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November 1, 2010

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Re: Gambol Industries, Inc.

Dear Ben, Ken and George:

We have received Ben's October 27, 2010 letter. The rhetoric and hyperbole we now recognize as customary. The number and scope of misstatements and misrepresentations, however, are startling, and require a response. Accordingly:

Gambol Assertion 1: "It quickly became apparent that the placement of dredge materials generated by POLA's Main Channel Deepening Project ("MCDP") at the MHRP would save POLA in excess of \$30 million since POLA would not need to construct a rock dike CDF across Berths 243-245 if it places sediments from the MCDP in the MHRP instead of within Berths 243-245."

POLA Response: We trust that Gambol would level such a strong accusation only if it possessed the necessary supporting facts. Accordingly, we request that Gambol immediately circulate its written analysis reflecting a potential \$30 million cost savings resulting from MHRP disposal of MCDP dredge material to POLA and the rest of the recipients to whom you circulated Ben's letter.

POLA attaches its written analysis of the cost savings potentially represented by the MHRP to this letter. This estimate was generated with USACE staff input, and reflects a theoretical maximum cost savings of \$12,234,816 (\$35,026,199 contract price to construct rock dike CDF less \$22,791,383 estimated cost to deposit material in MHRP), approximately one-third of the cost savings Gambol asserts is possible.

What is critical to note about the estimated cost savings is that it already has shrunk, and will continue to shrink, as construction activities continue at the Southwest Marine site.

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Those activities, with their scheduled dates and estimated costs (based on the updated MCDP schedule we provided to you on October 7, 2010), are as follows:

Key MCDP Activity at SW Marine	Start Date	End Date	Itemized and Running Costs ¹
Heavy Demolition: Sawcutting and demolition of Berths 243-245 Wharves, Piers; Removal of Existing Piles	October 13, 2010	May 5, 2011	\$8.4 Million (\$8.4M/\$35M)
Keyway Construction: Trench & Toe Berm	May 11, 2011	August 27, 2011	\$1.8 Million (\$10.2M/\$35M)
CDF Rock Dike Construction	June 22, 2011	November 22, 2011	\$8.3 Million (\$18.5M/\$35M)
Place Contaminated MCDP Dredge Material in Berths 243-245 CDF	August 6, 2011	January 16, 2012	\$4.3 Million (\$22.8M/\$35M)
Placement of China Shipping Surcharge in Berths 243-245 CDF	July 21, 2011	August 11, 2012	\$12.2 Million (\$35M/\$35M)
Placement of Remainder of China Shipping Surcharge at Cabrillo Shallow Water Habitat	September 18, 2012	November 9, 2012	Not a rock dike CDF cost.

As you know, POLB's tentative fill plan (an attachment to its October 18, 2010 letter) projects starting the fill in May of 2011. As the chart above shows, in May of 2011, POLA will have just spent \$8.4 million on the rock dike CDF, reducing the theoretical cost savings resulting from MHRP disposal from approximately \$12.2 million to approximately \$3.8 million.

POLA believes that POLB's schedule for its tentative fill plan is unrealistically optimistic, based on the very remote possibility of the following processes being started and finished before May of 2011: (a) POLB completing the bid and award process to hire a

¹The contract price of the rock dike CDF is \$35,026,199. The un-parenthesized cost figures in this column depict estimated costs for the activity(ies) noted. The parenthesized cost figures depict a running subtotal of costs relative to the \$35,026,199 estimated total.

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MHRP construction contractor (as yet, it has not advertised for a contractor); (b) POLB and applicants with granted applications determining who will and will not participate in the MHRP; (c) POLB obtaining CSTF approval of a fill plan for the MHRP; and (d) the contributors of fill material obtaining the necessary entitlements to transport and place their specific quantities of dredge material into the MHRP. Individually, any of these processes could take months to complete.

As noted above, in May of 2011, when POLB anticipates starting the MHRP fill, MHRP disposal of MCDP dredge material represents a theoretical \$3.8 million cost savings. As the chart above shows, this theoretical cost savings depletes rapidly, as construction activities proceed at the Southwest Marine site. Indeed, if POLA's belief regarding the unrealistic aggressiveness of POLB's schedule turns out to be correct, disposal of MCDP dredge material in the MHRP fill actually could cost, rather than save, POLA money. Under the current MCDP schedule, the point at which this occurs probably is in mid-July of 2011.

In any event, we look forward to receipt of Gambol's written analysis supporting its contention that "the MHRP would save POLA in excess of \$30 million."

Gambol Assertion 2: "In addition, the MHRP constitutes a beneficial reuse of all MCDP-generated dredge materials."

POLA Response: This statement is specious and demonstrably inaccurate. As Gambol should know, while POLA's application to POLB sought beneficial reuse of all MCDP dredge material, only a portion of that material was accepted. Indeed, POLB rejected all contaminated sediment.

As POLB states in its October 18, 2010 letter:

We regret to inform you that Source 1 and Source 2 do not qualify for placement in the fill site. A key purpose for providing this fill opportunity to third parties is to facilitate the dredging and safe sequestration of contaminated sediments which, if not for this project, would not have a feasible disposal option. Because Source 1 and Source 2 have an available disposal option, with all entitlements, and would displace contaminated material that would otherwise remain in the environment, acceptance of Source 1 and Source 2 would not be consistent with a key objective of this fill.

Gambol Assertion 3: "... Gambol confirmed with POLB officials that the MHRP construction schedule coincided with that of the MCDP such that POLA could easily and timely dispose of MCDP-generated dredge materials within the MHRP. Thus, the MHRP presented POLA, POLB and Gambol with a clear win-win situation. . . ."

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POLA Response: See response to Gambol Assertion 1. Putting aside what Gambol may have taken away from discussions with POLB, the schedules of the MCDP and MHRP speak for themselves and eviscerate Gambol's assertion.

While POLB has accepted a portion of the MCDP material for inclusion in the MHRP fill, it is questionable whether POLA will pursue this option. The material POLB accepted is 307,000 CY of clean surcharge material presently located at the China Shipping premises. POLB, according to its tentative fill plan, projects placing this material in May of 2012. Referencing the chart above, in May of 2012, rock dike CDF construction will be complete or very close to complete, and POLA will have spent all or nearly all of the \$35 million cost necessary to build that structure. Under these circumstances, MHRP disposal of that 307,000 CY of clean material clearly would cost POLA substantial funds, ruling out that option. Additionally, POLA needs that material, as it will be used to create integral structural components of the rock dike CDF.

Gambol Assertion 4: "Instead, for reasons known only to POLA executives and staff, POLA failed to comply with the request for information from POLB and, in so doing, prevented POLB from even considering the acceptance of all MCDP-generated dredge materials at the MHRP."

POLA Response: Following POLA's submittal of an application to deposit all MCDP dredge material in the MHRP, POLB, on August 26, 2010, requested additional information from POLA. POLA responded to that request on September 10, 2010 by providing voluminous additional technical data. In fact, POLA did comply with POLB's request for additional information. Gambol's assertion to the contrary is specious.

Following receipt of POLB's October 18, 2010 letter, POLA responded to POLB's comments regarding a dredge plan for the Berths 243-245 slip sediments, and additional chemical and geotechnical data on the MCDP dredge material on October 27, 2010. We have attached a copy of POLA's letter to POLB in that regard.

As POLB's October 18, 2010 letter makes clear, it rejected the contaminated MCDP dredge material because that material possesses a fully entitled disposal site, and its inclusion in the MHRP fill would displace contaminated dredge material that otherwise would lack a home. POLB staff has confirmed that this issue would bar inclusion of the contaminated MCDP dredge material in the MHRP regardless of how the issues related to the chemical and geotechnical properties of that material might be resolved.

Gambol Assertion 5: "Clearly, POLA knew that, if it failed to submit any dredged design, POLB could not accept POLA-originated dredged materials in MHRP. In so doing, POLA insured that in-slip materials from Berths 243-245 and other dredge materials associated with MCDP would not be accepted by the MHRP."

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POLA Response: See response to Gambol Assertions 2 and 5. While inconvenient to conspiracy theories, the contaminated MCDP dredge material has a fully entitled disposal site in the MCDP's rock dike CDF. POLB has confirmed that a POLA-designed plan to dredge up that material and deposit it in the MHRP would not have altered POLB's decision to deny POLA's application.

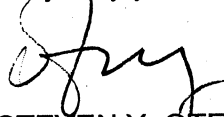
Gambol Assertion 6: "In reliance on the Gambol-POLA MOU, Gambol has invested millions of dollars in developing a modern, jobs-generating shipyard at the former Southwest Marine site."

POLA Response: As Section 2(a) of the MOU makes clear, Gambol's preparation of a proposal for a shipyard at the Southwest Marine site is "at its sole cost and expense." So, while Gambol's investment in its pursuit of a project may be substantial, as a matter of contract, that investment is unrecoverable from the City.

Regarding any reliance Gambol may have placed on the MOU as creating rights in a potential project, Gambol should review Section 14 of the MOU, which states that "[t]his MOU does not create binding obligations on the part of the POLA to assign the Property to Gambol or on the part of Gambol to lease the Site from POLA. . . . This MOU does not constitute an assignment, permit, license, entitlement for use, or other commitment by POLA to a definite course of action concerning the Proposed Project."

We also reserve all our rights, and waive none.

Very truly yours,



STEVEN Y. OTERA
KENNETH F. MATTFELD
JANET L. KARKANEN
Deputy City Attorneys

SYO/dls
Attachments

cc: Tom Russell, General Counsel, Office of the City Attorney - Harbor Division
Linda Dishman, Executive Director, L.A. Conservancy
Jenny Chavez, Office of Council District 15

Berth 243-245 CDF Project Costs

based on final negotiated prices

Description	Estimated Quantity	Unit	PROJECT BID	
			Unit Bid	Total Bid
BERTH 243-245				
General Conditions, Mob/Demob, Superv/Mgmt (15.5%)				\$4,700,486
DEMOLITION (BERTHS 243-245)	1	LS	\$7,258,601.00	\$7,258,601
FULL QUALITY CONTROL	1	LS	\$227,982.00	\$227,982
DREDGE & DISPOSE DIKE KEY MATERIAL	80,000	CY	\$15.75	\$1,260,000
WICKS DRAINS	1,654,000	LF	\$0.50	\$827,000
GRAVEL DRAINAGE BLANET	60,000	TON	\$40.42	\$2,425,200
QUARRY RUN DIKE	260,000	TON	\$24.74	\$6,432,400
ARMOR ROCK - A500	14,880	TON	\$41.41	\$616,181
SAND BERM FROM SURCHARGE	42,000	CY	\$24.34	\$1,022,280
CONTAMINATED BERTH DREDGE DEPOSITS	142,000	CY	\$26.47	\$3,758,740
SAND COVER LAYERS	102,500	CY	\$24.34	\$2,494,850
SURCHARGE	163,000	CY	\$24.34	\$3,967,420
GEOTEXTILE	1,810	SY	\$19.37	\$35,060
Total Contract price Berth 243-245 Rock Dike CDF				\$35,026,199

Middle Harbor Disposal Cost Estimate

General Conditions, Mob/Demob, Superv/Mgmt (15.5%)				\$2,317,109
CONTAMINATED BERTH DREDGE DEPOSITS	142,000	CY	\$26.47	\$3,758,740
CONTAMINATED DEPOSITS IN BERTH 243-245	140,000	CY	\$26.47	\$3,705,800
SURCHARGE from SW Slip Area 1	307,500	CY	\$24.34	\$7,484,550
SUB-TOTAL				\$17,266,199
CONTINGENCY (20%)				\$3,453,240
Eng, design, planning, environmental, permitting(12%)				\$2,071,944
TOTAL ESTIMATED COST FOR MIDDLE HARBOR DISPOSAL				\$22,791,383
COST SAVINGS POTENTIAL: MIDDLE HARBOR DISPOSAL VS. ROCK DIKE CDF				\$12,234,816



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Executive Director

October 26, 2010

Mr. Richard Cameron
Port of Long Beach
925 Harbor Plaza
Long Beach, CA 90802

**SUBJECT: APPLICATION FOR PLACEMENT OF DREDGE MATERIAL IN PORT
OF LONG BEACH MIDDLE HARBOR FILL SITE
MAIN CHANNEL DEEPENING PROJECT**

Thank you for your letter dated October 18, 2010, regarding our application to deposit Main Channel Deepening Project sediments into the Port of Long Beach Middle Harbor Slip 1. We appreciate the Port of Long Beach's consideration.

Regarding your comments on the Source 1 materials covered by our application, please note the information sent to you by Gambol Industries, dated September 10, 2010, Sampling Assessment Report by Pacific EcoRisk. This report indicates contamination levels below TTLC when samples are composited for disposal purposes.

Regarding your comments on the Source 2 materials covered by our application, we note that locations of soil data were provided in the information in our supplemental information. We acknowledge that the volume of information was significant; however, we believe all the necessary information was present for the Port of Long Beach to evaluate our application.

We will continue to evaluate your decision to partially accept our proposal. If you have any questions or need clarification regarding this information please contact myself at 310-732-3877 or Dave Walsh, Assistant Chief Harbor Engineer, at 310-732-3639.

Sincerely,

ANTONIO V. GIOIELLO
Chief Harbor Engineer

TG:mvr
Adm29125
Adm 2-9-1

