



CITY OF COMMERCE

Joe Aguilar
Mayor

May 12, 2009

Honorable Mayor & Members of Long Beach City Council
City of Long Beach
333 West Ocean Boulevard, 14th Floor
Long Beach, California 90802

Re: City of Commerce- Appeal of Environmental Determination for Middle Harbor
Redevelopment Project

Dear Honorable Mayor and Councilmembers:

Thank you for your consideration of the appeal we filed in connection with the Harbor Commission's certification of the Final Environmental Impact Report (FEIR) for the Port of Long Beach Middle Harbor Redevelopment Project on April 13, 2009.

On April 13, the City of Commerce appeared before the Board of Harbor Commissioners and objected to the certification of the FEIR for the Project. We have previously described the deficiencies in the EIR/EIS in our letters of August 13, 2008 and April 8, 2009 which are incorporated herein by reference. In addition our appeal takes into account the Memorandum dated April 10th to the Board of Harbor Commissioners from Mr. Richard Cameron wherein additional responses were provided to our comments generated on April 8th. This letter addresses our ongoing concerns regarding the adequacy of the EIR and the specific responses to your comments contained within the FEIR.

Our Ongoing Concerns Regarding The Adequacy Of The EIR

The grounds for this appeal are that the Board of Harbor Commissioners did not proceed in the manner required by law, abused its' discretion, and violated the California Environmental Quality Act (CEQA) by failing to comply with CEQA's requirements. More specifically, the Board certified an EIR that is fundamentally flawed in its failure to analyze the project and its related impacts in its entirety:

- Failure to identify and analyze the whole of an action associated with a regional project as required by Public Resources Code 15378 especially as it relates to the projects operations on the surrounding region and specifically the impacts to Commerce. According to CEQA, an EIR and findings must be based on substantial evidence and take into account the project and the whole and its impact on the environment. The flawed and deliberately limited analysis fails to provide an adequate and complete document and violates the basic tenant of CEQA which is full disclosure.

- The FEIR failed to recognize and analyze the operational and synergistic nexus between the Port of Long Beach and the intermodal facilities in Commerce. Two of the largest rail yards in the United States are located in Commerce; therefore the analysis should have reviewed the projected increases at the intermodal facilities in Commerce. The FEIR has failed to do that. As a result, the identification and analysis of other related project components including traffic, air quality and noise are so conclusory in nature as to not afford meaningful public review and comment.
- The FEIR including its response to comments fails to respond to specific and substantial issues raised in earlier comments. Specifically, the additional rail traffic and its related impacts to the City of Commerce remain unaddressed. For example, at 2025 the rail trip traffic is expected to increase by 1,520% from 138 trips in the baseline year of 2005 to 2,098 trips in 2025 with no resulting analysis of the potential impacts.
- Failure to Adequately Notify Stakeholders, & Engage the Affected Communities in Meaningful Discussion: On Friday April 3, 2009 the Final Environmental Impact Report (FEIR) was made available to the commentors for review slightly more than 10 days before your Commission certified the FEIR on April 13th, 2009. This afforded the parties very little opportunity to review the FEIR to ascertain the degree to which is responsive to all concerns/issues raised during the circulation of the Draft Environmental Impact Report (DEIR). The CEQA statutes for preparation of documents and time frames i.e. for circulation, consideration of project impacts are the minimum necessary for review. While meeting the legal requirements, we believe that a project such as this is of undisputable regional significance and the time frame afforded to parties to review the FEIR violates the spirit of CEQA for the public and stakeholders to be fully informed about the proposed project and its impact on the environment.

Our Specific Responses To Your Comments Contained Within The FEIR

CC-1 & CC-2 Response: Responder asserts that subsequent responses CC-4 through CC-8 address these responses. In fact, as is stated previously, it is our opinion that the scope of the analysis for this regional project is deliberately limited so as to exclude from further consideration any possible impacts to affected communities.

CC-3 Train Impacts/Truck Impacts Response:

Commerce is home to four major rail yards. The four yards include approximately 530 acres (inside and outside of Commerce). Of the four, both the Union Pacific (UP) Commerce Yard and the Burlington Northern Santa Fe (BNSF) yards support intermodal activity. The BNSF Hobart Rail yard (a portion of which is located in Commerce) is the largest intermodal rail yard in the United States. According to the Air Resources Board, both the UP and BNSF Rail yards are responsible for the generation of 4.7 million tons of the Toxic Air Contaminant Diesel PM emissions per year for freight and through trains. In addition, an additional 9 million tons of Diesel PM were estimated to be generated at

these two facilities by cargo handling equipment. Much of this equipment will be responsible for handling containerized cargo from the Port of Long Beach.

Despite these numbers, the additional rail traffic and its related impacts to the City of Commerce remain unaddressed. For example, at 2025 the annual rail traffic is expected to increase by 1,520% from 138 trains in the baseline year of 2005 to 2,098 trains in build-out year of 2030, yet the response to this is as follows:

“the Draft EIS/EIR also estimated annual and daily emissions from Project trains that would travel through the City of Commerce. These trains would not stop at the Bandini and Hobart rail yards and therefore impacts attributed to these sources are not directly the result of these facilities. The evaluation of train trips generated out of these rail yards due to Project cargo was not evaluated in the EIS/EIR, as they are deemed to be the responsibility of these facilities and not the Port. In the absence of the expanded Pier F intermodal rail yard, train trips generated by Project cargo still would occur through the City of Commerce, as they would be generated by other near-dock rail yards or the Bandini and Hobart rail yards”.

Surprisingly the FEIR limits the scope of its discussion of impacts to at-grade crossings. Finally the document concludes that the proposed project would not have a significant impact on rail services as the project-related increase could be easily accommodated by the Alameda Corridor without causing any significant impact. While at-grade crossings are important to consider, Section 3.5-20 of the FEIR Ground Transportation (Port Vicinity) states: “Rail-related impacts due to the proposed Project are limited to the at-grade crossings that are located south of the downtown rail yards”. Finally the document concludes that the proposed project would not have a significant impact on rail services as the project-related increase could be easily accommodated by the Alameda Corridor without causing any significant impact.

Truck Traffic Impacts Response:

This response relies on the city’s recently adopted General Plan to provide the background conditions. A City’s locally adopted plans and policies does not relieve a regional project undertaken pursuant to CEQA of the obligation to fully identify and mitigate (when appropriate) its’ impact. The City’s general plan contains a number of mitigations and policies all of which are aimed at mitigating the significant regional and sub-regional traffic issues in the City.

The reference to our recently adopted General Plan wherein it was stated the City converted industrial type land uses to retail resulting in nearly 8,000 daily vehicle trips with no mitigations is a mischaracterization. In this specific instance, the aforementioned land has been (based on market forces and demands) transitioning to commercial. In spite of this, much of this land has yet to be redeveloped. If and when it is, it will be subject to further CEQA review and analysis based on project specific information.

The project FEIR continues to understate the traffic impacts especially the truck impacts to the City of Commerce. The project analysis relies on an am/pm peak analysis which for an operation such as the Port of Long Beach is a 24 hour/day use. While am/pm counts traffic counts and projections are appropriate for many types of land uses, it is common practice to tailor a traffic analysis to the specific hours of operation and

operational characteristics of the proposed use. For example, am/pm analysis for certain types of uses i.e. office and some manufacturing may be appropriate; other types of land uses should instead rely on an early pm/late pm protocol.

CC-4/CC-6 Air Quality & Noise Impacts Response:

As stated previously, the EIR limited the scope of its analysis to a geographically limited area for traffic and rail impacts. By narrowly defining the transportation grid serving the project, it significantly "skews" the results for other related areas including air quality and noise. Obviously, a project that will generate much of its cargo moving capacity by emphasizing an expansion of on-dock rail capacity will by extension affect the modes of transportation serving the project. In addition, both the UP and BNSF facilities directly are adjacent to (and in the case of UP) directly abut sensitive receptor sites including residential neighborhoods, parks, and schools.

CC-7 Environmental Justice Considerations Response:

The EIR response contends that as there are no significant traffic impacts to Commerce as the analysis reveals less than significant traffic (truck and rail) impacts and no resulting impacts for environmental justice consideration. The responder goes on to cite the existence of a separate but related project, the I-710 Corridor Improvement Project which is currently in the early stages of the EIR/EIS preparation and the extensive community outreach and participation afforded Commerce on that project. While the City is taking an active role on the project, it is premature to ascertain the air quality benefits to Commerce of the proposed project at this time. Furthermore, CEQA requires the proposed project take into account all other projects/improvements that are reasonably foreseeable and analyze them within the context of the proposed project. Citing a separate but related project does not limit a lead agency's responsibility to fully identify and study a project and impact on the environment and when necessary fully mitigate its impacts where required to do so.

CC-8 Mitigations Response:

As stated previously, limiting the scope of breadth of the projects' analysis fails to fully identify all the environmental impacts of the whole of the project. The City of Commerce maintains that further study is necessary (especially of the potential traffic and rail impacts) to the City and if warranted the creation of specific mitigations which are both realistically implemented and fully enforced must be considered.

CC-9 Cumulative and Growth Inducing Impacts Response:

The narrow limits of the project analysis have significantly restricted the full identification of environmental issues for all affected parties. Therefore, it is the City's position the

FEIR is flawed in its analysis and should be re-circulated for proper review and consideration.

Conclusion

Commerce recognizes the regional importance of such a project. In fact, when the benefits of the project are mentioned i.e. jobs, international trade, there can be no doubt

of its truly regional significance. As such, it is incumbent upon the project proponents to assume a more expansive view of the project as it relates to both its benefits and potential impacts.

In addition to re-circulating the FEIR to afford additional analysis, we recommend that the Council urge the Harbor Commission (as has been recommended by other stakeholders) to prepare an "off-port nexus study" or similar such document to truly identify and analyze the projects' impacts on the region as a whole.

Given the operational link between Commerce and Long Beach as it relates to the proposed I-710 Improvement Project, we encourage careful analysis of the need for the proposed dedicated truck lanes serving the rail yards in Commerce as are being considered for the I-710 Improvement Project. This is done in light of the traffic assumptions discussed in the FEIR wherein the document finds a less than significant impact from truck trips to Commerce generated by the expanded Middle Harbor project.

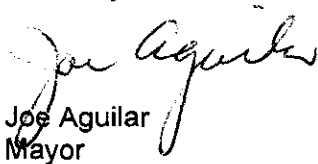
In addition, we believe it is critical for both the I-710 Improvement Project as well as the Middle Harbor Project wherein Long Beach is the lead agency for all responsible agencies, permitting authorities or participating agencies to make a commitment to identify and implement mitigations for air quality whenever necessary.

Future Consideration

The communities of Commerce and Long Beach are linked via the transportation network in a national movement of goods. As such we strongly suggest that you acknowledge the operational linkages to Commerce and that you include and fund other jurisdictions within the mitigation plan for the project and that both cities join in an alliance to pursue funding opportunities i.e. infrastructure and environmental quality grants, that benefit and make positive changes to the air quality and the environment for our residents. This includes supporting clean air technologies including the clean truck program, clean locomotive technologies at the rail yards, and port container fee legislation.

Thank you for your consideration.

Sincerely,


Joe Aguilar
Mayor

Attachments

cc: Honorable Mayor Bob Foster and City Council members
Jorge Rifa, City Administrator
Robert Zarrilli, Director of Community Development



CITY OF COMMERCE

Joe Aguilar
Mayor

April 23, 2009

City Clerk Department
City of Long Beach
333 West Ocean Boulevard, Lobby Level
Long Beach, CA 90802

Re: City of Commerce - Notice of Appeal of Environmental Determination for Middle Harbor
Redevelopment Project

Dear City Clerk:

Pursuant to Long Beach Municipal Code Section (LBMC) 21.21.507, the City of Commerce hereby formally appeals the Harbor Department's environmental determination to the City Council. The basis for this appeal is the Board of Harbor Commissioners certification of the Final Environmental Impact Report (FEIR) for the Port of Long Beach Middle Harbor Redevelopment Project on April 13, 2009.

On April 13, the City of Commerce appeared before the Board of Harbor Commissioners and objected to the certification of the FEIR for the Project. Consequently, this appeal is made within the time allotted by Section 21.21.507 of the LBMC.

This appeal relies upon the Draft EIR (DEIR), comments the City of Commerce and others submitted on the DEIR, the Harbor Commission's response to those comments, the FEIR, and both the City of Commerce's written responses to the FEIR. In addition, the appeal takes into account the Memorandum dated April 10, 2009, to the Board of Harbor Commissioners from Mr. Richard Cameron wherein additional responses were provided to our comments generated on April 8, 2009. Attached for your review and consideration are all of the above documents.

Our April 8, 2009, letter along with our verbal presentation on April 13, 2009, shall serve as evidence that each ground for appeal was submitted by the appellant or another person before the environmental determination as set forth in LBMC 21.21.507 (E) (3). In addition, the written speaker card as well as other evidence of the City of Commerce's participation at the hearing is in possession of the Harbor Commission.

It is our contention that the Board certified an EIR that is fundamentally flawed in its failure to analyze the project and its related impacts in its entirety as follows:

- Failure to identify and analyze the whole of an action associated with a regional project as required by CEQA Guidelines Section 15378 especially as it relates to the project operations on the surrounding region and specifically the impacts to Commerce.
- The project study area boundaries were drawn in such a way so as to deliberately limit the scope of the analysis in the EIR and the impacts to be considered.

Letter to City Clerk Department, City of Long Beach
Notice of Appeal of Environmental Determination for
Middle Harbor Redevelopment Project
April 23, 2009
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- The project will increase truck and train trips significantly, yet fails to analyze the effects such trips will have on the City of Commerce, and therefore such impacts will not be mitigated in the City of Commerce.
- The FEIR including its response to comments fails to respond to specific and substantial issues raised in comments. Specifically, the additional rail traffic and its related impacts to the City of Commerce remain unaddressed.
- On Friday April 3, 2009 the Final Environmental Impact Report (FEIR) was made available to commenting parties for review just 10 days before your Commission certified the FEIR on April 13th, 2009. This afforded the parties very little opportunity to review the FEIR to ascertain the degree to which is responsive to all concerns/issues raised during the circulation of the Draft Environmental Impact Report (DEIR). The CEQA statutes for preparation of documents and time frames for circulation and review of the project are the minimum necessary for review. While meeting the legal requirements for circulation, we believe that a project such as this is of undisputable regional significance and the time frame afforded to parties to review the FEIR violates the spirit of CEQA for the public and stakeholders to be fully informed about the proposed project and its impact on the environment.

According to CEQA, an EIR and findings must be based on substantial evidence and take into account the project and the whole of the impact on the environment. The flawed and artificially limited analysis fails to provide an adequate and complete document and violates the basic tenant of CEQA which is full disclosure.

Notwithstanding this appeal, which must be made to preserve our legal rights, the City of Commerce remains committed to a cooperative resolution. On behalf of the City of Commerce I am willing to meet with the Long Beach City Council staff or representatives to work towards a solution to the rail impact issues, in lieu of proceeding to litigation, including further analysis and mitigations.

Thank you for your consideration in advance. Please do not hesitate to contact me or my staff if I can be of further assistance in resolving the concerns expressed herein. I may be reached at (323) 722-4805, extension 2258.

Sincerely,

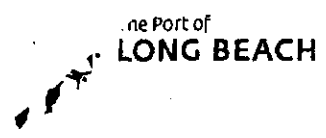


Joe Aguilar
Mayor

Attachments

cc: Honorable Mayor Bob Foster and City Council members
Jorge Rifa, City Administrator
Bob Zarrilli, Director of Community Development

Alex H.



Memorandum

Date: April 10, 2009
To: Board of Harbor Commissioners
From: Richard D. Cameron, Director of Environmental Planning *RC*
Subject: Middle Harbor – Response to City of Commerce Letter of April 8, 2009

After the close of business on Thursday, April 9, 2009, the City of Commerce (“Commerce”) e-mailed a letter to Port staff in which Commerce asked that the Port delay consideration of the Middle Harbor Redevelopment Project (“Project”) and certification of the Project’s Final EIR to allow Commerce time to evaluate and respond to the Final EIR. A copy of the letter is attached hereto.

As you are aware, Commerce already submitted a letter regarding the Draft EIR. The Final EIR included an extensive response to that letter. See Final EIR, Chapter 10, pages 10-171 to 10-180.

In its April 9th letter, Commerce asserted that because the Final EIR “was made available to the public for review and comment . . . less than 10 business days” before the Board’s April 13th meeting, this violated the spirit and intent of CEQA.

Further, Commerce asserted that the EIR should have been re-circulated due to the complexity of the Project and its regional importance.

Finally, Commerce asserted that the EIR was deficient because it did not adequately evaluate the noise, traffic, or air quality impacts of the Project’s additional train trips.

Staff believes Commerce is incorrect on all counts, and that Project consideration and EIR certification should not be delayed. While the Port has no obligation to prepare written responses to letters received after the close of the Public Comment Period (August 8, 2008), Port staff has nonetheless prepared this response to the Commerce letter. A copy of this response has been sent to Mayor Aguilar.

First, there is no requirement that a final EIR be released “for public review and comment,” as Commerce suggests. CEQA requires only that:

1. A lead agency respond in writing to comments received during the comment period on a draft EIR; and
2. When a public agency comments on the draft EIR, the lead agency shall provide the written responses to that public agency at least 10 calendar (not business) days prior to certification of the EIR. (14 Cal. Code Regs § 15088(a) and (b).)

The Port has complied with these requirements, and thus has not violated either the spirit or intent of CEQA.

Second, there is no requirement that an EIR be re-circulated prior to certification simply because a project is complex or of regional importance. Recirculation is required only where significant new information is added to the draft EIR after the draft was made available for public review, showing that (i) a new significant environmental impact would result from the project or from a new mitigation measure proposed to be implemented; (ii) a substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted that reduce the impact level of insignificance; (iii) a feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the significant environmental impact of the project, but the project's proponents decline to adopt it; and (iv) the draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded. (14 Cal. Code Regs § 15088.5(a).) Recirculation is not required where new information is added to the EIR that merely clarifies or amplifies or makes insignificant modifications in an adequate draft EIR. (*Id.* § 15088.5(b).) Here, the new information that was added to the Draft EIR merely clarified, amplified, or made insignificant modifications to an otherwise adequate EIR, and thus recirculation was not required.

Third, the Final EIR comprehensively evaluates the noise, traffic, and air quality impacts due to increased rail activity in the proximity of the Project, in the environs of Commerce, and in the region. As the EIR explains, daily trains would increase from 0.378 in 2005 to 5.75 in 2030 because of the Project, an increase of 5.37 trains per day. The increase in daily trains due to the Project would only be around 3.5 trains over the "no project" condition in 2030. As there are no at-grade crossings in Commerce, and because the rail spurs in Commerce are not used by Port trains, there would be insignificant traffic impacts in Commerce from rail activity due to the Project. Further, because the Project operations contribute no more than 0.5 dB to ambient noise levels in the vicinity of the Port, and because both rail and truck traffic from the Project would disperse in different directions after leaving the Port, the "less than significant" noise levels near the Port would be even lower in Commerce. As for air quality impacts, the EIR includes exhaustive analysis of both the construction and operational air quality impacts. The EIR examined the Project for exceedences of SCAQMD's threshold of significance for the criteria air pollutants, and also studied the off-site ambient concentrations of air pollutants. It did this for both construction and operation, and then even combined construction and operation emissions at the request of SCAQMD. The EIR also analyzed the Project's potential for odor impacts, toxic air contaminants, and GHG emissions. With mitigation, the Project will have operational emissions below the SCAQMD thresholds. The Final EIR addresses each of the issues Commerce raised regarding air quality issues. (See Final EIR pages 10-178 to 10-180).

Thus, because (i) the responses to comments were provided to the commenters, including Commerce, in compliance with CEQA; (ii) the new information that was added to the Draft EIR did not deprive the public of a meaningful opportunity to comment on the Project, and (iii) the EIR adequately evaluated noise, traffic, air quality, and other impacts due to the Project's additional train trips, the consideration of the Project and the certification of the Final EIR should not be delayed.

cc: The Honorable Joe Aguilar, Mayor, City of Commerce

Attachment: Letter from City of Commerce, dated April 8, 2009



CITY OF COMMERCE

*Jose Aguilar
Mayor*

April 8, 2009

Mr. Richard D. Cameron
Director of Environmental Planning
Port of Long Beach Administrative Building
6th Floor, Board Room
925 Harbor Plaza
Long Beach, CA 90802

Re: Comments/Concerns on Middle Harbor Redevelopment Project FEIR/FEIS

Dear Mr. Cameron:

On Friday April 3, 2009, the Final Environmental Impact Report (FEIR), Final Impact Statement (FEIS) for the Middle Harbor Redevelopment Project was made available to the public for review and comment (herein after referred to as the FEIR). This occurred less than 10 business days before your Commission is set to certify the FEIR and consider the project for final approval on April 13th, 2009. This affords the public as well as stakeholders, very little opportunity to review the FEIR to ascertain the degree to which is responsive to all concerns/issues raised during the circulation of the Draft Environmental Impact Report (DEIR). The City of Commerce believes this very short time frame for review of the voluminous FEIR (especially on the eve of a decision by your Commission) violates the spirit and intent of CEQA by not allowing for the public and stakeholders to be fully informed about the proposed project and its impact on the environment.

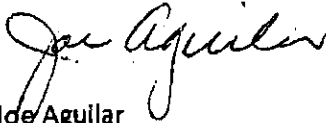
The City of Commerce originally provided comments on the DEIR last August. Our staff is in the process of reviewing your teams' response to our comments as well as the entire FEIR. In reviewing the responses to comments in the FEIR, it is clear your project team believed that none of the numerous comments made by Federal, State, and Local Agencies as well the general public and stakeholders, were sufficient to warrant recirculation of the EIR. We believe given the complexity of the project and its regional importance that should have been the case. In our case, it is clear that the responses to our comments fall short of addressing the concerns we have, especially as it relates to the additional rail traffic and its related impacts to the City of Commerce.

In summary, we believe that the FEIR has not looked at the impacts (i.e. noise, traffic, or air quality) of the significant additional train trips in Commerce or the region. Even if these were long-haul trips, as characterized in the DEIR, there are obvious impacts with a large increase in

annual train traffic estimated at project build out. A project that is of regional importance must identify and analyze its environmental impact on the region and its area of potential effect. Based on these concerns, we hereby respectfully request that consideration of the project and certification of the FEIR be delayed to allow us time to properly evaluate and respond to the FEIR.

Thank you for your consideration in advance.

Sincerely,

A handwritten signature in black ink that reads "Joe Aguilar". The signature is written in a cursive style with a large, prominent initial "J".

Joe Aguilar
Mayor

cc: Council members
Jorge Rifa, City Administrator
Robert Zarrilli, Director of Community Development

City of Commerce, August 13, 2008

- CC-1.** The comment suggests that the Draft EIS/EIR fails to analyze the Project's impacts on the intermodal facilities in the City of Commerce. Please see response to comments CC-4 through CC-8 for additional details.
- CC-2.** The comment correctly summarizes the proposed Project description as stated in Draft EIS/EIR Chapter 1 (Section 1.6.3.1).
- CC-3.** Commenter requests additional analysis of the Project's impacts on the broader region. Commenter erroneously assumes that railyards in Commerce, by extension, are port facilities and that any enhancement of the Port's ability to accommodate freight and goods movement will have an adverse impact on those intermodal facilities in Commerce. Commenter requests that information on additional train and truck traffic affecting the City of Commerce be provided.

Train Impacts: As discussed in detail below, the response to this comment regarding rail impacts is two-fold: First, the two main rail corridors, including the BNSF and UP connecting the Ports to the Hobart and East Los Angeles railyards via the Alameda Corridor, have no at-grade crossings in the City of Commerce. There are several rail spurs connecting these two Class I rail corridors to warehouses, industrial uses, and distribution centers in the City of Commerce. Although some of these spurs traverse roadways at-grade, the spurs are not used by Port trains. Trains traveling from the Project would be destined for long-haul destinations outside of the southern California region. Short-haul trips to nearby distribution centers, retail centers, industrial uses, and warehouses will continue to occur by truck. The Project is not anticipated to alter the existing operations of these facilities, and therefore the Project will not have an impact at the at-grade crossings.

Secondly, the number of trains anticipated to traverse Commerce via the Alameda Corridor is contained in Table 1.6-1 of the Draft EIS/EIR. This table indicates that the Project would increase the number of trains traveling from the Middle Harbor container terminal to downtown Los Angeles via the Alameda Corridor from 0.378 per day in 2005 to 5.75 per day in 2020 and beyond, an addition of 5.37 trains per day. The analysis assumed an average length of 7,600 feet for each train. Existing train lengths generally vary from 6,000 to 8,000 feet. The primary rail corridors serving the Ports are grade separated. There will be no traffic impacts resulting from Project generated trains.

Truck Traffic Impacts: The commenter claims that the increase in truck traffic will likely have a direct and measureable impact on Commerce. However, the ultimate source of congestion and delays on transportation facilities in the City of Commerce, including at-grade rail crossings, is from planned and approved land developments and the associated population and employment growth that has occurred on either side of long-standing railroad rights-of-way. The City of Commerce's 2008 General Plan Update⁷ and its certified EIR describe the City as follows: "Industrial uses account for 62.7 percent of the City's land area (2,630 acres) and these activities are located throughout Commerce. Land uses in this category range from warehousing and distribution activities to heavy manufacturing uses. In addition, a substantial amount of land area in the City is devoted to railyards and related railroad uses." As part of the General Plan Update approved in 2008, the City converted some industrial type land uses to retail resulting in the addition of nearly 8,000 daily vehicle trips. In spite of the existing congestion on roadways and freeways, this increase was deemed to have no significant impact, and therefore, no traffic mitigation measures were included.

⁷ <http://www.ci.commerce.ca.us/od/EnvironmentalImpact.pdf>

In 2030, Project average daily truck trips are estimated to be 10,112, which is 3,548 above the 2005 CEQA Baseline (Table 1.6-1 in the Draft EIS/EIR). However, this number includes future traffic growth that will occur without the Project. Analyzing the Project's truck traffic impacts in the City of Commerce using the same methodology that the City uses for analyzing traffic impacts (the Los Angeles CMP Traffic Impact Analysis guidelines), which measures project impacts by comparing "Future without Project" to "Future with Project traffic," the Project impact is only 518 daily trips. Even if all these trips ran through the City, this number of trips is well-below the nearly 8,000 vehicle trips resulting from the City of Commerce's General Plan Update (2008), which were deemed by the City to be less than significant.

CMP also includes a significance threshold of 150 trips in any one direction for determining an impact on a freeway. As shown in Table 3.5-23 of the Draft EIS/EIR, in 2030 the peak hour trucks on I-710 will be 131 during the p.m. peak hour in the northbound direction south of Willow Street. Moreover, as explained below, the truck trips would be even fewer in Commerce due to the dispersal of trucks on various other highway routes. This is below the level of significance; therefore, no mitigation is required.

Additional select link analysis was conducted to provide the commenter with more detailed information about the number of Project trips anticipated to travel to Commerce. According to the traffic model, the highest volume of Project trucks traveling on I-710 is 55 trucks in the northbound direction during the p.m. peak hour, which is defined as 4:00 p.m. to 5:00 p.m. Of these trips, the model projects that 20 trucks would exit Atlantic Boulevard in the City during this period. According to the City of Commerce's General Plan EIR, Atlantic Boulevard carries 28,500 trips per day, including 331 trips during the p.m. peak hour. Thus, the addition of 20 Project trucks is anticipated to result in less than a significant impact.

A select link analysis of the traffic model was also conducted to compare the difference in traffic volumes between 2030 with and without Project scenarios. When the "Future with Project" is compared to the "Future without Project", the analysis reveals that there is a nearly immeasurable difference with the Project, as the Project would result in no additional truck trips on the I-710 north of I-105. The No Project Alternative (2030) actually results in more truck trips in Commerce than the Project or alternatives in the northbound direction.

Location	2030 Project p.m. Peak Hour (northbound)	2030 No Project p.m. Peak Hour (northbound)	2030 p.m. Peak Hour Difference (northbound)	2030 Project p.m. Peak Hour (southbound)	2030 No Project p.m. Peak Hour (southbound)	2030 p.m. Peak Hour Difference (southbound)
I-710 North of I-405	173	141	32	113	98	15
I-710 North of SR-91	85	79	6	62	59	3
I-710 North of I-105	55	56	-1	46	46	0
I-710 at Atlantic Blvd	22	33	-11	16	15	1
Atlantic Blvd. NB Off-Ramp	12	9	3	16	15	1

CC-4. The Final EIS/EIR provides an adequate analysis of air quality impacts for NEPA/CEQA purposes. Annual and daily emissions generated by Project truck traffic that would travel through the City of Commerce to their first point of rest are included in the Draft EIS/EIR. These truck trip destinations would include the Bandini and Hobart railyards. Implementation of the expanded Pier F intermodal railyard would reduce the number of truck trips generated between the POLB and Bandini and Hobart railyards compared to existing conditions and, therefore, would reduce localized impacts from truck traffic to all receptor types within the City of Commerce.

The Draft EIS/EIR also estimated annual and daily emissions from Project trains that would travel through the City of Commerce. These trains would not stop at the Bandini and Hobart railyards and therefore impacts attributed to these sources are not directly the result of these facilities. The evaluation of train trips generated out of these railyards due to Project cargo

was not evaluated in the EIS/EIR, as they are deemed to be the responsibility of these facilities and not the Port. In the absence of the expanded Pier F Intermodal railyard, train trips generated by Project cargo still would occur through the City of Commerce, as they would be generated by other near-dock railyards or the Bandini and Hobart railyards.

The ARB is in the process of evaluating and mitigating air quality impacts from these and other railyards in California. These analyses evaluate existing plus future growth emission scenarios from these facilities. Information on ARB's Railyard Emission Reduction Program, including HRAs and air quality mitigation plans for the Bandini and Hobart railyards, is available on the ARB website at <http://www.arb.ca.gov/railyard/railyard.htm>.

- CC-5.** Commenter incorrectly asserts that the Draft EIS/EIR does not analyze the effects that the Project's additional direct and secondary truck trips will have on the freeway segments, major thoroughfares, and local streets and roads that serve the City, and considers only the effects of truck trips directly related to Port operations. Commenter further states that the Project does not consider mitigation for the freeways.

Please refer to response to comment CC-3 for a detailed explanation, including a table that summarizes anticipated Project truck trips in Commerce. Please also refer to responses to comments CT-2 through CT-4 for detailed information about the Project's fair share contribution to the I-710 Corridor Project.

- CC-6.** The comment implies that the Project would have cumulative noise impacts at sensitive receptor locations adjacent to intermodal facilities in the City of Commerce due to increased rail and truck operations. However, even though Project operations would generate significant truck traffic impacts on the Port's perimeter roadways (Draft EIS/EIR Section 3.5.2.3). As stated in Draft EIS/EIR Section 3.9.2.3 (Impacts NOI-1.2 and NOI-2.2), Project operations would contribute no more than 0.5 dB to ambient noise levels in the vicinity of the Port and would not exceed LPMC maximum noise levels adjacent to sensitive receptors sites on local surface streets and the Port's perimeter roadways. Both rail and truck traffic from the proposed Project would be less in Commerce than in the immediate vicinity of the Port because Project rail and truck traffic would disperse in different directions. Consequently, the less than significant noise levels near the Port would be even lower in Commerce, including at sensitive receptors near the intermodal facilities. As explained in Section 3.5 of the Draft EIS/EIR and in responses to comments CC-3, CC-5, and CC-7, the Project's rail and truck traffic does not cause significant impacts in the City of Commerce. Consequently, Project operations would not generate significant noise impacts at sensitive receptor locations adjacent to City of Commerce intermodal facilities. As a point of clarification, freeways and interstate highways across the nation serve as transportation corridors for regional goods movement. Additionally, the comment does not acknowledge the contribution of planning by local land use agencies in the region to reduce noise impacts on sensitive receptors adjacent to intermodal facilities. For example, truck and rail operations that support intermodal facilities in the City of Commerce are a direct result of the land use permitting of intermodal facility operations. Truck and rail traffic that transports containers to and from intermodal facilities in the City would have been addressed in the CEQA analysis conducted for those facilities. Therefore, no revisions to the Final EIS/EIR are required.

- CC-7.** Commenter asserts that the analysis of environmental justice needs to consider the effects of additional truck trips on the affected minority and low-income populations of Commerce.

Please refer to response to comment CC-3 regarding City of Commerce's General Plan Update (2008) EIR determination of less than significant traffic impacts, as well as the CMP traffic impact discussion. No mitigation measures were identified in the General Plan EIR because the traffic generated by the planned goods movement land use types was deemed to be less than significant. As the Project traffic impacts are well below the threshold of significance in Commerce, no mitigation is required. Even though the Project would not have

a significant impact on the community of Commerce, it should be noted that the Los Angeles County Metropolitan Transportation Authority (Metro), in cooperation with Caltrans, is managing the preparation of an EIS/EIR for the I-710 Corridor Project. Preparation of the EIR/EIS includes a comprehensive public outreach process to address key issues, such as environmental justice. Several stakeholder groups participate in guiding the project alternatives, including elected officials, residents, and technical staff from various agencies and each City adjacent to the freeway. The City of Commerce has been actively involved in participating in the design of the proposed freight corridor, which is envisioned as four truck lanes connecting the railyards to the Ports. The freight corridor alternative would address several of the issues raised by the commenter. As stated in response to comment CT-2, the Port is committed to working with Caltrans and regional transportation agencies to improve the transportation system and mitigate the impacts of goods movement. The Project's anticipated fair share for I-710 improvements is included in Draft EIS/EIR Section 3.5 (Table 3.5-23).

CC-8. This comment incorrectly asserts that the Project affords mitigation measures to Long Beach residents that are not extended to additional areas, including the City of Commerce. Consistent with NEPA and CEQA requirements, the Draft EIS/EIR incorporates all feasible mitigation measures to address the significant impacts of the proposed Project. If those impacts occur in Long Beach, then the mitigation measures would apply in Long Beach. If, however, a significant impact of the proposed Project had been identified in Commerce, then feasible measures to mitigate the impacts in Commerce would have been imposed on the Project. Because the Draft EIS/EIR found no significant impacts in Commerce, no specific mitigation measures applicable only in Commerce have been identified.

The Draft EIS/EIR incorporates all feasible mitigation measures to address the significant environmental impacts of the proposed Project. The Draft EIS/EIR incorporates all feasible mitigation measures that reduce impacts on air quality, transportation, noise, and environmental justice from proposed construction and operational activities that are capable of being accomplished in a successful manner within a reasonable period of time, taking into consideration economic, environmental, legal, social, and technological factors (CEQA Guidelines Section 15364). Accordingly, the analysis presented in the document meets the requirements of NEPA and CEQA.

Please see response to comment CC-4. In addition to the mitigation measures proposed by the ARB through the Railyard Emission Reduction Program, **Mitigation Measure AQ-8**, Heavy Duty Trucks, which requires container trucks that call at the Middle Harbor container terminal to comply with the Port's CTP tariff, would reduce localized air quality impacts from Project trucks that travel in the City of Commerce. Additionally, many other Project mitigation measures would directly reduce the impact of Project emissions that may occur in the City from the POLB and offshore waters. Conversion of the national line haul locomotive fleet to adopted EPA Tiers 3 and 4 non-road standards also will substantially reduce emissions from Project trains that traverse through the City in future years.

CC-9. This comment suggests that the Draft EIS/EIR fails to address cumulative and growth inducing impacts outside the Port area and requests recirculation of the Draft EIS/EIR. The Draft EIS/EIR incorporates programmatic, project-specific, and cumulative analyses for all environmental issue areas that would potentially be impacted by the proposed Project. The Draft EIS/EIR has appropriately evaluated the Project's environmental effects and identified mitigation measures and reasonable alternatives to avoid significant environmental impacts. Accordingly, the USACE and the Port believe that the analysis presented in the document meets the requirements of NEPA and CEQA and therefore, recirculation is not warranted.



CITY OF COMMERCE

Joe Aguilar
Mayor Pro Tem

August 13, 2008

Dr. Robert G. Kanter, Ph.D.
Director of Environmental Affairs & Planning
Port of Long Beach
925 Harbor Plaza
Long Beach, CA 90802

Subject: Middle Harbor Redevelopment Project EIR

Dear Doctor Kanter:

The purpose of this letter is to provide you with our initial comments regarding the Middle Harbor Redevelopment Project Draft Environmental Impact Report (EIR). The document consisted of three distinct elements that included a Draft EIR, a Draft Environmental Impact Statement (EIS), and the Application Summary Report. The report in its entirety was nearly 3,500 pages in length and covered a wide range of issues. Given the length and scope of the document, we were surprised that no mention was made regarding the proposed project's impact on the intermodal facilities in Commerce which are operationally connected to the Port's intermodal activity. The Long Beach Port operations have had, and will continue to have, a direct and measurable impact on the intermodal facilities in the City of Commerce. An expansion of the Port's capacity along with the increased truck and train traffic will certainly translate into increased truck and train traffic in the Commerce community.

The EIR/EIS evaluated the potential impacts of the proposed project together with a wide range of project alternatives which are required pursuant to the California Environmental Quality Act (CEQA) and the National Environmental Policy Act (NEPA). Our comments are generally limited to the analysis completed for the *Alternative 1 - 345-Acre Alternative* that is identified as the proposed project. We have also limited our comments to those specific issues that are of immediate concern to the City of Commerce. Our comments address the proposed project's potential for generating air quality, traffic, noise, and environmental justice impacts that could affect Commerce. Simply stated the EIR/EIS fails to recognize and analyze the operational and synergistic nexus between the Port of Long Beach and the intermodal facilities in Commerce.

Overview of the Proposed Project:

The proposed project involves the following elements according to the project description provided in the draft EIR/EIS:

- The rehabilitation and/or replacement of deteriorated and obsolete terminal facilities;
- The provision of deep water berth facilities and the dredging of basins and channels within the port area;
- The creation of new land along with the modernization of marine terminal facilities; and,
- The implementation of certain environmental controls including as a means to accommodate a portion of the predicted future increases in containerized cargo volume and the larger cargo vessels that will be accommodated by the improved facilities.

When completed, the Port project would consist of one consolidated container terminal that would be designed to load and unload containerized cargo to and from ocean-going vessels. When completed in the year 2030, the terminal would accommodate approximately 3,320,000 containers per year. This is an increase of 2,055,979 containers over the existing number of containers handled on an annual basis (an increase of more than 162% over the existing levels). The baseline figure was assumed to be 1,264,021 containers which represented the number of containers handled in 2005.¹ The terminal operations would also result in a maximum of approximately 364 vessel calls per year compared to 185 vessel calls per year in 2005.

Truck trips to and from the Middle Harbor container terminal would also increase from the 2005 baseline average of 6,528 truck trips per day to more than 10,112 truck trips per day in the year 2030.² In addition, 2,098 annual train trips were projected at maximum capacity in 2030 to accommodate the Port's future projected container terminal operations. This is an increase of 1,972 annual trains over the existing baseline of figure of 126 trains per year.

Scope of the Project

The EIR identified the scope of the project and essentially focused on the project's potential impacts in the port area only. However, the analysis failed to consider the broader impacts associated with the project's operations on the surrounding region and specifically the impacts to Commerce. The intermodal facilities in Commerce are operated in support of the intermodal activities at the Port of Long Beach. By extension, the Commerce facilities

¹ The NEPA baseline figures for container throughput shown in Table 1.6-4 of the draft EIR/EIS projected 2,910,000 containers being handled at the port under full capacity.

² The same NEPA baseline figure for truck trips at build-out without the project was 9,830 trucks per day. Table 1.6-4 also projected more vessel calls under the 2030 baseline (416 per year) compared to that envisioned for the proposed project under build-out (364 per year). While some ambient growth may be assumed, it is unclear how the unimproved facilities could be expected to accommodate more vessel calls compared to the proposed project. The significant port activities identified for the NEPA 2030 baseline are very close to those identified for the proposed project's 2030 build-out. The inflation of the 2030 baseline will reduce the level of impact when comparing the proposed project's impacts in 2030 with the 2030 NEPA baseline.

are port facilities. For example, the annual number of trains would increase from the existing baseline of 126 annual trains to more than 2,098 annual trains at build-out. This increased train traffic would result in an adverse impact, not only on the City of Commerce which contains two of the region's largest rail yards, but also those communities located along the mainline routes. As indicated in the introduction of this letter, any enhancement of the Port's ability to accommodate freight and goods movement will have an impact on those intermodal facilities in Commerce. The draft EIR/EIS needs to indicate the additional train traffic that would be expected in the City of Commerce as a result of the additional train traffic arising from the increased Port operations.

The same is true for truck traffic which would increase to the current baseline of 6,528 daily truck trips to more than 10,112 daily truck trips. The draft EIR/EIS only analyzes these impacts as they relate to the port and the immediate area. However, this increased truck traffic and rail traffic would likely have a direct and measurable impact on those communities such as Commerce that contain rail yards, intermodal facilities, mainlines, and warehousing. However, no analysis or indication of the potential localized impact is provided in the draft EIR/EIS. The draft EIR/EIS needs to indicate the truck traffic that would be expected in the City of Commerce as a result of the increased port operations.

Air Quality Impacts

The City of Commerce is also concerned that the proposed project will result in localized air quality impacts associated with increased truck traffic and rail traffic. The Bandini rail yard and the Hobart rail yard are among the largest in the western United States and will be a direct recipient of some portion of the increased rail traffic associated with the Port improvements. The increased rail traffic using the Alameda Corridor that will be funneled into these local rail yards needs to be evaluated.

Unfortunately, the draft EIR/EIS fails to mention the nature and extent of truck and rail traffic in Commerce and the attendant emissions that could impact nearby sensitive receptors. A large number of Commerce residents live next door or in the immediate area of these large rail yards and are continually exposed to the emissions from locomotives and trucks. Any increase in rail traffic will have a dramatic and deleterious impact on local residents that are presently exposed to toxic air emissions from the existing rail yard operations. The draft EIR/EIS must include an analysis of local air quality impacts in Commerce arising from the additional truck and train traffic and the analysis must focus on those sensitive receptors located within Commerce.

Ground Transportation

The City is equally concerned that the proposed project's growth inducing impacts as they relate to truck traffic. The addition of more than 3,316 truck trips (as measured from the 2005 baseline) over the existing number will lead to significant congestion on the area roadways and freeways. The draft EIR/EIS states that the analysis does not consider mitigation for the freeways because the Port lacks jurisdiction over the Caltrans facilities. However, the EIR/EIS fails to provide any analysis as to the impacts that would be expected

outside the Port area from the addition of more than 3,316 trucks per day. These 3,316 additional daily truck trips are only those directly related to Port operations. The increased berth capacity and the attendant increase in containers (an increase of more than 160%) will lead to many more thousands of truck trips that are secondary in nature.

The City of Commerce is concerned that the proposed project will have a significant adverse impact on those freeway segments, major thoroughfares, and local streets and roads that directly serve the City. The draft EIR/EIS makes no mention of the potential truck traffic impacts that could be expected in Commerce, a community directly linked to the Port's intermodal operations.

Noise

The substantial increase in rail traffic and truck traffic will translate into significant increases in mobile noise on local freeways and streets. In addition, the increased container operations at the two rail yards will result in significant stationary noise impacts. The Draft EIR/EIS does not evaluate the proposed project's growth inducing and cumulative noise impacts outside of the port area: specifically, those residential neighborhoods located in Commerce adjacent to the intermodal facilities. The draft EIR/EIS needs to identify the nature and extent of any increased rail and truck operations in the City of Commerce along with the identification of the attendant noise impacts that could affect the thousands of local residents that live next door to those intermodal facilities.

Environmental Justice

The draft EIR/EIS acknowledges the proposed port project may have an adverse impact on low income and minority populations living and working in the immediate area of the port. As indicated above, the City of Commerce is concerned with the proposed project's truck traffic and rail traffic and the attendant traffic impacts, air quality impacts, and noise impacts on those persons living and working in the City which also includes many minority and low income residents. The analysis of environmental justice needs to consider other affected populations that are located outside the port area. As we have stated repeatedly in our comments, the facilities in Commerce are directly linked to the intermodal activities at the Port. Any changes in the Port's operations will translate into corresponding changes in the operation of local intermodal facilities.

Mitigation

Throughout this letter, the City has expressed concerns as to the potential for significant and adverse impacts on the community. In the absence of a thorough and complete examination of these impacts, the nature and extent of any needed mitigation is unknown. The draft EIR/EIS must contain mitigation measures that will be effective in eliminating or reducing the impacts of the project on our residents. At a minimum, the mitigation measures that are required to protect Long Beach residents must also be applied to Commerce so our residents are afforded similar protection.

Conclusions

Given the failure of the draft EIR/EIS to adequately address the cumulative and growth inducing impacts outside the Port area, the City of Commerce requests that the incomplete analysis be expanded to consider the proposed project's impacts on the City of Commerce and its residents. We also believe that these revisions will require the EIR/EIS to be re-circulated. In this way the City of Commerce, with significant intermodal facilities in service to the Port of Long Beach, may have an opportunity to clearly understand the proposed project's impact on our community.

Should you have any questions or concerns, please do not hesitate to contact our City Administrator Jorge Rifa at (323) 722- 4805.

For the Mayor and City Council,



Joe Aguila
Mayor Pro Tem

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