

ATTACHMENT 12
HARBOR DEPARTMENT'S RESPONSE TO APPEAL SUBMITTED BY
COALITION FOR A SAFE ENVIRONMENT
MIDDLE HARBOR PROJECT FINAL EIR

This document contains the detailed response of the Long Beach Harbor Department to the appeal of the certification of the Middle Harbor Redevelopment Project Final EIR filed by Coalition For A Safe Environment.

GROUND #1. THE BOARD OF HARBOR COMMISSIONERS PERFORMED DUE DILIGENCE.

Consistent with CEQA Guidelines Section 15043 and Public Resources Code Section 21002.1, the Board of Harbor Commissioners adequately exercised their authority as a public agency that has principal responsibility for approving a project and complying with CEQA. The Harbor Commission considered testimony from the public and Port expert and legal staff regarding the analyses and findings of the Final EIR. The hearing lasted for approximately six hours. The last two hours of the hearing involved the Port staff responding point by point to the issues that were raised by Appellant and others. The hearing was in no way rushed. In fact, the President of the Board asked the members of public and representatives of agencies such as the SCAQMD who were in the audience to provide any additional comments they wished to share. Persons who wished to speak a second time were provided that opportunity. Appellant did not take the opportunity to present any further materials or arguments for the Board's consideration. The record amply supports the Board's unanimous decision to certify the Project Final EIR and demonstrates that the Board's decision was well thought out and not rushed. It further demonstrates that the Harbor Commission exercised its independent judgment in certifying the Project Final EIR. Therefore, the Board of Harbor Commissioners was diligent in its decision-making.

GROUND #2. POLB PROVIDED AN ADEQUATE PUBLIC COMMENT PERIOD AND PUBLIC PARTICIPATION.

The comment claims that 10-day public comment period was inadequate on the Final EIR to allow public participation. However, the 10-day review period was consistent with all regulatory requirements including CEQA, which does not require a public review period for the Final EIR. Moreover, the structure of the Final EIR is such that the Responses to Comments chapter, Chapter 10, provides a focused mechanism for evaluating changes from the Draft EIR so that review of the entire document was not necessary to allow adequate public participation and comment on the proposed action. It should also be noted that the Draft EIR was circulated for over 80 days, which included extra time, beyond the 45 days required by CEQA, so that the public would have ample time to submit comments and questions.

The comment contends that recommendations in the Harbor Department's White Paper on Environmental Justice have not been implemented regarding increased public participation. In contrast, the Harbor Department has complied with all public outreach requirements of CEQA and, consistent with the White Paper, developed and implemented a robust public outreach program; supported this program with demographic analysis of potentially affected areas; and informed, consulted with, and involved the public, providing opportunities for meaningful public involvement by affected communities. A citizen's advisory committee is one of several strategies listed in the White Paper, but it is not a public outreach requirement, (i.e., unlike public comment periods required under CEQA). The Harbor Department believes that the functions of such a committee have been fulfilled by the existing public outreach process.

The comment suggests there was a failure to notify the Long Beach City Council of its decision and to seek opinion or approval to provide additional public comment time. Pursuant to the City Charter, the Project itself is within the jurisdiction of the Harbor Department. Nonetheless, Harbor Department staff have periodically briefed the Mayor Council Members regarding the Project and have not received comments about the level of public review or the need to conduct even greater community outreach.

GROUND #3. THE PORT ECONOMIC FORECASTS ARE ADEQUATE.

This comment incorrectly asserts that the Final EIR failed to show that there is a need for the Project and that the Port did not accept public comments regarding decreasing cargo volumes. However, the Port's forecasts of future cargo volumes (Final EIR Section 1.3.1.2), and analyses of the future capacity of Port terminals to accommodate those cargo volumes (Final EIR Section 1.3.1.3) clearly indicate that projected container throughput demand will exceed the aggregate container terminal capacity within the ports by the year 2030. As stated in Final EIR Section 1.3.2, the overall Project need is to increase container terminal efficiency to accommodate a portion of the predicted future containerized cargo throughput volume and the modern cargo vessels that transport those goods to and from the Port.

The comment questions the validity of the Port's projected future growth estimates in light of the Port's low growth rates in 2007 and 2008. The Port's projections for future container throughput growth are based on long-term demographic and economic trends for the U.S. and its trading partners, which account for fluctuating market demands over an extended period of time. Overall, market demand is expected to increase throughput over the term of the Project until the maximum physical capacity of the Middle Harbor container terminal is reached.

The comment also identifies several specific factors that should be considered in the Final EIR. Please see response to comments CSE(B)-3 and CSE(B)-8 in the Final EIR for additional details regarding IT container tracking program technologies and direct transport of cargo from ship to train. Please see response to comment SCAQMD-27 in the Final EIR regarding a Maglev train. The Port is in the process of reviewing possible zero- or near-zero emission transport technologies as envisioned in the CAAP. Pursuant to its commitments under the CAAP, the Port is exploring feasible technologies for zero- or low-emission container movement demonstration project between one marine terminal and a near-dock rail facility to determine the feasibility of this technology at the Port.

Furthermore, as required by CEQA, the Final EIR focuses on the significant environmental effects of the proposed Project, and is not intended or required to comprise an economic cost/benefit analysis, nor is the EIR intended to allocate employment benefits to the residents of any particular community.

GROUND #4. NONE SUBMITTED.

GROUND #5. ALL MITIGATION MEASURES IN THE PROJECT LEASE AGREEMENT WILL BE IMPLEMENTED, AND OFFSITE CONTAINER STORAGE IMPACTS WERE ADEQUATELY ADDRESSED.

The Port's new lease and lease renewal process was not scheduled to occur, and not occur, concurrently with certification of the Final EIR. The Middle Harbor lease will be reviewed and approved by the Board of Harbor Commissioners in the future once the business terms have been negotiated with the tenant. The public will have an opportunity to address the Board of Harbor Commissioners on any proposed lease for the Project. All mitigation measures included in the Final EIR will be expressly incorporated as Project lease conditions. Accordingly, the mitigation measures identified in the Final EIR will become part of the conditions of the Project terminal lease agreement. The MMRP includes monitoring and enforcement mechanisms to ensure appropriate implementation of all mitigation measures. The Port and Project terminal operator will comply with the MMRP for the life of the lease. As a landlord Port, leases are one of the primary mechanisms for the Port to implement its environmental initiatives, including the Green Port Policy.

The comment suggests that the Final EIR failed to disclose impacts associated with offsite Port properties, including offsite container storage yards, offsite chassis assembly and storage yards, offsite container and cargo inspection and fumigation facilities, and offsite truck staging, parking, and storage areas. The Port does not have control over land uses or the operation of facilities that exist outside its jurisdiction, nor does it control containers in the goods movement chain. Moreover, the Project does not include any facilities or components outside of the marine terminal in the Harbor District. The terminal operator is responsible for transporting containers from overseas to the Middle Harbor container terminal, where either trucking firms pick up the containers or where containers are transported to the intermodal

railyard. In either case, the destination of the container becomes the responsibility of the entity that ordered the container or the trucking firm. Once containers leave the terminal, they would be managed and controlled by businesses and facilities in the goods movement chain that are not within the control of the Port or its tenants. Impacts associated the storage or management of containers once they leave the Port are too speculative to evaluate in the Final EIR because it is not possible to determine what impacts might occur.

The comment incorrectly asserts that container inspection regulations implemented by federal, state, and local agencies do not exist. Existing container inspection procedures are not dependent on the CEQA process; containers are inspected at the terminal by Homeland Security and other responsible federal, state, and local agencies.

The Port does not have control over land uses or the operation of facilities that exist outside its jurisdiction, including off-port property inspection facilities. Public health hazards associated with offsite container inspection facility operations would have been addressed in any CEQA analysis conducted for those facilities.

The assertion that West Nile virus originated from a cargo container originating at the Port is an unsupported statement and is not sufficiently credible to constitute substantial evidence.

GROUND #6. THE PROJECT HRA IS ADEQUATE FOR NEPA/CEQA PURPOSES.

With respect to the adequacy of the health risk assessment (HRA) and its precision, as stated in the response to Draft EIR comment CSE(A)-8, the Project HRA used methods widely accepted and approved by the regulatory agencies that set guidelines for risk analysis (including OEHHA, ARB, and the SCAQMD). These methods include redundant conservative assumptions and inputs and ensure overestimations of predicted risks. Details of the Project HRA methods were made available for public review through documentation in the Draft EIR. These methods provide results that are appropriate for NEPA/CEQA purposes.

The comment requests that the Port develop a Health Impact Assessment (HIA) to assess impacts on the surrounding community. As stated in response to comment USEPA(B)-7 in the Final EIR, although different definitions of HIAs are available, they share the concept that an HIA is a multidisciplinary process that addresses potential health effects of a policy, program, project or other proposal by considering economic, political, social, psychological, and environmental factors. An HIA considers cumulative health effects of multiple stressors to communities, and typically identifies community-based solutions. It is similar to initiatives underway at OEHHA and SCAQMD (e.g., the SCAQMD's Clean Communities Plan). As part of development of the Clean Communities Plan, SCAQMD is working with stakeholders to develop approaches to evaluating and mitigating cumulative health impacts on communities, including communities surrounding the Port.

The area in and around the San Pedro Bay Ports (SPBP) is one of the most intensively studied areas in the state. In part because of those studies (many of which the Port actively reviewed and provided comments), the SPBP have been proactive in developing strategies to better understand the impacts on local and regional air quality, and to develop and implement strategies that reduce health risks in the surrounding communities. The SPBP have been actively responding to concerns of local communities, community groups, environmental groups, as well as those expressed by federal, state, and local agencies. They have worked to implement multiple initiatives and programs that focus on decreasing pollution, improving air quality, and improving public health. The CAAP, originally adopted in 2006, is an important example of such an initiative. In addition to source-specific standards (such as cleaner Port trucks), a key component of the 2006 CAAP was a commitment to establish a series of Bay-wide Standards that would (1) reduce health risk from Ports-related emissions; (2) achieve "fair share" mass emission reductions of criteria pollutants; and (3) to comply with ambient air standards at the Ports' air monitoring stations. The EPA, ARB, and SCAQMD have participated in the development of these standards for the upcoming revision to the CAAP. As part of this effort, the SPBP developed a Bay-wide HRA tool that is being used to develop a more comprehensive understanding of (1) the relationship between port sources and health risk impacts; and (2) the effect of regulatory and CAAP control

strategies to reduce Port-related DPM emissions on related risks in nearby communities. Members of the local community have been actively participating in the implementation of the CAAP, have a central role in the development of the SCAQMD's Clean Communities Plan, have been actively involved in the NEPA/CEQA public process for this Project, and have the continuing opportunity through community outreach programs to express their concerns about environmental management at the Port.

NEPA and CEQA evaluations in the Final EIS/EIR are intended to address the impacts of specific projects and not overall Port operations. These evaluations address the project specific environmental health impacts in the adjacent communities. The NEPA and CEQA processes provide another mechanism by which local communities are actively involved in the evaluation of community health impacts and associated mitigation measures. Because the EIS/EIR discloses the environmental impacts, including health risk impacts, of the proposed Project, and because an HIA evaluates many factors beyond those applicable to a specific project, there is no requirement to additionally conduct and include a separate HIA.

Regarding the evaluation of the effect of exposure to Project petroleum fuels, almost all of the fuels used at the Project terminal would be diesel. Diesel has a relatively low volatility compared to other liquid fuels, such as gasoline. Given the short amount of time needed to fuel vehicles and the intermittent nature of this activity, worker or public exposure to diesel fumes would be minimal.

Conducting a public health survey to develop an accurate public health baseline for purposes of validating the Project HRA is not practical since the HRA has certain very long exposure assumptions needed for residential areas. Therefore, a public health survey would not serve to validate the HRA. Additionally, as stated above, the Project HRA is adequate for this NEPA/CEQA process.

The allegation that the Harbor Commission has never supported any new proposed public health studies or legislation that would involve the Ports and Goods Movement Industry is inaccurate. The Harbor Commissioners requested that the Clean Air Action Plan (CAAP) be developed to reduce health impacts from Port operations and they are in the process of completing the San Pedro Bay Standards, which would reduce the Ports fair share of air pollution and health impacts within the region.

GROUND #7. THE 10 IN A MILLION CANCER RISK THRESHOLD IS CONSISTENT WITH AGENCY GUIDELINES.

Please see the responses to comment CSE(A)-8 in the Final EIR and Ground #6. With respect to the comment that "The 10 in a million cancer risk threshold adopted by the POLB, even if consistent with the guidelines of OEHHA, ARB, and SCAQMD are not acceptable to the public", such issues are addressed at the state and regulatory agency levels and cannot be addressed under CEQA at the project level. The 10 in a million cancer risk threshold is consistent with the guidelines of OEHHA, ARB, and SCAQMD. The Project HRA needs to be consistent with agency guidelines.

With respect to the comment that "HRA's are absolute not precise and the threshold established is just an adopted best guess," this contradicts the goals of the health risk analysis process and the conservatism that the regulatory agencies have incorporated to ensure that health risk methodologies are appropriately cautious and over predict potential health risk impacts. For example, a HRA assumes that an individual is being exposed for 70 years continuously at the emission rate predicted at that location, while in reality such an exposure rate and duration are highly unlikely..

GROUND #8. THE PROJECT IS CONSISTENT WITH THE CLEAR AIR ACTION PLAN AND DRAFT SAN PEDRO BAY STANDARDS.

This issue has been fully addressed in the appeal of CBD, et al, Section I. That response is incorporated here. In summary, the CAAP committed the Ports, with the assistance of their agency partners (the technical working group or TWG, comprised of representatives from ARB, SCAQMD, and the USEPA) to establish San Pedro Bay Standards to define targets for reduction of Ports-related air impacts, specifically air quality and health risk impacts. The Ports have been actively engaged in discussions with the TWG to reach agreement on the Standards since the CAAP was adopted in November 2006. The development

of the Standards has been challenging, as no precedent existed that could be used as a framework. The CAAP recognized that many such goals were “extremely ambitious.” (CAAP Technical Report, p. 24). The standards have been fully developed by the two Ports, which devoted thousands of hours of staff and over 10,000 hours of expert consultant time to completing this task. The Draft SPBS is currently under review by the TWG (i.e., U.S. EPA, ARB, and SCAQMD). The meetings of the TWG are ongoing. The most recent meeting was held on April 15, 2009. The Ports anticipate that agreement between the TWG and the Ports on the SPBS will be achieved in spring 2009, and that the Standards also will be available for public review sometime later in spring 2009.

The comment allegation that the Final EIR fails to mention that the CAAP is only a five year plan that will expire in 2011 is inaccurate. Please see page 3.2-22 of the Final EIR, which makes several references to CAAP updates.

As stated on page 3.2-27 of the Final EIR, the Project would comply with all applicable CAAP measures. Additionally, as stated in the response to Draft EIR comment SCAQMD-9, the Project not only is consistent with the draft SPBS, as it includes all applicable CAAP measures and complies with all existing regulations, it also in some areas, exceeds compliance with applicable CAAP measures.

The comment allegation is inaccurate that the CAAP air quality analysis includes numerous unsupported assumptions, such as the claim that 33 percent of ocean-going vessels (OGVs) would be cold ironed by 2010, but is now impossible to achieve; that 100 percent of OGVs calling at the Port would be using 0.2 percent Marine Gas Oil in auxiliary engines, but this would not occur; and that 100 percent participation in the vessel speed reduction program (VSRP) would not occur. The Project cold-ironing implementation schedule exceeds the one proposed in the CAAP for the POLB Piers D, E, and F facility, as documented in Section 5.2.2 of the *Final 2006 - San Pedro Bay Ports Clean Air Action Plan – Technical Report* (Ports of Los Angeles and Long Beach 2006). Additionally, **Mitigation Measures AQ-4 and AQ-6** will require all Project OGVs to comply with the VSRP and use of 0.2 percent sulfur diesel in auxiliary generators and main engines 100 percent of the time, beginning with lease commencement and Project year 1, which is estimated to be 2010. These measures pertain to the Project OGVs and do not pertain to non-Project OGVs at the Port. However, with any future lease renewals, these and other CAAP measures would apply to those OGVs connected to the lease renewals.

GROUND #9. THE PROJECT PURPOSE & NEEDS AND OBJECTIVES ARE ADEQUATE.

The comment allegation that the terminal design is not efficient is incorrect. The Project is designed as a highly efficient, modern marine terminal. All feasible measures that would improve cargo handling efficiencies have been included in the design of the Project. These measures include expansion of the Pier F intermodal railyard and installation of modernized gantry cranes. The comment suggests certain other technologies should be included in the Project, but for the reasons described in Final EIR response to comment CSE(B)-8, these technologies are not necessary or feasible for this Project. Also, please see response to comments SCAQMD-27, CBD-20, CBD-68, CBD-71, CBD-100, CSE(A)-3, CSE(A)-4, and CSE(B)-3 in the Final EIR. The Project is designed to maximize on-dock rail facilities. The existing railyard onsite is underutilized and serves only one of the two existing terminals. The Project will combine the operations of two terminals into one, thereby facilitating efficient operation of the proposed Middle Harbor railyard and increasing the number of containers that can travel by rail.

The recommendation to build a terminal with docks situated such that a ship can be unloaded from both sides is not a feasible alternative because it would require the conversion of large amounts of backlands to channel in order to maintain the existing Back Channel configuration and would pose inefficiencies in the docking of ships. The reduction in backlands would reduce the overall efficiency of the container terminals. As the proposed Pier F intermodal railyard is an expansion of the existing railyard, the location of this facility would sufficiently increase and optimize cargo handling efficiency. The existing terminal already uses OCR and RFID technology to support terminal operations. Also, please see response to comments SCAQMD-7, CBD-20, and CBD-71 in the Final EIR.

With respect to the suggestion to use MagLev train technology for container transportation, as described in response to comments SCAQMD-27 and CSE(A)-3 in the Final EIR, using MagLev train technology for

on-dock transport is both physically impractical and financially infeasible. There are no zero emissions technologies currently in practical operation to move containers. So it is unknown whether these technology systems can feasibly transport containers. The Port is in the process of reviewing possible zero- or near-zero emission transport technologies as envisioned in the CAAP. Pursuant to its commitments under the CAAP, the Port is exploring a zero- or low-emission container movement demonstration project between one marine terminal and a near-dock rail facility. The demonstration project will address certain key issues that will help determine whether this technology can be feasibly employed in Port operations, including the functionality of the system, the availability of rights-of-way to accommodate the system, the capital costs for the construction of the system and the costs of operations and maintenance, and the needed interface between the terminals and the railyards. The Final EIR includes **Mitigation Measure AQ-25** that requires the terminal tenant in 2015 and every 5 years thereafter, to review new air quality technological advancements for the purpose of implementing them as new feasible mitigations.

The allegation that the Final EIR failed to include renewable energy sources as mitigation and that the Project limits its solar mitigation to only LEED certified buildings is inaccurate. The Project Final EIR includes a multitude of other GHG control measures, including **Mitigation Measures AQ-17 (Solar Panels), AQ-17a (Solar Carports), AQ-24 (Mitigation for Indirect GHG Emissions), and AQ-28 (Greenhouse Gas Emission Reduction Program)**. The Port has determined that solar carports likely could be installed in the employee and visitor parking areas. Solar carports use existing parking areas to generate power without sacrificing valuable real estate and as an added incentive provide shaded and covered parking for vehicles.

With respect to the suggestion to use wind turbines, as described in response to comment DOJ-5 in the Final EIR, traditional wind power generation relies on strong, prevailing winds for cost effectiveness. A review of the meteorological data for the Harbor District concluded that the winds at the Harbor District generally lacked those characteristics. Emerging technologies for low-wind generation could hold promise for environments like the Port, but they are not yet commercially proven or available. Thus, wind power was deemed infeasible at this time.

GROUND #10. AN ALAMEDA CORRIDOR INCREASE USAGE REQUIREMENT STUDY TO PREVENT DIESEL TRUCK IMPACTS IS NOT NECESSARY

With respect to the assertion that the Port failed to sponsor an Alameda Corridor Increase Usage Requirement Study and does not have a study that provides accurate information regarding the breakdown of short distance, medium, and long-distance truck trips, please see the responses to comments SCAQMD-7, CBD-20, and CSE(A)-6 in the Final EIS/EIR. At present, 55 to 60 percent of the goods coming into the Ports are destined outside of the southern California region (defined as the area within 800 miles of the Ports, including Las Vegas and Phoenix metropolitan areas), whereas 40 to 45 percent travels through the Ports to destinations beyond the local region. Local goods are not transported via rail for financial and operational reasons.

As part of their transportation planning efforts, the ports are evaluating whether shuttle or satellite rail yards located outside of the Los Angeles Basin can be used to effectively replace long distance truck trips that traverse the Basin with train trips. Ultimately, cargo owners determine where their cargo goes, as for example, cargo may first be transloaded before it is transported by rail.

The comment "There is no information in the Final EIS/EIR that states that all project intermodal cargo would use the Alameda Corridor" is incorrect. As described in response to comment CSE(A)-6 in the Final EIS/EIR, all Project intermodal cargo would be transported by train through the Alameda Corridor.

As the Project would maximize use of the expanded Pier F intermodal railyard, project operations also would maximize use of the Alameda Corridor. The on-dock rail system has been optimized to enable as much cargo as feasible to transit along the Alameda Corridor. The expanded Pier F intermodal railyard has been sized to accommodate all of the containers that are destined for outside the basin, with the exception of those that must be transloaded for transport via rail to the local market. Development of a

Port-wide mandate requiring all Port terminals to maximize use of the Alameda Corridor is outside the scope of the proposed Project.

The comment states that the EIR discloses that 68.4 percent of the Project's containers will be delivered by trucks, not trains, which is unacceptable because 60 percent of containers are for out-of-state delivery and could go by train. Commenter is mistaken because only 40 to 45 percent of the containers will travel beyond the southern California region.¹ Moreover, approximately 14 to 19 percent of the cargo traveling beyond the region is low-volume destination cargo that must be assembled at the near- and off-dock rail yards throughout the region and cannot wait for a unit train to be built on-dock. Rather, these boxes are assembled off-dock from multiple terminals in order to achieve the appropriate volumes to generate a single train in a timely fashion. Therefore, some direct intermodal containers will always need to be drayed to off-dock rail yards throughout the region regardless of the size of the on-dock rail yard at Middle Harbor.

The comment also incorrectly concludes that there is a discrepancy between the text and Table 1.6-4 because the comment assumes that one truck trip translates to one TEU. A TEU is a maritime industry standard and does not directly translate into one truck. The daily trips presented in the table (10,112) are total trucks in and out at the terminal gate, and can mean a bobtail, bare chassis, or a truck carrying an empty or loaded container. For example, the total trips include inbound and outbound trips made by bobtails. That is, the trips include (i) bobtails entering the gate to get a loaded import box; (ii) those bobtails then carrying that box out of the gate to deliver to some destination outside the Port complex (off-dock yard or warehouse facility); (iii) those bobtails then bringing the bare chassis or empty container back to the port; and (iv) the bobtails then heading back to their home facilities. Thus, there could be four truck trips associated with carrying one TEU. Similarly, moving export TEUs from off-dock/near-dock or domestic warehouse registers a minimum of two truck trips. The trips shown at the gate also include the trips made between the terminals (inter-terminal trips). There are factors in the Quicktrip which account for these transactions, as well as for dual transactions, where a driver brings the bare chassis back to port and picks up another box for delivery outside the port. The fact that multiple trips can be associated with just one TEU accounts for the fact that the total trip number is larger than the TEU number.

Final EIS/EIR Section 1.6.3.1 (Truck Operations) was revised as follows: "...to an average of approximately 10,112 trips per day in the year 2030..."; and "At maximum terminal capacity in 2030..."

GROUND #11. PORT TRUCK TRAFFIC FREEWAY IMPACTS DETERMINATION IS CORRECT.

As stated in response to comment CSE(A)-12 in the Final EIR, all vehicular users of the freeways pay taxes applied to fuels, which are used to fund highway maintenance and improvements. Wear and tear from trucks traveling on any section of freeway are treated the same as wear and tear generated by any other vehicle traveling on the freeway, and is not regarded as an environmental impact for purposes of NEPA or CEQA analysis. As discussed in responses to Final EIR comments RCTC-2 and CR-14, there are various regional and statewide efforts to address various goods movement issues and fund solutions, so there is no need for the transportation infrastructure mitigation trust fund requested by the commenter. Please also see responses to comments CT-2, RCTC-5, CBD-65, CBD-67, and CBD-68 in the Final EIR.

GROUND #12. THE ANALYSIS ADEQUATELY ADDRESSES, ASSESSES, AND MITIGATES LOCAL, REGIONAL, AND STATEWIDE TRUCK IMPACTS.

The comment states that the Final EIR fails to address and mitigate numerous truck impacts, including regional traffic congestion and accidents. The comment requests that the Port Traffic Management Plan be included in the EIR for review and comment. Regarding truck impacts and mitigation, please see

¹ The EIR discloses that 40 to 45 percent of Port throughput travels to areas outside the Southern California region. Two responses to comments, CBD-20 and CSE(A)-6, contain a typographical error that states that 55 to 60 percent of the goods coming into the Ports are destined to be shipped "outside" of the Southern California region, when the responses meant to state that that percentage would be shipped "inside" the Southern California region.

responses to comments CT-1 through CT-4, RCTC-2, RCTC-3, RCTC-4, RCTC-5, RCTC-6, CC-3, CC-5, CBD-65, CBD-66, CEHJ- 2, CSE(B)-18, and CSE(B)-42 in the Final EIR.

The Comment also asserts that the Project fails to address regional traffic congestion and accidents. However, the Project is only responsible for mitigating Project impacts. Regional programs have been established to address existing regional problems. Please refer to Final EIR response to comment RCTC-2 for additional details.

The Traffic Management Plan required as **Mitigation Measures TRANS1.1-a and TRANS1.1-b** for the Project would be developed by the selected contractor. These plans are specific to a contractor's plan and schedule for constructing the Project and cannot be developed until these specific details are known. For example, it is not known how much cut and fill would be required or where the trucks with the fill would travel to or from. This information is dependent on the design of the Project, and the means and methods used by the construction contractor. Available fill and/or available space to deposit cut would be identified during the design phase. It is not possible to determine where available fill or space for cut will be located until a detailed construction schedule is developed. This information is necessary to identify preferred construction routes. Traffic Management Plans are not included in environmental documents because it is not practical or feasible to do so.

GROUND #13. THE ANALYSIS ADEQUATELY ADDRESSES, ASSESSES, AND MITIGATES LOCAL, REGIONAL, AND STATEWIDE RAIL IMPACTS.

The comment alleges a failure to adequately address air, rail, and noise impacts related to regional and statewide rail impacts and that the EIR fails to mitigate noise at all transportation corridors, railyards, and distribution centers. The comment also alleges a failure to consider impacts at great distances from the Port. The EIR has appropriately evaluated the Project's environmental effects and identified mitigation measures to avoid significant environmental impacts to the extent feasible.

The allegation that the Final EIR fails to assess and mitigate the impact of all the local, regional and statewide locomotive engines diesel toxic emissions is incorrect. The Project air quality analysis estimated emissions from all switching and line hauling operation that would occur within the South Coast Air Basin (SCAB). Regarding the mitigation of locomotives that operate as part of the Project, please see the responses to Draft EIR comments SCAQMD-6 and CBD-22. Implementation of mitigation measures to line haul locomotives that service the Project railyard is infeasible as these sources are not bound by the Project terminal lease agreement. However, the provider of the switcher locomotives that would service the expanded Pier F intermodal railyard, PHL, recently completed the replacement of old engines in their entire fleet of 22 locomotives with (1) 16 engines certified to EPA Tier 2 standards, (2) 6 engines with EPA Tier 3 generator sets (a measure requested in the comment), and (3) all engines with devices that limit idling to 15 minutes (POLB 2005). On March 14, 2008, the EPA adopted Tier 3 and Tier 4 emission standards for diesel line-haul and switcher locomotives. Conversion of the national line haul locomotive fleet and PHL switchers to these standards will substantially reduce emissions from these sources in the future.

Ground #13 fails to acknowledge that the EIR, as well as responses to public comments, addresses transportation-related noise impacts, including those at considerable distance from the Port, and analyzes both the potential vibration-related effects of rail movements and the project contribution to future traffic noise levels along the I-710 corridor. In both cases, the EIR concludes that impacts would be less than significant and is based on a full disclosure of the analytical methods and conclusions provided in the EIR. Therefore, no mitigation is required. The comment asserts that "there will be a *significant* [emphasis added] public nuisance" but fails to demonstrate an objective criterion on which that allegation of significance is based. The comment instead cites a litany of activities that could cause noise as though the sheer number of sources mentioned is sufficient to demonstrate significance.

However, CEQA Guidelines Section 15382 defines significant effect as follows: A "[s]ignificant effect on the environment' means a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project...." Therefore, CEQA does not endorse the notion that any effect, no matter how small or speculative, can be considered significant. Only those effects that

could result in “substantial” adverse changes in conditions should be considered significant and, as a consequence, would require mitigation.

In summary, the effects alleged in the comment did not meet the test of significance applied in the EIR and, while they were fully disclosed and considered in both the EIR and responses to comments, they were considered less than significant; that is, not “substantial” as used in Section 15382.

As stated in response to comment CSE(B)-28 in the Final EIR, the comment mistakenly assumes that the Project will generate trains that will impact traffic traveling east on Anaheim Street from Wilmington to Long Beach. Trains serving the Project site will utilize a grade-separated rail corridor that crosses under Anaheim Street and over Alameda Street. There is an additional route that could be utilized in the event that a blockage occurs on the main route. The alternative route includes an at-grade crossing at Alameda Street approximately 700 feet north of Henry Ford Avenue and 2,700 feet north of the intersection of Anaheim Street and Alameda Street. This route is only used for non-recurrent incidents and would not be part of typical operations. Due to low volumes on Alameda Street, the limited use of this at-grade crossing, and vehicular access to grade separated crossings within one mile at Anaheim Street and Pacific Coast Highway, the Project impact to this at-grade crossing would be less than significant. As determined in the EIR, the Project impacts to traffic at at-grade crossings in the Port and throughout the region will be less than significant.

The Port adequately addresses opportunities for affected communities, individuals, organizations, and groups to participate in the EIR process by providing public notifications about preparation and availability of the EIR. The Port has held public scoping meetings and public hearings to inform the public about the Project, the alternatives, and the associated impacts. Meetings were held in evening hours in surrounding communities in locations that were as close as practical to areas most affected by the Project.

GROUND #14. CONSTRUCTION OF AN IMPORT CAR PARKING STRUCTURE IS INFEASIBLE.

As stated in response to comment CSE(B)-3 in the Final EIR, it is infeasible and impractical to build a permanent parking structure on Pier B, which is not part of the proposed Project. The cost per parking space for a parking structure ranges from \$20,000 to \$25,000. Constructing a 4 or 5-story parking structure on Pier B would add significant cost to the current tenant (Toyota) that may yield no financial benefit. Additionally, if a permanent parking structure is constructed, it could significantly constrain the future use of this terminal.

It is true a portion of the containers will be transported through ICTF and, if it is built, SCIG, however, the ICTF operated by Union Pacific and proposed BNSF SCIG are not under the jurisdiction of the POLB. The Port may only impose mitigation measures and other Project conditions that provide a reasonable relationship to the significant impacts that would occur if the Project is approved. The Port may not go beyond the scope of the impacts created by the Project in formulating mitigation measures.

GROUND #15. A CITIZEN’S ADVISORY COMMITTEE IS ONE OF SEVERAL STRATEGIES LISTED IN THE WHITE PAPER, BUT IS NOT A PUBLIC OUTREACH REQUIREMENT.

The comment reiterates the item noted below for Ground #16 regarding establishment of a PCAC. Please see the Ground #16 response to the same comment.

The comment reiterates the item noted for Ground #2 regarding public outreach recommendations in the Harbor Department Environmental Justice White Paper. Please see the Ground #2 response to the same comment.

GROUND #16. THE PORT HAS PROVIDED OPPORTUNITIES FOR COMMUNITY PARTICIPATION IN THE DEVELOPMENT OF ALL PROJECT-RELATED PUBLIC MITIGATION PROGRAMS.

The comments suggests that the POLB failed to involve the public in the process or to establish a Port of Long Beach Community Advisory Committee (PCAC) and/or the creation of a new Non-Profit Community

Mitigation Organization to administer public health, public safety, environmental and cumulative impacts mitigation and funds as the best method for a successful public mitigation program.

In contrast to this comment, there has been substantial community participation in the development of all Project-related public mitigation programs. There will also be several opportunities for community input on a project-by-project basis. As part of the CEQA process, the public had the opportunity to comment on both the draft and final CEQA document. After project approval, the community would have additional opportunity during the mitigation program solicitation process and, again, at Board consideration of projects proposed pursuant to the guidelines. POLB is recommending that a Mitigation Program Advisory Group (MPAG), composed of a Long Beach community member, an air quality regulatory agency representative, and an industry representative selected by the Executive Director, be formed that would advise staff on projects proposed pursuant to the guidelines (in a manner similar to the Technology Advancement Program Technical Working Group).

GROUND #17. THE ANALYSIS INCLUDED ALL APPROPRIATE PROJECTS IN THE CUMULATIVE IMPACT ASSESSMENT.

The issue of the adequacy of the projects included in the cumulative analysis included in EIS/EIR was addressed in response to comment CSE(B)-6 in the Final EIS/EIR. The specific approved or pending actions identified in Final EIS/EIR Table 2.1-1 were selected because they represent related (i.e. large-scale container terminal) projects that would be growth-inducing, are expected to generate potential impacts concurrently with the Project, and have publicly available information on the project descriptions and impact evaluations. Because new projects are constantly being added to the environmental review process, CEQA authorizes a lead agency to establish a reasonable cutoff date and to limit its analysis of probable future projects to those which are planned or which have had an application made at the time of the cutoff date (San Franciscans for Reasonable Growth v. City and County of San Francisco (1984) 151 Cal.App.3d 61, 74, n. 14.). Several of the projects referenced in this comment, including the ConocoPhillips Los Angeles Refinery – PM₁₀ and NO_x Reduction Projects (SCH# 2006111138), ConocoPhillips Oil Refinery (ConocoPhillips Los Angeles Refinery Tank Replacement Project [SCH # 2008051097]), and Valero Oil Refinery (Ultramar Inc., Valero Wilmington Refinery Rule 1105.1 Compliance Project [SCH# 2007021021]), did not have applications submitted at the time the NOP was published, which provides a reasonable point in time at which to begin the cumulative analysis.

The allegation that the Final EIS/EIR underestimated the public health impacts, number of premature deaths, health risk assessment, and appropriate and feasible mitigation needed to offset the negative, significant, long term permanent and cumulative impacts is incorrect, as described in the responses to Grounds #5 through #8. Additionally, the Final EIS/EIR includes an adequate analysis of Project cumulative impacts and mitigations, as presented in the Final EIS/EIR, pages 3.2-92 through 3.2-95. Therefore, there is no need to create a regional community resident and organization taskforce to make recommendations on the Project cumulative impact assessment, as requested by the comment.

GROUND #18. PROPOSED MITIGATION PROGRAMS ARE ADEQUATE TO ADDRESS PUBLIC AND ENVIRONMENTAL IMPACTS.

With respect to the request to establish a Public Health Care Mitigation Trust Fund, see responses to comments CSE(A)-9, CSE(B)-13, and USEPA(B)-14 in the Final EIR. Final EIR **Mitigation Measure AQ-29** will further mitigate Project cumulative health impacts to the surrounding communities by means such as those identified in the comment as follows:

AQ-29: Cumulative Air Quality Impact Reduction Program. To help reduce cumulative air quality impacts of the Middle Harbor Redevelopment Project, the Port will require the Project to provide funding in support of the Schools and Related Sites Guidelines for the Port of Long Beach Grant Programs and Healthcare and Seniors Facility Program Guidelines for the Port of Long Beach Grant Programs in the amount of \$5 million each. The distribution of these funds to potential applicants and projects will be determined through a public evaluation process and by approval of the Board of Harbor Commissioners.

The timing of the payments pursuant to Mitigation Measure AQ-29 shall be made by the later of the following two dates: (1) the date that the Port issues a Notice to Proceed or otherwise authorizes the commencement of construction on the Phase 1 Construction Contract; or (2) the date that the Middle Harbor Final EIR is conclusively determined to be valid, either by operation of Public Resources Code Section 21167.2 or by final judgment or final adjudication.

The distribution of these funds to potential applicants and projects will be determined through a public evaluation process and by approval of the Harbor Commissioners. The Port has established a clear nexus between these mitigation funds and the project and discussed it with the State Lands Commission which oversees the use of tidelands funds; the proposed tariff has no such demonstrated nexus.

GROUND #19. PROPOSED MITIGATION PROGRAMS ARE ADEQUATE TO ADDRESS PUBLIC AND ENVIRONMENTAL IMPACTS.

Regarding the adequacy of the mitigation programs proposed in the Final EIR, please see the response to Ground #18. Given that the mitigated Project would result in lower air pollutant emissions and health impacts compared to existing terminal operations, the amount of funding proposed for these mitigation programs is more than adequate for CEQA/NEPA purposes.

GROUND #20. THE PORT HAS PROVIDED OPPORTUNITIES FOR PUBLIC PARTICIPATION IN THE DEVELOPMENT OF ALL PROJECT-RELATED PUBLIC MITIGATION PROGRAMS.

The Port has provided the opportunity for affected communities, individuals, organizations, and groups to participate in the EIR process by providing public notifications about preparation and availability of the EIR. The Port has held public scoping meetings and public hearings to inform the public about the Project, the alternatives, and the associated impacts. Meetings were held in evening hours in surrounding communities in locations that were as close as practical to areas most affected by the Project. Additionally new Mitigation Measures were added in the Final EIR based on public comments and suggestions. For example, the Port incorporated **Mitigation Measures AQ-28 and AQ-29** into the Final EIS to additionally address air quality and health impacts from the project. Implementation of these mitigation measures will occur through a public process that allows the surrounding communities to be involved in helping to define the allocation of mitigation funds.

In contrast to this comment, there has been substantial community participation in the development of all Project-related public mitigation programs. There will also be several opportunities for community input on a project-by-project basis. As part of the CEQA process, the public had the opportunity to comment on both the draft and final CEQA document. After project approval, the community would have additional opportunities during the mitigation program solicitation process and, again, at Board consideration of projects proposed pursuant to the guidelines. POLB is recommending that a Mitigation Program Advisory Group (MPAG), composed of a Long Beach community member, an air quality regulatory agency representative, and an industry representative selected by the Executive Director, be formed that would advise staff on projects proposed pursuant to the guidelines (in a manner similar to the Technology Advancement Program Technical Working Group).

GROUND #21. THE REFERENCES TO ACTA'S STAFF RESEARCH AND CONCLUSIONS ON ELECTRIC TRAIN TECHNOLOGIES ARE ACCURATE.

The allegation that POLB staff inaccurately discussed and referenced ACTA's staff's research and conclusions regarding Electric Train Technologies is incorrect. Regarding overhead wires, response to comment CSE(A)-4 in the Final EIR only states that railyards at the ports cannot be electrified because overhead lines would interfere with the loading of containers onto trains.

Response to comment SCAQMD-27 in the Final EIR discusses recent research conducted by POLB on possible zero- or near-zero emission transport technologies as envisioned in the CAAP. In 2007, Cambridge Systematics prepared the Alternative Container Technology Evaluation and Comparison assessment for the Ports of Los Angeles and Long Beach. While the assessment identified 14 candidate

technologies that may prove suitable for a demonstration project between a container terminal and a near- or off-dock rail facility, it also pointed out that none of these technologies has ever been demonstrated to be functionally or financially feasible. Pursuant to its commitments under the CAAP, the Port is exploring feasible technologies and is exploring a zero- or low-emission container movement demonstration project between one marine terminal and a near-dock rail facility.

GROUND #22. POLB DID NOT EXAGGERATE CFASE'S REQUEST FOR ELECTRIFICATION OF RAIL.

The reference in response to comment CSE(A)-4 in the Final EIR to the study that SCAG conducted on electrifying the Southern California rail system in the 1990s was included to provide a reference other than from the Port on how expensive it would be to convert existing rail lines to electric power. Regarding the economic infeasibility of electrifying the rail lines requested in the comment, please see response to comment SCAQMD-27 in the Final EIR. Expecting only terminal operators to fund such a huge endeavor would make it even more economically infeasible, as it would be impossible for these businesses to afford such an expensive technology.

GROUND #23. INITIATING A LEGAL REVIEW OF THE ALAMEDA CORRIDOR USE AND OPERATING AGREEMENT IS BEYOND OF THE SCOPE OF THE NEPA/CEQA PROCESS.

The request to (1) initiate an independent legal review of Alameda Corridor Use and Operating Agreement, (2) have POLB initiate discussions with ACTA for the amendment of the agreement, and (3) hold a public meeting to discuss an amendment to the agreement is beyond the scope of this NEPA/CEQA process. As a point of clarification, the City Attorneys Office reviews all legal documents on behalf of the Port. As stated in the Final EIR/EIS Chapter 10, response to comments CBD-20, CBD-71, and SCAQMD-27, the recommended mitigation measures or operational control measures were not determined to be feasible for the proposed Middle Harbor project or the alternatives considered in the draft and final EIR/EIS. SCAQMD-27 states:

“...With regard to electrification, the Alameda corridor Use and operating Agreement specifically prohibits the Ports from unilaterally mandating rail electrification. Specifically, in Section 2.2(c), the Agreement provides: “Neither POLA, POLB, nor ACTA will require the Railroads to operate Through Trains powered by electric locomotives on the rail corridor unless the railroads voluntarily agree thereto, provided however, if electrification is otherwise required, such requirements shall not be a basis on which any party may terminate this Agreement, but if legally permissible, a Railroad may satisfy the requirement to use electric powered locomotives by using locomotives powered by an alternative energy source acceptable to the appropriate government entities.” (P.15). Thus, any steps toward rail electrification in the future would have to be jointly agreed to by the railroads.

The Port is in the process of reviewing possible zero- or near-zero emission transport technologies as envisioned in the CAAP. In 2007, Cambridge Systematics prepared the Alternative container technology evaluation and Comparison assessment for the POLB and POLA. While the assessment identified 14 candidate technologies that may prove suitable for a demonstration project between a container terminal and a near- or off-dock rail facility, it also pointed out that none of these technologies has ever been demonstrated to be functional or financially feasible. Pursuant to its commitments under the CAAP, the Port is exploring feasible technologies and in 2009 will release a Request for proposals for the design of a zero- or low-emission container movement demonstration project between one marine terminal and a near-dock rail facility. The demonstration project will address certain key operations, including the functionality of the system, the availability of right-of-way to accommodate the system, the capital costs

for the construction of the system and the costs of operation and maintenance, and the needed interface between the terminals and the rail yards.

Functionality: As stated, there are no zero emissions technologies currently in practical operation, so it is unknown whether these technology systems can feasibly transport containers. Although one such technology is being tested in Italy, the testing and construction of such a technology in the POLB would require a minimum of five years according to vendors.

Right-of-way: For such technologies to be feasible, adequate rights of way must be available. The Port has identified potential alignments, but each poses different challenges. The SR-47 alignment requires Caltrans approval; the LA River alignment would require approvals by seven regulatory agencies; and the other alignments may require use of privately owned land or leased marine terminal property, and could impact oil and gas production.

Capital costs and operational/maintenance expenses: Preliminary cost estimates for construction of these technologies range from \$180 to \$264 million per mile. [fn. Alternative Goods Movement Technology Analysis, I-710 Initial Feasibility Study prepared by URS Corporation for the Los Angeles County transportation Authority, January 6, 2008.]

The estimated annual operation and maintenance costs range from \$7.5 to 10.5 million.[fn To be viable, the system must be financially feasible. At this point, there is insufficient data to determine the financial feasibility of a zero-emission container mover system.]

Port/railyard interfacing: the system must integrate with marine terminal and railyard operations. The throughput of the system depends upon the functionality of the interfaces. As yet, none of the systems are service-proven.

Should the Port's demonstration project establish that a zero- or near-zero emission transport technology is operationally and financially feasible; the Port will investigate expanding the system to include the Middle Harbor operations. At this point, it is not financially or operationally feasible to include a zero- or near-zero emission transport technology as a mitigation measure for the Project. However, to help address this concern, the Final EIS/EIR includes a new mitigation measure, Mitigation Measure AQ-25, that requires the terminal tenant in 2015 and every five years thereafter, to review new air quality technological advancements for the purpose of implementing new feasible mitigations."

GROUND #24. THE DISCUSSION OF EPA STANDARDS FOR TIER 3 & 4 WAS RELEVANT TO DEMONSTRATE THAT EFFORTS TO REDUCE EMISSIONS FROM LOCOMOTIVE ENGINES WILL OCCUR BY CLEAN DIESEL TECHNOLOGIES.

The reference in response to comment CSE(A)-4 in the Final EIR regarding the new EPA standards for Tier 3 and 4 locomotives and Electric Container Movement System (ECMS) was made only to show that for the next several years, efforts to reduce emissions from locomotive engines will occur by clean diesel technologies and not electrification.

GROUND #25. POLB ANALYSIS OF NON-INTERMODAL CARGO IS CORRECT AND THE PORT RAIL MASTER PLAN IS UNDER REVIEW.

The comment notes it is not justified to state that non-intermodal (*i.e.*, local) cargo traveling long distances cannot be transported by rail if there are no rail facilities in proximity to the destination, further noting that railroad spurs are built all the time to accommodate new warehouse and distribution centers. The comment also contends that POLB conducted no study or assessment that identifies destinations that do not have rail or that can have rail built to accommodate rail service.

Contrary to these comments, as stated in Final EIR response to comment CBD-20, the Port has planned several Port-wide rail improvement projects to increase on-dock rail use. However, increasing rail use is governed not only by the destination of the goods, but how the goods are shipped. At present, 55 to 60 percent of the goods coming into the Ports are local goods destined within the southern California region (defined as the area within 800 miles of the Ports, including Las Vegas and Phoenix metropolitan areas), whereas 40 to 45 percent travels through the Ports to destinations beyond the local region. Local goods are not currently transported via rail for financial and operational reasons.

As stated in Final EIR response to comment SCAQMD-7, the Project as proposed is designed to maximize on-dock rail facilities. The existing railyard onsite is underutilized and serves only one of the two existing terminals. The proposed Project will combine the operations of two terminals into one, thereby facilitating efficient operation of the proposed Middle Harbor railyard and increasing the number of containers that can travel by rail.

By expanding on-dock rail infrastructure on 47 acres, the Project will accommodate 2,098 annual trains while ensuring sufficient container yard capacity to handle 3,320,000 annual TEUs. Every effort was made from the design and operation perspective to maximize the railyard capacity, taking into account the need for the additional container yard capacity necessary to accommodate projected demand. Even were there a legitimate need for more on-dock rail capacity, which there is not, the planned on-dock rail yard could not be expanded into the planned container yard because railyard to container-yard balance would be impaired, thus creating a less efficient terminal. In light of the physical constraints of the site and the need to provide sufficient container yard capacity to handle the projected cargo throughput, the proposed Project maximizes on-dock rail capacity. The proposed re-use of this site has been carefully planned to ensure adequate space for operations, storage, and trackage that will result in an increase of 613,160 TEUs between the 2030 No Project and 2030 Project alternatives (the only difference in throughput being the design of the site). Parson's railyard capacity model that was employed to estimate the number of containers that could be accommodated by the Project's proposed on-dock rail facilities, assumes that trains are fed constantly with containers. Consequently, the on-dock rail capacity shown in the Final EIR would not be sufficient to accommodate non-intermodal (local) containers traveling to warehouses or distribution centers via rail.

Not only is there not enough on-dock capacity to accommodate non-intermodal (local) cargo by rail, but CFASE asks the Project to do the impossible/impracticable – identify the warehouses and distribution centers to which local cargo will be shipped in 2030 and build rail spurs to each of them. The Port has no control over train destinations, and the decision to build rail spurs is a business decision to be made by Class 1 railroads and the facilities they serve. The Port cannot legally mandate the railroads to build spurs to certain warehouses and distribution centers. If rail service is started to a new destination, the on-dock railyard will support that service.

Moreover, even if excess on-dock rail capacity existed, a sizeable amount of the Project throughput will be made up of low-volume destination cargo that must be assembled at the near- and off-dock railyards throughout the region. Specifically, low-volume-destination containers (*i.e.* non-Chicago-bound containers) oftentimes cannot wait for a unit train to be built on-dock. Rather, these boxes are assembled off-dock from multiple terminals in order to achieve the appropriate volumes to generate a single train in a timely fashion. Therefore, some direct intermodal containers will always need to be drayed to the Intermodal Container Transfer Facility, Hobart Yards, and other railyards throughout the region regardless of the size of the on-dock railyard at Middle Harbor. Further, the Port is currently undertaking a feasibility

study to explore other opportunities for inland port operations (not to be confused with maximizing on-dock rail capacity) that would minimize truck trips.

The comment also noted the need and the public support for a new Port and region rail master plan that will meet future modernization, capacity and velocity needs, environmental and health protection requirements. In direct response, the Port completed the San Pedro Bay Ports Rail Study in 2006 and is currently developing the Inland Port Study in cooperation with the Southern California Association of Governments. Furthermore, SCAG published the Inland Empire Railroad Main Line Study in 2005, which analyzes regional rail infrastructure demand and capacity and identifies potential rail infrastructure improvements. These studies address capacity and velocity needs. Regarding modernization and improved operations to address environmental and health protection concerns, the Port does not have authority over the Class I railyards, and therefore, cannot unilaterally impose modernization of these facilities to address environmental or health concerns. However, the Class I railroads, including BNSF and UP, are moving forward with two modernization projects. These two projects, the Intermodal Container Transfer Facility (ICTF) and Southern California Intermodal Gateway (SCIG), are identified in Table 2.1-1 Related and Cumulative Projects (items 10 and 23) of the Final EIR. These are not approved projects; therefore, the Project Final EIR assumed a worst case scenario. The vehicular trips associated with these related projects were included, but the anticipated benefits of reduced truck trips resulting from more near-dock rail capacity were not included. Without ICTF and SCIG, the transportation model indicates that more cargo would be hauled by trucks to other railyards in the region, primarily the East Los Angeles and Hobart railyards.

GROUND #26. THE ANALYSIS OF ATMOSPHERIC DEPOSITION OF POLLUTANTS WAS ADEQUATE.

As stated in response to comment CSE(B)-24 in the Final EIR, the comment implies that the EIR fails to address atmospheric aerial deposition at the Port. In contrast to this comment, EIR Section 3.3.1.2 (Marine Water Quality) discusses existing atmospheric deposition of pollutants at the Port with additional details provided in the response to comment CBD-83 in the Final EIR. Further, implementation of Final EIR **Mitigation Measures AQ-1 through AQ-29** would reduce Project emissions of particulates compared to existing conditions. The mitigated Project would produce less than significant impacts to the atmospheric deposition of these pollutants to water resources. Therefore, control of Project air pollutants for purposes of mitigating impacts to water resources is unnecessary.

GROUND #27. THE ANALYSIS PROVIDES AN ADEQUATE ASSESSMENT OF GREEN HOUSE GASES.

The Final EIR provides an adequate assessment of GHGs and it includes all feasible measures to mitigate GHGs for the purposes of CEQA/NEPA. The Final EIR includes several specifically-defined measures that will reduce Project GHG emissions. In addition, the Port will dedicate \$5M to the implementation of **Mitigation Measure AQ-28**. In response to an inquiry from the California Attorney General's Office, the Port has already clarified that the funding provided through Mitigation Measure AQ-28 will not duplicate already required measures or fund the mere compliance with law. On April 20, 2009, the Harbor Commissioners adopted a resolution to this effect. Specifically, the Harbor Commission added the following to Guidelines:

As a preliminary matter, no project will be considered for funding pursuant to these Guidelines unless the following criteria are met:

1. Funding may not be used for (a) any mitigation measures specified in an environmental impact report or mitigated negative declaration prepared pursuant to CEQA for a proposed project, or (b) projects to achieve GHG reductions that are required by any law, regulation, permit, court order, order issued by an administrative agency, memorandum of understanding or other legally binding document.

2. Funding shall be used for activities that (a) reduce GHG emissions beyond what would have occurred in the absence of the funding, and (b) need funding to occur in a timely and successful manner (taking into account any available rebates, incentives or tax credits).
3. Funding recipients shall agree that they will not seek credit toward any obligations imposed pursuant to the California Global Warming Solutions Act of 2006 (California Health and Safety Code Section 38500 and following), or seek any credit or offset under any emissions averaging, banking, marketing or trading program. See Attachment 14 to Staff Report.

From the Middle Harbor Redevelopment Project EIS/EIR, the change in GHG compared to the CEQA Baseline ranged from an increase of 41,797 to an increase of 247,058 metric tons CO₂e per year in 2010 and 2030, respectively. Compared to the NEPA Baseline, the change in GHG emissions ranged from reduction of 2,287 to an increase of 36,360 metric tons CO₂e per year in 2010 and 2030, respectively. The required payment of \$5 million would pay for all of the following measures: 700 MWh capacity of solar generation, the conversion of 100,000 square feet of traditional roofs to cool roofs, investment of \$1 million toward energy-efficiency projects, and the installation of 2,500 trees within the Long Beach Urban Forest. A conservative calculation of the corresponding GHG emissions avoidance for this type of project mix would be approximately 22,000 metric tons CO₂e per year. Depending on the types of projects submitted and ultimately approved, \$5 million in grant funding could annually reduce 22,000 metric tons CO₂e per year (based on the project mix just described) to 333,000 metric tons CO₂e per year (based on the most cost-effective projects at \$15/ton CO₂e). This is a fair upper range, as the rate of \$15/ton CO₂e is the fee that SCAQMD used in its recently adopted Rule 2702 – Greenhouse Gas Reduction Program (February 6, 2009). Other research conducted by SAIC indicates that the cost of verified emission reductions range from \$5-\$14 per metric ton of CO₂e. The EIR used the \$15/ton as a conservative evaluation cost-effectiveness level in the Guidelines based on SCAQMD's precedent as to what a "cost-effective" GHG emission reduction project could be. This level also appears to be consistent with the results of the cost-effectiveness analyses that ARB has done for related GHG emission reduction projects.

Depending on the cost-effectiveness of the submitted and approved projects, the grant funding from the Middle Harbor Redevelopment Project could mitigate some or all of these GHG increases. Projects approved pursuant to the Guidelines can be implemented shortly after grant funding becomes available, which will occur once the Middle Harbor Redevelopment Project receives final approval and any appeals have been exhausted. Based upon the long term nature of this project, this would be well before the project begins to add GHG emissions associated with the expanded operation of the redeveloped terminal. Thus, the fee does have a connection to emission reduction for the Project.

Additionally, the Appellants fail to acknowledge the benefits of other mitigation measures, which benefits are not quantified in order to provide a conservative estimate of the project impacts. Those mitigation measures include AQ-14 – LEED, AQ-15 – Compact Fluorescent Light Bulbs, AQ-16 – Energy Audit, AQ-17 – Solar Panels, AQ-17a – Solar Carports, AQ-18 – Recycling, AQ-19 – Tree Planting, AQ-19a – Tree Planting-Transportation Corridors, AQ-20 – Cool Roofs, AQ-21 – Energy Efficient Boom Flood Lights, AQ-22 – Reefer Lighting, AQ-23 Employee Carpooling, and AQ-24 – Mitigation for Indirect GHG Emissions. In particular, AQ-17, AQ-17a, and AQ-24 have the opportunity to reduce or offset a significant amount of GHG emissions totaling nearly 36,000 tons annually by 2030. Indeed, combined with the \$5 million mitigation from A-28, it is highly possible that the mitigation will be sufficient to offset the Project's GHG emissions.

The Project is not subject to the requirements of AB 32. However, the Final EIR used methods recommended by the AB 32 process to estimate Project GHGs. For example, the Final EIR very conservatively assumes that Project refrigerated containers lose 35 percent of their total refrigerants per year, regardless of location. This is an assumption found in the CCAR General Reporting Protocol (Table 3.9), which recommends using an upper bound annual loss rate of 35 percent for commercial air conditioning systems. The 35 percent annual loss rate is a conservative assumption intended for use in *de minimis* determinations. Actual loss rates are expected to be much lower (roughly two percent per

year), as presented in Table 3.9 of the *Guidance to the California Climate Action Registry: General Reporting Protocol* (California Energy Commission June 2002).

Due to the low leak rate of HFCs, the ambient airborne concentration of these compounds would be at very low levels and, therefore, would not cause public health concerns.

GROUND #28. THE ANALYSIS OF PUBLIC NOISE IMPACTS WAS ADEQUATE.

The comment alleges that the Port does not understand that noise levels do not need to exceed state or federal standards to be a public nuisance or cause sleep or rest deprivation and complains that no studies of nearby residents were made to determine if they are having a noise impact. The comment further states that the Port has failed to provide noise mitigation such as soundproof glass windows.

In contrast to this comment, and as also described in the response to Ground 13, above, a litany of potential sources does not, by the sheer number of possibilities, establish significance. The comment does not demonstrate how its assertion of significance was arrived at and provides no criteria on which to base the allegation of significant noise impacts. The revisions to the Final EIR and response to Comment CBD-80 provide considerable background information on the health effects of noise. The cited studies do demonstrate apparent adverse effects in particular circumstances. However, those studies do not establish a link between "significant" health effects in a residential context and the types of noise associated with the Project. The only cited studies demonstrating apparent statistically significant effects are those related to occupational exposures which are typically considerably more intense and elevated over longer time periods than residential exposures. Furthermore, while Port operations would be, as the appeal states, "24/7," they are already at that level. The analysis in the EIR assumed very conservative (that is, high) projections of future project traffic generation and found that the increase related to project operations in future years would be no more than 0.5 dB, an essentially inaudible increment. There is no basis provided in the comment to conclude that this constitutes a significant effect and it would not meet the definition in CEQA Guidelines Section 15382 of "substantial adverse change" in conditions.

Note that the EIR does not rely on state or federal standards for its determination of the significance of noise impacts. As noted in response to comment CBD-73, "it is widely accepted that changes of three dB(A) in the normal environment are just noticeable to most people, thereby establishing a reasonable threshold level of significance. Below this threshold, the change in noise will typically go unnoticed by most people." Three dB is widely accepted among noise experts as a reasonable significance threshold. It is not derived from state or federal regulations.

With respect to the adequacy of mitigation, please refer to the response to comment IX.d in the letter provided by the Center for Biological Diversity on April 27, 2009.

GROUND #29. IT IS OUT OF THE PORT'S JURISDICTION TO CONSIDER ALTERNATIVE SHIP VESSEL ROUTES.

As stated in response to comment CSE(B)-37 in the Final EIR, many of the vessels travelling along the coast of California are not coming from or going to the Long Beach-Los Angeles Harbor. The ports have a joint Vessel Speed Reduction Program (VSRP) that gives Port-bound vessels Green Flag incentives to slow to 12 knots within 40 nm of Point Fermin. These incentives include lower dockage fees and environmental recognition. Moreover, **Mitigation Measure AQ-12**, which requires Ocean Going Vessels (OGV) that call at the Middle Harbor container terminal to slow to 12 knots from the California overwater border to the Precautionary area, will apply to this Project. Please see response to comment NMFS-6 for more information regarding vessel routes. As explained in Section 3.6.1.2 of the Draft EIR, some vessel routes along the coast are proposed by the USCG and approved by the IMO. "Regulated Navigation Areas" are established by federal regulation. Even assuming that alteration of vessel routes would effectively reduce impacts to blue whales or any other whale or marine mammal, for the reasons set forth in Draft EIR Section 3.6.1.2, any effort to alter these routes is infeasible due to the unacceptable liability for collisions that could result. The comment suggests vessel spacing as a way to allow time for passage of whales and other marine mammals. Under current requirements, ships already must maintain 0.25 nm of vessel separation in the Precautionary Zone. See Draft EIR Section 3.6.1.2. Increasing this spacing is

of speculative effectiveness in preventing whale strikes and would require a holding pattern that would increase air emissions and increase the costs of goods delivered to the U.S.

GROUND #30. ALL FEASIBLE VESSEL SPEED REDUCTIONS WERE ADOPTED.

As stated in response to comment CSE(B)-22 in the Final EIR, to minimize GHG emissions from the transit of Project OGV, Final EIR **Mitigation Measure AQ-12** limits the speed of Project OGV to 12 knots between the Precautionary Area and the boundary of California State Waters. This would extend the Project VSRP to a point greater than 100 nm from Point Fermin for the primary Project shipping route (northern).

GROUND #31. ALL PROJECT VESSELS WILL USE 0.1 PERCENT SULFUR FUEL BEGINNING IN YEAR 2012.

Regarding the request to use 0.1 percent sulfur fuel in Project OGVs, the Final EIR states that all Project vessels will use this fuel beginning in year 2012, to comply with the ARB OGV Sulfur Fuel Regulation. The Final EIR includes all feasible measures to mitigate GHGs for purposes of CEQA/NEPA. However, through the implementation of Project **Mitigation Measure AQ-25**, the terminal lease will come under review every five years to facilitate implementation of new feasible mitigations, such as the requested zero- or low-carbon fuels.

GROUND #32. THE ANALYSIS ADEQUATELY ASSESSES THE IMPACTS OF EARTHQUAKES, SEISMICITY, TSUNAMIS, SEICHES, AND RECENTLY PUBLISHED USC STUDIES ON TSUNAMIS.

As stated in response to comment CSE(B)-51 in the Final EIR, the comment inaccurately notes that the Draft EIR evaluation of earthquakes is inadequate. There is no data provided to support the conclusions identified in the comment regarding major earthquake predictions. Draft EIR Section 3.1.1.2 (Regional Seismicity) states the probability of a magnitude 7.0 or greater earthquake occurring in southern California before the year 2024 is estimated at 85 percent. In addition, Draft EIR Section 3.1.1.2 (Seismic Design Basis) indicates site-specific seismic analyses have been completed for the Middle Harbor area, including maximum credible earthquakes, maximum anticipated ground accelerations, and earthquake probabilities. Furthermore, the reports cited in Draft EIR Section 3.1.1.2 (Tsunami) evaluate the potential for a major tsunami in the POLB and POLA as a result of a 7.6 earthquake on the offshore Catalina Fault. This probability would not be increased as a result of the proposed Project, and the Project would not expose people or property to a greater than average risk of tsunamis or seiches, among coastal areas of southern California. The comment is unclear with respect to the specific USC study; however, Jose Borrero of USC is a prominent tsunami expert who has published many articles on the threat of tsunamis in southern California. Mr. Borrero's work was cited in Draft EIR Section 3.1.1.2 (Tsunamis) as Borrero (2001) and Borrero (2005). The latter document describes economic impacts to the Port as a result of a large tsunami. In addition, as indicated in Draft EIR Section 3.1.1.2 (Tsunami), the tsunami modeling that was recently completed for the Port (Moffatt & Nichol 2006a) was based on work completed by Borrero and others.

GROUND #33. THE PROJECT IS CONSISTENT WITH THE WHITE PAPER ON ENVIRONMENTAL JUSTICE AND ADEQUATELY ADDRESSES IMPACTS TO ENVIRONMENTAL JUSTICE COMMUNITIES.

As discussed in Ground #2, the Harbor Department has complied with all public outreach requirements of CEQA and, consistent with the White Paper on Environmental Justice, developed and implemented a robust public outreach program, supported this program with demographic analysis of potentially affected areas, and informed, consulted with, and involved the public, providing opportunities for meaningful public involvement by affected communities. A citizen's advisory committee is one of several strategies listed in the White Paper, but is not a public outreach requirement, (i.e., unlike public comment periods required under CEQA). The Harbor Department believes that the functions of such a committee have been fulfilled by the existing public outreach process.

Furthermore, the comment period was consistent with regulatory requirements including CEQA and the structure of the Final EIR is such that the Responses to Comments chapter, Chapter 10, provides a focused mechanism for evaluating changes from the Draft EIR so that review of the entire document was not necessary to allow adequate public participation and comment on the proposed action.

The comments are noted regarding the SCAQMD MATES II and III Studies. Diesel particulate matter (DPM) is "...the key driver for air toxics risk, accounting for over 80 percent of the air toxics risk." (MATES III Study, SCAQMD, 2008). The MATES III study is based on a 2005 emissions inventory for the South Coast Air Basin, which is now four years old and outdated. There are two drivers that have significantly reduced the emissions inventory around the Ports area, particularly for DPM, that were not incorporated into the MATES III study results:

- The San Pedro Bay Ports Clean Air Action Plan (CAAP) was established by the Ports of Los Angeles and Long Beach in November, 2006, to curb port-related air pollution from trucks, ships, locomotives and other equipment by at least 45 percent in five years. This program has already had a dramatic effect in reducing emissions; for example, the Port of Long Beach recently released their 2007 emissions inventory, which showed that between 2005 and 2007, DPM emissions were reduced by 21 percent (this emissions decrease is attributable solely to emission reduction measures from the CAAP program, because the throughput of containers at the Port actually increased during the 2005 – 2007 period).
- Since 2007, the recession has reduced the throughput of containers at both Ports on the order of 20 percent. With less truck, rail and ship traffic, this should result in a comparable reduction in air toxics emissions.

Taken together, these two drivers have significantly reduced DPM and other air toxics emissions from the San Pedro Bay Ports to below the levels estimated in the MATES III study. More importantly, continued implementation of CAAP emission reduction measures ensures that continued progress will be achieved in reducing cancer risks in the area.

Since the Final EIR includes all feasible measures to reduce air quality impacts from the Project, it adequately mitigates cumulative impacts to Environmental Justice Communities as a result of Project air pollution.

GROUND #34. ALL FEASIBLE MITIGATION MEASURES WERE ADOPTED TO OFFSET SIGNIFICANT AND UNAVOIDABLE IMPACTS.

As stated above, the Final EIR includes all feasible measures to reduce air quality impacts from the Project. Therefore, the Project air quality analysis complies with the requirements of CEQA/NEPA.

GROUND #35. THE PROJECT WOULD NOT RESULT IN SIGNIFICANT IMPACTS TO FISH AND AQUATIC HABITATS, AND NO MITIGATION IS NECESSARY.

As stated in response to comment CSE(A)-11 in the Final EIR, the comment requests that the Port establish a fish hatchery to restore fish populations in San Pedro Bay. The comment does not explain how this request is related to the Project under review in this EIR. The Draft EIR appropriately represents the existing setting for fish populations and assesses potential Project impacts on the environment by comparing the physical conditions in the affected area as they exist at the time the NOP was published to the expected conditions with construction and operation of the Project. As set forth in Section 3.4.2.3 of the Draft EIR, this comparison indicates that the Project's impact on fish populations is less than significant and, therefore, does not require mitigation. Moreover, baseline studies of the harbor since the mid 1980s have not shown a decrease in fish populations (MEC Analytical Systems, Inc. 2002) that would need to be augmented through use of a fish hatchery.

GROUND #36. IMPLEMENTATION OF MAGLEV TECHNOLOGY IS INFEASIBLE AT THIS TIME.

Please see responses to Draft EIR comments CSE(A)-3, CSE(A)-4, and SCAQMD-27. While the requested implementation of Maglev Technology is well intended, it is administratively and economically infeasible to develop this technology to transport Project containers from the POLB to downtown Los Angeles at this time. However, this and other low-emitting technologies are a topic of research for the CAAP Technology Advancement Program (TAP) and could be implemented in the futures based on the lease reopener clause that is included in Project **Mitigation Measure AQ-25**.

GROUND #37. IMPLEMENTATION OF THE CLEAN AIR LOGIX-WITMAR DUAL MULTI-VOLTAGE COLD IRONING SYSTEM IS NOT FEASIBLE AT THIS TIME.

Please see responses to comments CSE(A)-7, CSE(B)-3, and CBD-23 for discussion regarding the use of the Clean Air Logix - Witmar Dual Multi-Voltage Cold Ironing System on Project OGVs at berth. The Port is investing a significant amount of capital in the cold-ironing technology to achieve the greatest emission reductions in the long-term. Due to economic considerations, it would not be cost-effective to implement duplicative technologies to reduce Project hoteling emissions. These alternative technologies are more applicable to terminals with a large percentage of tramp vessels – itinerant vessels that are not on a set liner schedule and which are therefore not economical to retrofit for cold-ironing.

GROUND #38. IT IS INFEASIBLE TO USE THE ADVANCED MARITIME EMISSIONS CONTROL SYSTEM AT THIS TIME.

Please see responses to comments CSE(A)-7 and CSE(B)-3 in the Final EIR for discussion regarding the use of the AMECS on Project OGVs at berth and the response to Ground #37 above. The Port is investing a significant amount of capital in the cold-ironing technology to achieve the greatest emission reductions in the long-term. It would be economically infeasible to install systems like the AMECS for a few years of use, since by 2015 all Project OGVs would cold-iron. It also would not be cost-effective to implement duplicative technologies to reduce Project hoteling emissions.

With respect to conducting comprehensive public cost assessment studies, given that the mitigated Project would result in lower air pollutant emissions and health impacts compared to existing terminal operations, a public cost assessment study is not necessary or appropriate for this Project. In addition to committing to the implementation of feasible project-specific mitigation measures, the Port has committed to further mitigate cumulative air quality and health impacts with **Mitigation Measures AQ-28 and AQ-29** that were incorporated into the Final EIR.

Development of the Project terminal with its improved efficiencies in cargo handling is expected to reduce OGV hoteling durations. This will increase the potential for open berths and reduce the potential for an OGV to wait outside the breakwater. Additionally, this situation (i.e., OGV waiting outside the breakwater) has not occurred for several years at the Project terminal.

GROUND #39. USE OF THE ADVANCED LOCOMOTIVE EMISSION CONTROL SYSTEM WOULD NOT BE EFFECTIVE AS IT IS DESIGNED TO CONTROL EXHAUSTS FROM STATIONARY LOCOMOTIVES.

As stated in the response to Draft EIR comment CSE(B)-3, the use of the ALECS on locomotives in the expanded Pier F intermodal railyard would only be applicable to locomotives that remain stationary for extended periods of time, as the ALECS is designed to control exhausts from locomotives that are stationary in a railyard. Locomotives would only use the Project railyard for switching activities and for the most part would be in constant motion. Locomotives would not remain stationary for activities such as (1) waiting for dispatch or (2) undergoing maintenance. All PHL locomotives have 15-minute idle-limiting devices. Additionally, please see the response to Draft EIR comment CBD-22. The 2005 ARB/Railroad Statewide Agreement and the new EPA Tiers 3 and 4 emission standards both include idling restrictions

for line haul locomotives. Therefore, these restrictions would further reduce idling emissions and preclude the need for the ALECS. Through the TAP program, the Ports are continually looking for opportunities to evaluate and implement new technologies that provide meaningful and cost-effective emission reductions.

GROUND #40. IMPLEMENTATION OF THE VYCON ELECTRIC REGEN SYSTEM IS ECONOMICALLY INFEASIBLE.

As stated in the response to Draft EIR comment CSE(B)-3, incorporation of a Vycon Electric Regen system (a regenerative drive system) on RTG cranes, Final EIR **Mitigation Measure AQ-7a** would replace all diesel-powered RTGs with electrified rail-mounted gantry cranes (RMGs) by the end of proposed construction, or year 2020 at the latest, as the rail lines would have to be constructed and would not be available earlier. **Mitigation Measure 7a** also requires these RMGs to have regenerative drive systems. Implementation of this measure on existing or new diesel-powered RTGs would be economically infeasible, as it would be too costly to implement for only a few years before they are replaced with RMGs.

The Vycon Electric Regen System on RTGs was successfully demonstrated at the Port of Long Beach in 2008 and POLB supports the retrofit with regenerative drive systems of existing RTGs that have sufficient remaining useful life to make significant capital investment economically feasible.

GROUND #41. USE OF ELECTRIC DRAYAGE TRUCKS IS NOT A PROVEN TECHNOLOGY AT THIS TIME.

As stated in the response to comment SCAQMD-19 Final EIR, electrification of yard hostlers is not a proven technology and therefore it is infeasible under CEQ Regulations 40 CFR 1502.16(h) and CEQA Guidelines Section 15126.4(a) due to economic and productivity considerations. Balqon Corporation built a prototype electric vehicle for use as either a drayage truck or yard hostler as a proof of concept. Balqon conducted some initial testing for both yard hostler and minor drayage duty-cycles. Initial drayage testing was only conducted for a single day; however, initial yard tractor testing was conducted for approximately one month. That testing was able to establish proof of concept but was insufficient to demonstrate the commercial, operational, and financial viability of the technology. The prototype unit is no longer in use; however, based on the results of the prototype the Port of Los Angeles (POLA) decided to initially conduct a demonstration of an electric yard hostler at marine terminals where duty-cycle is less demanding than a drayage truck demonstration. Consequently, POLA ordered 20 yard hostler units, at a cost of \$4.3 million for vehicles and chargers, to determine the commercial, operational, and financial viability of the equipment. The demonstration units are expected to be delivered through February and March 2009. As part of the Technology Advancement Program (TAP), the POLB is also participating in the demonstration through the development and implementation of the work plan. Additionally, Balqon has already revised their technology concept and submitted a new application to the TAP in order to demonstrate necessary technology improvements. Should the demonstration of an electric yard hostler prove successful, the Ports will then begin the demonstration of an electric drayage truck. Given the current cost of nearly \$200,000 per unit plus charging equipment (compared to approximately \$60,000 per unit for diesel technology), this technology does not currently represent a financially feasible mitigation absent the conclusions of the demonstration. Since yard hostlers are the most common piece of equipment on a container terminal and the Middle Harbor terminal must compete against other terminals for business, there is the potential that the future tenant could be at a significant economic disadvantage compared with its competitors based on incremental cost described above and operational constraints described below.

There still exist issues associated with the technology that must be assessed for the technology to be successfully incorporated into terminal operators. For instance, the technology takes up to 4 hours to charge and, in the best circumstances, in 1 hour for a partial charge. This is between 20 and 80 times longer than the typical 3-minute refueling time required by conventional technology. In addition, yard hostlers must be able to pull normal weight loads of up to 80,000 pounds and must occasionally pull overweight loads. This contrasts with the capability identified by appellant of being able to pull a 60,000-

pound load. These differences in operation can have a significant impact on operations. For instance, since terminals typically operate 24 hours per day would a terminal operator need to purchase additional units to accommodate those units being charged, potentially increasing the number of units and incremental cost by 50-100%. Alternatively, would specialty units be required for loads that weigh in excess of 60,000 pounds? The answers to these issues are unknown and the subject of the demonstration evaluation through the TAP. All of these issues must be assessed to determine the impact on terminal operations. However, through the implementation of **Mitigation Measure AQ-25**, the Project lease will come under review every 5 years to facilitate implementation of new feasible mitigations, such as electric drayage trucks.

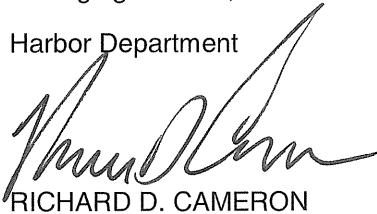
Respectfully submitted,



ROBERT KANTER, Ph.D.

Managing Director, Environmental Affairs and Planning

Harbor Department



RICHARD D. CAMERON

Director of Environmental Planning

Harbor Department



LARRY COTTRILL

Director of Master Planning

Harbor Department



ERIC C. SHEN

Director of Transportation Planning

Harbor Department



THOMAS A. JELENIC

Assistant Director of Environmental Planning

Harbor Department

Approved by:



RICHARD D. STEINKE

Executive Director

Harbor Department