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ENVIRONMENTAL MANAGEMENT
CITY OF LOS ANGELES

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VIA E-MAIL & OVERNIGHT MAIL

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U.S. Army Corps of Engineers, Los Angeles District
Regulatory Division
c/o Spencer D. MacNeil D.Env.
ATTN: CESPL-RG-2004-00917-SDM
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Los Angeles, California 90053-2325

Dr. Ralph G. Appy, Director Environmental Management
Port of Los Angeles
425 South Palos Verdes Street
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RE: ***Ultramar Inc. Comments on the Pacific L.A. Marine Terminal LLC Crude Oil Terminal ("Pier 400") Draft Supplemental Environmental Impact Statement/Draft Subsequent Environmental Impact Report ("Draft SEIS/SEIR")***

Dear Drs. MacNeil and Appy:

Ultramar[1] appreciates the opportunity to comment on the Pier 400 Draft SEIR/SEIS. As the owner of the Valero Wilmington Refinery, operator of Berth 164[2] in the Port of Los Angeles ("POLA"), and producer of approximately 13% of the compliant, clean-burning transportation fuels in Southern California market place, Ultramar is keenly aware that California is facing an increasingly urgent need to upgrade and expand essential energy infrastructure – both to ensure continued delivery of reliable and affordable energy supplies and to ensure the state's continued economic vitality. Further, California's growing reliance on imported crude oil and finished gasoline, diesel fuel, and other petroleum products – 60 percent of which enter the state through marine terminals at or near the ports of Los Angeles and Long Beach – requires that we maintain and expand our state's energy infrastructure.

Accordingly, Ultramar is supportive of marine infrastructure projects like the Pier 400 project, which will provide a deep water marine dock designed to accommodate large ocean-going oil tankers for the purpose of liquid bulk offloading and storage. Ultramar strongly believes that such projects are important and critical in meeting California's future energy demand and help provide local refining facilities with much needed levels of raw materials for their operations. Because of these beliefs,

[1] For the purposes of the letter, Ultramar Inc., a Valero Energy Corporation, dba, Valero Wilmington Refinery, will be referred to as "Ultramar."

[2] Berth 164 is vital to the import of critically necessary gasoline blending components required for the Wilmington Refinery's production of California compliant and clean-burning transportation fuels.

Ultramar is currently signed on as a user of certain assets that are to be constructed and operated as part of the project.

However, as previously commented on in the context of the Clean Air Action Plan ("CAAP") and Berth 164 for similar emission control/mitigation measures, Ultramar is concerned with the some of the air quality mitigation measures ("MM AQ") proposed for the Pier 400 project.

Under proposed MM AQ-14 through MM AQ-16 and MM AQ-18, upon operation of the Pier 400 project, Ultramar would be required to make almost immediate commitments to use processes and technologies with potentially substantial safety, technological, and economic implications. This is particularly problematic for Ultramar as it is highly improbable that it would own or operate any of the vessels calling on Pier 400. Currently, Ultramar charters these types of vessels from a number of ship owners throughout the world, which call infrequently on the West Coast. In many instances, Ultramar purchases cargos that are already waterborne after they have already left their point of origin, which are then delivered to West Coast terminals. Accordingly, Ultramar currently has little ability to control whether the vessels that would be calling on Pier 400 could meet MM AQ-14 through MM AQ-16 and MM AQ-18 in the time frames indicated.

Furthermore, the types of vessel modifications that may be required to meet the proposed mitigation measures modifications cannot be done overnight and will need to be phased in over time and most likely made during required dry dock inspections, which must be done twice in a five-year period.

To this end, some of our specific concerns with the proposed mitigation measures are discussed in more detail below.

Fuel Switching While At Sea (MM AQ-14)

Proposed MM AA-14 requires that ships calling at Pier 400 shall use low-sulfur fuel in main engines, auxiliary engines, and boilers within 40 nm of Point Fermin (including hoteling for non-AMP ships) in varying annual percentages for inbound and outbound trips.

Although Ultramar has concerns with mandating fuel switching, considering the lack of acceptable protocols developed by appropriate marine bodies and approved by the appropriate oversight agencies, the types of vessel modifications required to accommodate fuel switching, and the availability of low sulfur at the ports (i.e., Middle Eastern, African, and/or South American) where a large majority of the crude coming to Pier 400 is likely to come from, Ultramar will work with Pacific L.A. Marine Terminal LLC ("Pacific") and POLA to address these concerns.

It should be noted that Ultramar believes that any fuel switching mitigation measures for Pier 400 should be consistent in both requirements and timing as what may eventually come out of the International Maritime Organization ("IMO") revised Annex VI (Regulations for the Prevention of Air Pollution from Ships) process[3] and the U.S. EPA's, in association with the CARB and other air quality agencies,

[3] According to California Air Resources Board's ("CARB") Fuel Sulfur And Other Operational Requirements For Ocean-Going Vessels Within California Waters And 24 Nautical Miles Of The California Baseline ("Auxiliary and Main Engine Requirements") Staff Report: Initial Statement Of Reasons For Proposed Rulemaking (June 2008) ("ISOR"), the Marine

investigation of the creation of U.S. Sulfur Emission Control Area under a process provided by the IMO[4]. In fact CARB has recognized it is "preferable to adopt regulations for ocean-going vessels on a national or international basis." (*See* ISOR at p. V-11). As a result, CARB provided that the Auxiliary and Main Engine Requirements could be sunsetted if the Executive Officer of the CARB determines that the IMO or the U.S. EPA has adopted regulations that will achieve equivalent benefits from ocean-going vessels in California. (*Id.*).

Ultramar also believes that MM AQ-14 must allow a master of a vessel the discretion to determine if regulatory compliance would endanger the safety of the vessel, its crew, its cargo or its passengers because of severe weather conditions, equipment failure, fuel contamination, or extraordinary reasons beyond the master's reasonable control.

AMPing (MM AQ-15)

Proposed MM AQ-15 unequivocally requires that ships calling at Pier 400 use AMPing while hoteling at the Port in various percentages ranging from 4% of vessel calls by the second year of operation up to 70% of annual vessel calls by the sixteenth year of operation.

Unlike the container trade with its dedicated fleets, Ultramar is concerned with the feasibility of AMPing for tankers. As previously mentioned, Ultramar does not currently own tankers or vessels and must charter these ships from all over the world. While, over time, fuel switching may become a worldwide standard under the IMO and/or U.S. EPA processes, AMPing requires even more onerous ship vessel modifications. Additionally, there is the infrastructure logistics and costs as well as liabilities associated with the use of AMPing that must be vetted before such a technology can be implemented. Accordingly, Ultramar is concerned that the AMPing phase-in times as proposed under MM AQ-15 may need to be adjusted to accommodate vetting of these issues.

Environment Protection Committee ("MEPC") of the IMO has approved proposed amendments that would significantly strengthen Annex VI. The United States was a significant participant in the discussions that led to this proposal. The revisions will be considered for adoption in October of 2008 at the 58th session of the MEPC in London. Among the more significant revisions would be progressive reductions in the sulfur content of fuel as follows:

- A 1% sulfur limit in "Emission Control Areas," beginning March 1, 2010 (reduced from the current 1.5% sulfur level in SECAs);
- A global sulfur limit of 3.5%, beginning January 1, 2012 (reduced from the current 4.5% sulfur)
- A 0.1% sulfur limit in "Emission Control Areas," beginning January 1, 2015;
- A global sulfur limit of 0.5%, beginning January 1, 2020 (subject to a feasibility review to be completed in 2018 that could shift implementation to 2025)
- A fuel availability provision would be introduced to outline the actions that should be taken if a ship operator is unable to obtain complying fuel.

Assuming the amendments to Annex VI are adopted, the U.S. EPA could pursue an "Emission Control Area" (ECA) that would include California's coastline under the pending amendments to IMO Annex VI. Under an ECA, a one percent sulfur limit could be implemented starting in 2010, although implementation would likely start later depending on the time necessary to complete the process. Beginning January 1, 2015, a 0.1% sulfur limit could be implemented, which would be equivalent to the 2012 0.1% sulfur limit in the ARB proposed regulation.

[4] According to CARB's ISOR, the IMO's Annex VI provides a mechanism to require the use of marine fuel (generally heavy fuel oil) with a 1.5 percent sulfur content limit in designated areas.

It should be noted that Ultramar is puzzled as to why AMPing is a proposed mitigation measure for the Pier 400 project, considering CARB's recent determination not to require AMPing for crude-oil tankers in its recently adopted Regulations to Reduce Emissions from Diesel Auxiliary Engines on Ocean-Going Vessels While At-Berth at a California Port in December 2007 ("Shore Side Regulations")[5]. CARB specifically noted in the Shore Side Regulations Staff Report: Initial Statement of Reasons (October 2007) ("ISOR") the following:

> "Based on the screening analysis noted above, the Evaluation Report concluded that the most attractive vessel candidates for cold-ironing at this time are container ships, refrigerated cargo (reefer) ships, and passenger ships, and the most likely locations for cold-ironing in California are the Ports of Los Angeles, L ong Beach, Oakland, San Diego, San Francisco, and Hueneme. The most attractive ship candidates were found to be those ships that make frequent visits to a California port, spend a sufficient number of hours at berth, and have an ample power demand while hotelled. These findings formed the foundation on which the proposed rulemaking was based.
>
> Of the three remaining types of vessels that visit California, the Evaluation Report showed that it was not as cost-effective at this time to cold-iron bulk and general cargo ships and vehicle carriers, relative to container ships, passenger ships and reefers, because the former categories generally have a low number of repeat visits to any single port and lower power loads. Further, crude-oil tankers were found to have higher average cost-effectiveness values because there are only a handful of diesel-electric tankers that visit California, and only two are expected to visit frequently. Indeed, most crude-oil tankers use steam turbines to drive their cargo pumps. These cargo pumps represent the majority of the power needed by tankers when they are berthed. The rest of the ship's power needs are modest. Finally, product tankers make few visits to California ports, and their berthing times are short, making them a much less attractive candidate for coldironing.
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> The proposed regulation specifically addresses hotelling emission reduction requirements for categories of ships that were found at this time to be attractive candidates for shore power in the Evaluation Report — container ships, passenger ships, reefer ships — and the California ports where these ships frequently visit."

(*See* ISOR at pp. 4-5; see also Technical Support Document: Initial Statement of Reasons for The Proposed Rulemaking ("TSD") at p. II-3).

CARB also particularly noted that:

> "The majority of the power requirements for a crude-oil tanker is for pumping out the crude. Since the majority of ships transporting crude oil use steam turbine/boiler units to pump the crude, this portion of a tanker's operation cannot be electrified."

[5] This is also consistent with the CAAP's determination not to target certain marine terminals for AMPing, including Berth 164. (See CAAP, Table 5.10).

(*See* TSD at p. III-6).

Although CARB is currently working on separate requirements for the ship categories that were not considered to be good candidates for the Shore Side Regulations -- bulk ships, tankers, and vehicle carriers, Ultramar expects that these future requirements will not mandate AMPing for these ship categories, but allow for alternative technologies and approaches in achieving emissions reductions. Accordingly, Ultramar would recommend that if MM AQ-15 is not eliminated or the phase-in periods adjusted and extended, that it be modified to allow for consistency with future CARB rulemaking.

Slide Valves (MM AQ-16)

Proposed MM AQ-16 requires that ships calling at Pier 400 be equipped with slide valves or a slide valve equivalent (i.e., an engine retrofit device designed to reduce the sac volume in fuel valves of main engines in Category 3 marine engines) to the maximum extent possible.

Since it is highly improbably that Ultramar would not own or operate any of the vessels calling on Pier 400, a mandate that on day one of Pier 400 operation vessels visiting the berth must have slide valves would be difficult for it to meet. Ultramar would need time to work with the ship owners to continue to educate them on the Pier 400 slide valve requirements and get them to make the necessary retrofits.

To this end, Ultramar requests that proposed MM AQ-16 be modified to provide a phase-in period similar to the Berths 136-147 Container Terminal ("TraPac") Project. MM AQ-12 of the Final TraPac Environmental Impact Report requires that ships calling at Berth 136-147 shall be equipped with slide valves or equivalent on main engines in the following percentages: (a) 15 percent in 2008; (b) 50 percent in 2010; and (c) 95 percent in 2015. By 2012, all frequent caller ships (three or more calls a year) shall comply with this requirement. Using this phased-in approach, MM AQ-16 could be modified accordingly:

- 15 percent by end of year 2 of operation;
- 50 percent by end of year 10 of operation;
- 95 percent by end of year 16 of operation; and
- By 2020, all frequent caller ships (three or more calls a year) shall comply with this requirement.

New Vessel Builds (MM AQ-18)

Proposed MM AQ-18 requires that the purchaser shall confer with the ship designer and engine manufacturer to determine the feasibility of incorporating all emission reduction technology and/or design options and when ordering new ships bound for the Port.

As noted above, Ultramar would not own or operate the vessels calling on Pier 400. Accordingly, Ultramar believes that it would not qualify as "purchaser" and would not be subject to this mitigation measure. Currently, Ultramar charters these types of vessels from a number of ship owners throughout the world, which call infrequently on the West Coast. In many instances, Ultramar purchases cargos that are already waterborne after they have already left their point of origin, which are then delivered to

West Coast terminals. Accordingly, Ultramar currently would have little ability to control whether the vessels that would be calling on Pier 400 would meet the new build requirements.

Ultramar requests that the MM AQ-18 be modified to clearly indicate that entities which charter, rent, and/or lease vessels that would visit Pier 400 would not qualify as a "purchaser", and therefore, not be subject to MM AQ-18.

Equivalent Measures (MM AQ-19)

Proposed MM AQ-19 provides that for mitigation measures MM AQ-13 through AQ-18, if any kind of technology becomes available and is shown to be as good or better in terms of emissions reduction performance than the existing measure, the technology could replace the existing measure pending approval by POLA. The technology's emissions reductions must be verifiable through U.S. EPA, CARB, or other reputable certification and/or demonstration studies to the POLA's satisfaction. Proposed MM AQ-19 further provides that this measure is intended to provide Pier 400 the flexibility to achieve required emissions mitigation using alternative methods that may not be apparent at present.

Because of the concerns with fuel switching, AMPing, and slide valves as discussed above, it is critical that alternative technologies be considered as options to comply with the MM AQ-13 through AQ-18, particularly if they are not modified as recommended. However, Ultramar is concerned that POLA remains the sole determiner of whether an alternative technology is feasible and believes if expert agencies such as U.S. EPA, CARB, and/or SCAQMD approve of an alternative technology or approach this should be sufficient.

For example, the ACTI Advanced Maritime Emissions Control System (AMECS®) process is a promising alternative to be considered. If proven to be feasible, this alternative, and others like it, should be strongly supported in lieu of requiring potentially unsafe fuel switching at sea and expensive vessel AMPing modifications. However, POLA officials have recently said that "AMPing" is expected and considered the gold standard, which gives Ultramar concern as to whether alternative technologies and approaches can be presented and considered. Accordingly, Ultramar would like clarification that MM AQ-19 is intended to be vehicle to allow presentation and reasonable consideration of alternative technologies or approaches.

Periodic Review of New Technology and Regulations (MM AQ-20)

Proposed MM AQ-20 requires the tenant, Pacific, to review, in terms of feasibility, any POLA identified or other new emissions-reduction technology, and report back to POLA. To this end, MM AQ-20 indicates that as partial consideration for the POLA's agreement to issue the permit to Pacific, Pacific shall implement not less frequently than once every seven years following the effective date of the permit, new air quality technological advancements, subject to the parties' mutual agreement on operational feasibility and cost sharing which shall not be unreasonably withheld.

Ultramar is concerned that such a frequent review will create uncertainty regarding what mitigation measures are required for the Pier 400 project and make it difficult to make long-term capital investment decisions in various control technologies. Depending on the final mitigation measures, phase-in requirements, and availability of alternative technologies or approaches, potential commercial users of

Pier 400 assets, such as Ultramar, may be required to make large capital investments in various technologies. The process to make these decisions and to implement them can take sometimes four to five years to complete when taking into account the length of time needed for possible permitting and CEQA analysis, design/engineering, procurement, staffing, and construction schedules. Moreover, if vessel modifications are required such modifications cannot be done overnight and will need to be phased-in over time.

Accordingly, Ultramar would request that this mitigation measure be removed or modified to allow a less frequent review.

* * *

In closing, Ultramar is dedicated to the goal of ensuring a dependable, clean-burning fuel supply for California consumers while addressing the very important issue of environmental quality in and around the port. To this end, Ultramar strongly supports infrastructure projects like the Pier 400 project.

However, as discussed above, Ultramar is concerned with some of the proposed mitigation measures, particularly fuel switching (MM AQ-14), AMPing (MM AQ-15), slide valves (AQ-16), and implementation of alternative technologies or approaches (MM AQ-19), that would be imposed on it as a potential commercial user of assets associated with the project. Accordingly, Ultramar requests that POLA seriously consider these concerns in its timely finalization of the SEIR/SEIS and approval of the Pier 400 project and make the appropriate refinements to the mitigation measures. Ultramar stands ready to work with Pacific and POLA to address these concerns.

Because of the potential technical, safety, and economic ramifications (i.e., feasibility) of mitigation measures such as fuel switching (MM AQ-14), AMPing (MM AQ-15), slide valves (AQ-16), and implementation of alternative technologies or approaches (MM AQ-19), Ultramar reserves the right to further enhance and supplement these comments before certification of the Final SEIR/SEIS and approval of the Pier 400 project.

If you have any questions regarding our comments, please contact me at (210) 345-2871.

Very truly yours,

Darren W. Stroud

DWS:dh

cc: David Sanders
Jason Lee
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David Wright, Pacific L.A. Marine Terminal LLC