

**Port of Los Angeles Community Advisory Committee
EIR/Aesthetic Mitigation Subcommittee**

July 14, 2008

U.S. Army Corps of Engineers, Los Angeles District
Regulatory Division
c/o Spencer D. MacNeil D.Env.
ATTN: CESPL-RG-2003-01029-SDM
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Subject: Berth 97-109, China Shipping Container Terminal Recirculated EIS/EIR.
ADP No. 030127-018; State Clearinghouse Number 2003061153

Dear Drs. Appy and MacNeil,

Thank you for the opportunity to comment on the Recirculated Draft Environmental Impact Statement/Environmental Impact Report (DEIS/DEIR) for the Berth 97-109, China Shipping Container Terminal Improvement Project under consideration by the City of Los Angeles Harbor Department. and the United States Army Corps of Engineers (SCH#2003111044; ADP#030508-138). These comments are submitted by the Port Community Advisory Committee (PCAC) EIR/Aesthetic Mitigation Subcommittee.

The China Shipping Subcommittee, part predecessor to the EIR/Aesthetic Mitigation Subcommittee, submitted comments on the Notice of Preparation as originally circulated in 2003 and has been active in formulating mitigation programs for anticipated impacts from the proposed project. As such, the Subcommittee has sought to work as a partner in the environmental review for the China Shipping project and desires to continue to do so.

As directed by the Harbor Commission, the PCAC's mission includes:

.. assess the impacts of Port Developments on the Harbor area communities and to recommend suitable mitigation measures to the Board for such impacts...

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

Based on the Commission's directives, the Department and the PCAC have worked to establish an "EIR Template" that provides a standardized approach to environmental review of projects. Comments on the China Shipping Container Terminal Improvement Project EIS/EIR are provided using the framework of the EIR Template recommendations provided by the Subcommittee/Working Group in the POLA Net document of January 2004 and subsequently.

Our EIR Template recommendations focus on priority areas:

Air Quality [No Net Increase]
Traffic
Off-Port Impacts [Light, Aesthetics, Noise, Land Use]
Environmental Justice
Project Description and Analysis

The Project

The Draft EIR/EIS is intended to address the effects of developing and operating the China Shipping Container Terminal at Berth 97-109 at the West Basin in the Port of Los Angeles. Physical improvements include new wharf construction/ lengthening at Berths 100 and 102; addition of up to 10 shoreside A-Frame cranes, including Phase 1 cranes; expansion and development of 142 acres of terminal backlands; construction of container terminal buildings, gate facilities, and accessory structures; construction of two new bridges over the Southwest Slip Berths 97-109 to Berth 121-131; construction of road improvements in the vicinity; and dredging to match the West Basin channel depth of -53 feet.

Phase I, including installation of four A-Frame cranes, wharf improvements, one bridge, and new backlands has been completed. Operations have been permitted to commence pursuant to Amended Stipulated Judgment for litigation related to the West Basin Transportation Improvements Program EIS/EIR.

The project description included in the DEIS/EIR also includes relocation of the Catalina Express Terminal. The June 2003 Notice of Intent/Notice of Preparation (NOI/NOP) for the project did not include relocation of Catalina Express. The 2006 EIS/EIR mentioned the Catalina Express briefly and indicated that only temporary impacts would be addressed, with other impacts to be addressed in another EIR.

The current EIR includes relocation of Catalina Express in the project description, but it is not clear whether or not the project was included in the analysis of impacts. For example, Appendix E 1.1, Construction Emission Calculations, includes tables for construction emissions generated by each project component but no emissions for construction activities entailed in relocation of Catalina Express. Mitigation measures do not appear to address Catalina Express, either. While the EIS/EIR suggests use of solar power for the primary structure at Berths 97-109, there is no similar suggestion for the refurbished terminal for Catalina Express.

If it is the intent of POLA to fulfill California Environmental Quality Act (CEQA) requirements for relocation of Catalina Express with this EIS/EIR, a revised NOI/NOP should have been circulated to address it. In addition, all analyses must include impacts associated with the relocation, including but not limited to air emissions, water quality impacts, and circulation/parking, as well as appropriate mitigation measures.

EIS/EIR Assumptions

Total throughput is the most important factor in determining future impacts. The Subcommittee appreciates that additional mitigation measures to reduce air pollution emissions may be imposed if projected throughput is exceeded as provided in Mitigation Measure MM AQ-23:

MM AQ-23: Throughput Tracking. If the Project exceeds project throughput assumptions/projections anticipated through the years 2010, 2015, 2030, or 2045, staff shall evaluate the effects of this on the emissions sources (ship calls, locomotive activity, backland development, and truck calls) relative to the EIS/EIR. If it is determined that these emissions sources exceed EIS/EIR

assumptions, staff would evaluate actual air emissions for comparison with the EIS/EIR and if the criteria pollutant emissions exceed those in the EIS/EIR, then new or additional mitigations would be applied through MM AQ-22.

This is a major step forward in responding to concerns previously raised by the Subcommittee. However, we are concerned that as currently proposed review would occur at a staff level without any participation from either the general public or the Board of Harbor Commissioners, thereby short-circuiting the public disclosure function of CEQA.

Further MM AQ-22 appears to leave much of the decision making to the discretion of the tenant, including sharing costs for additional mitigation with POLA as follows:

MM AQ-22: Periodic Review of New Technology and Regulations. The Port shall require the Berth 97-109 tenant to review, in terms of feasibility, any Port-identified or other new emissions-reduction technology, and report to the Port. Such technology feasibility reviews shall take place at the time of the Port's consideration of any lease amendment or facility modification for the Berth 97-109 property. If the technology is determined by the Port to be feasible in terms of cost, technical and operational feasibility, the tenant shall work with the Port to implement such technology.

Potential technologies that may further reduce emission and/or result in cost-savings benefits for the tenant may be identified through future work on the CAAP. Over the course of the lease, the tenant and the Port shall work together to identify potential new technology. Such technology shall be studied for feasibility, in terms of cost, technical and operational feasibility.

As partial consideration for the Port agreement to issue the permit to the tenant, the tenant shall implement not less frequently than once every 7 years following the effective date of the permit, new air quality technological advancements, subject to mutual agreement on operational feasibility and cost sharing [emphasis added], which shall not be unreasonably withheld.

Would it be POLA's intent to share the cost of mitigating impacts associated with excess throughput? Would it be POLA's intent to permit impacts associated with excess throughput to remain unmitigated for as long as seven years?

In addition, other impacts related to increased throughput, such as impacts on traffic would remain unmitigated in the event that throughput estimates were exceeded. Measures similar to MM AQ-22 must be included for all potential impacts, including traffic, noise, and public services and utilities.

It is essential that full and accurate information regarding throughput capacity be included in the EIS/EIR. As noted in the Subcommittee's October 2006 letter commenting on the previously circulated China Shipping EIS/EIR :

The project description indicates that throughput would be 435,000 TEUs (twenty foot equivalents) in 2005 increasing to 1,551,000 by 2030. This throughput forms the basis for numerous analyses in the EIS/EIR including analyses of impacts on traffic, air quality, and noise.

While the EIS/EIR discusses various studies and methods for determining throughput, it is not clear how throughput was actually determined for the proposed project. The determinative factors in determining the 2030 estimate of throughput are not identified, whether land utilization, berth space utilization,

crane utilization, or some other factor.

The recirculated EIS/EIR also lacks this same information. Reference is made to additional information in Appendix I, but Appendix I merely expounds on the quality of the model and treats it as a magical black box, showing only outputs for each alternative. The EIS/EIR must also provide information regarding assumptions and inputs. For example, if capacity would be limited by land utilization, the EIS/EIR must say so and identify throughput assumed per acre; if capacity would be limited by berth space, the EIS/EIR must say so and identify throughput assumed per foot of quay; and so forth.

The EIS/EIR indicates that in 2030 cargo will be split sixty percent on the day shift and twenty percent each on the swing and hoot shifts. In addition, Table E1.2-8 indicates that only fifteen percent of cargo would be handled on weekends, which constitute 28.6 percent of the total week. As stated in the EIS/EIR

While this project assumes 24/7 operation in the future, the terminal, rail facilities, distribution centers, warehouses, and retailers are not expected to operate at full capacity during the night and hoot shifts.

Thus, the facility would not be operating at full capacity full time. Unused capacity would exist on weekends and at night. The EIS/EIR indicates that additional technological improvements would be subject to additional environmental review in the future. However, the EIS/EIR offers no means of addressing impacts of increased throughput on factors other than air quality if throughput increases simply due to increased activity at night or on weekends.

The Subcommittee has repeatedly discussed potential impacts due to increased throughput enabled by the Pier Pass program. We have been told that POLA has no jurisdiction to require any environmental review because it is a purely private venture, not subject to discretionary action by POLA. Based on this precedent, it appears likely that we will see a similar repeat here. Unless project approvals specifically limit total throughput, eventual throughput and associated impacts could exceed estimates in the EIS/EIR, and probably will.

We are also concerned about other assumptions utilized in projecting impacts of the proposed project. These include number of ship calls, type of vessel, use of rail, cargo distribution, assumed trip lengths and use of certain technologies, for example the use of cleaner locomotives by PHL. Should any of these assumptions prove inaccurate, impacts could increase

Annual Environmental Scorecard

In light of the basic goals articulated by the Commission in establishing the PCAC, the EIR Subcommittee/Working Group has recommended that an Annual Environmental Scorecard be prepared that would include reporting not only on the status of adopted mitigation measure but implementation of green terminal measures or other operational assumptions assumed to be part of the proposed project.

We request that an additional mitigation measures be adopted as follows:

If the Project exceeds project throughput assumptions/projections anticipated through the years 2010, 2015, 2030, or 2045, staff shall report back to the Board of Harbor Commissioners as to the effects of this on the air emissions, traffic, noise, and other impacts relative to the EIS/EIR. Staff shall also report back as to any project assumptions that do not come to fruition including, but not limited to, number of ship calls, type of vessel, use of rail, cargo distribution, assumed trip lengths and use and effectiveness of certain technologies. If it is determined that impacts exceed EIS/EIR assumptions, then new or additional mitigations shall be

applied by the Board of Harbor Commissioners

Environmental Baseline

Establishment of an appropriate environmental baseline is a key factor in assessing the environmental impact of a project. As stated in *County of Amador v. El Dorado County Water Agency* (76 Cal.App.4th 936):

Before the impact of a project can be assessed and mitigation measures considered, an EIR must describe the existing environment. It is only against this baseline that any significant environmental effects can be determined.

In accordance with the Amended Stipulated Judgment, the baseline for this EIS/EIR is March 2001, prior to the start of Phase I operations.

In March 2001, a portion of the project site was used for storage by Yang Ming located at Berth 121-131. Prior to the Yang Ming use, Berth 97-109 was used by the Chevron Marine Oil Terminal which left the site in the early 1990s and Todd Pacific Shipyards which vacated the site in 1998. The site was subsequently used as a construction staging area for various Port projects.

The CEQA baseline was derived by reviewing aerial photographs from 2000-2001 for container stacking on the site. Based on dwell time calculations, it was estimated that Yang Ming throughput on the site for that year was 45,135 TEUs.

The Subcommittee is concerned with this approach in that the elimination of Yang Ming backlands use of the Berth 97-109 does not guarantee that throughput at the existing Yang Ming terminal will decrease thirteen percent. In fact, if history is any guide, throughput at Berth 121-131 will continue to grow.

Will Yang Ming throughput actually drop by 45,135 TEUs per year after vacating Berth 97-109? If so, what measures will be utilized to ensure that this reduction in Yang Ming throughput is maintained? If not, use of the 45,135 TEU baseline is inappropriate and the EIS/EIR must be revised to utilize a baseline reflecting actual, verifiable changes in Yang Ming throughput associated with discontinued use of Berths 97-109.

If Yang Ming throughput is utilized to constitute the baseline for environmental analysis of the pending project, impacts identified in the environmental review process for the Yang Ming backlands use must be included in the analysis of cumulative impacts. Even if the impacts are so small as to be insignificant when the Yang Ming backlands use is viewed alone, they may contribute incrementally to a significant cumulative impact when added to the impacts of the proposed project and other future, present, and still-existing past projects. This must also include impacts associated with expansion of Yang Ming from Berth 127-131 into Berth 121-126

The Subcommittee is concerned that as the Yang Ming container terminal evolved in recent years, incremental changes in operations may have been judged to be insignificant, allowing significant environmental impacts to accumulate incrementally. We are concerned that significant, unmitigated environmental damage that was previously occurring may be seen as "normal" for the site. The Subcommittee is concerned that impacts associated with throughput levels attributed to Yang Ming's "baseline" backlands use may remain unidentified and unmitigated.

It is imperative that POLA break the cycle whereby activities at various Berths gradually exceed activity levels anticipated in previous environmental studies, creating impacts not anticipated or mitigated followed by the increased, unmitigated activity levels being used as a baseline for

future environmental investigations for new operations which themselves exceed estimates in environmental analyses, creating *more* unanticipated and unmitigated impacts which are then used for an even further increased baseline. The subcommittee notes that this ongoing death spiral of unanticipated, unmitigated growth and increasing baselines has contributed to the significant backlog of unmitigated environmental impacts sustained by communities around the Port.

Selection of an inflated baseline established by including activities not previously subject to CEQA review seems to the Subcommittee to repeat one of the major flaws of the previous China Shipping EIS/EIR and others. Use of an inflated baseline causes potential project impacts to be understated, inconsistent with the directive established by the Harbor Commission that all projects be evaluated according to the requirements of environmental law and that all adverse impacts upon the communities of San Pedro and Wilmington be mitigated.

QUESTIONS

1. When was the Yang Ming use established on the site?
2. What environmental documentation was prepared for approval of Yang Ming use of Berth 97-109?
3. As Yang Ming expanded and modified its operations in recent years, what approvals and environmental documents were required by POLA?
4. What mitigation measures were required in order to reduce the significance of impacts associated with Yang Ming operations? Were these included in the baseline calculation?
5. What was Yang Ming throughput prior to occupation of Berth 97-109 backlands?
6. Will Yang Ming or successor tenants at Berth 121-131 be permitted to increase throughput per acre from backlands at Berth 121-131? How will this be monitored?

Project Operations

The Subcommittee is pleased that the project description in the recirculated EIS/EIR includes more detail regarding project operations, though information regarding weekend activities remains buried in the air quality analyses.

The Subcommittee has numerous questions regarding operations assumptions. Specifically:

1. What would be the capacity of the facility operating at full capacity every day, all day, including weekends and hoot shifts?
2. Do "optimal" and maximum capacity differ? If so, how?
3. Was calculated maximum capacity limited by berth/wharf space? If so, what is the specific number of containers assumed per given berth length?
4. Was calculated maximum capacity limited by backlands? If so, what is the specific number of containers assumed per acre?
5. How would capacity increase if additional storage became available on or off or port lands?
6. What infrastructure limitations, specifically, were determined to limit ultimate throughput capacity at Berth 97-109?
7. What is the largest vessel that can be accommodated by the ten cranes?
8. Will larger cranes be needed in the future to handle larger vessels? Will additional environmental documentation be prepared?
9. Impact analysis is also based on certain assumptions regarding use of rail and truck traffic. How will this be monitored?
10. The EIS/EIR states that 83.1 percent of cargo will be transported from Berths 97-109 by truck and that 15 percent of cargo (231,250 TEUs) will utilize on-dock rail at Yang Ming, for a total of approximately 98 percent of cargo. Table 2-1 indicates that 16.9 percent of cargo will utilize on-dock rail. What will happen to the other two percent of cargo? With

- what impacts? Will they be handled by other on-dock rail?
11. If China Shipping utilizes a greater portion of Yang Ming on-dock rail, will truck trips from Yang Ming increase? With what impact?
 12. The EIS/EIR estimates that fifty percent of cargo will be local deliveries, with an average trip length of 20 miles. However, the attached Port and Modal Elasticity Study prepared for the Southern California Association of Governments (SCAG) by Dr. Robert C. Leachman indicates that purchasing power in all of California and Nevada would account for less than half that. Thus, the proportion of local deliveries and assumed truck trip lengths must be re-examined.
 13. If assumptions are not born out what additional analyses and mitigation measures will be pursued?
 14. What is the height of the proposed/completed bridges?
 15. On average, how many containers would be stored at Berth 206-209? What would be the maximum?
 16. Will *all* operational assumptions and mitigation measures be specified in project leases?

Air Quality

The Harbor Commission had previously committed to the policy of “No Net Increase” in air pollution. This has later been superseded by an even greater commitment to not only maintaining, but improving air quality around the Port. Addressing the public health impacts associated with diesel air pollution and other toxic contaminants is PCAC’s highest priority.

We are pleased that, as detailed in the /Subcommittee/Working Group’s EIR Template, a spreadsheet listing of potential No Net Increase measures and applicability to the proposed project has been included in the EIS/EIR. In addition the EIR Template recommends the following concerning the EIS/EIR:

The EIR should evaluate the POLA project and cumulative share of regional air quality impacts and identify comprehensive measures that mitigate the POLA share of impacts to regional Air Quality.

As stated on Page 3.2-17 of the DEIS/EIR:

Section 176[c] of the CAA states that *a federal agency cannot support an activity unless the agency determines that the activity will conform to the most recent USEPA-approved SIP.* [italics ours] This means that projects using federal funds or requiring federal approval must not: [1] cause or contribute to any new violation of NAAQS standards; [2] increase the frequency or severity of any existing violation; or [3] delay the timely attainment of any standard, interim emission reduction, or other milestone.

The DEIS/EIR notes that this rule may be changed by the USEPA but states this hasn’t happened. The document further states

Based on the current General Conformity rule and attainment status of the South Coast Air Basin a federal action would conform to the SIP if its annual emissions remain below *100 ton of CO or PM2.5, 70 tons of PM10 or 10 tons of NOx or VOC.* [italics ours]

If we understand this section correctly, it appears that the proposed project would be in gross violation of the General Conformity Rule described on page 3.2-17 for several pollutants in the years 2005, 2015 and out years. The project is not in conformity with this rule for the pollutants NOx, VOC, and Carbon Monoxide (CO).

Table 3.2-28. Average Daily Emissions With Mitigation-Proposed Project (page 3.2-84), presents average daily emissions in pounds per day for "Project Minus NEPA baseline" for 2005, 2015 and out years. We can convert average pounds per day to tons per year by multiplying by 365 days/year and dividing by 2000lbs./ton.

In 2015, for example, this gives us:

- 1 NO_x of 592 tons/year (about 60 times the above standard!)
- 2 CO of 295 tons per year (about 3 times the above standard)
- 3 VOC of 48 tons/year (about 5 times the above standard)

Other years follow the same pattern. PM₁₀ and PM_{2.5} appear to be below the standards and no standard was quoted for SO_x.

We are very concerned that this appears to violate conditions (2) and (3) above. How can any federal agency including USACE allow this? (Incidentally, we note that if any of the traffic improvements connect to any federal highway(s), the Federal Highway Administration should be involved.) Can the BOHC trump federal regulations in approving this "due to overriding (or other) considerations"? Can they say it's O.K. to ignore this Federal rule?

We are gravely alarmed that the Port again proposes a project with the statement that the air quality impacts are "considered significant, adverse, and unavoidable" after the proposed mitigation measures have been applied. We remind the Port and the Corps of Engineers that the affected area remains a Federal non-attainment area for Air Quality and that the proposed Project as currently defined could only be implemented through application of Overriding Considerations.

We recommend that the Port require the mitigation efforts for the Project as defined in the CAAP and if projected emissions still create residual significant air quality impacts after full application of all feasible mitigation measures, that mitigation measures be required for existing sources in closest proximity to the Project. The mitigations applicable to sources other than the Project provide the opportunity to reduce the residual emissions to below significant levels on a port-wide basis. We believe that the Port and the Corps of Engineers have the capability and the responsibility to require the application of currently available mitigations such that the impacts to air quality can be reduced to a level that will not require application of Overriding Considerations.

Our specific comments and questions on the Draft EIS/EIR are:

1. The Appendix includes projected emissions from power plants due to increased electricity consumption from the AMP program and from on-site reefer plugs, but it is not clear where this is represented in emissions totals, for example in Table 3.2-28. Has it been included?
2. Would the proposed project increase the need for operation of peaker plants which are subject to less stringent controls? Is this reflected in the maximum daily emissions?
3. Will the assumptions regarding rail use, yard equipment, and other factors be incorporated into project leases? If not, how does POLA propose to address deviations from these assumptions that may result in increased impacts?
4. Why is the proportion of cargo to be transported by rail anticipated to decrease from 2005 to 2030?
5. Will vehicles waiting at railroad grade crossings create any carbon monoxide hot spots? As noted in the attached *Los Angeles Times* article dated June 10, 2008, vehicles may be forced to wait as long as twenty eight minutes. The analysis must not be artificially constrained to just the area within 0.25 miles of the site. Project specific as well as cumulative impacts must be examined.



6. Will vehicles waiting at terminal gates or loading areas within terminals create any carbon monoxide hot spots?
7. It would be helpful if the location of air monitoring stations were mapped.
8. In addition to sensitive receptors near Berth 97-109, the EIS/EIR must identify and address sensitive receptors near truck and rail routes.
9. The EIS/EIR assumes that 20 minutes of accumulated on-terminal idling, and 30 minutes of accumulated off-terminal idling per round trip, with half that assumed for each one way trip. This appears low, especially for future, more congested conditions. The source cited for these idling figures is the 2007 Starcrest study. However, the study refers back to staff. What was the original source of Starcrest's data? Does empirical data exist?
10. How will MM AQ-22 (minimizing idling) be monitored and enforced? What is the current violation rate at container terminals port wide?
11. Does the off-port idling time include idling at offloading locations away from the Port?
12. The fifteen minute idling time per trip end appears to be extremely low. What is the current average idling time off terminal at gates? The subcommittee would be interested to know what routes the trucks followed in order to achieve only fifteen minutes idling at gates, traffic signals, rail crossings, stop signs and congestion within a twenty mile trip from the Port so that committee members might achieve the same efficient journeys.
13. What is the date of projections provided to SCAQMD for developing the RTP and the SIP? Have projections since been revised? Does POLA appear on target to remain within those projections or does it appear that projections may be exceeded?
14. Do any emissions generated outside the 50 mile SCAQMD limit enter the basin? Under what circumstances?
15. What was the basis for the assumed shipping fleet mix in 2030?
16. Lines of ships have been observed queuing for the Port of Los Angeles/Port of Long Beach as far south as Huntington Beach. Is the 4.1 hour queuing time realistic? Is this reflective of overall portwide queuing rates?
17. AQMD also publishes significance thresholds for lead. This should be included in the threshold tables along with sulfate concentrations and the annual arithmetic averages and mean for PM 10.
18. The EIS/EIR indicates that 50 percent of cargo would be deposited at local destinations, with an average trip length of twenty miles. Various goods movement studies, including that prepared by CARB estimate that fifty to seventy percent of cargo leaves the 6,600 square mile air basin. Thus, the average twenty mile trip length is highly suspect. The EIS/EIR indicates that the edge of the air basin is approximately ninety miles from the project site. Thus, in order to maintain an average trip length of twenty miles, for each TEU transported by truck to the outer portions of the basin, four TEUs would be transported no more than 2.5 miles from Berths 97-109. This is not reasonable. Air quality analyses must be revised to reflect a realistic trips length.
19. Data is provided in the EIS/EIR regarding transport of empty containers by rail. What proportion of round trips by trucks was assumed to carry cargo both to and from the facility? In light of the well-publicized imbalance of imports to exports, realistic assumptions regarding non-productive trip ends must be utilized.
20. Do calculations of truck emissions account for cold starts? This is a critical component of vehicle emissions, constituting a significant portion of vehicle emissions for short trips, and must be included in emissions analyses.
21. Has PHL commenced using locomotives meeting Tier 2 standards? If not, when will that occur? What emissions would result if Tier 2 locomotives are not utilized?
22. Will the *all* of the various mitigation measures identified be incorporated into the lease?
23. The effects of air pollution on agriculture have been ignored in this and previous Port environmental documents. Our committee has learned that air pollution including ozone adversely affects crop yields. It is reasonable to assume that although the effects of this individual project do not rise to the level of significance, they would contribute to cumulative effects that are significant to inland agriculture. This should be evaluated in the EIS/EIR. It is an off-port impact.

Air Quality Health Risk

The Air Quality health risk assessment (HRA) is based on a comparison of Yang Ming to the proposed project. The DEIR must also analyze the health risk based on a comparison of the proposed project to a vacant site, on an individual and cumulative basis. This must include premature mortality as well as other health problems. The Subcommittee requests that the previously submitted document prepared by the Environmental Subcommittee/Air Quality Group of PCAC, "Health Effects of Diesel Exhaust Air Pollution", dated August 28, 2003, and its references be incorporated by reference into the EIR

The Southern California Children's Health Study, a large epidemiological investigation of the long-term effects of air pollutant exposure on respiratory disease within a population of more than 5,600 California school children, and numerous other studies have found that air pollution has significant impacts on child health. The HRA should give special consideration to the health of children residing and attending school in the area. We note that more recent studies by CARB significantly increase estimates of the health effects of pollution (attached).

The EIS/EIR must address additional deaths due to chronic diseases other than cancer. The California Air Resources Board has recently attributed 3,700 annual premature deaths to the goods movement industry, for which the ports are the "engine" as we are told in the EIS/EIR. The proposed project covers a 40 year period, during which time 148,000 Californians will die prematurely due to air pollution generated from the goods movement industry using the most recent CARB statistics. Considering the magnitude of this project and its substantial TEU throughput, clearly many of these deaths will be attributed to this project. This finding must be fully and candidly evaluated.

The Subcommittee has the following specific comments:

1. The EIS/EIR indicates that POLA has adopted the LA CEQA thresholds. When were these thresholds adopted by the Board of Harbor Commissioners? What substantial scientific evidence was provided for selection of these thresholds?
2. How would inclusion of the roadway segments deleted due to their small contribution increase anticipated hazard? How much would cancer risk increase? Doesn't exclusion of these smaller project-related sources run counter to the concept of cumulative impact? Have any other small, incremental impacts been deleted from identification of total impact in the EIS/EIR?
3. Risk assessments for school children should address increased vulnerability of children as opposed to adult workers.
4. Risk of miscarriage and birth defects should also be addressed.
5. Mortality is stated in deaths per million. How many individual deaths does that mean? Why is this acceptable?
6. At the time the Notice of Preparation for this EIR was circulated, the Port of Los Angeles was committed to a "No Net Increase" policy for air emissions. This was superseded by the Clean Air Action Plan. We have been told that current policies and programs are an improvement over the "No Net Increase Policy". Under the current policy, as described in the DEIR, an Incremental Cancer Risk for Residential Receptors up to 10 in 1million is considered acceptable. How is *any* increase in cancer risk or other health problems, better than "no net increase" for anyone except shareholders in terminal operations? Dr. Jean Ospital, Chief Health Officer for SCAQMD has told PCAC that *non-cancer health effects are in aggregate at least ten times greater than cancer effects*. How, then, can *any* increase in cancer cases or other health hazards be permitted?

Traffic / Transportation

After air quality and public health concerns, addressing traffic impacts from port operations is the Subcommittee's second environmental priority. Based on the Port's draft baseline study on traffic / transportation, the EIR Template contains the following specific recommendations:

- A. The Draft EIR must evaluate POLA project and cumulative share of local and regional traffic congestion impacts and identify comprehensive mitigation measures; the EIR must evaluate the individual and cumulative impact on the I-710, I-110 and intersections identified in the Draft Traffic Baseline Study.
- B. The EIR must identify specific mitigation measures to ensure project and cumulative POLA truck traffic does not adversely impact local neighborhood streets.

Specific, quantitative comments and questions on the Draft EIS/EIR:

1. The analysis must address nuisance traffic on local streets which are not designated truck routes, particularly in Wilmington.
2. The EIS/EIR indicates that "all" downstream intersections are grade separated. This is clearly not the case, as illustrated by the attached *Los Angeles Times* article (June 10, 2008).
3. Were trips generated by the projects listed in Table 3.6-2 included in estimates of future background traffic, or are increases in future background traffic above existing conditions due to cumulative growth elsewhere?
4. Generally, existing peak hour traffic provides a worst case situation for intersection analyses. However, if project peaks and baseline peaks do not coincide, another time period may reflect worst case. It may not be the peak hour for either background or existing traffic, for example if ninety percent of project traffic coincides with a time just off peak hour. Does existing peak hour traffic reflect the highest combination of baseline plus project traffic?
5. What assumptions were made in calculating peak hour traffic?
6. The EIS/EIR says that "in future years, on-dock rail usage will increase" (p.3.6-24), yet it also estimates on-dock rail usage as 19.5 percent of throughput in 2005, but only 17.1 percent in 2030 (p. 3.6-23). This must be reconciled.
7. Will the traffic improvements listed as mitigation measures on Page 3.6-32 be fully funded by China Shipping? If not, they must be considered as improvements to the future background condition, which would result in a conclusion of significant impacts on traffic due to the proposed project at several locations, including Alameda Street and Anaheim Street, Navy Way and Seaside Avenue, and Fries Avenue and Harry Bridges Boulevard.
8. If the proposed roadway improvements are indeed mitigation measures specifically for the China Shipping project, the EIS/EIR must address impacts associated with these improvements in accordance with CEQA Guidelines Section 15126.4(a)(1)(D).
9. According to the EIS/EIR, the stacking analysis assumes a 28 car train. Is that correct? How many containers per train car were assumed?
10. Would vehicles stacking at grade crossings have the potential to back up onto cross streets? How would that affect ICUs?
11. How might delay at grade crossing affect emergency response?
12. How will the Port ensure implementation of the standard construction period traffic control measures which were assumed to eliminate all construction traffic impacts in the EIS/EIR?
13. The Subcommittee is concerned that cumulative impacts of port uses remain unmitigated and will continue to remain unmitigated unless remedied by the California taxpayers at large. How will improvements required for the goods movement industry and not funded by the statewide bond be financed?

Based on the EIR Template, the Subcommittee/Working Group makes the following recommendations with respect to community impacts.

- A. The EIR must consider the adjacent communities of San Pedro and Wilmington as the study area when evaluating direct and indirect impacts, both project specific and cumulative, on light, aesthetics, noise, land use and public services.
- B. The EIR must specifically evaluate the project and cumulative adverse impacts of port industrial operations on community land uses such as container storage facilities and scrap-metal yards and provide mitigation measures to off-set these impacts.
- C. The EIR must show how Community Plan and Port Master Plan provisions for creation of landscaped buffer areas will be created between port industrial operations and the adjacent community.

Aesthetics

The Subcommittee is encouraged that the EIS/EIR includes aesthetic mitigation programs to mitigate identified impacts on views of the Vincent Thomas Bridge. However, we are concerned that the EIS/EIR grudgingly admits to view impacts only from Channel Street and the Main Channel, whereas visual simulations in the EIS/EIR itself clearly show significant impacts on views from other locations. For example, the currently largely open skyline seen from Knoll Hill will be blocked by cranes and stacks of containers. The little remaining view of the Vincent Thomas Bridge as seen from the Harbor Freeway (I-110) will be lost.

We note that where impacts are downplayed due to the currently degraded nature of views, views have been degraded by other port activities. The China Shipping project would contribute to cumulative impacts from other past and present projects.

We are concerned that the restrictive standard for determination of impacts will set a precedent for evaluation of impacts for other, future projects which will also contribute to cumulative impacts. We are also concerned that declaring impacts to be insignificant when the community finds the same impacts to be significant and adverse reduces the possibility that any such impacts will ever be mitigated.

The EIS/EIR contemplates increased night time use of the China Shipping facility. One might, therefore anticipate increased lighting at night. While fixed lighting can be somewhat shielded, as noted in the EIS/EIR, it is not clear how lighting associated with the cranes will be controlled. Simply because the lighting is not intense enough to blind nearby drivers does not mean that no aesthetic impact would occur. In addition, it is not clear if the lighting "guidelines" identified in the EIS/EIR will be mandatory or optional.

We also have the following questions and concerns.

1. What are the dates of the various photographs of existing views?
2. The DEIR should include site views from locations where recreational boaters will view the site and from the City Rancho Palos Verdes.
3. The DEIR must address loss of views of open water, both due to fill and massive vessels. This must be addressed on a project specific and cumulative basis.
4. The photos of existing views include unmitigated, cumulative impacts from past and present container projects in the Port. Some members of the Subcommittee recall a time not that long ago when the Harbor Freeway offered clear views of the Vincent Thomas Bridge. This is often the first view of the port area for foreign and out-of-state visitors coming from LAX and as such is highly significant. In order to fully

- evaluate cumulative aesthetic impacts of container activity, the EIS/EIR must include photos with *all* cranes digitally removed.
5. When were designated roads determined to be scenic? How has the view changed since that time? Were expansive bluewater views available from these roads at that time? How many acres of open water have been lost to fill activities in the interim? Have the number of cranes and container stacks visible from these roadways increased since that time?
 6. Many formerly attractive views are dismissed as degraded. Isn't this "degraded" condition the cumulative result of past unmitigated Port impacts?
 7. Under criteria identified in the EIS/EIR certain views from SR-47 are found to be attractive, but then dismissed since the traffic is mostly commercial and the road is not officially designated. Are not views of value even to commercial truckers? What about noncommercial users of the road? Are views to be dismissed because the viewers are not sufficiently worthy?
 8. In years past, SR-47 was considered by many to be a scenic drive, whether or not so designated. Could the reduced use by non-commercial users be at least partially attributed to the degradation in views due to cumulative port activities?
 9. What existing elements block views from C Street? Are these port functions or port-related activities?
 10. How and why is the park at Knoll Hill not oriented toward enjoyment of the view?
 11. How will the larger vessels accommodated at the project site affect views?
 12. How does the height of cranes to be installed at Berth 97-109 compare to the height of existing cranes elsewhere in the Port?
 13. The EIS/EIR indicates that new lighting will produce less light and glare and that light spillage will be controlled. However, no actual standards are specified nor is this identified as a mitigation measures. In order to assure implementation, lighting controls must be specified in the mitigation plan and in the lease.
 14. Are Port lighting guidelines mandatory? How is compliance assured? Will Guidelines requirements be included in the China Shipping contract?
 15. Are light and glare standards designed for safety or aesthetics purposes, or both?
 16. What is the maximum height, in feet, of container stacks that will be permitted?
 17. How high can container chassis be stacked, in feet?
 18. The EIS/EIR must address the cumulative effect of night lighting at the Port.
 19. The EIS/EIR misrepresents CEQA requirements. The EIS/EIR states that low-profile cranes are not feasible under CEQA Guidelines due to economic and productivity considerations, leaving the impression that CEQA would somehow require that low-profile cranes be eliminated from consideration. CEQA requires that feasible mitigation measures be considered, that there be a nexus between measures required and the actual impact, and that the required mitigation be roughly proportional to the impact. It makes no evaluation of whether productivity considerations should even be a factor. CEQA *allows*, but does not require, an agency to refrain from imposing mitigation measures if they determine, in their judgment that other factors, such as economics render a measure infeasible or undesirable due to overriding considerations.
 20. It should be further noted that CEQA applies to public agencies acting in a regulatory capacity. However, POLA has significantly more discretion to impose requirements on a project acting in its capacity as a landlord. It is not uncommon for commercial landlords to establish minimum requirements for site maintenance, building décor, required advertising, and even minimum or maximum sale dates.
 21. Improvement of Plaza Park is listed as a measure to compensate for lost aesthetic values. It is our understanding that this project was to be funded under the ASJ, and intended as compensation for views lost under Phase 1 and past Port activities in general. Additional measures are needed to compensate for impacts created by Phases 2 and 3. If Phases 2 and 3 do not move forward, would it be the intent of the Port not to move forward with funding aesthetic mitigation projects as provided under

the ASJ?

Land Use

The EIR should evaluate land use impacts of port-related industrial activities such as container storage, truck servicing, scrap yards and the like, especially in Wilmington. The Subcommittee is concerned that the elimination of Yang Ming storage at the site will increase pressure to establish additional off-port storage in nearby communities. We are concerned that this will be exacerbated by the increased container throughput at Berth 97-109.

In accordance with Section 15125(d) of the CEQA Guidelines, an EIR must identify any inconsistencies between a proposed project and adopted planning programs. This is important in order to assure that future on- and of-port infrastructure will be adequate for future needs. However, adopted local planning programs for the Port consist primarily of bland platitudes and are so out of date as to be nonfunctional and non-existent.

The Subcommittee continues to be concerned about the lack of comprehensive planning for both the proposed project and the Port as a whole. The Port of Los Angeles Plan, which is intended to function as the general plan for the Port area, was last comprehensively revised in 1982 and fails to meet the most basic State requirements for general plans. Section 65302 of the Government Code requires that local agencies identify both land use type and land use intensity in the land use element of a general plan. An appropriate intensity designator for port uses would be throughput. For commercial uses, such as Ports O' Call Village, floor area ratio would typically be utilized to denote land use intensity.

In accordance with Section 65302, the land use element must be coordinated with other general plan elements addressing such factors as circulation, safety, noise, housing, and open space. The local plans must be coordinated with regional plans such as the Regional Transportation Improvement Plan and the Air Quality Management Plan.

Without some degree of certainty as to the magnitude of future uses, it is impossible to coordinate future infrastructure with future needs. The failure of POLA to address growth in a comprehensive manner has led directly to our current critical problems in local and regional circulation systems and harmful levels of air pollution.

The Subcommittee is aware that POLA has stated its intent to prepare a Port Master Plan. However, little progress has been made to that end over the six years since the formation of PCAC and the Subcommittee formed to address the master plan. We are concerned that by the time a new Master Plan is prepared and adopted, it will be moot due to the numerous projects approved on a piecemeal basis in the preceding years. It is the position of the Subcommittee that additional projects should not be approved on a piecemeal basis, but only as part of a comprehensive plan for the entire port.

In addition we have the following concerns:

1. Impacts of increased rail usage on nearby communities as well as communities further inland should be examined.
2. The Port Master Plan has been amended several times over the years. Was the Port of Los Angeles Plan similarly amended? If not, how can the two plans remain consistent?
3. State general plan law requires that general plans identify not only the type of use permitted but the intensity of use. We could find no such information regarding the Port of Los Angeles. However, if intensities are contemplated under the adopted Port of Los Angeles Plan, what are those intensities? Is the proposed project consistent with those intensities?
4. What would be the range of allowable heights under existing zoning? With and without a

- variance or exception?
5. Is anticipated job growth included in SCAG's regional growth projections?
 6. What is considered a local source of labor? Although there are 117,000 unemployed persons in the City of Los Angeles in 2000, the City of Los Angeles extends well into the San Fernando Valley. Is that considered local?
 7. What is current unemployment?

Noise

The EIS/EIR must evaluate potential noise impacts that may arise from extended port hours of operations, especially in Wilmington. In addition to Community Noise Equivalent Levels (CNELs) reflecting the average weighted noise environment, the noise analysis must address Single Event Noise Exposure Levels (SENELs). Locomotives and rail cars can generate severe vibration and noise well in excess of 90 dBA. This sound level is not only disturbing to humans, it may even cause pain and create physical damage.

The facility is anticipated to operate twenty four hours a day, and local residents have already noted recent increases in noise and sleep disturbance due to night-time port operations. As noted by the court in *Berkeley Keep Jets over the Bay Committee v. Board of Port Commissioners of the City of Oakland* (111 Cal.Rptr.2d 598), under which SENEL analysis was required for airport operations:

CEQA requires that the Port [of Oakland] and the inquiring public obtain the technical information needed to assess whether the ...[project]... will merely inconvenience ... nearby residents or damn them to a somnambulate-like existence.

In addition, please address the following specific concerns:

1. Impacts due to traffic generated noise along roadways must be examined, utilizing a realistic baseline.
2. How would noise at the nearby pre-school be affected?
3. What is the typical noise level at one hundred feet from a moving train? How does this compare to noise levels at various locations adjacent to the tracks? What sensitive receptors are located along rail lines serving the project?
4. Although, upon analysis, the additional train trips to be added by this project alone may be found to create an insignificant impact on noise, what increase in rail traffic from other projects might also be expected? This could potentially result in a significant cumulative impact on noise.
5. The DEIR must address increases in railroad noise on both an individual project and cumulative basis based on realistic assumptions regarding numbers of trains, train equipment, speed, and schedules.
6. How many locomotives per train are anticipated? What type of locomotive will be used?

Environmental Justice

The port is to be congratulated for its efforts to "spread the word" about pending projects. Providing translations of the executive summary is unusual and is highly commendable. It is suggested that the Port consider placement of larger, display ads in a fewer newspapers, rather than just printing small legal ads in more papers.

At the same time, we are disappointed that hard copies of the EIS/EIR were not more readily available. This must be remedied for future projects.

We are also concerned that large numbers of massive environmental documents will apparently

be subject to simultaneous public review rendering it difficult, if not impossible, for Harbor Commissioners and members of the general public to review the documents thoroughly without putting all other aspects of their lives, including their jobs, on hold for an extended period. This will severely curtail achievement or the informational and public participation purposes of environmental justice policy and CEQA.

As provided in the EIR Template.

A. the EIR must show how its evaluation of individual project and cumulative impacts complies with federal, state and local environmental justice laws and polices. For example, the California State Lands Commission has established that “Environmental Justice is an essential consideration” and that state law requires “. . . the fair treatment of all races, cultures and incomes with respect to . . . enforcement of environmental laws.”

Further, SLC policy calls for investigation as to whether individual and cumulative impacts from proposed projects are disproportionately borne by relevant populations.

Specific recommendations on the Draft EIS/EIR:

1. The EIS/EIR should list all relevant agency EJ policies and describe how the proposed project is consistent with these polices.
2. The purpose of considering environmental justice is to ensure fair treatment for all”. Simple fairness would dictate that no individual or group should sustain disproportionate impacts in order that others, not sustaining those impacts, may benefit. In that regard, the EIS/EIR must identify who, specifically benefits from the proposed project and who, specifically, sustains impacts.
3. We note that principles of environmental justice dictate that all are to be treated fairly, regardless of race, color or ethnicity. Thus, the EIS/EIR must address any imbalance of *impacts sustained and benefits realized, regardless of the race of those sustaining the impact—even non-minority communities.*
4. Is Southern California a net “donor region” when externalized costs such as impacts on health are fairly examined? Some citizens are beginning to suspect we are donating our lives and money so big companies can make big profits and “so folks in Kansas can have a pennies cheaper flat screen T.V.” (Mayor Bob Foster-Long Beach) Indeed some studies have come to light suggesting this is the case. The White Paper from the Sixth Annual CITT State of the Trade and Transportation Industry August 30, 2004, states “The cost of providing trade service to the rest of the nation is not fully captured by transfers from the federal government. *This makes Southern California a donor region when it comes to trade;*” [italics ours]
5. Impacts on populations adjacent to rail lines, truck routes, and off-port railyards must also be considered.

Cumulative Impacts

The Subcommittee/Working Group evaluated a sample of past EIRs and determined that there exists in the port area an unmitigated backlog of cumulative impacts, especially with regard to Air Quality, Traffic and off-port community impacts. Therefore, evaluation of cumulative impacts and development of effective mitigation measures is a particular priority for the PCAC.

As stated in Section 15355(b) of the CEQA Guidelines:

The cumulative impact from several projects is the change in the environment which results from the incremental impact of the project when added to other

closely related past, present, and reasonably foreseeable probable future projects. Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time.

Thus, if a past or present project is used as a baseline for environmental purposes, the impacts from the past or present project must be included in assessment of cumulative impacts.

The Working Group is concerned that small, incremental changes have occurred at Port facilities without environmental analysis or mitigation resulting in unmitigated impacts on the surrounding community. Unfortunately, the list of projects included for cumulative analysis purposes in the DEIR appears to include only those major projects for which formal environmental documentation has been or will be performed. Even in those cases where environmental documentation has been processed, often no significant impact is found to occur. Analyses of cumulative impacts must include all projects, whether or not an EIR or other formal environmental documentation was prepared.

Use of the possibly inflated, unanalyzed, and unmitigated baseline, causes impacts resulting from the proposed project to be understated. The Subcommittee recognizes that where an impact is negligible, a project would not be considered to result in a significant cumulative impact. However, an impact which is less than significant may be far from negligible.

It is not enough that impacts are minimized in an individual project. Even if the impacts of individual projects have been mitigated to a level of insignificance, a significant cumulative effect may still occur. To assume otherwise is "at odds with the concept of cumulative effect", as stated in *Environmental Protection Information Center, Inc. v. Johnson* (1985) 170 Cal.App.3d 604:

CDF ... stated that...operations in general had to substantially lessen significant adverse impacts on the environment, and closed with this comment: 'To address the cumulative effect issue the Department has taken the tact [sic] that if the adverse effects are minimized to the maximum on each individual operation, then the total effect in the surrounding area will also be minimized to an acceptable level.'

This statement is at odds with the concept of cumulative effect, which assesses cumulative damage as a whole greater than the sum of its parts.

The Subcommittee is concerned about the number of separate projects with separate environmental documentation underway at the current time. Table 4-1 lists thirty two separate projects in process with the Port of Los Angeles. We are concerned that the cumulative impact of these (and possibly other smaller projects) may be minimized due to the preparation of many separate environmental documents for the various projects.

Specific Issues Concerning the EIS/EIR

In addition to the systemic issues discussed above, we have the comments and questions below on how specific information in the EIS/EIR is presented. Each of these items are themselves, though, so basic that each must be addressed in order for the EIS/EIR to provide, PCAC, the Harbor Commission, agencies and the public with information needed to evaluate the proposed project and its impacts.

Hazards

1. Will bigger ships increase the potential for collisions in chipping channels?
2. The EIS/EIR must address crane accidents/falling cargo?

3. How would traffic generated by the project affect emergency response to other areas, particularly outside the port where at grade rail crossings exist?
4. The EIS/EIR seems to indicate that security will not be a problem. In that case, why were California taxpayers asked to pass a taxpayer funded bond to fund homeland security at the ports?

Utilities

This section concludes, absent any analysis, that adequate electric power will be available in the future for AMP, reefer plugs and on-site lighting. The section must address the ability of local substations and transmission facilities to provide peak demands. We are concerned that interruptions in power supply could result in reduced use of AMP and increased emissions.

Socioeconomics

While it may be laudable to have included a section on the economics of this project, this section is entirely devoted to the possible positive benefits of the *project with no meaningful analysis of the actual costs to society of this project*. The issue of externalized costs that will be attributable to this project is avoided entirely. These costs come in the form of added healthcare costs for those who will unavoidably be made to become sick or die as a result of the additional pollution the project will create. Additionally, externalized costs will occur due to increased traffic congestion, longer commutes, and longer waiting times in traffic.

As it stands now, this section reads as if it were written by a fervent advocate of the project. To achieve balance, the socioeconomic costs--the downside--must also be recognized and analyzed. Thus this section requires major revision. At present, this section is not informational, but merely conclusory through avoidance of inconvenient facts. It fails as an informational tool for decision makers and the public because it offers an entirely one sided view of the project (and its alternatives.)

Dr. Jon Haveman , an economist, in a 2004 report for the Public Policy Institute of California concluded that when all externalized costs are considered ports are not necessarily an economic good. We request that this report titled "California's Global Gateways" be included in the public record on this matter.

We also request inclusion, by reference, in the Public Record on this matter the following additional documents pertinent to the issues of externalized costs and negative economic impacts of goods movement as well as health, safety and infrastructure damage issues.

1. "Externalized Costs of Shipping" article by Paul Rosenberg, Random Lengths News Sept 21-Oct. 4, 2007.
2. 'Paying With Our Health, The Real Cost of Freight Transport in California" Pacific Institute, Natural Resources Defense Council, 2006, ISBN: 1-893790-14-2
3. "Sick of Soot, Reducing the Health Impacts of Diesel Pollution in California" D. Anair, P Monahan Union of Concerned Scientists , June 2004 www.ucusa.org
4. "Exhausted by Diesel" Gina Soloman, M.D. (lead author) Natural Resources Defense Council May 1998

These amply demonstrate that a significant economic downside exists. In addition to massive costs due to health effects, hundreds of thousands of hours of time are lost each year due to increased traffic congestion created by cargo carrying trucks. Taxpayers are asked to foot the bill for increased homeland security and additional highway capacity, all to serve the ports.

We are also concerned about the effects on local and regional business. In order to meet Federal and State air quality standards, basinwide air emissions are regulated by the South Coast Air

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Quality Management District. SCAQMD has established ever more stringent regulations on businesses within the basin, resulting in significant costs and impacts on the manufacturing sector. Any increase in emissions in one sector must be balanced by emissions reductions in another. As emissions due to port activities have increased, local manufacturers and other businesses have been forced to compensate, absorbing the externalized costs of imported goods. This essentially requires local manufacturers to subsidize their overseas competitors. This must be addressed, including job losses from manufacturers fleeing the region for other areas.

Chapter 7.3.14.3 "Urban Blight" mentions urban blight only to pretend that no such thing has happened to Wilmington and San Pedro as a result of anything that has gone on at the Port. The EIS/EIR states "Residential property values in communities adjacent to the Port have increased in recent years and do not represent depreciated or stagnant property values."

This disingenuous pretense is ostensibly supported by a table of comparative growth in property values in a narrow five-year period from 1997 to 2002, conveniently neglecting that local property values were already severely depressed. In fact, 7.2-12 shows that property values in San Pedro and Wilmington were significantly lower than property values anywhere else on or near the water in 1997, while in later years San Pedro just barely edged out Playa del Rey, a community severely impacted by noise from LAX. As shown in the attached table, "Median Home Sales Prices Coastal Los Angeles County", home values in the Port area are well below those in other coastal communities in Los Angeles County.

The EIS/EIR ignores the fact that as a result of decades of Port activity, property values especially in Wilmington and "near Port" areas of San Pedro have long-term been much lower than those in communities by the sea but without the Port nearby. It also ignores the much slower rise in values in recent years vs. other ocean communities. Additionally of course we are at present in a period of dramatically dropping prices (never mind merely "stagnant").

With no supporting analysis the EIS/EIR states "The proposed project will not adversely influence residential property values in the area immediately adjacent to the Port." We assert that it *will* adversely affect property values in this area. Few people want to live next to a giant industrial project operating all hours of the day and night.

As the results of studies such as those of the CARB and AQMD, there will be fewer buyers interested in buying a home in "The Diesel Death Zone". This DEIS/EIR admits it will make this situation worse even with all mitigation measures in place. We request that SCAQMD's Draft Report MATES-III Jan 2008 (and subsequent Final Report) be made a part of the administrative record on this matter.

We assert that blight as a long term result of Port and Port related activities both on and off Port land does exist in the communities of Wilmington and San Pedro. This was described in a document titled "Review of Previous Environmental Documents" August 24, 2004 which was presented to PCAC and BOHC from this committee. The central finding was that "*A substantial backlog exists of unmitigated impacts especially on air quality, traffic, and off port community impacts (Blight).*" [Italics in the original.] The document identified some factors contributing to this. We request that this document be made a part of the Administrative Record on this matter.

We also have the following specific questions and comments:

1. What is the value of imported goods?
2. What is the value of exported goods?
3. Is this imbalance healthy for the local, regional, and national economy?
4. What is the source for the figure 475,000 jobs in international trade in southern California?
5. If "international trade" jobs include retailing of imported goods does that mean retail

- clerks at local discount marketers are included?
6. This section should address data on housing overcrowding and overpayment available from the US. Census and HUD's CHAS Databook.
 7. How were comparable communities selected for inclusion in table 7.2-12?
 8. Why does the data in Table 7.2-12 end at 2002?
 9. The discussion of socioeconomics must consider both sides of the economic equation, including increased costs due to health problems, congestion/time lost, taxpayer financing for infrastructure and homeland security, wear and tear on infrastructure, stricter air rules for local businesses, lower property values, etc. This must also address how externalization of costs of imported goods costs onto the local communities affects the ability of the US and local California manufacturing sector to compete.

Growth Inducing Impact

The EIS/EIR must address demand for additional warehouse space and infrastructure, including additional power plants to supply AMP. The EIS/EIR must also address how jobs at the Port will affect regional housing need. It is not adequate to simply conclude that individuals will not be likely to move in order to take a Port job.

Overriding Considerations

We are gravely concerned over the possible use of Overriding Considerations by the BOHC to grant approval for this project despite the significant unavoidable adverse effects identified in the EIS/EIR. If this is the case, then an analysis of project benefits— such as direct and indirect employment – will need to be balanced by an equally comprehensive analysis of project costs. Costs include:

- 1 Costs born by the public due to impacts on health, in both dollars and quality of life
- 2 Costs born by the public and local business due to traffic congestion
- 3 Costs born by the public for infrastructure
- 4 Costs born by the public for homeland security
- 5 Costs born by local business to balance emissions created by port activities
- 6 Job loss as businesses leave the region due to congestion and/or emissions restrictions

Identification and consideration of these costs are necessary for the public and decision-makers to make an informed decision about the proposed project.

The enormous healthcare costs that we have all learned are being created by diesel exhaust air pollution are not analyzed. As the region's largest single source of air pollution, activities associated with the twin Ports are responsible for 21 to 25% of the total air pollution in the South Coast Air Basin. Recently the CARB has tripled its estimate of the number of annual deaths statewide due to air pollution. A recent L.A. Times article was headlined "Up to 24,000 deaths per year in California are linked to Air Pollution" with the lead-in line of "New research finds rates of heart attacks, strokes and other serious disease increase exponentially after exposure to even slightly higher amounts of particulate matter" (L.A. Times article 5/22/08).

We assert that this region is most likely disproportionately represented in that horrifying annual death toll. We do live in the area with the nation's worst air quality. We further assert that this project will increase that death toll through the pollution it will unavoidably create. Further consistent with the principle that the polluter pays for the damages they cause, it is time for this and all Port related pollution sources to pay for the externalized health care costs they have created.

A complete analysis cannot include direct and indirect benefits (including benefits generated "off-port"), without also including direct and indirect (externalized) costs generated by port

growth and port pollution. The 2004 study "California's Global Gateways: Trends & Issues" prepared by the Public Policy Institute of California, provides the framework methodology for the identifying and estimating goods movement costs and benefits.

We call for a study to be done by an independent, credible third party institution that fairly compares the positive effects of this (and all other) Port projects versus the less well recognized negative effects such as premature death and health care costs. Absent such a study, any findings regarding economic benefits would be arbitrary and capricious.

The EIS/EIR Process

The EIS/EIR includes the NOI/NOP for the project, but merely a summary of responses. We request that any written responses to the NOI/NOP as well as any notes from scoping meetings, response cards, etc. be included in the EIS/EIR. We also request that comments received on the 2006 China Shipping EIS/EIR be included in this EIS/EIR.

We remain seriously concerned about any environmental review process in which the Lead Agency, the Sponsoring Agency, the Reviewing Agency, and the Approving Agency (via BOHC) are all the same as is the case once again with this project. No matter what the merits of a project may be, this situation builds in conflicts of interest directly into the CEQA process.

We wish to re-iterate our concern about the timing of public review for numerous large, highly complex documents. The subcommittee is overwhelmed by the compounded effect of the Port releasing so many EIRs at the same time. Each one of these EIRs is extremely complex and it is sometimes difficult to understand which components and mitigations are associated with which project, as some are mentioned in more than one EIR. We believe that the cumulative effect of releasing so many EIRs at one time is that our capacity to understand the individual projects, and their integration with each other, is greatly diminished.

Many of these documents have been in process for years. Witness the 2003 circulation of the NOI/NOP for this project. Why is it necessary to release so many massive and opaque documents in a short time frame? This is especially distressing in the absence of a comprehensive plan addressing development of the Port as a whole.

We are also concerned with the price of the hard copies of these documents, which now exceeds \$750.00 each. This raises a concern with CEQA compliance, which requires that the EIRs be accessible and understandable to the public.

The notice of availability for this document indicates two parties to which a response is to be submitted. One of these is a Post Office Box, which renders it impossible to hand carry, fax, or e-mail a response, effectively limiting the response period to several days before the stated deadline. We are concerned that all comments submitted to *either* the Port or the Army Corps be included in the Final EIS/EIR and that all comments post marked before the July 15, 2008 deadline be included.

We wish to thank Lena Maun-DeSantis of Port staff for agreeing to help the Subcommittee forward its comments to the Army Corps. We are concerned, however, that others may not be so fortunate.

Conclusion

Review of environmental documents is among the Port Community Advisory Committee's core responsibilities. In accordance with the Mayor's and Commission's directive, the Subcommittee has evaluated the Draft Recirculated EIS/EIR prepared for the China Shipping project.

The China Shipping EIS/EIR is one of the first major port industrial project to be analyzed under guidelines established by the Harbor Commission and the Subcommittee. The Subcommittee recognizes that PCAC, port staff and terminal operators are mutually engaged in a learning effort that will inevitably require adjustment as new policies and goals are implemented on the context of actual port operations.

The Subcommittee is pleased to see that many of its recommendations have been implemented and that many of the concerns expressed by the Subcommittee regarding previous environmental studies have been addressed.

However, concerns still remain. As currently presented, the DEIR does not fulfill the objectives established by the Harbor Commission and fails to fulfill the purposes of CEQA.

Thank you for this opportunity to provide these comments.

Very Truly,



Kathleen Woodfield
Acting Chair, EIR/Aesthetic Mitigation Subcommittee
for
John Miller, M.D. FACEP
Chair, EIR/Aesthetic Mitigation Subcommittee

Attachments:

1. Median Home Sales Prices, Coastal Los Angeles County
2. Los Angeles Times Article: Cargo Has Us At A Crawl
3. Los Angeles Times Article: Up To 24,000 Deaths A Year In California Are Linked To Air Pollution
4. Port and Modal Elasticity Study, Dr. Robert C. Leachman
5. California Environmental Protection Agency, Air Resources Board
Methodology for Estimating Premature Deaths
Associated with Long-term Exposures to Fine
Airborne Particulate Matter in California

EIR/Aesthetic Mitigation Subcommittee

**Median Home Sales Prices
Coastal Los Angeles County**

City	Zip Code	2003 median	2007 median
Long Beach, port area	90813	\$199,000	\$420,000
Wilmington	90744	\$248,000	\$459,000
Long Beach, port area	90802	\$275,000	\$420,000
San Pedro	90731	\$362,000	\$567,000
	90732	\$470,000	\$680,000
Redondo Beach	90277	\$535,000	\$1,097,000
El Segundo	90245	\$557,000	\$850,000
Venice	90291	\$615,000	\$1,050,000
Long Beach south coast	90803	\$653,000	\$965,000
Rancho Palos Verdes	90275	\$775,000	\$1,132,000
Hermosa Beach	90254	\$779,000	\$1,199,000
	90405	\$783,000	\$1,275,000
Playa del Rey	90293	\$790,000	\$1,185,000
Marina del Rey	90292	\$908,000	\$1,500,000
	90403	\$1,035,000	\$1,489,000
Palos Verdes Penninsula	90274	\$1,050,000	\$1,450,000
Manhattan Beach	90266	\$1,050,000	\$1,625,000
Malibu	90265	\$1,305,000	\$2,176,000
Pacific Palisades	90272	\$1,328,000	\$1,985,000
	90402	\$1,510,000	\$2,725,000
Santa Monica	90401	\$1,845,000	\$2,125,000
LA County		\$330,000	\$560,000

Source: Dataquick Information Systems

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Cargo has us at a crawl



Richard Hartog / Los Angeles Times

By Dan Weikel and Jeffrey L. Rabin
June 10, 2008

Frank Schiavone fumed inside his **Acura MDX**, stuck behind the gates of a railroad crossing in downtown Riverside.

Five minutes went by, then 10. Schiavone, a Riverside councilman, wondered how late he would be for an appointment at City Hall as he stared at the freight cars double-stacked with shipping containers. Around him, hundreds of other motorists sat, engines idling, their plans on hold.

Twenty minutes passed before the freight train cleared the crossing.

Schiavone had been trapped yet again by America's enormous appetite for imported goods – an increasingly common experience in his city, which is trisected by rail lines carrying about 125 trains a day.

Municipal officials say freight trains have delayed more than 500 ambulances, police cars and fire trucks in Riverside during the last five years – some for as long as 15 minutes.

"I'm glad I'm not in the back of an ambulance on my way to the hospital in this city," Schiavone said.

Whether the delay comes at a rail crossing or behind a line of big rigs on a clogged interstate, hundreds of thousands of Southern Californians routinely live with the side effects of the region's huge and growing role in international trade.

The ports of Los Angeles and Long Beach make up the nation's largest harbor complex, handling 44% of all goods imported by cargo container into the United States. Last year, the equivalent of 7.85 million 40-foot shipping containers poured through the ports, with most then moving along the region's highways to massive rail yards and warehouses before heading to the nation's interior.

Trade has generated hundreds of thousands of jobs in Southern California. Moving goods is now one of the largest industries in the region, one that helps provide low-cost imports to consumers across the country. The ports are among the region's most valuable economic engines.

But that commerce also helps foul the region's air with diesel exhaust and contributes to paralyzing traffic on the region's streets and highways, many of which were built in the 1950s and '60s and never designed to handle so much cargo.

"If we weren't providing a gateway for the country to consume all these cheap products from Asia, we would have a lot better mobility," said Norm King, a founder of the transportation institute at Cal State San Bernardino.

According to the Federal Highway Administration, highways used for commerce in the Los Angeles area rank among the worst in the nation in terms of delay. That unfortunate distinction is not expected to change soon.

The volume of cargo, which has tripled in the last two decades, is forecast to almost triple again in the next 20 years. By 2025, the number of truck trips on the 710 and 60 freeways and the 10 in the Inland Empire is expected to double to accommodate port growth.

The cost to deal with congestion related to goods movement – or simply to keep it at current levels – is enormous, \$18 billion statewide, mostly in Southern California, according to a recent report for the state Legislature.

A transportation bond measure passed by California voters in November 2006 set aside about \$3 billion for such projects statewide. The ballot initiative is only a start, according to transportation experts who urgently tout a list of high-priced projects, which include:

- * Eliminating 131 street-level rail crossings in Los Angeles, Orange, Riverside and San Bernardino counties – cost \$4.5 billion.
- * Rebuilding an 18-mile stretch of the 710 Freeway from the harbor to Interstate 5, adding four new lanes exclusively for trucks – cost at least \$6 billion.
- * A magnetically levitated train to haul cargo from the ports to warehouses in San Bernardino County – cost \$6 billion to \$8 billion.

Who should pay for the construction remains hotly debated. Local government officials and regional planners say the federal government should pick up a larger share of the cost because trade through Southern California's ports benefits the nation as a whole.

Recent studies by UC Berkeley Professor Robert C. Leachman show that as much as 80% of the containerized goods that arrive in Los Angeles and Long Beach are taken by train or truck to retailers, manufacturers and warehouses out of state.

"It is not California's job to deliver cheap televisions to Omaha. That is the job of the federal government and the transportation industry," said Lee Harrington, former president and chief executive of the Los Angeles County Economic Development Corp.

That road to Omaha begins at the region's two massive ports, where towering cranes pluck steel boxes off giant cargo ships as hundreds of small utility trucks hustle along the docks, moving containers to and from storage yards. Inside are loads of furniture, electronics, clothing, toys, machinery and parts for manufacturers – cargo worth an estimated \$313 billion a year.

Some of the containers are loaded onto trains in port for direct shipment out of state. Most are picked up by big rigs and taken to rail yards and warehouses near downtown Los Angeles and in San Bernardino County, which is one of the nation's leading distribution hubs.

The first leg of this journey often involves the region's truck routes, particularly the 710, 91, 60 and 10 freeways.

The biggest impact is on the 710, the main artery for the port complex. Except for improvements to the median barrier and shoulders that are underway, the highway is in bad shape.

The cracked and broken pavement is heavily patched with asphalt overlays, an adequate but temporary fix in an age of tight state budgets. The short 1950s-style exits and onramps are obsolete. The lanes are often narrow, and the road lacks emergency shoulders in some places.

In 2006, trucks averaged about 39,000 trips per day on the 710 – 20% of the road's traffic. The rigs – the majority 80,000-pounders – often line up nose to tail for miles in the two right lanes on each side of the freeway.

"There are a lot more cars out there today and a lot more big rigs," said Ike Talison of Gardena, a veteran trucker who has hauled cargo from the port on the 710 for almost 19 years. "I used to do five containers a day; now I can do four because of the congestion, if I'm lucky."

Partly because of the interplay of cars and trucks, the accident rate on the 710 Freeway is higher than the norm for state highways.

Truck-related accidents happen on average more than once a day there. From 2002 to 2006, the most recent year for which complete figures were available, the accidents resulted in 18 deaths and 677 injuries.

The steady flow of big rigs on the northbound 710 deposits much of its cargo at Union Pacific's East Yard in Commerce or the Hobart Yard operated by the Burlington Northern Santa Fe Railway Co.

Hobart, which spreads across 245 clamorous acres roughly five miles southeast of downtown Los Angeles, is the busiest rail yard in the country for transferring cargo containers between trucks and trains. Inside, trains up to 1 1/2 miles long are assembled or broken down with the help of global positioning technology, which locates cargo in the facility. The yard handles about 11 incoming trains a day and 11 departures for destinations including Houston, Chicago and Memphis.

Those transcontinental trains must pass through either Los Angeles County or northern Orange County before heading to the Inland Empire and points east. Along the way, they regularly clog traffic on surface streets.

Eliminating freight isn't an option.

"Goods movement is vital to the California economy," said Danny Wu, who managed goods movement planning for the association of governments. "There will be more congestion, delay, noise and health-threatening emissions unless we can come up with more efficient ways of moving freight."

The problems are most apparent in Riverside, which has 26 railroad crossings. Individual delays of 28 minutes per train have been recorded.

In January, an ambulance was delayed seven minutes while rushing a teenage motorcyclist with a serious head injury to a trauma center. The youth, who was hurt in a dirt-bike crash, was unconscious and having seizures. He is recovering.

"Transporting someone with a broken leg might not be a problem," said Peter Hubbard, a spokesman for American Medical Response, which provides the city's ambulance service. "But a person with a serious brain injury or in cardiac arrest needs to see a neurosurgeon or a heart specialist right away."

After the city threatened the railroads with fines and criminal prosecution last summer, railroad executives and Riverside officials agreed to work together to reduce delays for motorists.

Railroad officials acknowledge the problems, but they blame roads and rail networks built years before the surge in trade, and a shortage of government funds to build overpasses and underpasses that separate streets from busy rail lines.

"Delay in one part of the rail system can trickle down into other parts of the system," said Zoey Richmond, a spokeswoman for Union Pacific. "We are working with the city on short-term solutions, but we need to take care of rail bottlenecks and old railroad crossings."

Some of this work is underway.

In 2002, the Alameda Corridor opened from the port to the rail yards near downtown Los Angeles.

At a cost of \$2.4 billion, the project overhauled a 20-mile freight route and eliminated scores of grade-level crossings by lowering the track into a concrete trench. It now carries 50 trains each day.

Transportation officials are planning to extend the corridor east. Earlier this year, the California Transportation Commission earmarked \$366 million for projects in the Los Angeles area and the Inland Empire to eliminate at-grade railroad crossings. Port officials and the railroads also want to build and expand rail yards close to the harbor or on the docks to reduce truck traffic.

In addition, the Southern California Assn. of Governments, a regional planning agency, is studying a network of truck-only highway lanes that would stretch from the ports to the Inland Empire via the 710, 60 and 10 freeways.

Those projects come with big price tags but are a top priority for business leaders and regional planners, who fear the ports will lose business to competitors if congestion continues to worsen.

Traffic congestion regularly delays about a fifth of commercial trucks in the region, increasing the cost of shipping by 50% to 250%, studies show.

"There is increasing concern in the region about moving goods," said Joseph Magaddino, chair of the economics department and the global logistics program at Cal State Long Beach. "It does no good to off-load cargo in port if you can't move it quickly."

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Up to 24,000 deaths a year in California are linked to air pollution

New research finds rates of heart attacks, strokes and other serious disease increase exponentially after exposure to even slightly higher amounts of particulate matter.

By Janet Wilson, Los Angeles Times Staff Writer
May 22, 2008

Californians exposed to high levels of fine particulates had their lives cut short on average by 10 years, researchers found

As many as 24,000 deaths annually in California are linked to chronic exposure to fine particulate pollution, triple the previous official estimate of 8,200, according to state researchers. The revised figures are based on a review of new research across the nation about the hazards posed by microscopic particles, which sink deep into the lungs.

"Our report concludes these particles are 70% more dangerous than previously thought, based on several major studies that have occurred in the last five years," said Bart Croes, chief researcher for the California Air Resources Board. Croes will present his findings at a board meeting in Fresno this morning.

The studies, including one by USC tracking 23,000 people in greater Los Angeles, and another by the American Cancer Society monitoring 300,000 people across the United States, have found rates of heart attacks, strokes and other serious disease increase exponentially after exposure to even slightly higher amounts of metal or dust. It is difficult to attribute individual deaths to particulate pollution, Croes conceded, but he said long-term studies that account for smoking, obesity and other risks have increasingly zeroed in on fine particulate pollution as a killer.

"There's no death certificate that says specifically someone died of air pollution, but cities with higher rates of air pollution have much greater rates of death from cardiovascular diseases," he said.

Californians exposed to high levels of fine particulates had their lives cut short on average by 10 years, the board staff found. Researchers also found that when particulates are cut even temporarily, death rates fall. "When Dublin imposed a coal ban, when Hong Kong imposed reductions in sulfur dioxide, when there was a steel mill strike in Utah, they saw immediate reductions in deaths," Croes said.

More measures will be needed, air board officials said, including eventually lowering the maximum permissible levels of soot statewide. California already has the lowest thresholds in the world, at 12 micrograms per cubic meter, but researchers say no safe level of exposure has been found. More regulations are being drafted, including one requiring cleaner heavy-duty trucks.

"We must work even harder to cut short these life-shortening emissions," Air Resources Board Chairwoman Mary Nichols said in a statement.

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Clean air advocates said they would be watching closely

"These numbers are shocking; they're incredible," said Tim Carmichael, senior policy director for the Coalition for Clean Air, a statewide group. He and others said the board must strengthen a soot clean-up plan submitted to them by the San Joaquin Valley Air Pollution Control District. A hearing and vote on the plan is scheduled for today.

Numerous Central Valley public health groups wrote Nichols this week, urging bans on the use of industrial equipment on bad air days, tougher controls on boilers and crop drying equipment, and other action. The economic cost attributed to premature deaths and illnesses linked to particulate exposure in the Central Valley has been estimated at \$3 billion a year, and \$70 billion statewide, according to separate studies. Those figures are expected to be revised upward based on the new report.

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