminal design to more efficient vessel unloading, and fails to discuss new technologies that will be ready in the next 1-3 years. These assertions are noted; however, LAHD disagrees with these assertions.

Please see the Response to Comments CFASE-4, CFASE-5, CFASE-6, and CFASE-8 above.

Response to Comment CFASE-10

The Commenter states that the Draft EIS/EIR fails to list all air pollutant (truck and train sources, including emissions associated with vehicle aging), noise, traffic, and safety impact sources, that the traffic projections are inaccurate and cause an understatement of other impacts, and that additional studies are needed (Health Impact Assessment and Off-Port Tidelands Property Community Impact Nexus Study). The commenter identifies specific impacts sources as follows:

A. Off Port Properties – Truck Transportation Corridors
B. Off Port Properties – Container Storage Yards
C. Off Port Properties – Chassis Storage Yards
D. Off Port Properties – Container Inspection Facilities
E. Off Port Properties – Fumigation Facilities
F. Off Port Properties – Truck Fuel/Gas Stations
G. Off Port Properties – Truck Maintenance Garages
H. Off Port Properties – Truck Storage Areas
I. Off Port Properties – Truck Staging Areas
J. Off Port Properties –Truck Lunch/Rest Stop Areas
K. Off Port Properties –Truck Idling Locations (i.e. bridges and intersections)
L. Off Port Properties – Truck Detour Locations
M. Off Port Properties – Truck and Reefer Container A/C HFC's due to leaking
N. Off Port Properties – Train Transportation Corridors
O. Off Port Properties – Train Idling Locations
P. Off Port Properties – Train Maintenance Yard Locations

The Commenter also suggests various mitigation measures and requests that all mitigation measures be required in the tenant lease agreement.

Off-Port emission source items A-P are all existing facilities that are not components of the proposed Project or Project alternatives, and therefore do not represent Project emission sources. However, to the extent that Project trucks or trains would utilize the above-mentioned truck or train transportation corridors within the South Coast Air Basin prior to their first point of delivery, their emissions are captured in the emission calculations in the Draft EIS/EIR. The LAHD estimates emissions to the first point of delivery because beyond that point, logistic variables associated with transloaded cargo shipments increase

dramatically, resulting is an intolerable level of speculative, as well as a lack of LAHD jurisdiction and control.

Regarding the comment that the air analysis in the Draft EIS/EIR does not take into consideration increased emissions as fleet's age, this comment is incorrect. The air quality analysis bases its emission calculations on emission factors provided by the USEPA, CARB, and Starcrest. These emission factors take into consideration aging of fleets, as well as other factors such as cleaner fuels, more stringent engine standards, and regulatory requirements.

Regarding the comment that the air analysis in the Draft EIS/EIR does not take into consideration all destinations, please see the Response to Comment USEPA-21. Regarding the recommendation to perform a health impact assessment, please see the Response to Comment PCAC-1.

Although the Commenter believes the traffic projects are understated and impacts are underestimated, the traffic projections are based on the throughput projections provided in Appendix C of the Draft EIS/EIR. The throughput projections are considered conservative, and traffic projections and other impact analyses based on them would also be considered conservative.

Regarding the recommended mitigation measures, please see the Responses to Comments CFASE-4, CFASE-5, CFASE-6, CFASE-8, CFASE-17, SCAQMD-8, and SCAQMD-14. Regarding the comments on feasible noise mitigation, the Draft EIS/EIR did not identify a significant operational noise impact for which the recommended noise mitigation would apply. Similarly, the proposed project would not result in significant air quality impacts to related to CFCs or for which air purifications systems would mitigate. Although the Commenter believes that the recommended mitigation measures are feasible, many are not yet ready for implementation, or do not have a nexus to significant impacts identified in the Draft EIS/EIR.

Response to Comment CFASE-11

The Commenter repeats their statement that the Draft EIS/EIR fails to list all air pollutant (truck and train sources, including emissions associated with vehicle aging), and that the traffic projections are inaccurate and cause an understatement of other impacts, and that additional studies are needed (Health Impact Assessment and Off-Port Tidelands Property Community Impact Study). Please see the Response to Comment CFASE-10 above and Response to Comment PCAC-1.

Response to Comment CFASE-12

The Commenter asserts that the Draft EIS/EIR (Air Quality, Noise, and Transportation) should be revised to reflect mitigation measures submitted by the Commenter and previously submitted to the LAHD. Responses to specific mitigation measures and alternatives are contained or directed elsewhere in the Response to Comment CFASE-10. It should be mentioned that the mitigation measures in the Draft EIS/EIR are based on significant impacts identified in the analysis and will be required if either the proposed Project or an alternative are approved.

Response to Comment CFASE-13

The Commenter asserts that the Draft EIS/EIR lease measures do not guarantee that new technologies will be identified, researched, recommended, or required, and that although the Ports tenants are aware of the effectiveness of zero-emission drayage technologies, no tenant has purchased a zero emission drayage truck. These opinions are noted; however LAHD disagrees with these opinions. The purpose of lease measure LM AQ-1 is to have a mechanism to implement new technologies after they become technologically, economically, and commercially feasible, consistent with a Port-wide implementation approach. New technologies are being evaluated as part of the TAP and by private companies such as Vision Motor

Corporation, as stated by the Commenter. Although the identified zero-emission drayage truck looks promising from a technological standpoint via its demonstrations, it is unclear when demonstrated technologies can become commercially viable, and when other members of the goods movement chain can implement the new technologies. Because of this, the LAHD is taking a Port-wide approach to implementing new technologies (see the Response to Comments USEPA-17 and SCAQMD-8).

Response to Comment CFASE-14

The Commenter asserts that the socioeconomic evaluation in the Draft EIS/EIR only discusses positive impacts and does not include negative impacts such as health care costs, public transportation infrastructure costs, costs associated with off-port accidents, costs for infrastructure repair, and costs associated with loss of jobs. In addition, the Commenter states that the Port Master Plan restricts non-container uses in the Port and that the LAHD is not moving forward install solar power generation capacity. These assertions are noted; however LAHD disagrees with these assertions.

The socioeconomic section of the Draft EIS/EIR includes an evaluation of socioeconomic effects clearly associated with the proposed Project and the Project alternatives without regards to whether the effect would be considered positive or negative. The impacts listed by the Commenter are general socioeconomic impacts that are affected by many factors outside of the proposed Project and alternatives. In addition, the comment appears to be related to the operation and development of the two ports as a whole rather than for a specific container terminal project. In addition, the Draft EIS/EIR is not required to analyze socioeconomic impacts that are not related to the proposed Project or Alternatives, except to the extent that those impacts may result in impacts to the environment.

Regarding the Port Master Plan (PMP) use restrictions, the PMP establishes particular uses in different areas of the Port, in a similar manner as a general or community plan. There are designated areas for container terminals, as well as other public uses. The Wilmington Waterfront Project and the San Pedro Waterfront Project are two recent examples where non-container terminal uses were approved within the Port. Regarding the comments on the Port's solar generation project, that project is not a part of the proposed Project or the Project alternatives. As discussed in Chapter 1 of the Draft EIS/EIR, the Port intends to construct a 10-megawatt photovoltaic solar system to offset approximately 17,000 metric tons of carbon dioxide equivalent annually in accordance with the 2007 Attorney General agreement. As of August 2009, the Port has completed approximately 1,079 kilowatts of solar power and will continue to implement solar power initiatives now and in the future. Additionally, many of the environmental programs such as the Green Building Policy and the Recycling Program will serve to reduce GHG emissions.

Response to Comment CFASE-15

The Commenter asserts that the Draft EIS/EIR fails to list all air emission sources that feed into the health risk assessment, that the traffic projections are inaccurate, and that additional studies are needed (Health Impact Assessment and Off-Port Tidelands Property Community Impact Study). The facilities that the Commenter provided are off-port sources that are not components of the proposed Project or Project alternatives (see the Response to Comment CFASE-10); therefore, it is only appropriate to include emissions associated with those facilities in the Project's HRA to the extent that those emissions are part of the Project. To the extent that Project trucks and trains utilize the truck and train transportation corridor within the SCAB prior to the first point of destination, their emissions are included in the Draft EIS/EIR HRA. Please see the Response to Comment CFASE-10 above.

Response to Comment CFASE-16

The Commenter asserts that the Draft EIS/EIR fails to include a Health Impact Assessment, as requested, fails to adequately evaluate health impacts, and only does a health risk assessment, which looks at deaths and risk factors. In addition, the HIA methodology described by Dr. Heller may not be able to adequately differentiate health effects from the proposed project versus from many of the other factors that are considered in an HIA. Although Dr. Miller may have a generalized methodology for conducting HIAs, it does not appear that the HIA methodology has been reviewed by or approved for use in environmental documents by California Office of Environmental Health Hazards Assessment, as has the HRA methodology used in the Draft EIS/EIR. Please see the Response to Comment PCAC-1.

Response to Comment CFASE-17

Regarding the ship emissions, the Commenter asserts that the Draft EIS/EIR understates vessel emissions by only counting one-way trips rather than round trips, that it is impossible to retrofit 50 percent of the APL vessel fleet with AMP by 2014, and that the Draft EIS/EIR fails to require AMECs. In the methodology discussion for ship emission calculations (Section 3.2.4.1.2 of the Draft EIS/EIR), it was noted that the one-way distance from the berth to the edge of SCAQMD waters was 50 miles (page 3.2-42 of the Draft EIS/EIR). However, roundtrip emissions were calculated and reported in each of the operational emissions tables used to determine significance.

The Commenter's opinions regarding AMP compliance are noted.

AMEC 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 for some vessels calling the Port, especially marine oil tankers where AMP ship-side retrofits may be technologically and operationally infeasible. The system continues to be tested with generally promising preliminary results, however, AMP is 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 (shore power that allows ships to turn off main engines and auxiliary engines while docked) since 2004, and will meet CARB's requirement to reduce 80 percent of these engine emissions by 2020. With mitigation, APL is expected to achieve reductions of 95 percent by 2026.

Response to Comment CFASE-18

The Commenter asserts that the Draft EIS/EIR understates emissions by only using one-way trips instead of round trips, fails to include all emission sources, that an Health Impact Assessment and Off-Port Tidelands Property Community Impact Study are needed, and that fails to account for all idling sources. Regarding the comment that the air analysis in the Draft EIS/EIR does not take into consideration the correct number of trips or increased emissions as fleets age, this comment is incorrect. Regarding the list of emission sources in this comment that the Commenter states are not included in the Draft EIS/EIR evaluation, those sources are not components of the proposed Project, as detailed in the Response to Comment CFASE-10. Please see the Response to Comment CFASE-10 above. As for transportation corridor and destination sources, as described in Section 3.6.2.1 of the Draft EIS/EIR, the traffic setting for the proposed Project includes those streets and intersections that would be used by both automobile and truck traffic to gain access to and from the proposed Project site, as well as those streets that would be used by construction traffic (i.e., equipment and commuting workers). Fifteen study intersections located near or on routes serving the proposed Project site, were chosen for analysis. Proposed Project-related traffic on streets farther away from the proposed Project site is assumed to be diminished to less than the number of trips that

would require analysis per the City of Los Angeles Department of Transportation (LADOT), City of Long Beach, or City of Carson traffic impact guidelines. The 15 study intersections are shown on Figure 3.6-1 of the Draft EIS/EIR. In addition, five Congestion Management Program (CMP) monitoring stations were assessed in conformance with Los Angeles County Metropolitan Transportation Authority (LACMTA) CMP guidelines all within five miles of the proposed Project site (see Figure 3.6-2 of the Draft EIS/EIR for illustration of study area freeway segment locations), which is the appropriate distance of analysis for the proposed Project.

The Commenter also states that the evaluation did not include the following truck idling circumstances:

A. When the Schuyler Heim Bridge is in the lifted position,
B. When trucks break down on the Vincent Thomas Bridge or the Gerald Desmond Bridge,
C. When there is an accident on I-110, I-701, or other connecting freeway,
D. While waiting for a container shipside,
E. While idling on the container yard,
F. While idling at fumigation facilities,
G. While idling at inspection facilities or gates,
H. While idling during lunch or breaks.

Regarding idling, the air quality analysis was conservative and assumed continuous operation of the equipment engines for each working day for equipment and vehicles associated with the Project while in use. Emissions during continuous vehicle operation are higher than those from idling, and thus, the approach used represents a worst-case scenario. In addition, the proposed Project emphasizes the importance of controlling idling emissions by including (in the mitigated analysis) all appropriate measures within the power of the LAHD and that can be controlled by APL, such as mitigation measures MM AQ-3, MM AQ-4, and MM AQ-5 during construction, as well as MM AQ-16 during operation.

Regarding the Health Impact Assessment and Off-Port Tidelands Property Community Impact Study, please see the Response to Comment CFASE-10.

Response to Comment CFASE-19

The Commenter asserts that the Draft EIS/EIR should be revised because it did not include all emissions sources, idling circumstances, or destinations. The Commenter also requests the preparation of a Health Impact Assessment and a Public Health Survey to establish a public health baseline, establish a public Health Care and Socioeconomic Mitigation Trust Fund, and to provide evidence that APL will comply with a CARB schedule. Regarding the emission sources, idling, and destination comments, please see the Response to Comments CFASE-10 and CFASE 18 (above). Regarding the request for a HIA and Public Health Survey, please see the Response to Comment PCAC-1. Regarding the request for a Public health Care and Socioeconomic Mitigation Trust Fund, mitigation has been provided to address health risk impacts (see Section 3.2 of the Draft EIS/EIR). As discussed in Chapter 7 of the Draft EIS/EIR, the proposed Project would not result in significant socioeconomic impacts that would warrant establishment of the suggested mitigation trust fund. Regarding the request to provide proof of compliance with the CARB schedule, it is unclear which schedule the Commenter is referring to.

Response to Comment CFASE-20

The Commenter asserts that the Draft EIS/EIR fails to do the following:

A. Conduct a noise study along freight transportation corridors,
B. Disclose that noise sensitive uses are located along freight corridors,

C. Identify Specific Off-Port Noise Sources (the list or off-port noise sources appears identical to the Commenters previous list of off-port emission sources).

Regarding the comment on the noise study and sensitive receptors along transportation corridors, Section 3.11 of the Draft EIS/EIR included an evaluation of the Project's noise impacts, and included an identification and evaluation of Project impacts on sensitive receptors. In addition, the noise evaluation acknowledges Project operations (rail and traffic) would likely have the greatest effects on sensitive receptors close to Terminal Island because they represent sensitive locations closest to the highest intensity activities. At locations farther out, the Project's noise impacts would be less concentrated and distinguishable from non-Project noise impacts, as rail and truck traffic become dispersed. At the sensitive receptor locations closest to the rail and truck traffic, the Draft EIS/EIR discloses that there would be less than significant impacts to those receptors (based on existing noise levels as determined through noise level monitoring). Locations farther from the terminal have a much lower potential of being affected by Project noise because trips would be dispersed.

Regarding the list of off-port noise sources, because those sources are not Project components, they are not included in the Draft EIS/EIR noise impact evaluation. However, to the extent that Project trucks and trains travel on the existing transportation systems, noise from those trucks and trains are included in the Noise Section (Section 3.11) of the Draft EIS/EIR.

Response to Comment CFASE-21

The Commenter asserts that the Draft EIS/EIR fails to do the following:

A. State that measured sound levels do not comply with the City's Noise Ordinance or World health Organization guidelines for community noise, and

B. Comply with WHO noise guidelines

In addition, the Commenter notes that the LAHD and BNSF failed to establish a Community Advisory Committee to review noise issues and failed to conduct a CAC Environmental Justice Preconstruction Noise Survey.

The community noise guidelines referenced by the Commenter are noise levels that are recommended for communities and are usually community goals to strive for during the community planning process. The LAHD, as a Lead Agency under CEQA, has discretion to select the methodology and standards of significance it uses to measure impacts. The noise significance thresholds are based on the noise thresholds, which were specifically developed by the City of Los Angeles (and approved by City Council) to evaluate impacts under CEQA. Both the LAHD and USACE utilize the *L.A.CEQA Thresholds Guide* to evaluate environmental impacts, as they were specifically developed for this purpose. I n contrast, the community noise guidelines referenced by the Commenter are general planning based noise guidelines or objectives to be used in general and community plans, but are not specifically developed for purposes of impact evaluation. The Commenter is referred to the *L.A. CEQA Thresholds Guide*.

Regarding the comment that the LAHD and BNSF establish a Community Advisory Committee on noise, the recommendation is not a subject related to environmental review of this Project, and is not a measure which would mitigate any significant noise impacts of this Project.

Regarding the comment that a Preconstruction Environmental Justice Noise Survey be conducted, noise monitoring was performed as and the noise impacts of the proposed Project and alternatives were evaluated in the Draft EIS/EIR. It is unclear why the Commenter is requesting a noise survey, but the noise level monitoring performed for the Draft EIS/EIR also establishes the noise conditions prior to construction.

Response to Comment CFASE-22

The Commenter requests the following:

A. Include in the Draft EIS/EIR a long term noise evaluation up to 3 miles from the Project,

B. Implement an Environmental Justice fence line monitoring program overseen by the CAC,

C. Include a statement in the Draft EIS/EIR that noise levels do not comply with the Noise Ordinance or World Health Organization Community Noise Guidelines,

D. Establish a Community Advisory Committee made up of Wilmington, Carson and Long Beach residents to address Draft EIS/EIR deficiencies, and project issues that may arise during construction,

E. Conduct Environmental Justice Preconstruction Noise Survey prior to construction,

F. Include a list of locations of off-port tidelands property truck destinations in San Pedro and Wilmington,

G. Mitigate all noise impacts to a less than significant level,

H. Incorporate Environmental Justice Noise Standards into the Draft EIS/EIR to protect Wilmington, Carson, and transportation corridor Environmental Justice communities.

Although the Commenter has requested that the Draft EIS/EIR include a long-term noise evaluation for areas up to 3 miles away from the Project site, such a study is not warranted because the Draft EIS/EIR disclosed that noise impacts are less than significant at sensitive receptor locations closer than 3-miles. It is unclear why a 3-mile noise impact zone is being requested.

Although the Commenter has requested that an Environmental Justice Fence Line Monitoring Program be established and monitored by a Community Advisory Committee, it is unclear what the purpose of such or program would be, or why it is warranted. The Draft EIS/EIR did not identify a significant Project noise impact.

Regarding the comment on WHO community noise guidelines, the need for a preconstruction noise survey, and establishment of a CAC for noise issues, please see the Response to Comment CFASE-21 above.

Regarding the request for a list of truck destinations in Wilmington and San Pedro, there is no way to know all of the truck destinations in advance and without individual truck destination monitoring.

The proposed Project identified a potential for construction noise impacts to receptors at Reservation Point, but identified mitigation to reduce those impacts to a less than significant level.

Although the Commenter is requesting that Environmental Justice noise standards be incorporated into the Draft EIS/EIR to protect receptors in Wilmington and Carson, the proposed Project would not result in impacts to receptors in those communities. Regardless, mitigation has been provided to reduce construction noise impacts during the noise intensive activity (pile driving), and the communities of Wilmington and Carson are located too far from the Project site to be significantly affected.

Response to Comment CFASE-23

The Commenter asserts that the proposed Project would result in significant noise impacts during construction and operation, and that adequate noise mitigation has not been provided.

The Commenter also states that the Draft EIS/EIR uses standards that allow high noise levels in environmental justice communities, and recommends the use of specific provided noise standards.

The noise section of the Draft EIS/EIR evaluates noise impacts relative to the significance threshold for noise provided in the *L.A. CEQA Thresholds Guide* (see the Response to Comment CFASE-21). The Draft EIS/EIR identified a potential for significance noise impacts to sensitive receptors close to the Project site at Reservation Point, but provided mitigation to reduce the impact to a less than significant level. Although the Commenter requests that the provided noise standards be used in the noise evaluation, the Draft EIS/EIR utilizes the City's CEQA thresholds because they have been developed specifically for such evaluations, and because they effectively provide a method to evaluate the Projects noise impacts relative to existing levels (consistent with CEQA baseline requirements). In regards to impact to environmental justice populations, the Corp has adopted the City's significance thresholds, and uses them to in their NEPA evaluations to identify high and adverse impacts to minority and low income populations. Because of this, the significance thresholds for noise evaluations used in the Draft EIS/EIR (rather than the noise standards suggested by the Commenter) are appropriate.

Response to Comment CFASE-24

The Commenter asserts that the following:

A. The Draft EIS/EIR fails to comply with Section 15060, 15065a, and 15126.2a of the California Environmental Quality Act.
B. The Draft EIS/EIR fails to identify impacts to EJ Communities outside of the City of los Angeles,
C. The Port has cause disproportionate impacts to EJ communities with providing adequate mitigation,
D. Port management is classist and racist,
E. The Draft EIS/EIR fails to acknowledge that there is no Public Emergency Disaster Response Plan,
F. The Port has not created an emergency fund to assist EJ Communities that could be affected by the Project,
G. The Port has placed every EJ Community in extreme danger, and
H. If there is a Port or APL emergency, that there are inadequate facilities to provide assistance.

Contrary to the comment, the Draft EIS/EIR complies with the reference CEQA sections by identifying significant impacts of the proposed Project and alternative, by preparing an EIR (rather than a lower level document), and by discussing anticipated environmental impacts, mitigation, and alternatives.

Chapter 5 of the Draft EIS/EIR contains an evaluation of the high and adverse impacts to minority and low income populations, consistent with Executive Order 12898, *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations*, which requires federal agencies to assess the potential for their actions to have disproportionately high and adverse environmental and health impacts on minority and/or low-income populations, and with the Council on Environmental Quality (CEQ) Guidance for Environmental Justice Under NEPA (CEQ, 1997). Where the proposed Project (or alternative) has the potential to result in a significant and unavoidable project-level or cumulative significant impact to a low income or minority population, an environmental justice impact is identified in Chapter 5. The environmental justice evaluation is also consistent with California state law regarding environmental justice. The Draft EIS/EIR discusses high and adverse impacts to minority and low income population, and provides mitigation, lease measures, and standard conditions of approval to reduce impacts to environmental justice communities.

The Commenter believes that the LAHD is a classist and racist organization; these opinions are hereby noted, but do not relate to the adequacy of the Draft EIS/EIR.

Regarding the comment that there is no Public Emergency Disaster Response Plan, Section 3.13 of the Draft EIS/EIR evaluates the potential for the proposed Project and alternatives to affect the provision of law enforcement and fire response in the event of an accident or emergency. The evaluation determined that there is adequate response infrastructure and significant impacts to emergency services would not occur. In addition, the Draft EIS/EIR evaluated the potential for the proposed Project to affect tsunami and terrorist risks, and determined that significant impacts would not occur. It is unclear what impact the proposed Project would result in that would require a public emergency, disaster response plan as mitigation.

Regarding the comment about an emergency fund to provide assistance to environmental justice communities that could be affected by the proposed Project, the Draft EIS/EIR identifies mitigation measures, lease measures, and standard conditions of approval that would reduce potential impacts to environmental justice communities.

Regarding the comment that the LAHD has placed every environmental justice community in extreme danger, and that if there is a Port or APL emergency, that there are inadequate facilities to provide assistance , the opinions of the Commenter are noted. As discussed above, the Draft EIS/EIR evaluated the proposed Project's affect on public services, including law enforcement and fire suppression services, and determined that a significant impact to these services would not occur.

Response to Comment CFASE-25

The Commenter rejects the summary of impact determinations, the mitigation monitoring conclusions, and the significant unavoidable adverse impact conclusions in the Draft EIS/EIR and they believe the determinations are based on inaccuracies, and incomplete disclosure of impacts, as mentioned elsewhere in the comment letter. The Commenter's rejection of the Draft EIS/EIR determinations are noted and has been incorporated into the Final EIS/EIR for review and consideration by the decision-makers prior to any action on the proposed Project.

Response to Comment CFASE-26

The Commenter requests the following:

A. The Draft EIS/EIR identify all applicable City, County, Regional, State, and Federal Environmental, Environmental Justice, Public Health/Safety, and Sustainability legal requirements,

B. The Draft EIR/EIS include a matrix demonstrating compliance with the requirements,

C. The Draft EIR/EIS include non-City of Los Angeles Environmental Justice Communities,

D. The Port hire an Environmental Justice attorney and consultant to advise and supervise the port,

E. The Draft EIS/EIR include an Environmental Justice plan that includes a monitoring and compliance element,

F. An Environmental Justice advisory committee be established and comprised of representatives from Environmental Justice communities,

G. The Draft EIS/EIR include a Health Impact Assessment, Off-Port Tidelands Property Community Impact Nexus Study, Micro Environmental Justice Climate Change Impact Assessment, Negative Socioeconomic assessment, and a Public Emergency, Disaster and Response Plan.

Regarding request A and B, as discussed in the Response to Comment CFASE-24, the environmental justice evaluation in Chapter 5 of the Draft EIS/EIR complies with Executive Order 12898, Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations, CEQ Guidance for Environmental Justice Under NEPA (CEQ, 1997), and California state law regarding environmental justice. The Commenter is referred to Section 5.3 of Chapter 5 of the Draft EIS/EIR for a discussion of the applicable environmental justice regulations.

Regarding request C, the Draft EIS/EIR includes an environmental justice evaluation based on high and adverse impact that could extend to Census Tract that contain minority or low income populations. As stated in Chapter 5, Los Angeles County is used as the comparison population because it is considered representative of the general population that could be affected by the proposed project or Alternative. The Commenter is referred to Figures 5-1 and 5-2 of the Draft EIS/EIR, which shows the minority and low income populations in the Project vicinity (including Census Tracts outside of the City of Los Angeles) on which the environmental justice evaluation was based.

Regarding request D, the LAHD is not aware of a requirement to hire an environmental justice attorney and/or consultant to oversee Port activities, and respectfully declines the request.

Regarding request E, the LAHD will be preparing a Mitigation Monitoring and Reporting Program (MMRP) that tracks the implementation of all mitigation measures required in the Draft EIS/EIR, including mitigation measures that would lessen impacts to minority or low income populations. The MMRP will be considered by the Board of Harbor Commissioners and will be available if the Board approves the proposed Project or alternative.

Regarding the request to establish an Environmental Justice Advisory Committee, LAHD is not aware of a requirement to establish such a committee, and does not believe that the proposed Project warrants establishment of such a committee.

Regarding the request for a Health Impact Assessment and Off-Port Tidelands Property Community Impact Nexus Study, please see the Responses to Comments PCAC-1 and CFASE-10. Regarding the request to prepare a Negative Socioeconomic evaluation, please see the Response to Comment CFASE-14. Regarding the request to prepare a Public Emergency, Disaster and Response Plan, please see the Response to Comment CFASE-24. Regarding the request to prepare a Micro Environmental Justice Climate Change Impact Assessment, LAHD is not aware of a requirement to perform such an evaluation. General weather patterns and localized features would be the primary determinant of localized climate conditions, and neither the proposed Project nor alternatives is expected to influence localized climate conditions off-port.

The Commenter's requests are noted and have been incorporated into the Final EIS/EIR for review and consideration by the decision-makers prior to any action on the proposed Project.

Response to Comment CFASE-27

The Commenter's request is noted and has been incorporated into the Final EIS/EIR for review and consideration by the decision-makers prior to any action on the proposed Project.

From: RSF9873@aol.com [mailto:RSF9873@aol.com]
Sent: Sunday, December 18, 2011 8:08 AM
To: Ceqacomments
Subject: APL Expansion

Will the new plans for APL include automation which will take away jobs and effect local economies which is the last thing that needs to happen, or will it create more jobs and put people back to work and help our country get back to economic recovery. **RSF-1**

2.3.5 Individuals/Companies

RSF9873@aol.com (RSF)

Response to Comment RSF-1

Thank you for your review and comment on the Draft EIS/EIR. As detailed throughout Chapter 2, Project Description, of the Draft EIS/EIR, it is foreseeable that technology advancements could result in replacement of some of the traditional backland operations at the APL Terminal through the use of an automated container handling system on the 41-acre backland area adjacent to proposed Berth 306. As described in Section 7.3.2.2 of the Draft EIS/EIR, if installed, automation of the 41-acre backland area is expected to result in fewer jobs at the terminal when compared to a conventional terminal. However, the proposed Project would continue to generate new direct long-term jobs associated with expanded operations associated with the remainder of the site (i.e., the existing 291-acres). In addition, as noted throughout Chapter 2 of the Draft EIS/EIR, given that future throughput under both an automated and conventional backland operations on the 41-acre area would remain the same the number of secondary jobs generated by the Project under either scenario would not vary substantially.

From: Arthur Crable [mailto:dennis@crable-associates.com]
Sent: Thursday, January 12, 2012 10:40 PM
To: Ceqacomments
Cc: dennis crable
Subject: Berths 302-306 APL Container Terminal Project

As in the SCIQ DEIR Air Quality section, the Port attempts in this DEIR isolate project impacts by subtracting baseline from project impacts, which is not possible. To isolate and assess project impacts to the environment, as required by CEQA, one must ***ADD*** project impacts to an existing conditions baseline, not subtract; then one applies the result to significance thresholds. Baseline is a starting point and equals zero for the purpose of quantifying project impacts; this shouldn't be so confusing for CEQA professionals. Subtracting existing conditions from project analyzes the effect of the environment on the project, not the project on the environment (as required by CEQA). This mistaken method of analyzing project impacts undermines the validity of results in other sections of the DEIR such as environmental justice. **Crable-1**

Also, the federal assessment of the project never compares the project to existing conditions, as required by both CEQA and NEPA. I suggest you scrap your "baseline equals No Federal Action" tack unless you want to take out the arbitrary growth; a baseline analysis must include pre-project conditions, not future conditions the NFA or No Project Alternative analysis is used to project potential future conditions without the project. **Crable-2**

In sum, please explain what rationale (or mathematical formula) leads you to believe that subtracting baseline from project equals project impacts, and what case law or statutory authority supports your use of future conditions (in this set of facts) as part of baseline for the NEPA portion of this document as noted in the Air Quality analysis section. **Crable-3**

Dennis

A. Dennis Crable
Crable & Associates, Environmental Consultants
765 West Altadena Drive

Altadena, California 91001
626.676-6993

Certified SBE (MTA No. 38662), MBE, DBE, UDBE

(Specializing in CEQA/NEPA project management for over 17 years...)

Arthur Crable (Crable)

Response to Comment Crable-1

Thank you for your review and comment on the Draft EIS/EIR. The comment that the project's air emissions should be added to the baseline then the resulting emissions compared to the significance thresholds is incorrect. CEQA requires that the impacts of a project be determined relative to baseline conditions (see *Communities for a Better Environment v. South Coast Air Quality Management District* [2010] 48 Cal. 4th 310). Section 3.2.4.1 of the Draft EIS/EIR describes the methodology used to evaluate the proposed Project's air quality impacts based on emissions that exceed the baseline conditions. As described in Chapter 2, the existing APL terminal was operational during the one-year period prior to July 2009 (when the Notice of Preparation was issued), and the emissions associated with the existing terminal operations constituted the baseline terminal emissions under CEQA. Table 2-1 in Chapter 2 summarizes the existing terminal operations (one-year period prior to July 2009) that form the basis for the baseline air emissions calculations. In Section 3.2, air emissions from terminal operations are calculated for the year 2027 (or other study year) based on total terminal throughput, which includes both the baseline throughput and throughput from the expanded terminal under the proposed Project (or alternative). Since the total terminal air emissions in each study year include the baseline air emissions, those emissions are subtracted from the total air emissions in order to identify the air emissions associated with the Project that exceeds the baseline level. The incremental levels are then compared to the significance thresholds to determine significance under CEQA. Although the Commenter may not agree with this methodology, it is the proper approach to evaluate the significance of air quality impacts under CEQA. If the Port were to adopt the Commenter's approach and include the terminal's air emissions from the baseline year in the total air emission (for each study year) then compare this to the significance thresholds, the Port would improperly attribute existing baseline conditions as a Project impact, which would conflict with CEQA's requirement to evaluate impacts relative to baseline conditions.

Response to Comment Crable-2

It is unclear what the Commenter means when he states that the federal assessment never compares the project to existing conditions as required by CEQA and NEPA. CEQA is a state statute that does not pertain to how a federal impact analysis is performed. It should be noted that the impact evaluation performed under CEQA throughout Chapter 3 does indeed evaluate the impacts of the proposed Project and alternatives relative to the existing conditions (or pre-Project conditions). Under NEPA, the federal assessment of impacts of the proposed Project and alternatives are performed relative to the NEPA baseline (see Section 2.6.2 of the Draft EIS/EIR). As described in Section 2.6.2, the NEPA baseline is not bound by statute to a "flat" or "no-growth" scenario; rather, it includes activities that would occur absent a federal action (i.e., absent a USACE permit), including increases in terminal operations and throughput over the life of the existing terminal that could and would occur in the absence of a federal permit for the proposed expansion. In the case of the Berths 302-306 [APL] Container Terminal project, the No Federal Action alternative represents the NEPA baseline, and evaluates the impacts that would and could occur without federal action/federal permit. Because NEPA requires an assessment of impacts relative to the NEPA baseline, or the No Federal Action conditions, the impact analyses throughout Chapter 3 utilize this methodology. Further, NEPA does not require the federal impact analysis to consider pre-Project conditions, as suggested by the Commenter.

Response to Comment Crable-3

Please see the Response to Comments Crable -1 and Crable-2 above.

William B. Reynolds
1738 N. Marine Dr.
Orange, CA 92867

February 15, 2012

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

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

Subject: APL Terminal Project / Berths 302-306 / SCH#2009071031

Dear Sirs;

I am pleased to submit the following public comments on the Draft Environmental Impact Report for Berths 302-306 APL Container Terminal Project. After review of the draft EIR for the project, I would like to voice my support for the submitted project that includes the expansion at Berth 306 and the redevelopment at Berths 302-305 of the existing APL Terminal. As presented, the environmental impacts associated with the project can be mitigated to levels that are less than significant providing for a sound environmentally conscience project.

Construction of this project will create approximately 1,169 direct jobs and 1,601 indirect jobs over the two year period. This workforce will come from our local residents that live in our local communitities located in and around the Port of Los Angeles. This two year period will create almost 3,400 jobs and provide positive economic benefits to many groups and industries. Longer term, the project will provide for 2,756 permanent jobs in 2015, increasing to 3,885 permanet jobs in 2027. Most of these jobs created would be in the transportation and public utilities industrial sector of the local and regional economy. Secondary jobs totaling 2,914 in 2015 and increasing to 4,108 in 2027 will occur in many sectors of industry, but all attributable to this project.

The economic benefits of this project far exceed any of the environmental impacts that are presented in the Draft EIR. Based on the benefits of the project to the local, regional and state economies it is with great enthusiasm that I support this project and look forward to the redevelopment and expansion of Berths 302-306 of the APL Marine Terminal.

I appreciate the ability to provide you these comments and support of the subject project. **RNLDS-1**

Sincerely,

Bill Reynolds

Bill Reynolds

William (Bill) Reynolds (Reynolds)

Response to Comment Reynolds-1

Thank you for your review and comment on the Draft EIS/EIR.

Ty McMichael
3 Clipper Road, Apt. B
Rancho Palos Verdes, CA 90275

February 16, 2012

U.S. Army Corps of Engineers
Los Angeles District
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ATTN: Theresa Stevens, Ph.D.
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Via E-Mail: theresa.stevens@usace.army.mil

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

Via E-Mail: ceqacomments@portla.org

Subject: APL Terminal Project / Berths 302-306 / SCH#2009071031

To whom it may concern;

I am submitting the following public comments on the Draft Environmental Impact Report for Berths 302-306 APL Container Terminal Project. After review of the draft EIR for the project, I would like to express my support for the project that includes the expansion at Berth 306 and the redevelopment at Berths 302-305 of the existing APL Terminal. As presented, the environmental impacts associated with the project can be mitigated to levels that are less than significant providing for a sound environmentally conscience project.

Construction of this project will create approximately 1,169 direct jobs and 1,601 indirect jobs over the two year period. This workforce will come from our local residents that live in our local communitities located in and around the Port of Los Angeles. This two year period will create almost 3,400 jobs and provide positive economic benefits to many groups and industries. Longer term, the project will provide for 2,756 permanent jobs in 2015, increasing to 3,885 permanet jobs in 2027. Most of these jobs created would be in the transportation and public utilities industrial sector of the local and regional economy. Secondary jobs totaling 2,914 in 2015 and increasing to 4,108 in 2027 will occur in many sectors of industry, but all attributable to this project.

The economic benefits of this project far exceed any of the environmental impacts that are presented in the Draft EIR. Based on the benefits of the project to the local, regional and state economies, I enthusiastically support this project and look forward to the redevelopment and expansion of Berths 302-306 of the APL Marine Terminal.

I appreciate the ability to provide you these comments and support of the subject project.

TM-1

Sincerely,

Ty McMichael

Ty McMichael (TM)

Response to Comment TM-1

Thank you for your review and comment on the Draft EIS/EIR.

February 17, 2012

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

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

Subject: Comments Submittal RE Berths 302-306 [APL] Container Terminal Project Draft EIR/EIS

Summary

I appreciate that the Port plans important measures to reduce air quality impacts and I request that further actions be implemented from among current capabilities, such as more rapid phase-in of Alternative Marine Power MM AQ-9 which would result in great reduction in toxic emissions, to reduce the significant air quality impacts foreseen at start of operations. Please see detailed Comments below. **RH-1**

Recognition

I appreciate and recognize the Port for the following: **RH-2**

1) Requirements applicable to Construction in MM AQ-3 that On-Road truck idling will be restricted to five minutes and in MM AQ-4 that dredging equipment be electric.
2) Requirement applicable to Operations in MM AQ-15 that Yard Equipment shall meet an accelerated schedule for USEPA standards compliance and a designated schedule for installation of Verified Diesel Emission Controls.
3) Recognition in LM AQ-1 and LM AQ-2 of the significant reduction in impacts that can result from advancing technologies.
4) Inclusion of the chronic non-cancer hazard index and acute non-cancer hazard index in the Health Risk Assessment.

Recommendations

As the Proposed Project would increase criteria pollutants related to air quality and the resulting impacts are defined as significant and unavoidable in the area already considered a Federal non-attainment area for Air Quality and causing significantly increased health risks to critical sensitive receptors, the following revisions are requested to reduce impacts.

<u>Recommendations Applicable to Construction</u>

1) Revise in MM AQ-1, Harborcraft utilization of USEPA Tier 3 engines or cleaner, the exceptions #2 and #3 to clarify that such excepted equipment cannot be utilized until enhanced reduction controls (e.g., particulate trap, catalytic reduction device, etc.) are placed on the uncontrolled equipment. **RH-3**
2) Revise MM AQ-3 # 1 to require that trucks hauling any debris or fill material will be fully-covered while operating on and off Port property and # 3 b) and c) to require **RH-4**

that Import Haulers and Earth Movers used in construction will be required to comply with EPA 2007 or better on-road emission standards for PM10 and NOx. RH-4 Cont.

3) Require in MM AQ-4 that construction equipment incorporate latest emissions-saving technology without qualification for, "if feasible," or define feasibility exclusions and eliminate possibility for exceptions referenced on page 3.2-2 applicable to requirement for trucks' compliance with USEPA standards. RH-5
4) Revise MM AQ-7 to require that, if a CARB-certified technology with better emission performance than MM AQ-1 through MM AQ-6 becomes available, the tenant/contractor will be required to obtain/implement the better technology within a defined schedule such as within 90 days of availability. RH-6
5) Require that Off-Road Construction Equipment idling be restricted to maximum of five (5) minutes when not in use without qualification or exception. RH-7
6) Implement a requirement for utilization of Best Available Control Technology (BACT) similar to CARB's regulation applicable to Mobile Cargo Handling Equipment (CHE) and that would require the contractors/lessee to accelerate equipment turnovers or install emissions reduction devices, such as Verified Diesel Emissions Controls, or to contract operators that utilize BACT applicable to all equipment requirements other than Cargo Handling Equipment. RH-8

Recommendations Applicable to Operations

7) Increase implementation rate for MM AQ-9 Alternative Marine Power to require 80 percent of ship calls at completion of Project in 2014 and 95 percent of total ship calls in 2017 with allowance for 92 to 93 percent verifiable compliance as may result from equipment failure. Please note the EIR reference, " . . . a ship hoteling with AMP reduces its criteria emissions 71 to 93 percent." RH-9
8) Require incorporation in MM AQ-12 of all available emission reduction technology when using or retrofitting ships bound for the Port of Los Angeles rather than allowing, "the tenant to determine the feasibility of incorporation" of such technology. RH-10
9) Implement a requirement for utilization of BACT that would require the lessee to accelerate equipment turnovers, install emissions reduction devices or to contract operators that utilize BACT applicable to all equipment requirements. RH-11
10) Define specific requirements for implementation of new technologies referenced in LM AQ-1 rather than allowance for, "the tenant shall work with the Port to implement," and/or require implementation of newly identified emissions-reduction technology at a rate of incorporation such as 25 percent within one year of identification, 50 percent within two years, and 100% within five years. RH-12
11) Require in LM AQ-2 the replacement of existing measure(s) with new technology proven to yield better emissions reduction performance within a defined implementation schedule without allowance for, "the technology could replace the existing measure pending approval by the Port." RH-13

Thank you,

R. Havenick

Richard Havenick
3641 South Parker Street
San Pedro CA 90731

Richard Havenick (RH)

Response to Comment RH-1

Thank you for your recognition of the LAHD's efforts to reduce air quality impacts. Regarding the recommendation to change mitigation measure MM AQ-9, the comment is noted. The mitigation measure MM AQ-9 is in compliance with CAAP measures and appropriate as written considering the worldwide APL fleet and vessels anticipated under the proposed Project.

Response to Comment RH-2

Thank you for your comment. In addition, please refer to Response to Comment PCAC-5 for additional information.

Response to Comment RH-3

Regarding the recommendation to change mitigation measure MM AQ-1, the comment is noted. The CAAP measures are restrictions and requirements geared at requiring construction contractors working within the LAHD's jurisdiction to use the cleanest feasible construction equipment. The LAHD has determined that a Port-wide approach at implementing the CAAP through mitigation applied on individual projects, such as mitigation measure MM AQ-1, which is the most effective and feasible way to achieve Port-wide compliance.

Response to Comment RH-4

Regarding the recommendation to change mitigation measure MM AQ-3, the comment is noted. The mitigation measure MM AQ-3 is in compliance with CAAP measures and appropriate as written for the proposed Project. In addition, mitigation applied to the proposed Project, such as MM AQ-3, is consistent with the LAHD's Sustainable Construction Guidelines For Reducing Air Emissions (Sustainable Construction Guidelines).

Response to Comment RH-5

Regarding the recommendation to change mitigation measure MM AQ-4, the comment is noted. The mitigation measure MM AQ-4 is in compliance with CAAP measures and appropriate as written for the proposed Project. In addition, as detailed in Response to Comment USEPA-3, the Draft EIS/EIR includes lease measure LM AQ-1, which requires that the terminal operator to periodically implement new emissions reduction technologies as they become available/feasible. As shown in Chapter 3, modifications to the Draft EIS/EIR, lease measure LM AQ-1 has also been revised to reflect a revision of the 7 year lease reopener to a more stringent 5 year reopener.

Response to Comment RH-6

Regarding the recommendation to change mitigation measure MM AQ-7, the comment is noted. Refer to Response to Comment RH-5 above regarding lease measure LM AQ-1.

Response to Comment RH-7

Regarding the recommendation to change off-road construction equipment idling to maximum of 5 minutes, the comment is noted. Mitigation measure MM AQ-4 includes an idling restriction of a maximum of 5

minutes that would be applied to off-road construction equipment being used at the Project site during construction. In addition, please see the Response to Comment USEPA-18.

Response to Comment RH-8

Comment noted. The Draft EIS/EIR analysis assumes compliance with the CAAP. In fact, proposed Project-specific mitigation measures applied to reduce air emissions and public health impacts are consistent with, and in some cases exceed, the emission-reduction strategies of the CAAP. The Draft EIS/EIR also includes lease measures prescribed for the proposed Project or alternative that provides a means for additional measures to be incorporated into the applicant's/tenant's lease should the CAAP be strengthened or new technology become available in the future. In addition, implementation of the LAHD's Sustainable Construction Guidelines is another way to reduce emissions from construction activity.

Response to Comment RH-9

Regarding the recommendation to change mitigation measure MM AQ-9, the comment is noted. The mitigation measure MM AQ-9 is in compliance with CAAP measures and appropriate as written considering the worldwide APL fleet and vessels anticipated under the proposed Project.

Response to Comment RH-10

Regarding the recommendation to change mitigation measure MM AQ-12, the comment is noted. As it relates to the OGV mitigation measures associated with the proposed Project (MM AQ-11 and MM AQ-12), the Draft EIS/EIR analysis assumes compliance with the CAAP. In fact, proposed Project-specific mitigation measures applied to reduce air emissions and public health impacts are consistent with, and in some cases exceed, the emission-reduction strategies of the CAAP. The Draft EIS/EIR also includes lease measures prescribed for the proposed Project or alternative that provides a means for additional measures to be incorporated into the tenant's lease should the CAAP be strengthened or new technology becomes feasible in the future. In addition, please see the Response to Comment SCAQMD-13.

Response to Comment RH-11

Comment noted. The Draft EIS/EIR includes lease measures prescribed for the proposed Project or alternative that provides a means for additional measures to be incorporated into the tenant's lease should the CAAP be strengthened or new technology be feasible in the future. It should be noted that compliance with the CAAP in some cases accelerates compliance with CARB regulations. In addition, as detailed in Response to Comment USEPA-6, the LAHD is involved in mitigation throughout the Port and adjacent communities, including the establishment of a Port Communities Mitigation Trust Fund to fund mitigation and grant projects to help offset past, present, and future impacts from Port Projects on off-port areas in the communities of Wilmington and San Pedro. If the proposed Project were approved, the deposit to this Fund is anticipated to be over $4.2 million and could fund projects that contribute to the furtherance or development of potential projects, analysis of project results, or in furtherance of a mitigation goal or other requirement.

Response to Comment RH-12

Regarding the recommendation to change lease measure LM AQ-1, the comment is noted. The LAHD's approach to facilitate the demonstrations, development and implementation of new emission-reduction technologies is to utilize a Port-wide strategy rather than on a terminal-by-terminal approach. A Port-wide approach allows such technologies to be demonstrated, developed, and implemented uniformly without creating competitive disadvantages between terminals and Ports, as well as in a more coordinated manner.

Refer to Response to Comments USEPA-3 and USEPA-17 for additional discussion to LM AQ-1 and a Port-wide strategy to future technologies to reduce air emissions. Regardless, as a company APL is a leader in participating in the piloting of new technologies and is a welcome partner for the LAHD in addressing future technologies (refer to Response to Comment USEPA-8 for details on commitments made by APL to reduce air emissions). In addition, the way that LM AQ-1 is written provides greater implementation flexibility than the Commenter's suggested revisions, as timing and implementation under existing language can be added once the specific technology has been identified. In addition, please see the Response to Comment SCAQMD-8.

Response to Comment RH-13

Comment note. Please refer to Response to Comment RH-12 above.

MARINE MECHANICAL INC.

February 14, 2012

U.S. Army Corps of Engineers
Los Angeles District
Regulatory Division
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2151 Alessandro Drive, Suite 110
Ventura, California 93001
Via E-Mail: theresa.stevens@usace.army.mil

City of Los Angeles Harbor Department
Christopher Cannon, Director
Environmental Management Division
425 S. Palos Verdes Street
San Pedro, California 90731
Via E-Mail: cegacomments@portla.org

Subject: Support of the APL Terminal Project - Berths 302-306

Dear Ms. Stevens and Mr. Cannon;

Please accept Marine Mechanical Inc.'s comments on the Draft Environmental Impact Report for Berths 302-306 APL Container Terminal Project. After review of the draft EIR for the project, Marine Mechanical Inc. supports the submitted project that includes the expansion at Berth 306 and the redevelopment at Berths 302-305 of the existing APL Terminal. As presented, the environmental impacts associated with the project can be mitigated to levels that are less than significant providing for a sound environmentally conscience project.

Construction of this project will create approximately 1,169 direct jobs and 1,601 indirect jobs over the two year period. This workforce will come from our local residents that live in our local communitities located in and around the Port of Los Angeles. This two year period will create almost 3,400 jobs and provide positive economic benefits to many groups and industries.

Longer term, the project will provide for 2,756 permanent jobs in 2015, increasing to 3,885 permanet jobs in 2027. Most of these jobs created would be in the transportation and public utilities industrial sector of the local and regional economy. Secondary jobs totaling 2,914 in 2015 and increasing to 4,108 in 2027 will occur in many sectors of industry, but all attributable to this project.

MMI-1

P.O. BOX 5275, SAN PEDRO, CALIFORNIA 90733 • CORPORATE OFFICE: (310) 549-8030 • FAX: (310) 549-7365

The economic benefits of this project far exceed any of the less than significant environmental impacts that are presented in the Draft EIR. Based on the benefits of the project to the local, regional and state economies it is with great enthusiasm that Marine Mechanical Inc. supports this project and looks forward to the redevelopment and expansion of Berths 302-306 of the APL Marine Terminal.

We appreciate the ability to provide you these public comments and voice our support of the subject project.

MMI-1
Cont.

Sincerely,

Diana Rodriguez

Diana Rodriguez
Marine Mechanical Inc.

Marine Mechanical Inc. (MMI)

Response to Comment MMI-1

Thank you for your review and comment on the Draft EIS/EIR.

MAINTENANCE TURNAROUND SERVICES

Post Office Box 5100
San Pedro, CA 90733
Phone: (310) 549-8030
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February 14, 2012

U.S. Army Corps of Engineers
Los Angeles District
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Via E-Mail: theresa.stevens@usace.army.mil

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

Via E-Mail: ceqacomments@portla.org

Subject: APL Terminal Project / Berths 302-306 / SCH#2009071031

Dear Sirs;

Maintenance Turnaround Services is pleased to submit the following public comments on the Draft Environmental Impact Report for Berths 302-306 APL Container Terminal Project. After review of the draft EIR for the project, Maintenance Turnaround Services supports the submitted project that includes the expansion at Berth 306 and the redevelopment at Berths 302-305 of the existing APL Terminal. As presented, the environmental impacts associated with the project can be mitigated to levels that are less than significant providing for a sound environmentally conscience project.

The Port of Los Angeles provides for significant and substantial contributions to the local, regional and national economy. It creates tens of billions of dollars in industry sales each year in the southern California region. These sales translate into jobs, wages, and salaries, including state and local taxes. Recent studies have determined that the Port of Los Angeles supports directly and indirectly over 1.1M full and part-time jobs throughout California and 3.3M jobs nationwide. Marine terminals, such as APL, generate a large number of these jobs, such as trucking, freight forwarders, customs house brokers, warehousing, steamship agents, chandlers, surveyors, etc. **MTS-1**

Construction of this project will create approximately 1,169 direct jobs and 1,601 indirect jobs over the two year period. This workforce will come from our local residents that live in our local communitities located in and around the Port of Los Angeles. This two year period will create almost 3,400 jobs and provide positive economic benefits to many groups and industries.

Longer term, the project will provide for 2,756 permanent jobs in 2015, increasing to 3,885 permanet jobs in 2027. Most of these jobs created would be in the transportation and public utilities industrial sector of the local and regional economy. Secondary jobs totaling 2,914 in 2015 and increasing to 4,108 in 2027 will occur in many sectors of industry, but all attributable to this project.

The economic benefits of this project far exceed any of the less than significant environmental impacts that are presented in the Draft EIR. Based on the benefits of the project to the local, regional and state economies it is with great pleasure that Maintenance Turnaround Services supports this project and looks forward to the redevelopment and expansion of Berths 302-306 of the APL Marine Terminal.

MTS-1 Cont.

We appreciate the ability to provide you these public comments and voice our support of the subject project.

Sincerely,

Telvis Artis
Maintenance Turnaround Services

Maintenance Turnaround Services (MTS)

Response to Comment MTS-1

Thank you for your review and comment on the Draft EIS/EIR.

HARBOR INDUSTRIAL

P.O. Box 1487, San Pedro, CA 90733-1487
Phone: (310) 522-1193 • Fax: (310) 522-9283

February 14, 2012

U.S. Army Corps of Engineers
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Via E-Mail: theresa.stevens@usace.army.mil

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

Via E-Mail: ceqacomments@portla.org

Subject: APL Terminal Project / Berths 302-306 / SCH#2009071031

Dear Sirs;

Please accept Harbor Industrial's public comments on the Draft Environmental Impact Report for Berths 302-306 APL Container Terminal Project. After review of the draft EIR for the project, Harbor Industrial supports the submitted project that includes the expansion at Berth 306 and the redevelopment at Berths 302-305 of the existing APL Terminal. As presented, the environmental impacts associated with the project can be mitigated to levels that are less than significant providing for a sound environmentally conscience project.

The Port of Los Angeles provides for significant and substantial contributions to the local, regional and national economy. It creates tens of billions of dollars in industry sales each year in the southern California region. These sales translate into jobs, wages, and salaries, including state and local taxes. Recent studies have determined that the Port of Los Angeles supports directly and indirectly over 1.1M full and part-time jobs throughout California and 3.3M jobs nationwide. Marine terminals, such as APL, generate a large number of these jobs, such as trucking, freight forwarders, customs house brokers, warehousing, steamship agents, chandlers, surveyors, etc.

Construction of this project will create approximately 1,169 direct jobs and 1,601 indirect jobs over the two year period. This workforce will come from our local residents that live in our local communitities located in and around the Port of Los Angeles. This two year period will create almost 3,400 jobs and provide positive economic benefits to many groups and industries.

HI-1

Longer term, the project will provide for 2,756 permanent jobs in 2015, increasing to 3,885 permanet jobs in 2027. Most of these jobs created would be in the transportation and public utilities industrial sector of the local and regional economy. Secondary jobs totaling 2,914 in 2015 and increasing to 4,108 in 2027 will occur in many sectors of industry, but all attributable to this project.

The economic benefits of this project far exceed any of the less than significant environmental impacts that are presented in the Draft EIR. Based on the benefits of the project to the local, regional and state economies it is with great pleasure that Harbor Industrial Services Corporation supports this project and looks forward to the redevelopment and expansion of Berths 302-306 of the APL Marine Terminal. **HI-1 Cont.**

We appreciate the ability to provide you these public comments and voice our support of the subject project.

Sincerely,

W. Michael Hawke
Harbor Industrial

Harbor Industrial (HI)

Response to Comment HI-1

Thank you for your review and comment on the Draft EIS/EIR.

From: Jesse Marquez [mailto:jnmarquez@prodigy.net]
Sent: Thursday, February 16, 2012 11:00 AM
To: Christopher Cannon; jgreenrebstock@portla.org; Stevens, Theresa SPL
Cc: John G. Miller; Janet Gunter; Kathlene Woodfield; Chuck Hart; Frank O'Brien; Jody James; Bonnie Christensen; Sofia Carrillo; Drew Wood; Ricardo Pulido; Flavio Mercado; jgaribay@ucla.edu; jnmarquez@prodigy.net; Mary Silverstein
Subject: Request to remove pass word protected APL DEIS/DEIR PDF Document ASAP

Port of Los Angeles
USACE

The Port of Los Angeles in past EIS/EIR's has never password protected documents, by doing so CFASE and member of the public are unable to copy sections, paragraphs, tables, diagrams, illustrations, information etc. and include them in our public comments. This prevents the U.S. Army Corps of Engineers, Board of Harbor Commissioners, Regulatory Agencies, Decision Makers and members of the public from being able to read public comments in a more clear context when referencing the DEIS/DEIR. The time to retype or recopy information is significant and limits CFASE and members of the public from being able to fully comment and engage in the legally protected public participation process.

JM-1

CFASE Requests: The U.S. Army Corps of Engineers and the Port of Los Angeles a public agency provide all CEQA/NEPA required documents in a unlocked, unpassword protected PDF and Microsoft Word document format. There is an extra cost to CFASE and members of the public to purchase special PDF software, pay for regular future upgrades and its is more difficult to copy and paste PDF documents and information than the standard word processing Microsoft Word program. It is also a fact that the original DEIS/DEIR document is typed by the Port of Los Angeles and its consultants in Word and then converted to a PDF. We ask that you upload to the POLA website asap and to forward CFASE a digital copy asap.

Jesse N. Marquez

Executive Director

Coalition For A Safe Environment

Jesse Marquez (JM)

Response to Comment JM-1

Request noted. The PDF files' being password protected was not intentional; however, the LAHD and USACE provided the Draft EIS/EIR in a manner consistent with CEQA and NEPA, and USACE regulations regarding public noticing requirements.

PF PROPERTIES
4400 Miraleste Drive
Rancho Palos Verdes, California 90275
(310) 831-1138
kent@pfproperties.com

February 15, 2012

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

Via E-Mail: theresa.stevens@usace.army.mil

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

Via E-Mail: ceqacomments@portla.org

Subject: APL Terminal Project / Berths 302-306 / SCH#2009071031

Dear Ms. Stevens and Mr. Cannon;

I am pleased to submit the following public comments on the Draft Environmental Impact Report for Berths 302-306 APL Container Terminal Project. After review of the draft EIR for the project, I would like to voice my support for the submitted project that includes the expansion at Berth 306 and the redevelopment at Berths 302-305 of the existing APL Terminal. As presented, the environmental impacts associated with the project can be mitigated to levels that are less than significant providing for a sound environmentally conscience project.

Construction of this project will create approximately 1,169 direct jobs and 1,601 indirect jobs over the two year period. This workforce will come from our local residents that live in our local communitities located in and around the Port of Los Angeles. This two year period will create almost 3,400 jobs and provide positive economic benefits to many groups and industries. Longer term, the project will provide for 2,756 permanent jobs in 2015, increasing to 3,885 permanet jobs in 2027. Most of these jobs created would be in the transportation and public utilities industrial sector of the local and regional economy. Secondary jobs totaling 2,914 in 2015 and increasing to 4,108 in 2027 will occur in many sectors of industry, but all attributable to this project.

The economic benefits of this project far exceed any of the environmental impacts that are presented in the Draft EIR. Based on the benefits of the project to the local, regional and state economies it is with great enthusiasm that I support this project and look forward to the redevelopment and expansion of Berths 302-306 of the APL Marine Terminal.

I appreciate the ability to provide you these comments and to express my support for the project.

Sincerely,

PFP-1

Kent M. Phillips
Principal

PF Properties (PFP)

Response to Comment PFP-1

Thank you for your review and comment on the Draft EIS/EIR.

MARINE TECHNICAL SERVICES, INC.

P.O. Box 1510
San Pedro, CA 90733
Telephone: (310) 549-8030
Fax: (310) 549-7365

February 15, 2012

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

Via E-Mail: theresa.stevens@usace.army.mil

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

Via E-Mail: ceqacomments@portla.org

Subject: APL Terminal Project / Berths 302-306 / SCH#2009071031

Dear Sirs;

Marine Technical Services is pleased to submit the following public comments on the Draft Environmental Impact Report for Berths 302-306 APL Container Terminal Project. After review of the draft EIR for the project, Marine Technical Services supports the submitted project that includes the expansion at Berth 306 and the redevelopment at Berths 302-305 of the existing APL Terminal. As presented, the environmental impacts associated with the project can be mitigated to levels that are less than significant providing for a sound environmentally conscience project.

Construction of this project will create approximately 1,169 direct jobs and 1,601 indirect jobs over the two year period. This workforce will come from our local residents that live in our local communitities located in and around the Port of Los Angeles. This two year period will create almost 3,400 jobs and provide positive economic benefits to many groups and industries. Longer term, the project will provide for 2,756 permanent jobs in 2015, increasing to 3,885 permanet jobs in 2027. Most of these jobs created would be in the transportation and public utilities industrial sector of the local and regional economy. Secondary jobs totaling 2,914 in 2015 and increasing to 4,108 in 2027 will occur in many sectors of industry, but all attributable to this project.

The economic benefits of this project far exceed any of the less than significant environmental impacts that are presented in the Draft EIR. Based on the benefits of the project to the local, regional and state economies it is with great pleasure that Marine Technical Services supports this project and looks forward to the redevelopment and expansion of Berths 302-306 of the APL Marine Terminal.

We appreciate the ability to provide you these public comments and voice our support of the subject project.

Sincerely,

MTSI-1

Frank Lopez
Vice President

Marine Technical Services Inc. (MTSI)

Response to Comment MTSI-1

Thank you for your review and comment on the Draft EIS/EIR.

DOCKSIDE MACHINE & SHIP REPAIR

P.O. Box 1510
San Pedro, CA 90733
Telephone: (310) 549-8030
Fax: (310) 549-7365

February 16, 2012

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

Via E-Mail: theresa.stevens@usace.army.mil

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

Via E-Mail: ceqacomments@portla.org

Subject: APL Terminal Project / Berths 302-306 / SCH#2009071031

Dear Sirs;

Dockside Machine & Ship Repair submits the following public comments on the Draft Environmental Impact Report for Berths 302-306 APL Container Terminal Project. After review of the draft EIR for the project, Dockside supports the submitted project that includes the expansion at Berth 306 and the redevelopment at Berths 302-305 of the existing APL Terminal. As presented, the environmental impacts associated with the project can be mitigated to levels that are less than significant providing for a sound environmentally conscience project.

The Port of Los Angeles provides for significant and substantial contributions to the local, regional and national economy. It creates tens of billions of dollars in industry sales each year in the southern California region. These sales translate into jobs, wages, and salaries, including state and local taxes.

DMSR-1

Construction of this project will create approximately 1,169 direct jobs and 1,601 indirect jobs over the two year period. This workforce will come from our local residents that live in our local communitities located in and around the Port of Los Angeles. This two year period will create almost 3,400 jobs and provide positive economic benefits to many groups and industries. Longer term, the project will provide for 2,756 permanent jobs in 2015, increasing to 3,885 permanet jobs in 2027. Most of these jobs created would be in the transportation and public utilities industrial sector of the local and regional economy. Secondary jobs totaling 2,914 in 2015 and increasing to 4,108 in 2027 will occur in many sectors of industry, but all attributable to this project.

The economic benefits of this project far exceed any of the less than significant environmental impacts that are presented in the Draft EIR. Based on the benefits of the project to the local, regional and state economies it is with great pleasure that Dockside Machine & Ship Repair supports this project and looks forward to the redevelopment and expansion of Berths 302-306 of the APL Marine Terminal.

DMSR-1 Cont.

We appreciate the ability to provide you these public comments and voice our support of the subject project.

Sincerely,

Jim Eldridge
Vice President

Dockside Machine and Ship Repair (DMSR)

Response to Comment DMSR-1

Thank you for your review and comment on the Draft EIS/EIR.

$Proposed La Harbor Project_JTowers_24Dec2011.txt

From: josephtowers1500@aol.com
Sent: Saturday, December 24, 2011 1:55 PM
To: Stevens, Theresa SPL
Subject: Proposed La Harbor Project

THIS IS ANOTHER OUTRAGEOUS EXAMPLE OF THE CORPS ENTERTAINING THE ACTIVITIES OF POLLUTERS WHO ARE DESTROYING THE HEALTH AND WELFARE OF RESIDENTS OF THE ADJACENT PORT AREAS. THE PORT OPERATORS HAVE LIED AND DECEIVED THE PUBLIC. THE PROMISED ELECTRIFICATIONS AND NON-POLLUTING FACILITIES HAVE NEVER BECOME A REALITY. EVERDAY I LOOK AT THE AIR QUALITY DATA FROM THE PORT OF LONG BEACH AND SEE VIOLATION AFTER VIOLATION OF AIR QUALITY STANDARDS, BOTH FEDERAL AND STATE. WE LIVE AT ORIZABA AVENUE AND OCEAN BLVD IN A 20 STORY HI RISE WHERE WE HAVE HAD CASE AFTER CASE OF DEATHS DUE TO POLLUTED AIR IN THE FORM OF LUNG CANCERS, OTHER CANCERS AND HEART DISEASE.
YOUR ORGANIZATION, THE CORPS OF ENGINEERS, IS A QUASI CRIMINAL SETUP TO DO THE BIDDING OF THE POLLUTION INDUSTRY. YOUR NEGLIGENCE KILLED 3000 PEOPLE AS A RESULT OF KATRINA. NO CORPS OFFICIAL WAS DEMOTED OR INDICTED FOR THIS MASS MURDER. I SHOULD KNOW YOUR CRIMINAL MISDEEDS. I WAS THE DISTRICT COUNSEL FOR THE NEW ORLEANS DISTRICT FOR 35 YEARS AND WITNESSED DUMB AND STUPID CORPS MILITARY JERKS COME TO NEW ORLEANS THINKING IT WAS AN R&R ASSIGNMENT AND DRINK AND HAVE A GOOD TIME INSTEAD OF DOING THEIR JOB. JT-1

DO NOT REPEAT IN THIS COMMUNITY THE CRIMES YOUR COLONELS AND GENERALS COMMITTED IN NEW ORLEANS. TURN DOWN THIS PERMIT APPLICATION NOW!!

Joseph Towers (JT)

Response to Comment JT-1

The comments do not address the adequacy of the Draft EIS/EIR analysis. The comment is noted and has been incorporated into the Final EIS/EIR for review and consideration by the decision-makers prior to any action on the proposed Project.

ORIGINAL

IN RE THE MATTER OF BERTHS 302-306)
AMERICAN PRESIDENTIAL LINES)
CONTAINER TERMINAL PROJECT;)
LOS ANGELES HARBOR DEPARTMENT;)
SAN PEDRO, CALIFORNIA.)
)

Transcript of Public Review Meeting
for the Proposed Berths 302-306
American Presidential Lines Container Terminal
Project Draft E.I.S./E.I.R.
Thursday January 19, 2012
San Pedro, California

SNYDER HEATHCOTE INC.

REPORTED BY Jamie L. Apodaca, CSR #10990

OUR FILE NO.

OFFICIAL COURT REPORTERS
3055 WILSHIRE BOULEVARD
SUITE 640
LOS ANGELES, CA 90010
TELEPHONE (213) 388-2151

IN RE THE MATTER OF BERTHS 302-306)
AMERICAN PRESIDENTIAL LINES)
CONTAINER TERMINAL PROJECT;)
LOS ANGELES HARBOR DEPARTMENT;)
SAN PEDRO, CALIFORNIA.)
)

Transcript of the Proposed Berths 302-306 American Presidential Lines Container Terminal Project Draft E.I.S./E.I.R. Public Review Meeting, Los Angeles Harbor Department, held at 6:02 P.M. on Thursday January 19, 2012, at 425 South Palos Verdes Street, San Pedro, California, transcribed by Jamie L. Apodaca, CSR #10990.

APPEARANCES:

Christopher Cannon

Theresa Stevens -- Project Manager for the United States Army Corps of Engineers

Lt. Col. Steven Sigloch -- Deputy District Engineer for the United States Army Corps of Engineers

Jan Green Rebstock -- Port of Los Angeles Environmental Management Division

Aaron Allen -- Branch Chief for the United States Army Corps of Engineers

Christine Honeybone -- Port of Los Angeles Environmental Project Manager

MR. CANNON: Okay. Good evening, everyone, and welcome to Port of Los Angeles. This is our public hearing for the APL Container Terminal project. It's a draft E.I.S/E.I.R. public review meeting.

And so the purpose of public review meetings, of course, is to get a chance to hear from you, and that's sort of stating the obvious. But the reason I want to mention it is too often you fall into a situation where, you know, people expect there to be a dialogue or for us to answer questions or to otherwise engage in a back-and-forth, and that's not what we're here for tonight. Staff is here around and if afterwards you have a question or two or need clarification of something that's in the document, we're certainly happy to be helpful and we want to do that. But mainly tonight is your night, and so we want to hear what you have to say.

We've got speaker cards; so if anybody wants to speak, please fill out the speaker cards. I think they're over here (indicating). If not, come find me, and I have a few extra.

And so we're going to give you a chance to comment on the document. Please keep your comments focused on the document itself. Obviously, if you like the project and you want to tell us, that's okay too. But mostly it's a chance to comment on the document itself so we can make sure we did

a good job with it. And if there's things that we need to adjust going forward for the final, we will do that.

I'm up here. I want to introduce the people who are sitting in front of you, and I get to not be one of them; so I'm actually happy about that. I can go sit down in the audience.

But Theresa Stevens here is to my immediate left. She is the project manager for the Corps of Engineers, and she's probably your point of contact to the extent that you need to interact with the Corps on this project.

Jan Green Rebstock is with the Los Angeles Environmental Management Division. She's an environmental specialist, and she is going to be your point of contact for this project for us.

Lieutenant Colonel -- I have to get it right -- Sigloch --

Did I get that right, sir?

LT. COL. SIGLOCH: Yes.

MR. CANNON: Okay. He is the deputy district engineer for the Corps.

Next to him is Aaron Allen. He's the Branch Chief for the Corps.

And last but not least is Christine Honeybone, who is going to give a presentation. She's the port engineering professional, and she's going to give an overview of the

details of the project.

So these are people that you need to hear from tonight, and thank you again for being here. I'll turn it over to Lt. Col. Sigloch.

LT. COL. SIGLOCH: Okay. Thank you.

Good evening. I'm Lt. Colonel Steve Sigloch, the Deputy Commander of the Los Angeles District for the United States Army Corps of Engineers. On behalf of the Corps of Engineers, I'd like to welcome you all to this public meeting, which we are also conducting in Spanish as a courtesy to you, the interested public.

In 2009 the Port of Los Angeles applied to the Corps for a permit to construct wharf and terminal improvements at berths 302 through 306, the APL container terminal on Terminal Island. Because federal permits qualify as federal actions, the Corps must also comply with the National Environmental Policy Act, NEPA.

Due to the nature and scope of the activities in the waters of the United States, the Corps has determined that the proposed project could result in significant impacts and therefore required an Environmental Impact Statement, or E.I.S.

On July 9, 2009, we published a notice of intent in the Federal Register to prepare an E.I.S. for the project. On July 10th, 2009, the Corps and port published a Joint

Public Notice of this Notice of Intent and the port's Notice of Preparation of an Environmental Impact Report, or E.I.R.

In response to public comments received at the scoping meeting in 2009, the Corps and port prepared a joint E.I.S./E.I.R., and on December 23rd, 2011, the Corps published a notice of availability of the draft E.I.S. in the Federal Register.

Under our Federal Permit Program, the Corps of Engineers is responsible for regulating dredge and fill activities in the waters of the United States, as well as any activities that may affect navigation.

The port's proposed in-water and over-water activities at berths 302 through 306 are regulated under section 10 of the Rivers and Harbors Act. As proposed, these activities do not include a discharge for fill material into waters for the United States as regulated by section 404 of the Clean Water Act. While dredged material may be disposed in waters of the U.S., disposal would take place under a previously issued Corps permit, permit number 2008, dash, 00662, dash, AOA.

The port is also considering transporting and discharging clean, dredged material at a U.S. EPA-approved ocean disposal site -- L.A., dash, 2 -- which requires authorization pursuant to section 103 of the Marine Protection, Research, and Sanctuaries Act, M.P.R.S.A.

Federal actions such as Corps permit decisions are subject to compliance with a variety of federal environmental laws in addition to NEPA. Consequently the Corps has a responsibility to evaluate the environmental impacts that would be caused by the proposed project prior to making a permit decision.

In meeting its regulatory responsibility, the Corps is neither a project proponent nor an opponent. In addition to evaluating the direct, indirect, and cumulative environmental impacts of the port's proposed project, the Corps must determine whether the proposed project is in the public interest. No permit can be granted if we find that the proposal is contrary to the public interest. The public-interest determination requires a careful weighing of factors relevant to the particular project. The public interest review requires the Corps evaluate a project's benefits and balance them against a project's reasonably foreseeable detriments.

At this public hearing, the Corps is requesting input from the general public concerning the proposed project and the Corps' permit action. The Corps would like to emphasize that we will carefully consider all comments that we receive for the proposed project, and they will be given full consideration as part of our final permit decision. Following tonight's meeting, all parties will be given until

February 17th to provide any written comments on the proposed project for our permit action.

Staff from the Port of Los Angeles will now provide you a presentation, and then we'll discuss how to take the oral testimony after their presentation. Thank you.

MS. HONEYBONE: Thank you, Lieutenant Colonel.

Okay. I'm going to give an overview of the proposed project, a view of description locations.

Here is just to give you an overview of the site. The proposed project is located at Pier 300 on Terminal Island, and we have another closer aerial view of the actual terminal.

Here are the project objectives that have helped us guide through the proposed project design and through the document process. We want to optimize the use of the land at berths 302 to 305 and accommodate for larger container ships and warship calls. We would like to increase the container berth size and provide sufficient backland areas, improve the vacant landfill at berth 306, and increase terminal efficiency.

Just a brief overview of the existing facilities. The existing terminal is 291 acres, and our baseline for this document was July, 2008 to June, 2009, in which they had 247 ship calls, and 1.1 TEUs. There's currently four berths of 1,000 feet, and they have 12 cranes and an on-dock rail

facility.

To get into the proposed project elements, I have highlighted these areas in the various colored outlines. So we have modifications to both their gates and the terminal entrance lanes. We plan to expand the reefer unit storage area; demolish and reconstruct the Roadability facilities; expand the power shop facilities; various utility infrastructure within the terminal; bring in four new cranes; and also develop the former LAXT areas for container terminal use, which is about nine acres.

For the proposed project at berth 306 expansion, we would construct 1,250 linear feet of new wharf and bring possibly up to eight new cranes with amp facilities. We'll dredge 20,000 cubic yards and also develop the existing landfill of 41 acres of backlands with the infrastructure that would support the possible future automation with equipment such as dual-hoist cranes, automated guided vehicles, automated stacking cranes, and landside transfer cranes.

This is an example of some of the common terminal equipment that's at the terminal, such as the side picks and top picks. The rubber-tired gantry cranes, the rail-mounted gantry cranes give you an idea of what is out there.

And just to give a summary, the proposed project would add 56 acres, which includes the landfill; so it would

be a total of 347 acres. The lease goes through 2027. So we expect 390 ship calls and 3.2 million TEUs. There would be a total of up to 24 cranes and a total of 5,250 feet of wharf.

I will now turn it over to Jan so she can talk about the environmental process and where we're at right now.

MS. GREEN REBSTOCK: Thank you.

Yes. So my name is Jan Green Rebstock. I'm with the port Environmental Management Division, and I'm just going to walk you through the environmental review process for this project.

So we released the Notice to Proceed, which is the formal initiation of the environmental review process, back in July, 2009. We are now here at the public meeting to review the results of the draft E.I.R./E.I.S. findings and considerations, and then we will move forward with preparing a final E.I.R./E.I.S. based on the responses we receive during the comment period.

The draft E.I.R. was released on December 16th, and there's a 60-day review period that's currently in process, and as mentioned previously, it will close on February 17th.

Okay. So this is a summary of the findings of the environmental review. After applying 33 mitigation measures, standard conditions of project conditions and release measures, we still have unavoidable significant impacts

related to air quality, greenhouse gases, and health risk and also related to biological resources. The rest of the resource areas, we were able to mitigate to less than significant or they were already less than significant.

For the biological resources, the major driver there was invasive species, and we did a lot of consultation with APL to learn about the best practices that they have for their vessel fleet. But even with experimenting with a new ballast-water treatment system and how they maintain their vessel hulls, we still didn't feel confident that we could rule out the potential significant impact of a drain introducing invasive species into the harbor with the increase in ship calls over the life of the project.

Related to health risk, we do have a residential cancer risk impact for the live-aboard population only. So this doesn't apply to landside residences, but it does apply to a few live-aboards within the Fish Harbor area and some of the live-aboards near the Anchorage Road area.

I would like to mention that we did apply all of the mitigation measures under the Clean Air Action Plan. If you notice, the majority of the mitigation measures are related to air quality, and then there's some related to biology, geology, noise, and public services. So it's 33 in all.

The document does coequally analyze six alternatives in addition to the proposed project. So there's a range of

alternatives that we look at, with the alternative one being not moving forward with the project. There's -- the "No Federal Action" alternative is what could the port do but for receiving a federal permit; so that's no wharf extension, no new cranes, no dredging. And then there's some various reduced project alternatives as well. We also look at what the project might look like with expanded on-dock rail.

So this is just a brief summary of some of our public outreach efforts. We have a mailing list of over 200 interested parties that we directly mailed the document to. We have a reader's guide which condenses a, you know, several-thousand page document to about 30 pages, and there's some extra copies in the back if you're interested. We have the public meeting tonight. We're going to be receiving oral comments. So if you haven't already filled out a speaker's card and you're interested in participating, please do so and just bring it up here to the front. And be sure to clearly speak your name before you start.

And, you know, we'll take all of the comments that we receive and then prepare a final document, and the final document will reproduce all the comments verbatim and show a staff response and also show how the document has changed in response to any of the comments that we receive, whether it's with the analysis or the project design. And we hope to bring that final document to the board for consideration in

the spring-summer time frame.

So with that, we're going to move towards opening the hearing for receiving public comment. I haven't received any speaker cards. If there's anyone interested --

So I'd ask that Jay come up to the podium and state his name.

And you'll have three minutes to speak.

MR. JAHANGIRA: Good evening. My name Jay Jahangira. Buenas tardes. Mi nombre es Jay Jahangira.

First and foremost, I'd like to applaud the Port of Los Angeles and the U.S. Army Corps of Engineers for engaging in this development of this joint document. We believe -- on behalf of WorleyParsons, the company that I work for, and a resident of the Los Angeles County here that this is a win-win for the community as well as the port.

Clearly with 39 -- 390 vessel calls and 3.2 million TEU, we believe this project brings an economic prosperity to the greater Los Angeles area.

We also want to recognize the port's efforts as well as the U.S. Army Corps of Engineers' efforts in implementing these 33 planned mitigation measures. We believe these are -- that they demonstrate the port's stewardship, the Army Corps of Engineers' stewardship, and clearly they demonstrate the responsible posture of the port and the Army Corps in making sure that the CEQA and the NEPA statutes are properly

complied with.

And, matter of fact, at the end of the day, folks, the economic prosperity that this project brings to our community -- WorleyParsons -- we are a resident of this county; we are a large employer in this county, and our hope is that this project is -- properly goes through the process and is approved so we can also increase our employment base in the county and be able to be a stakeholder to the process.

With that, I want to appreciate your time, and I want to -- definitely at the end of my discussions, I'd like to stress again that this is an important project for the community, it's an important project for the port, and we'd like to support the project and ask for its approval. Thank you.

MS. GREEN REBSTOCK: Thank you.

Do we have any other speakers?

Okay. Do we have any other final comments from the Corps?

Okay. Well, with that we'll conclude this hearing. Thank you.

(Whereupon the hearing was adjourned at 6:22 P.M.)

STATE OF)
) SS.
CALIFORNIA)

I, Jamie L. Apodaca, Certified Shorthand Reporter qualified in and for the State of California, do hereby certify:

That the foregoing transcript is a true and correct transcription of my original stenographic notes.

I further certify that I am neither attorney or counsel for, nor related to or employed by any of the parties to the action in which this proceeding was taken; and furthermore, that I am not a relative or employee of any attorney or counsel employed by the parties hereto or financially interested in the action.

I further certify that I am not interested in the event of the action.

IN WITNESS WHEREOF, I have hereunto set my hand this 24th day of January, 2012.

Jamie L. Apodaca
CSR No. 10990

EIS/EIR PUBLIC REVIEW MEETING
REPORTER'S TRANSCRIPT
JANUARY 19, 2012

SHEET 1 PAGE 1

IN RE THE MATTER OF BERTHS 302-306 AMERICAN PRESIDENTIAL LINES CONTAINER TERMINAL PROJECT; LOS ANGELES HARBOR DEPARTMENT; SAN PEDRO, CALIFORNIA.

Transcript of the Proposed Berths 302-306 American Presidential Lines Container Terminal Project Draft E.I.S./E.I.R. Public Review Meeting, Los Angeles Harbor Department, held at 6:02 P.M. on Thursday January 19, 2012, at 425 South Palos Verdes Street, San Pedro, California, transcribed by Jamie L. Apodaca, CSR #10990.

PAGE 2

APPEARANCES:

Christopher Cannon

Theresa Stevens -- Project Manager for the United States Army Corps of Engineers

Lt. Col. Steven Sigloch -- Deputy District Engineer for the United States Army Corps of Engineers

Jan Green Rebstock -- Port of Los Angeles Environmental Management Division

Aaron Allen -- Branch Chief for the United States Army Corps of Engineers

Christine Honeybone -- Port of Los Angeles Environmental Project Manager

PAGE 3

MR. CANNON: Okay. Good evening, everyone, and welcome to Port of Los Angeles. This is our public hearing for the APL Container Terminal project. It's a draft E.I.S/E.I.R. public review meeting.

And so the purpose of public review meetings, of course, is to get a chance to hear from you, and that's sort of stating the obvious. But the reason I want to mention it is too often you fall into a situation where, you know, people expect there to be a dialogue or for us to answer questions or to otherwise engage in a back-and-forth, and that's not what we're here for tonight. Staff is here around and if afterwards you have a question or two or need clarification of something that's in the document, we're certainly happy to be helpful and we want to do that. But mainly tonight is your night, and so we want to hear what you have to say.

We've got speaker cards; so if anybody wants to speak, please fill out the speaker cards. I think they're over here (indicating). If not, come find me, and I have a few extra.

And so we're going to give you a chance to comment on the document. Please keep your comments focused on the document itself. Obviously, if you like the project and you want to tell us, that's okay too. But mostly it's a chance to comment on the document itself so we can make sure we did

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a good job with it. And if there's things that we need to adjust going forward for the final, we will do that.

I'm up here. I want to introduce the people who are sitting in front of you, and I get to not be one of them; so I'm actually happy about that. I can go sit down in the audience.

But Theresa Stevens here is to my immediate left. She is the project manager for the Corps of Engineers, and she's probably your point of contact to the extent that you need to interact with the Corps on this project.

Jan Green Rebstock is with the Los Angeles Environmental Management Division. She's an environmental specialist, and she is going to be your point of contact for this project for us.

Lieutenant Colonel -- I have to get it right -- Sigloch --

Did I get that right, sir?

LT. COL. SIGLOCH: Yes.

MR. CANNON: Okay. He is the deputy district engineer for the Corps.

Next to him is Aaron Allen. He's the Branch Chief for the Corps.

And last but not least is Christine Honeybone, who is going to give a presentation. She's the port engineering professional, and she's going to give an overview of the

details of the project.

So these are people that you need to hear from tonight, and thank you again for being here. I'll turn it over to Lt. Col. Sigloch.

LT. COL. SIGLOCH: Okay. Thank you.

Good evening. I'm Lt. Colonel Steve Sigloch, the Deputy Commander of the Los Angeles District for the United States Army Corps of Engineers. On behalf of the Corps of Engineers, I'd like to welcome you all to this public meeting, which we are also conducting in Spanish as a courtesy to you, the interested public.

In 2009 the Port of Los Angeles applied to the Corps for a permit to construct wharf and terminal improvements at berths 302 through 306, the APL container terminal on Terminal Island. Because federal permits qualify as federal actions, the Corps must also comply with the National Environmental Policy Act, NEPA.

Due to the nature and scope of the activities in the waters of the United States, the Corps has determined that the proposed project could result in significant impacts and therefore required an Environmental Impact Statement, or E.I.S.

On July 9, 2009, we published a notice of intent in the Federal Register to prepare an E.I.S. for the project. On July 10th, 2009, the Corps and port published a Joint

Public Notice of this Notice of Intent and the port's Notice of Preparation of an Environmental Impact Report, or E.I.R.

In response to public comments received at the scoping meeting in 2009, the Corps and port prepared a joint E.I.S./E.I.R., and on December 23rd, 2011, the Corps published a notice of availability of the draft E.I.S. in the Federal Register.

Under our Federal Permit Program, the Corps of Engineers is responsible for regulating dredge and fill activities in the waters of the United States, as well as any activities that may affect navigation.

The port's proposed in-water and over-water activities at berths 302 through 306 are regulated under section 10 of the Rivers and Harbors Act. As proposed, these activities do not include a discharge for fill material into waters for the United States as regulated by section 404 of the Clean Water Act. While dredged material may be disposed in waters of the U.S., disposal would take place under a previously issued Corps permit, permit number 2008, dash, 00662, dash, AOA.

The port is also considering transporting and discharging clean, dredged material at a U.S. EPA-approved ocean disposal site -- L.A., dash, 2 -- which requires authorization pursuant to section 103 of the Marine Protection, Research, and Sanctuaries Act, M.P.R.S.A.

Federal actions such as Corps permit decisions are subject to compliance with a variety of federal environmental laws in addition to NEPA. Consequently the Corps has a responsibility to evaluate the environmental impacts that would be caused by the proposed project prior to making a permit decision.

In meeting its regulatory responsibility, the Corps is neither a project proponent nor an opponent. In addition to evaluating the direct, indirect, and cumulative environmental impacts of the port's proposed project, the Corps must determine whether the proposed project is in the public interest. No permit can be granted if we find that the proposal is contrary to the public interest. The public-interest determination requires a careful weighing of factors relevant to the particular project. The public interest review requires the Corps evaluate a project's benefits and balance them against a project's reasonably foreseeable detriments.

At this public hearing, the Corps is requesting input from the general public concerning the proposed project and the Corps' permit action. The Corps would like to emphasize that we will carefully consider all comments that we receive for the proposed project, and they will be given full consideration as part of our final permit decision. Following tonight's meeting, all parties will be given until

February 17th to provide any written comments on the proposed project for our permit action.

Staff from the Port of Los Angeles will now provide you a presentation, and then we'll discuss how to take the oral testimony after their presentation. Thank you.

MS. HONEYBONE: Thank you, Lieutenant Colonel.

Okay. I'm going to give an overview of the proposed project, a view of description locations.

Here is just to give you an overview of the site. The proposed project is located at Pier 300 on Terminal Island, and we have another closer aerial view of the actual terminal.

Here are the project objectives that have helped us guide through the proposed project design and through the document process. We want to optimize the use of the land at berths 302 to 305 and accommodate for larger container ships and warship calls. We would like to increase the container berth size and provide sufficient backland areas, improve the vacant landfill at berth 306, and increase terminal efficiency.

Just a brief overview of the existing facilities. The existing terminal is 291 acres, and our baseline for this document was July, 2008 to June, 2009, in which they had 247 ship calls, and 1.1 TEUs. There's currently four berths of 1,000 feet, and they have 12 cranes and an on-dock rail

facility.

To get into the proposed project elements, I have highlighted these areas in the various colored outlines. So we have modifications to both their gates and the terminal entrance lanes. We plan to expand the reefer unit storage area; demolish and reconstruct the Roadability facilities; expand the power shop facilities; various utility infrastructure within the terminal; bring in four new cranes; and also develop the former LAXT areas for container terminal use, which is about nine acres.

For the proposed project at berth 306 expansion, we would construct 1,250 linear feet of new wharf and bring possibly up to eight new cranes with amp facilities. We'll dredge 20,000 cubic yards and also develop the existing landfill of 41 acres of backlands with the infrastructure that would support the possible future automation with equipment such as dual-hoist cranes, automated guided vehicles, automated stacking cranes, and landside transfer cranes.

This is an example of some of the common terminal equipment that's at the terminal, such as the side picks and top picks. The rubber-tired gantry cranes, the rail-mounted gantry cranes give you an idea of what is out there.

And just to give a summary, the proposed project would add 56 acres, which includes the landfill; so it would

be a total of 347 acres. The lease goes through 2027. So we expect 390 ship calls and 3.2 million TEUs. There would be a total of up to 24 cranes and a total of 5,250 feet of wharf.

I will now turn it over to Jan so she can talk about the environmental process and where we're at right now.

MS. GREEN REBSTOCK: Thank you.

Yes. So my name is Jan Green Rebstock. I'm with the port Environmental Management Division, and I'm just going to walk you through the environmental review process for this project.

So we released the Notice to Proceed, which is the formal initiation of the environmental review process, back in July, 2009. We are now here at the public meeting to review the results of the draft E.I.R./E.I.S. findings and considerations, and then we will move forward with preparing a final E.I.R./E.I.S. based on the responses we receive during the comment period.

The draft E.I.R. was released on December 16th, and there's a 60-day review period that's currently in process, and as mentioned previously, it will close on February 17th.

Okay. So this is a summary of the findings of the environmental review. After applying 33 mitigation measures, standard conditions of project conditions and release measures, we still have unavoidable significant impacts

related to air quality, greenhouse gases, and health risk and also related to biological resources. The rest of the resource areas, we were able to mitigate to less than significant or they were already less than significant.

For the biological resources, the major driver there was invasive species, and we did a lot of consultation with APL to learn about the best practices that they have for their vessel fleet. But even with experimenting with a new ballast-water treatment system and how they maintain their vessel hulls, we still didn't feel confident that we could rule out the potential significant impact of a drain introducing invasive species into the harbor with the increase in ship calls over the life of the project.

Related to health risk, we do have a residential cancer risk impact for the live-aboard population only. So this doesn't apply to landside residences, but it does apply to a few live-aboards within the Fish Harbor area and some of the live-aboards near the Anchorage Road area.

I would like to mention that we did apply all of the mitigation measures under the Clean Air Action Plan. If you notice, the majority of the mitigation measures are related to air quality, and then there's some related to biology, geology, noise, and public services. So it's 33 in all.

The document does coequally analyze six alternatives in addition to the proposed project. So there's a range of

alternatives that we look at, with the alternative one being not moving forward with the project. There's -- the "No Federal Action" alternative is what could the port do but for receiving a federal permit; so that's no wharf extension, no new cranes, no dredging. And then there's some various reduced project alternatives as well. We also look at what the project might look like with expanded on-dock rail.

So this is just a brief summary of some of our public outreach efforts. We have a mailing list of over 200 interested parties that we directly mailed the document to. We have a reader's guide which condenses a, you know, several-thousand page document to about 30 pages, and there's some extra copies in the back if you're interested. We have the public meeting tonight. We're going to be receiving oral comments. So if you haven't already filled out a speaker's card and you're interested in participating, please do so and just bring it up here to the front. And be sure to clearly speak your name before you start.

And, you know, we'll take all of the comments that we receive and then prepare a final document, and the final document will reproduce all the comments verbatim and show a staff response and also show how the document has changed in response to any of the comments that we receive, whether it's with the analysis or the project design. And we hope to bring that final document to the board for consideration in

the spring-summer time frame.

So with that, we're going to move towards opening the hearing for receiving public comment. I haven't received any speaker cards. If there's anyone interested --

So I'd ask that Jay come up to the podium and state his name.

And you'll have three minutes to speak.

MR. JAHANGIRA: Good evening. My name Jay Jahangira. Buenas tardes. Mi nombre es Jay Jahangira.

First and foremost, I'd like to applaud the Port of Los Angeles and the U.S. Army Corps of Engineers for engaging in this development of this joint document. We believe -- on behalf of WorleyParsons, the company that I work for, and a resident of the Los Angeles County here that this is a win-win for the community as well as the port.

Clearly with 39 -- 390 vessel calls and 3.2 million TEU, we believe this project brings an economic prosperity to the greater Los Angeles area.

We also want to recognize the port's efforts as well as the U.S. Army Corps of Engineers' efforts in implementing these 33 planned mitigation measures. We believe these are -- that they demonstrate the port's stewardship, the Army Corps of Engineers' stewardship, and clearly they demonstrate the responsible posture of the port and the Army Corps in making sure that the CEQA and the NEPA statutes are properly

complied with.

And, matter of fact, at the end of the day, folks, the economic prosperity that this project brings to our community -- WorleyParsons -- we are a resident of this county; we are a large employer in this county, and our hope is that this project is -- properly goes through the process and is approved so we can also increase our employment base in the county and be able to be a stakeholder to the process.

With that, I want to appreciate your time, and I want to -- definitely at the end of my discussions, I'd like to stress again that this is an important project for the community, it's an important project for the port, and we'd like to support the project and ask for its approval. Thank you.

MS. GREEN REBSTOCK: Thank you.

Do we have any other speakers?

Okay. Do we have any other final comments from the Corps?

Okay. Well, with that we'll conclude this hearing. Thank you.

(Whereupon the hearing was adjourned at 6:22 P.M.)

STATE OF)
) SS.
CALIFORNIA)

I, Jamie L. Apodaca, Certified Shorthand Reporter qualified in and for the State of California, do hereby certify:

That the foregoing transcript is a true and correct transcription of my original stenographic notes.

I further certify that I am neither attorney or counsel for, nor related to or employed by any of the parties to the action in which this proceeding was taken; and furthermore, that I am not a relative or employee of any attorney or counsel employed by the parties hereto or financially interested in the action.

I further certify that I am not interested in the event of the action.

IN WITNESS WHEREOF, I have hereunto set my hand this 24th day of January, 2012.

CSR No. 10990

2.3.6 Draft EIS/EIR Public Hearing

APL Public Hearing Transcript (APLPH)

Response to Comment APLPH-1

Thank you for your comment on the proposed Project and Draft EIS/EIR.

2.4 References

Following are additional materials referenced in the Section 2.3, Response to Comments, above:

- Estimated Tugboat Transit Emissions from Seattle, Washington to the Port of Los Angeles, California
- Letter from the Office of Historic Preservation to the USACE – Section 106 determination (May 2, 2012)

Harbor Craft Construction Emissions

Tugboat Transit Emissions: Seattle, WA to Port of Los Angeles, CA

				Reference
Distance:	1200	nautical miles (one way)		See "Distance" tab in this spreadsheet.
Estimated Speed:	13	knots		See "Speed" tab in this spreadsheet.
Travel time:	92.31	hours		Calculated.
Estimated Engine Size:	1810	HP =	1350 kW	Draft EIS/EIR, Appendix E1, Table 1.2-1 General Conformity Applicability Analysis
Estimated Load Factor for Transit:	0.85			Estimated by CDM Smith.

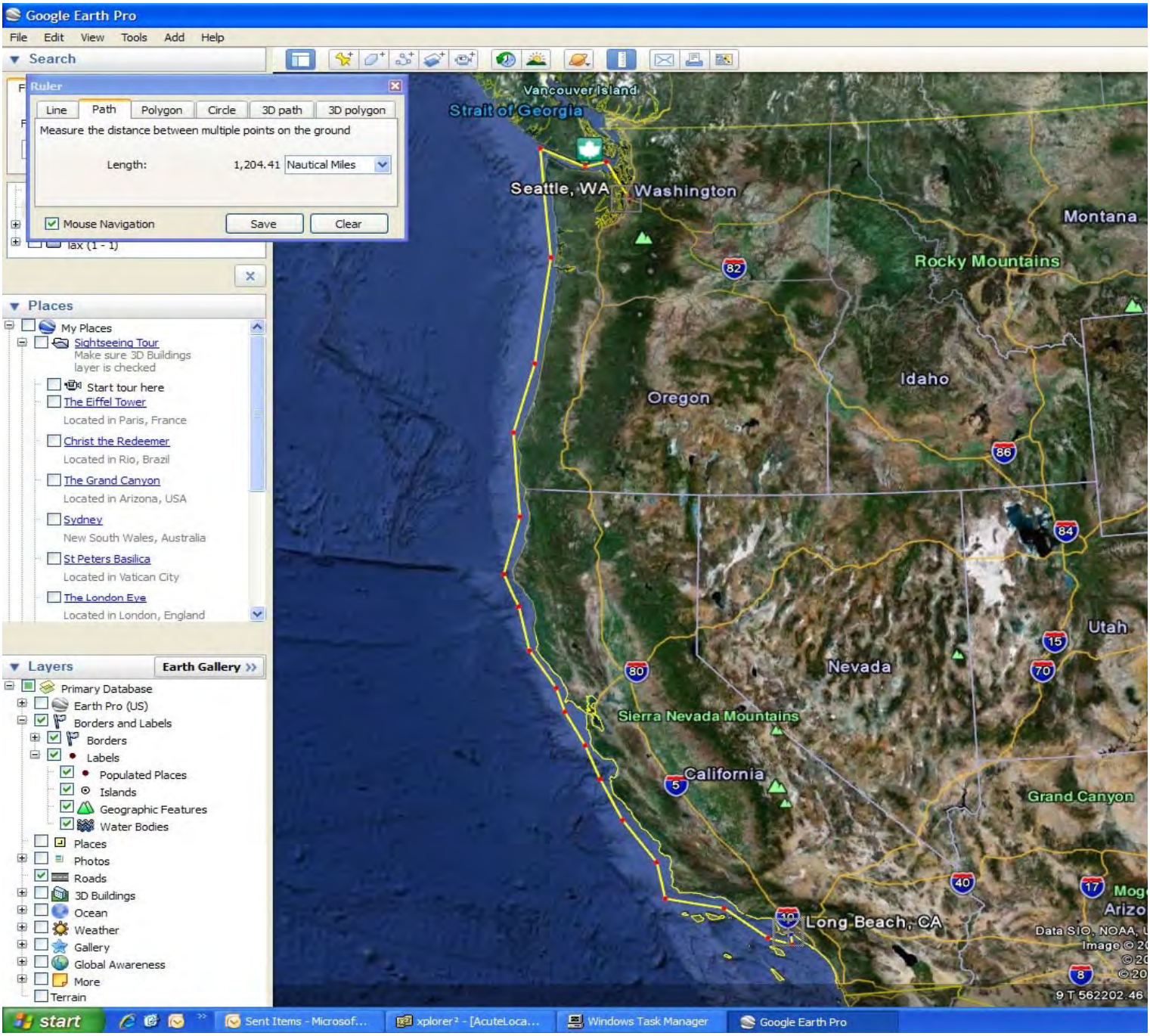
	NOx	HC	PM	
Tier 4 Emission Standards, g/kWh	1.8	0.19	0.04	See "Tier4Standards" tab in this spreadsheet.
Round trip Transit Emissions, lbs per tug	**840.68**	**88.74**	**18.68**	Calculated.

APL Construction Barge Tug Emissions (Transporting dredged material)

	VOC	CO	NOx	SOx	PM10	PM2.5
APL Barge Tug Emissions						
Tier 3 Emission Factor, g/kWh	0.58	5.00	5.22	0.01	0.11	0.10
Construction Emissions, lbs	32.18	277.41	289.62	0.41	6.10	5.61
Tier 4 Emissions						
Construction Emissions, lbs	10.54	277.41	99.87	0.41	2.22	2.04
Transit Emissions (2 tugs), lbs	177.48	4,670.43	1,681.36	6.91	37.36	34.37
Total Emissions, lbs	188.02	4,947.84	1,781.22	7.33	39.58	36.42
Net Increase due to transporting Tier 4 compliant tug to POLA from Seattle, lbs	**155.84**	**4,670.43**	**1,491.61**	**6.91**	**33.48**	**30.80**

HP Rating	Load Factor	# Active	Equip-Hrs Day	Daily hp-hr	Total Work Days
1350	0.31	2	6.72	5625	6

Source:
Draft EIS/EIR, Appendix E1, Table 1.2-1 General Conformity Applicability Analysis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Located in Paris, France
Christ the Redeemer
Located in Rio, Brazil
The Grand Canyon
Located in Arizona, USA
Sydney
New South Wales, Australia
St Peters Basilica
Located in Vatican City
The London Eye
Located in London, England
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Earth Gallery
Primary Database
Earth Pro (US)
Borders and Labels
Borders
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Water Bodies
Places
Photos
Roads
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More
Terrain
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Strait of Georgia
Seattle, WA
Washington
Montana
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Idaho
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Google Earth Pro

December 15, 2005
Prince William Sound Tug Fleet
Workshop Summary

Report to:
Prince William Sound Regional Citizens' Advisory Council

PWSRCAC Contract No: 801.06.01

Prepared by:

HARVEY CONSULTING
Oil & Gas, Environmental, Regulatory Compliance, and Training

February 23, 2006

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Eagle River, Alaska 99577

Standard (RPS) as described in Scenario 809 of the PWS Tanker Oil Spill Discharge Prevention and Contingency Plans (PWS Tanker C-plans).

The workshop ***is not*** a request for agency approval to change the escort system at this time; this will be associated with a "long trek, including a risk assessment and disabled tanker towing study."

Workshop Assumptions:
Workshop participants were asked to apply four major assumptions throughout the workshop:

1. All of the tugs in PWS are available to respond to the Scenario 809 tanker oil spill;
2. The Tanker of Opportunity (TOO) at hour 24 of the oil spill response does not require additional tugs to approach and lighter the stricken tanker;
3. The peak tug requirements for a Scenario 809 tanker oil spill occur within the first 12 hours of the oil spill response; and
4. The need to resume oil transportation simultaneous to oil spill response is ignored.

Workshop "Compliance Test" Rules:
According the PWS Tanker Owners interpretation of the 1995 PWS Tanker C-Plan Settlement, and currently approved plan, the following "compliance test" rules were applied throughout the workshop to determine whether or not the proposed tug configurations met state and federal compliance tests. These "compliance test" rules were not validated by the agencies, nor agreed to by PWSRCAC.

1. TransRec barges must be on-scene by hour 7.7;
2. Lightering Barge must be on-scene by hour 9; and
3. Nearshore Barge must be on-scene by hour 24.

ADEC pointed out the VMT C-plan requirement to have two tugs within two hours of Valdez, was an important compliance test which was being ignored, when tanker oil spill response operations are conducted parallel to ongoing VMT operations.

Workshop Logistics Rules:
The PWS Tanker Owners used the following logistics rules to compute the tug and barge deployment and transit times:

1. Tug boat speed without a barge in tow = 13 knots (kts);
2. Tug boat speed with a barge in tow = 10 kts;
3. One-hour setup time for manned barges, and 1.5 hours for unmanned barges; and
4. One-hour barge deployment time.

PWSRCAC questioned the use of the same tug speed assumptions in all seasons and all weather conditions.

Agency & PWSRCAC Concerns About Assumptions and Rules
Both ADEC and PWSRCAC participants repeatedly expressed concern about the proposed workshop assumptions and rules. PWSRCAC also requested an opportunity to verify the 1995 settlement terms and conditions to verify the "compliance test" assumptions. Both PWSRCAC and the agencies were

15 ≤ D < 20	7.0	0.27[a]	2014
20 ≤ D < 25	9.8	0.27	2014
25 ≤ D < 30	11.0	0.27	2014

‡ Option: Tier 3 PM/NOx+HC at 0.14/7.8 g/kWh in 2012, and Tier 4 in 2015.
† Tier 3 NOx+HC standards do not apply to 2000-3700 kW engines.
a - 0.34 g/kWh for engines below 3300 kW.

In addition to the above NOx+HC and PM standards, the following CO emission standards apply for all Category 1/2 engines starting with the applicable Tier 3 model year:

i. 8.0 g/kWh for engines < 8 kW,
ii. 6.6 g/kWh for engines ≥ 8 kW and < 19 kW,
iii. 5.5 g/kWh for engines ≥ 19 kW and < 37 kW,
iv. 5.0 g/kWh for engines ≥ 37 kW.

Table 8. Tier 4 Standards for Marine Diesel Category 1/2 Engines

Power (P)	NOx	HC	PM	Date
kW	*g/kWh*	*g/kWh*	*g/kWh*	
P ≥ 3700	1.8	0.19	0.12[a]	2014[c]
	1.8	0.19	0.06	2016[b,c]
2000 ≤ P < 3700	1.8	0.19	0.04	2014[c,d]
1400 ≤ P < 2000	1.8	0.19	0.04	2016[c]
600 ≤ P < 1400	1.8	0.19	0.04	2017[d]

a - 0.25 g/kWh for engines with 15-30 dm^3/cylinder displacement.
b - Optional compliance start dates can be used within these model years.
c - Option for Cat. 2: Tier 3 PM/NOx+HC at 0.14/7.8 g/kWh in 2012, and Tier 4 in 2015
d - The Tier 3 PM standards continue to apply for these engines in model years 2014 and 2015 only.

STATE OF CALIFORNIA – THE RESOURCES AGENCY EDMUND G. BROWN, JR., *Governor*

OFFICE OF HISTORIC PRESERVATION
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May 02, 2012

In Reply Refer To: COE120224A

Aaron O. Allen
Chief, North Coast Branch
Department of the Army
Los Angeles District, Corps of Engineers
Ventura Field Office
2151 Alessandro Drive, Suite 110
Ventura, CA 93001

Re: Berths 302-306 Container Terminal Project, Port of Los Angeles

Dear Mr. Allen:

Pursuant to 36 CFR Part 800 (as amended 8-05-04) regulations implementing Section 106 of the National Historic Preservation Act, the Army Corps of Engineers (COE), is seeking my comments on its determination of the Area of Potential Effects (APE), historic property identification efforts, determination of National Register of Historic Places (NRHP), and finding of effects that the proposed undertaking will have on historic properties.

The proposed project will consist of construction of a 1,250-foot-long wharf extension to pier 300 (which is built on redeposited dredged sediment) and the installation of 12 new cranes. You have conducted Native American consultation, a records search, and have submitted the following document as evidence of your efforts to identify historic properties in the project Area of Potential Effects (APE):

- *Application for Permit, Notice of Availability for a draft Environmental Impact Statement (EIS) & Public Hearing*

No historic properties within the APE were identified in the records search. Native American consultation determined no sacred lands and no concerns with the project. After reviewing your letter and supporting documentation, pursuant to 36 CFR 800.4(d), I concur that there will be no historic properties affected by this undertaking.

Be advised that under certain circumstances, such as unanticipated discovery or a change in project description, the COE may have additional future responsibilities for this undertaking under 36 CFR Part 800. Thank you for seeking my comments and for considering historic properties in planning your project. If you require further information, please contact Brendon Greenaway of my staff at phone 916-445-7036 or email bgreenaway@parks.ca.gov.

Sincerely,

Susan K Stratton for

Milford Wayne Donaldson, FAIA
State Historic Preservation Officer

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