ATTACHMENT 8

HARBOR DEPARTMENT'S RESPONSE TO THE ISSUES ON APPEAL

City of Commerce

City of Commerce Appeal Issue 1:

EIR fails to identify and analyze the whole of an action associated with a regional project required by CEQA Guidelines Section 15378 especially as it relates to the project operations on the surrounding region and specifically the impacts to Commerce.

Harbor Department Response to Issue 1:

Truck Traffic Impacts: The Project study area appropriately reflects the area of potential impact. The EIR analyzed the regional area for truck traffic impacts, which area extended well beyond the study area. The boundaries of the study area were ultimately based on where those potential traffic impacts would end.

The truck traffic analysis includes the locations in the close Project proximity required for regional biennial congestion monitoring in the Los Angeles County Metropolitan Transportation Authority (Metro) Congestion Management Program (CMP). The CMP addresses the impact of local growth on the regional transportation system. The CMP was specifically created for the following purposes:

- To link local land use decisions with their impacts on regional transportation and air quality;
- To develop a partnership among transportation decision makers on devising appropriate transportation solutions that include all modes of travel.

Two CMP freeway monitoring locations in the Project vicinity were identified, and impacts of the Project and its alternatives at these locations were analyzed. Neither the proposed Project nor the Project alternatives would add (i) 50 or more trips during either the AM or PM peak hours at CMP monitoring intersections, or (ii) 150 or more trips in either direction during the AM or PM peak hours at CMP freeway monitoring locations, which are the threshold criteria in the CMP manual requiring the preparation of a traffic impact assessment. Therefore, under the CMP methodology, which applies to jurisdictions beyond the City of Long Beach, the traffic impacts of the Project on highway segments were insignificant, and a traffic impact assessment regarding those impacts did not even have to be prepared. The EIR utilized a more conservative methodology for highway segments in the study area in Long Beach (comparing "future project" against "2005 CEQA baseline"), determining that the Project would have significant impacts on six highway segments out as far as the I-405, which impacts were unavoidable because the mitigation of those impacts was under the jurisdiction of Caltrans, rather than the City of Long Beach.. However, because traffic impacts are reduced the farther away the traffic is from the Project vicinity due to the dispersal of traffic on the various highway segments, the traffic impacts would be even less significant in Commerce than indicated under the CMP methodology

and the more conservative methodology used in the study area. Therefore, the EIR appropriately analyzed the whole of an action in relation to the operation of the Project, including the associated air quality impacts.

Moreover, the ultimate source of congestion and delays on transportation facilities in the City of Commerce, including at 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 Update and its certified EIR describe the City as follows: "Industrial uses account for 62.7% 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 rail yards 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.

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 CMP guidelines), which measures project impacts by comparing "the future without project" to "the 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.

As stated, the CMP includes a significance threshold of adding 150 trips in any one direction during the peak hour for determining whether an impact analysis even needs to be prepared regarding impacts on freeway segments. 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 PM peak hour in the northbound direction south of Willow Street. 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 PM peak period, which is defined as 3:00 p.m. to 7:00 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 PM Peak Hour. Thus, the addition of 20 Project trucks over a four hour period is anticipated to result in less than a significant impact.

As set forth in response to comment CC-3 (FEIR, p. 10-178), a select link analysis of the traffic model was also conducted to corroborate that there would be less than significant truck traffic impacts from the Project in Commerce. When the "Future with Project" is compared to the

"Future without Project" alternative, the analysis reveals that there is a nearly immeasurable difference with the Project, as the Project would result in a maximum of only 4 additional truck trips on the I-710 north of I-105 in the southbound direction. The No Project 2030 Alternative actually results in more truck trips in Commerce than the Project Alternative in the northbound direction.

Train Impacts: Similarly, there would be no significant rail impacts from the Project in Commerce. The two main rail corridors, including the BNSF and UP connecting the Ports to the Hobart and East Los Angeles rail yards 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. Some of these spurs traverse roadways at-grade. 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.

Further, the number of trains anticipated to traverse Commerce via the Alameda Corridor is contained in Table 1.6-1 of the EIR. This table indicates that the project would increase the number of trains traveling from Piers D/E/F 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 7,500 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.[1]

City of Commerce Appeal Issue 2:

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.

Harbor Department Response to Issue 2:

The study area generally consists of those locations which have the greatest potential to experience significant traffic impacts due to the Proposed Project. As stated, the Project study area appropriately reflects the area of potential impact. The EIR analyzed the regional area for truck traffic impacts, which area extended well beyond the study area. The boundaries of the study area were ultimately based on where those potential traffic impacts would end.

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[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.

It is a standard traffic engineering practice to include in the study area those intersections that are in close proximity to the Project site; are within the Project vicinity and documented to have existing operational issues; and are projected to experience a greater share of Project-related traffic.

As far as the regional analysis is concerned, the CMP addresses the impact of local growth on the regional transportation system. Neither the proposed Project nor the Project alternatives will add 50 or more trips during either the AM or PM peak hours at CMP monitoring intersections or 150 or more trips during either the AM or PM peak hours at CMP freeway monitoring locations, as stated in the CMP manual as the threshold criteria for a traffic impact assessment. Two CMP freeway monitoring locations in the Project vicinity have been identified and impacts of the Project and its alternatives at these locations have been analyzed.

According to the CMP, the geographic area examined in the Traffic Impact Analysis ("TIA") must include the following, at a minimum:

- All CMP arterial monitoring intersections, including monitored freeway on- or off-ramp intersections, where the proposed project will add 50 or more trips during either the a.m. or p.m. weekday peak hours (of adjacent street traffic).
- If CMP arterial segments are being analyzed rather than intersections, the study area must include all segments where the proposed project will add 50 or more peak hour trips (total of both directions). Within the study area, the TIA must analyze at least one segment between monitored CMP intersections.
- Mainline freeway monitoring locations where the project will add 150 or more trips, in either direction, during either the a.m. or p.m. weekday peak hours.
- Caltrans must also be consulted through the Notice of Preparation (NOP) process to identify other specific locations to be analyzed on the state highway system.
- If the TIA identifies no facilities for study based on these criteria, no further traffic analysis is required.

The intersection locations selected for analysis were based on: the above criteria; existing intersection/corridor operations; data obtained from the Port's focus travel demand model; the experience and knowledge of locations; and the anticipated distribution of Project vehicular traffic. Therefore, the traffic study area used in the EIS/EIR is comprehensive, and identifies and represents the potentially significant traffic impacts related to the Project. The Project does not have the potential to result in significant impacts at other intersections in the City of Commerce beyond those intersections selected for analysis in the traffic study.

City of Commerce Appeal Issue 3:

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.

Harbor Department Response to Issue 3:

Please see response to Issue 1 above.

City of Commerce Appeal Issue 4:

The FEIR fails to address the additional rail traffic and its related impacts to the City of Commerce remain unaddressed.

Harbor Department Response to Issue 4:

Please see response to Issues 1 and 2 above regarding the lack of Project impacts on Commerce.

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.

City of Commerce Appeal Issue 5:

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 [it] 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.

Harbor Department Response to Issue 5:

CEQA does **not** require that a Final EIR be released for public review and comment, as suggested by Commerce. Rather, CEQA requires that the lead agency provide written responses to a public agency on comments made by that public agency at least 10 days prior to certifying the EIR. (14 Cal. Code Regs. § 15088(b).) As Commerce admits, the written responses to its comments on the Draft EIR were provided by the Port to Commerce 10 days prior to the Board's certification of the EIR, and thus the Port complied with the legal requirements of CEQA. Furthermore, the Project EIR process not only met, but it exceeded, "the spirit of CEQA". The certification of the Final EIR was the culmination of an environmental review process that began in 2005, when the Harbor Department issued its Notice of Preparation for the EIR in cooperation with the U.S. Army Corps of Engineers (USACE). Two public meetings were held in 2006 on the EIR to get input from other agencies and the public regarding the scope of the EIR.

Taking into account the comments received during the scoping process, the Draft EIR was released in May 2008, and two public hearings were held on the Draft EIR. The Draft EIR was circulated for over 80 days, which included extra time, beyond what was required (45-days are required by CEQA), so that the public would have ample time to submit comments and questions. A total of 66 comment letters were received on the Draft EIR. There were a total of 584 individual comments. Harbor Department staff and the environmental consultants responded in writing to each comment. Those responses are set forth in Chapter 10 of the Final EIR. Both staff and the consultants carefully reviewed all of the materials and concluded that the responses were complete and accurate, and that the Final EIR fully complied with all legal requirements, including CEQA, the State CEQA Guidelines, and the local CEQA guidelines. Based upon this record, the Harbor Commission adopted a resolution certifying the Final EIR, making certain findings, adopting a Statement of Overriding Considerations, adopting a Mitigation Monitoring and Reporting Program, and approving a Level III Harbor Development Permit.

In addition to meeting the responsibilities outlined in the California Environmental Quality Act, the Harbor Department implemented an extensive outreach plan to educate and engage stakeholders in the review of the Draft EIR for the Middle Harbor Redevelopment Project. The outreach was aimed at the general public, residents, businesses, port employees, elected officials and media to educate and create awareness about the project. These initiatives included:

- Community workshops, meetings, and public hearings
- Legal notices and advertisements in newspapers
- Articles posted to the Port's public internet website, and its internal, employee intranet site
- News releases sent to hundreds of reporters and directly to thousands of email subscribers
- Feature articles in Port publications distributed to all 150,000 postal customers in Long Beach
- Articles in the Port's email newsletters
- Videos produced and distributed internationally

- Special Pulse of the Port video segment

Throughout the environmental review, Harbor Department staff briefed the regulatory agencies, City Council representatives, and a wide variety of community, environmental and business interests. The purpose of an EIR is not to generate paper, but to ensure that decisions are made with environmental consequences in mind. CEQA requires that decisions be informed and balanced, but the California Supreme Court has admonished that CEQA must not be turned into an instrument for the oppression and delay of social or economic development or advancement. The EIR, and the process afforded the public to review and comment on the EIR, set forth the environmental consequences of the Project, and provided the Board with more than adequate information to allow the Board to make an informed and balanced decision. The time frame afforded to all stakeholders thus complied with not only the letter of CEQA, but with the spirit of CEQA, as well.

Respectfully submitted,

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