City of Seal Beach

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June 25, 2008

Port of Long Beach
Attn: Richard D. Cameron, Director of Environmental Planning
925 Harbor Plaza
Long Beach, CA 90802

SUBJECT: **CITY OF SEAL BEACH COMMENTS RE: *"DRAFT EIS/EIR – MIDDLE HARBOR REDEVELOPMENT PROJECT (SCH NO. 2004091010)"***

Dear Mr. Cameron:

The City of Seal Beach has reviewed the above referenced Draft Environmental Impact Statement/Environmental Impact Report (DEIS/EIR) prepared by the U.S. Army Corps of Engineers and the Port of Long Beach, dated May 2008, and has several comments relative to the document. This document was not able to be reviewed by the City Council due to the close of comments prior to the next available City Council meeting. Therefore, the following comments reflect the official position of the City of Seal Beach on this environmental document. CSB-1

Section 3.2, Air Quality and Health Risk:

Page 3.2-3, Criteria Pollutants, 4th paragraph, last sentence: This sentence appears to have inadvertently had some language deleted. Please review and revise as appropriate.

The proposed project is close enough to the City of Seal Beach as to cause concern regarding environmental impacts upon our community. Our comments are primarily directed at the information, conclusions, and proposed mitigation measures set forth in Chapter 3, Environmental Setting and Project Impacts, Section 3.2, Air Quality and Health Risk. Our comments are based on a consistent position of the City to support project mitigation measures that address the substantial health risks of port operations, based on the study released by the State of California Air Resources Board titled "*2006 Diesel Particulate Matter Exposure* CSB-2

CSB-2 *Assessment Study for the Ports of Los Angeles and Long Beach*" ("the ARB Report").

Due to significant health risks identified within the ARB Report from existing diesel particulate emission from both the Ports of Los Angeles and Long Beach the City of Seal Beach has consistently supported efforts by the Ports of Los Angeles and Long Beach and the State of California Air Resources Board to implement project mitigation measures and regulatory mechanisms to reduce both diesel particulate matter and other toxic air contaminants from the operations of the port facilities. Seal Beach is clearly identified within the ARB report as being impacted adversely by the health risks identified within the study, and is almost totally located within the identified 100-200 isopleths for all emission sources from the port facilities[1].

In addition to the general exposure to citizens discussed in the document a large portion of Seal Beach is developed with a 7,700 person senior living community, Seal Beach Leisure World. This senior living community is completely located within the identified 100-200 isopleths for all emission sources from the port facilities. Leisure World comprises approximately 6,000 housing units, with a population of approximately 6,600 persons 65 or older, or approximately 86.5% of the total population of Leisure World.

The City concurs with the analysis presented regarding Impact AQ-6, and discussed on pages 3.2-39 through 3.2-62, and the resulting determinations of no significant impacts. The City commends the Port for the imposition of Mitigation Measures AQ-4 through AQ-11 to further reduce the identified health impacts. These actions will have a positive and substantial beneficial effect on the health of more than 2 million persons within the Los Angeles-Orange County region that are currently impacted by the adverse impacts of diesel particulate matter and toxic air contaminate emissions from the overall port operations of the Ports of Los Angeles and Long Beach.

CSB-3 *Section 3.5, Ground Transportation*:

This section describes the "area of influence" for ground transportation that is evaluated within the subject document. Throughout this section the document and accompanying Figures consistently indicate impacts along the I-110, I-710, I-405 and SR-91 transportation corridors that are impacted by the proposed project but provide no description of the impacted roadway segments or on-off ramp locations. Throughout this section the references are consistently described such as "I-405 Freeway south of I-710 Freeway," etc. The document should be revised to clearly

[1] Figure 1, "Estimated Diesel PM Cancer Risk from POLA and POLB", page 8, "*Diesel Particulate Matter Exposure Assessment Study for the Ports of Los Angeles and Long Beach – Final Report*," April 2006

indicate the extent of the freeway segments that are adversely impacted by the proposed project. It is impossible to determine for how far south of the I-710 freeway impacts extend along the I-405 freeway. The same comment relates to the various Figures in this section, in particular to Figure 3.5-1, Study Area, which indicates that other locations along the I-110, I-710, I-405 and SR-91 are "Off Map." All of the impacted transportation corridor segments should be clearly identified on a map that is easily understandable to the reviewing public. CSB-3

Until there is a clear description of the impacted freeway segments, Seal Beach is concerned that the project may be creating unidentified impacts to the I-405 Freeway a substantial distance from the I-710 intersection. The document should be revised to clearly indicate the boundaries of those freeway segments that are adversely impacted in accordance with the identified significance criteria.

If there are impacts identified along the I-405 corridor extending into Seal Beach, it is requested that additional discussions be held with the City of Seal Beach Director of Public Works, Vince Mastrosimone, and the appropriate personnel from the Caltrans District Office for Orange County to discuss those impacts and any appropriate mitigation measures. CSB-4

Section 3.6, Vessel Transportation: CSB-5

This section discusses the waters serving Middle Harbor and the combined shipping, vessel movement controls and safety features, and accident potential for both the Port of Long Beach and the Port of Los Angeles. Figure 3.6-1, *Location of Breakwaters, Entry Gates, and Anchorages within Long Beach Harbor*, clearly indicate the identified anchorages within the Middle and Long Beach Breakwaters.

The subject document indicates that the proposed project would be anticipated to serve approximately 364 ships a year, an increase of 179 vessels per year over current operations. On many occasions there are large ships anchored off-shore of Seal Beach that are awaiting the availability of docking facilities at either POLB or POLA. The impacts of the proposed project, and its potential impacts on this existing situation regarding anchorages outside of the breakwaters are not discussed within the document.

Given the increase in vessel operation, and the approximately 9-year construction time period, it is requested that the document be revised to discuss the existing and potential impacts on anchorage facilities outside of the breakwaters of the proposed project. That analysis should include the analysis and mitigation of any identified impacts that will occur both during the 9-year project implementation timeframe and during the full operation of the Middle harbor facilities upon project completion.

CSB-6 *EQCB Authorization to Execute Comment Letter:*

The Environmental Quality Control Board (EQCB) considered and discussed the Draft EIS/EIR document on June 25, 2008 and authorized the Chairman to sign this letter indicating the official comments of the City of Seal Beach.

Upon the preparation of the Final EIS/EIR, or a re-circulated Draft EIS/EIR if determined appropriate for this project, please send 4 hard copies and a digital copy, if available, to Mr. Lee Whittenberg, Director of Development Services, City Hall, 211 Eighth Street, Seal Beach, 90740. Thank you for your consideration of the comments of the City of Seal Beach. If you have questions concerning this matter, please do not hesitate to contact Mr. Whittenberg at telephone (562) 431-2527, extension 1313, or by e-mail at lwhittenberg@ci.seal-beach.ca.us.

Sincerely,

Mario Voce

Mario Voce, Chairman
Environmental Quality Control Board
City of Seal Beach

Distribution:

Seal Beach City Council
Seal Beach Environmental Quality Control Board

City Manager
Director of Development Services

Dan Schaeffer, Administrator
Golden Rain Foundation

City of Seal Beach, June 25, 2008

CSB-1. The paragraph cited in the comment has typographical errors. This text has been corrected in the Final EIS/EIR.

CSB-2. Your comment is appreciated and will be forwarded to the Board of Harbor Commissioners. The Final EIS/EIR includes additional mitigation measures that would further reduce health risks to the community compared to those identified in the Draft EIS/EIR**.** For example, new **Mitigation Measure AQ-2a** will require BMPs during construction and new **Mitigation Measure AQ-25** requires the terminal tenant in 2015 and every five years afterwards to review new air quality technological advancements for the purpose of implementing new feasible mitigations. Additionally, the response to comment LBUSD-26 regarding new Final EIS/EIR **Mitigation Measure AQ-29**, which would further mitigate Project cumulative air quality impacts.

CSB-3. Commenter asserts the Draft EIS/EIR should more specifically describe the impacted freeway segments and on-off ramp locations where Project impacts may occur, so that it can be determined, for example, how far south of the I-710 impacts extend along the I-405. The count locations on I-405 have been specified in the Final EIS/EIR Section 3.5 (Table 3.5-1).

CSB-4. Commenter requests that the Port discuss any impacts and develop appropriate mitigation measures with the City of Seal Beach and Caltrans District 12.

Based on the traffic volumes, there are no impacts identified along I-405 extending south into the City of Seal Beach. Based on the Port's Transportation Model, under the year 2030 proposed Project traffic conditions on the I-405 freeway south of I-710 is expected to generate the following traffic volumes (PCEs):

Highway/Freeway Links	Auto		Bobtail		Chassis		Container		Total PCE	
	In	Out	In	Out	In	Out	In	Out	In	Out
NB I-405 Fwy s/o I-710 SB I-405 Fwy s/o I-710	A.M. Peak Hour									
	3	0	0	0	0	0	0	0	3	0
	0	12	0	12	0	1	0	12	0	51
	MD Peak Hour									
	1	0	0	0	0	0	0	0	1	0
	0	8	0	17	0	1	0	16	0	61
	P.M. Peak Hour									
	2	0	0	0	0	0	0	0	2	0
	0	22	0	14	0	1	0	14	0	67

As shown in the table, the PCE trips on I-405 are anticipated to be below the Los Angeles County CMP threshold of 150 trips per hour. Therefore, the Project trips would result in a less than significant impact.

CSB-5. The comment requests analysis of potential impacts on anchorage facilities outside the breakwaters of the proposed Project. Container ships rarely use anchorages either inside or outside of the breakwater. Once a pilot boards the ships, they go directly to the berths. The anchorages adjacent to Seal Beach are used by the USCG.

The comment correctly notes that the proposed Project would result in an increase of 179 annual vessel calls. However, as the proposed Project would deepen navigation channels and upgrade existing wharf infrastructure to accommodate larger container vessels, the Project would better serve ships that visit the Port. Consequently, as the Project would increase and optimize cargo handling efficiency and capacity of the Port, it is reasonable to assume that the very rare instances of container ships anchoring outside the Port would be reduced. Furthermore, the Project would not change the number of existing anchorages outside the breakwaters of the Project. Therefore, no revisions to the Final EIS/EIR are required.

CSB-6. Thank you for your comment. Four hardcopies and an electronic version of the Final EIS/EIR will be submitted to the City of Seal Beach.

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long beach unified school district

BUSINESS DEPARTMENT - Business Services
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August 7, 2008

Via email:cameron@polb.org
Via Facsimile: (562) 901-1728

Mr. Richard D. Cameron
Director of Environmental Planning
Port of Long Beach
925 Harbor Plaza
P.O. Box 570
Long Beach, California 90802

Re: Comments on the Draft EIS/EIR for the Middle Harbor Redevelopment Project, Long Beach, California

Dear Mr. Cameron:

The Long Beach Unified School District (LBUSD or District) appreciates the opportunity to comment on the Middle Harbor Redevelopment Project (Project) Draft Environmental Impact Statement/Environmental Impact Report (DEIS/EIR) released May 19, 2008 by the Port of Long Beach (Port) and the U.S. Army Corps of Engineers (Corps or USACE). The USACE is the federal lead agency for National Environmental Policy Act (NEPA) compliance and the required Environmental Impact Statement (EIS) for the proposed Project; the Port is the state lead agency for California Environmental Quality Act (CEQA) compliance and the Environmental Impact Report (EIR) for the Project. LBUSD-1

OVERVIEW

Long Beach Unified School District was originally established in 1885 with fewer than a dozen students meeting in a borrowed tent and is now fully responsible for providing school facilities and public education services to approximately 88,000 students in 95 public schools in the cities of Long Beach, Lakewood, Signal Hill, and Avalon on Catalina Island. It is the third-largest school district in the state of California and employs more than 8,000 teachers and staff, making it the largest employer in the City of Long Beach

In addition to establishing high standards of academic excellence for its students, LBUSD is committed to providing a safe environment and school facilities for its students and employees. Thus, the District's primary concern in its review of the DEIS/EIR is to distinguish the environmental impacts which must be properly addressed, analyzed, and mitigated to assure an environment conducive to learning. We are particularly concerned

LBUSD-1 with potential impacts on schools due to toxic air contaminants, traffic and noise from the Project.

LBUSD-2 **GENERAL COMMENTS**

Proximity to Schools

Comment # 1 (General): District schools are potentially impacted by Project emissions, noise and traffic associated with construction and operation of the Project. The District requests that the final EIS/EIR clearly identify the location of schools in the vicinity of the Project so that impacts to schools can be evaluated.

Discussion: LBUSD owns and operates 12 educational facilities within approximately 2 miles of the project area boundary. Two schools are less than 0.5 mile from the project area boundary (Chavez ES and Edison ES). Based on our review of the project alternatives, we believe that District schools would be directly and indirectly impacted to varying degrees depending upon which of the alternatives is selected and the distance of the school from the project boundary, nature and timing of construction activities, and traffic routes.

School facilities within 2 miles of the project area boundary that are potentially impacted by the lead agency's action are listed below; distance and direction from project area boundary is also indicated.

Chavez ES: 730 W. 3rd St., Long Beach, CA; 1,500 feet E

Edison ES: 625 Maine Ave., Long Beach, CA; 2,600 feet NE

International ES: 700 Locust Ave., Long Beach, CA; 1.0 mile NE

Renaissance HS: 235 E. 8th Ave., Long Beach, CA; 1.05 miles NE

Washington MS: 1450 Cedar Ave., Long Beach, CA; 1.2 miles NE

Stevenson ES: 515 Lime Ave., Long Beach, CA; 1.25 miles ENE

Cabrillo HS: 2001 Santa Fe Avenue, Long Beach, CA; 1.66 miles N

Franklin MS: 540 Cerritos Ave., Long Beach, CA; 1.7 miles ENE

Bethune Center: 2021 San Gabriel Ave., Long Beach CA; 1.86 miles NNW

Garfield ES: 2240 Baltic Avenue, Long Beach, CA; 1.96 miles N

Reid Continuation HS: 2152 W. Hill St., Long Beach, CA; 1.96 miles N

Hudson K8: 2335 Webster Ave., Long Beach, CA; 2.1 miles NNW

Comment # 2 (General): The District is concerned that our ability to fully understand project-related direct impacts to schools is limited by the long project time frames, prospective nature of proposed mitigation, and corresponding uncertainties in the DEIS/EIR. Accordingly, the District reserves the right to supplement and provide additional comments regarding the Project in the future as the understanding and certainty of project impacts and mitigation measures increases. LBUSD-3

Discussion: The District understands the Port proposes to upgrade and expand Middle Harbor facilities in order to accommodate increasing volumes of cargo more efficiently and to accommodate the larger size of some modern marine vessels. We also recognize that the Port has identified significant environmental controls as part of the proposed Project. In particular, it has been estimated that regional health risks associated with the Port will be reduced as a result of the redevelopment project -- compared with existing risk levels. However, based on our review of the proposed alternatives and the DEIS/EIR analysis, the District is concerned that our ability to fully understand project-related health risks – and other impacts -- to schools is limited by: 1) the broad scope and long duration of the Project, 2) the corresponding voluminous amount of data to be analyzed, and 3) the prospective nature of many of the emissions controls and risk reduction measures assumed in the DEIS/EIR.

Comment # 3 (General): The DEIS/EIR should include a more comprehensive analysis of potential air quality, health, transportation and noise impacts to schools. LBUSD-4

Discussion: Notwithstanding the concern expressed above in "Comment # 2," the District notes that the DEIS/EIR identifies a number of significant and unavoidable impacts that may adversely affect schools. However, it is our opinion that the DEIS/EIR fails to provide a complete analysis of significant impacts to LBUSD schools. In particular, as discussed further in the Specific Comments section of this letter, air quality, health, transportation, and noise impacts are not fully addressed.

Comment # 4 (General): The District is concerned that our ability to fully understand indirect and cumulative impacts to schools, and determine the project alternative with the least impacts, is limited by a lack of specificity and certainty in the DEIS/EIR. LBUSD-5

Discussion: Four project alternatives are described in the DEIS/EIR: 1) the "345-acre Alternative" with expanded on-dock railyard and about 55-acres of fill (The proposed Project) ; 2) the "315-acre Alternative" with expanded on-dock railyard and about 25 acres of fill; 3) the "Landside Only Alternative" with expanded on-dock railyard and no fill; and 4) the "No Project Alternative" with no expanded on-dock railyard and no fill. Each alternative results in significant and unavoidable impacts. However, for the reasons stated in the preceding comments, it is uncertain which alternative has the least impact on schools. The DEIS/EIR also does not comprehensively indicate how each proposed alternative would increase or decrease impacts associated with other interrelated Goods Movement activities in the vicinity of the ports (and schools). For instance, the DEIS/EIR does not evaluate how and to what extent each alternative would affect the volume of

LBUSD-5 goods movement (and resultant air emissions and health risks from truck, train and loading equipment activity) at the Union Pacific Railroad Intermodal Container Transfer Facility [ICTF] rail yard The ICTF "near-dock" railyard is located in close proximity to several schools in west Long Beach and is a major source of air pollution and significant health risks in the surrounding community.

LBUSD-6 **SPECIFIC COMMENTS**

Air Quality

Proposed Control Measures

COMMENT # 5 (Air Quality): The District requests that the Port periodically assess and report on the probability and schedule for implementation of *each* of the control measures assumed in the DEIS/EIR, including the Clean Air Action Plan (CAAP) measures. In addition, the District requests that the Port analyze air quality and risk impacts under a range of different control measure implementation scenarios (i.e., a sensitivity analysis).

Discussion: The DEIS/EIR asserts that adoption of cleaner technologies and compliance with various existing and proposed emissions control measures at Middle Harbor will occur concurrent with and as a function of the proposed Project. The document estimates that these changes will result in an overall reduction of health risk compared with CEQA baseline (existing 2005) conditions. The estimated reduction in risk assumes emissions reduction "credit" for various emissions controls, regulations, and plans at the local, state, federal and international levels. Some of the referenced emission reduction measures already exist as promulgated laws and regulations, and others exist as plans or *proposals*.

The District believes that it is not unreasonable to incorporate *proposed* control measures when estimating emissions and risk levels in the environmental review process – *if* it is more likely than not that by the time the project would be implemented these proposed emissions standards would be adopted. However, it is unclear whether this "more likely than not" standard is met by all of the control measures assumed in this DEIS/EIR.

LBUSD-7 **Comment # 6 (Air Quality):** With regard to the DEIS/EIR Mitigation Measure AQ-6 – Low Sulfur Fuels in Ocean Going Vessels; the District requests that the DEIS/EIR evaluate the uncertainty that the low sulfur fuel regulations for OGVs are *not* implemented in a timely manner with respect to the Project, and analyze emissions and health risks under that scenario.

Discussion: Proposed control measures to lower sulfur content in marine fuel for ocean-going vessels (OGV) cut across multiple jurisdictions (international, federal, state, local), different branches of government (judicial, legislative, regulatory), and a range of issue areas (economic, political, and legal). As a result, implementation of such measures is subject to multiple impediments and uncertainties. Mitigation measure AQ-6 (Table 3.2-57), which corresponds to CAAP measures OGV3 and OGV4, is an example of a control measure subject to significant uncertainty.

On July 24, 2008 the California Air Resources Board (CARB) approved a regulation requiring OGV's to use low sulfur fuel in their **main** engines (OGV4 of the CAAP) within 24 nautical miles of the coast. However, one can reasonably expect that this new regulation for OGV *main* engines will be challenged and subject to the same uncertainty regarding implementation as has occurred with the regulation for OGV *auxiliary* engines (OGV3 of the CAAP). LBUSD-7

Mitigation Process, Schedule and Enforcement LBUSD-8

Comment # 7 (Air Quality): It is unclear when and to what extent each CAAP measure cited in the DEIS/EIR would be implemented, and which agency(ies) will enforce and monitor.

Discussion: The DEIS/EIR estimates that significant emissions reductions over current (2005) levels will occur in future years. The DEIS/EIR indicates these reductions are tied to the Middle Harbor redevelopment project. For example, on page 3.2-11 the DEIS/EIR states "*ensuring that some of the CAAP measures are implemented is in part tied to the approval of this Project, as that would allow the Port to require the adoption of such control measures as part of its lease agreements with future tenants.*"

Health Risk LBUSD-9

Risk Assessment Methodology

Comment # 8 (Health Risk): The health risk assessment (HRA) methodology used in the DEIS/EIR underestimates adverse health impacts known to result from exposure to diesel particulate matter. Health impacts are underestimated due to limitations in the HRA methodology. The limitations of the HRA methodology need to be clearly and prominently emphasized in the report.

Discussion: The DEIS/EIR underestimates adverse health impacts known to result from exposure to diesel particulate matter due to inherent limitations in the HRA methodology. In particular, the DEIS/EIR fails to adequately emphasize that the HRA methodology does not address all non-cancer chronic and acute health risks. Specific non-cancer health effects known to result from diesel particulate matter (DPM) exposure that are essentially ignored by the HRA methodology include:

- Decreased lung function in children
- Aggravated Asthma
- Respiratory and cardiovascular hospitalizations
- Premature death from non-cancer effects such as respiratory and heart diseases (which may occur at a greater frequency than death from cancer)

The HRA should specify – clearly and consistently throughout the document, including the conclusions -- which health effects are being assessed, and which are not.

LBUSD-9 Not only does the DEIS/EIR fail to clearly identify these limitations, it wrongly implies (in the fifth paragraph of the first column on page 3.2-39) that a comprehensive range of non-cancer health effects *are* in fact accounted for in the estimated HHI values derived for DPM -- the most significant TAC. The misleading paragraph reads:

The chronic and acute non-cancer hazard indices represent predicted long- and short-term exposures to certain TACs, respectively; calculated by dividing the model-predicted TAC concentration by the TAC reference exposure levels (RELs) established by OEHHA. A health hazard index (HHI) equal to or greater than one indicates the potential for adverse health effects. These include cardiovascular or respiratory diseases, exacerbation of asthma, bronchitis, decrease in lung function, and mortality. (emphasis added).

The District does not assert that the limitations in the HRA methodology are unique to this DEIS/EIR. However, the District believes the final DEIS/EIR and HRA should include greater efforts to ***emphasize*** these limitations in prominent locations of the document and discuss their implications.

LBUSD-10 **Comment # 9 (Health Risk):** The DEIS/EIR doesn't clearly state that the HRA results do not account for risk from ultra-fine particles.

Discussion: Research conducted and reviewed over the past 6 or 7 years by investigators at the University of California at Los Angeles (UCLA), the Southern California Particle Center (SCPC) and elsewhere indicates significant and relatively new health concerns associated with exposure to Ultra-fine Particles. As noted by South Coast Air Quality Management District (SCAQMD), the ARB and others, children are especially susceptible to air pollution – including Ultra-fine Particles -- because their bodies are still developing and they breathe more rapidly than adults. The District is pleased that the DEIS/EIR and draft HRA do in fact discuss this issue at some length. However, the draft documents do not make it clear that the HRA results, upon which the DEIS/EIR significance determinations are based, do not specifically address risks from Ultra-fine Particles.

LBUSD-11 **Comment # 10 (Health Risk):** The DEIS/EIR should clearly indicate the limitations inherent in estimating non-cancer chronic health impacts of diesel PM inhalation based on a health hazard index (HHI) calculated using the available Reference Exposure Level (REL) for diesel particulate matter.

Discussion: The draft HRA uses a non-cancer REL of 5 ug/m^3 for inhalation of DPM in the calculation of non-cancer chronic HHI. According to the Draft Health Risk Assessment (HRA) for the nearby Union Pacific (UP) Intermodal Container Transfer Facility (ICTF) rail yard, published by the California Air Resources Board (ARB) on February 26, 2008, this REL is "*essentially the U.S. EPA Reference Concentration first developed in the early 1990s based on histological changes in rats.*" The ICTF HRA further states: "*...it should be noted that the REL does not reflect the adverse impacts of particulate matter on cardiovascular and respiratory disease and deaths, exacerbation of asthma, and enhancement of allergic response.*" The information in this footnote is

central to the issue of non-cancer health hazard estimation and should be ***emphasized*** in the Middle Harbor DEIS/EIR. LBUSD-11

Cumulative and Indirect Impacts LBUSD-12

Comment # 11 (Health Risk): The DEIS/EIR should specify which projects in the area have been evaluated for indirect and cumulative air quality and health risk impacts, and document the impacts. In particular, the District requests evaluation of two proposed "near-dock" intermodal rail yard projects.

Discussion: The DEIS/EIR analyzed cumulative impacts by considering other projects "*within the area that would have the potential to contribute to cumulatively considerable impacts, and include approved or pending actions...* [Page 3.2-108]. However, it is not clear whether the DEIS/EIR specifically addressed the cumulative impacts of two proposed large-scale near-dock rail yard projects in the port area: 1) expansion of the existing Union Pacific ICTF rail yard and 2) development of a new BNSF Southern California International Gateway (SCIG) rail yard. The ICTF and SCIG projects, if implemented, would have significant air quality and health risk impacts, and would contribute cumulatively to the Middle Harbor Project's air quality and health risk impacts. Can the Port verify whether cumulative and indirect impacts analysis from either or both of these rail yard projects were included and, if not included, discuss the reason(s)?

Ground Transportation/Traffic LBUSD-13

Rail Transportation.

Comment # 12 (Transportation/Traffic): As an overall observation, the Project would most likely have a substantial impact on traffic, access, circulation, or safety conditions at the LBUSD schools during the times when the project-generated train movements would be diverted to the Union Pacific (UP) railroad tracks. The District requests that the Port evaluate how often diversion of trains to the UP tracks is expected to occur.

Discussion: Approximately 2,098 annual train trips would be required to support the Middle Harbor container terminal operations (see page ES-5 of the Executive Summary). This additional train traffic along the rail corridors that serve the ports would affect access and safety at LBUSD schools and would result in additional noise, air quality, and other environmental impacts at the schools, particularly on the occasions when the trains would use the UP tracks as a travel route to and/or from the project site. This would occur during times when the Alameda Corridor is temporarily closed or blocked and the trains would be diverted to the UP tracks. Rail activity along the UP tracks would directly affect the schools in the area of Long Beach west of the Long Beach Freeway (I-710) and south of the San Diego Freeway (I-405) as well as the schools in the North Long Beach area.

LBUSD-14 **Comment # 13 (Transportation/Traffic):** The DEIS/EIR includes inconsistent statements about project rail activity and should be clarified.

Discussion: The DEIS/EIR on page ES-14 states that "*construction and operations would not result in any increases in rail activity.*" On page E-23, it is stated in the last paragraph that "*the project would not increase the demand for transit services and/or rail activities*" and that "*the project would not contribute towards the cumulative impacts on transit or rail services.*" On page ES-35 in Table ES.8-1, which is the Summary of Environmental Impacts and Mitigation Measures, impact TRANS-4.2 states that project operations would not result in any increases in rail activity. However, it is stated elsewhere throughout the document that the Project *would* result in an increase in train movements to and from the port. The cited statements need to be clarified, revised or eliminated because they are inconsistent with the project description.

LBUSD-15 ***Traffic Analysis***

Comment # 14 (Transportation/Traffic): There are inconsistent statements in the DEIS/EIR regarding the methodology used to determine level of service values for signalized intersections. These discrepancies should be rectified.

Discussion: In the second paragraph of the Methodology section (page 3.5-7), it is stated that the level of service (LOS) values for signalized intersections were determined by using the Intersection Capacity Utilization (ICU) methodology. However, it is then stated on page 3.5-2, and on the numerous tables summarizing the level of service analysis, that the LOS values are based on the volume/capacity ratios.

LBUSD-16 **Comment # 15 (Transportation/Traffic):** The DEIS/EIR does not necessarily reflect a worst-case traffic scenario and could be under-estimating the project's impacts.

Discussion: According to the bullet items in the last paragraph on page 3.5-8, the trip generation rates used for the future traffic projections were reduced because of an assumed expansion of terminal operating hours and increased dual transactions within the terminal. As there is no assurance that these increased efficiencies would actually occur in the future, the analysis does not necessarily reflect a worst-case scenario and could potentially be under-estimating the project's traffic impacts.

LBUSD-17 **Comment # 16 (Transportation/Traffic):** The DEIS/EIR includes numerous references to the POLB's potential contribution to a Caltrans fair share contribution program for freeway improvements as possible mitigation for significant unavoidable impacts on the study area highways. In the absence of any documentation that Caltrans is planning to establish such a program, these references are misleading.

Discussion: It is stated throughout the report that the project would result in significant unavoidable impacts on several highway segments in the study area *unless* the POLB pays its fair share of future freeway improvements that would be implemented by Caltrans. As there is no documentation that Caltrans is planning a fair share contribution program for these freeway improvements, it is reasonable to conclude that the project would have a significant unavoidable impact on the study area highways.

Comment # 17 (Transportation/Traffic): The DEIS/EIR includes a questionable assertion that the delay values at the Pico Avenue/Pier G Avenue and Harbor Plaza intersection would decrease as a result of construction-related traffic and that the levels of service would improve. LBUSD-18

Discussion: Tables 3.5-9.1, 3.5-9.2, and 3.5-9.3 indicate that the delay values at the Pico Avenue/Pier G Avenue and Harbor Plaza intersection would *decrease* as a result of construction-related traffic and that the levels of service would improve. This conclusion appears unlikely, particularly since the other intersections would all experience an *increase* in the delay or V/C values.

Noise LBUSD-19

Noise Impacts

Comment # 18 (Noise): The DEIS/EIR does not address the fact that pile driving and other activities associated with construction of the proposed Project would result in noise levels that exceed significance thresholds for exterior noise at Cesar Chavez School. The DEIS/EIR should include analysis of noise impacts on Cesar Chavez School.

Discussion: The DEIS/EIR notes that significant noise impacts from pile driving will occur within 2,500 feet of the project. Cesar Chavez school is located approximately 1,500 feet east from the northeast corner of the project area boundary and therefore is subject to significant noise impacts.

Page 3.9-12 (fourth paragraph under *Construction Impacts*) of the DEIS/EIR indicates pile driving activities will result in noise levels of 64 – 66 dBA Leq at a distance of 2,500 feet. One of the DEIS/EIR criteria for significant noise impacts (NOI-1) is elevation of ambient noise levels by three (3) dBA. The minimum ambient noise level measured at Chavez Park (Site 3) was 57 dBA Leq (DEIS/EIR Table 3.9-5). Cesar Chavez school is located adjacent and to the south of noise monitoring Site 3 at Cesar Chavez Park, and is closer to the project boundary than Site 3. Therefore, pile driving would be expected to raise the ambient noise level more than 3 dBA at Chavez school (~ 1,500 feet from the Project), resulting in a significant impact.

Noise Mitigation LBUSD-20

Comment # 19 (Noise): The DEIS/EIR should consider mitigation of project noise impacts at Cesar Chavez School during school hours of operation and testing periods.

Discussion: The DEIS/EIR should identify and evaluate appropriate and feasible mitigation measures to reduce the noise and vibration impacts from the construction phase of the Project on sensitive receptors, including the LBUSD schools. The DEIS/EIR should consider whether certain phases of construction could be completed when schools are not in session (i.e., summer) to reduce the Project's noise and vibration impacts. In addition, the District requests that the analysis and mitigation measures consider the school hours of operation which are Monday through Friday 7:00 am to 4:00 pm, and

LBUSD-20 testing periods (specific dates to be determined) during the school year, to avoid potentially significant noise and vibration impacts during these time periods.

LBUSD-21 ***Construction Schedule***

Comment # 20 (Noise): The District hereby requests formal advance notification of construction schedules or public meetings regarding the Project.

Discussion: Based on our review of the proposed alternatives and the DEIS/EIR analysis, the District is concerned that our ability to fully understand the impacts to schools is limited by the absence of definitive information regarding the nature and timing of future construction activities. In particular, the schedule for pile driving and other noise generating activities and the potential impacts of these activities during the hours of school operation. The District would like the opportunity to discuss ways to minimize noise impacts to our schools from the project construction activities.

LBUSD-22 **CONCLUSION**

The environmental controls and "green" technologies proposed in conjunction with the Project are laudable efforts and represent an important step toward the ultimate goal of reducing the health risks and other impacts from port operations and goods movement to acceptable levels. However, it is the District's opinion that the DEIS/EIR does not adequately address schools as sensitive receptors for noise, traffic and air quality impacts. We also believe that the DEIS/EIR and draft HRA do not adequately articulate and emphasize for the general public the limited scope of the risk assessment process and methodology in terms of health impacts considered. In addition, the District reserves the right to supplement and provide additional comments regarding the Project in the future.

The District appreciates the opportunity to participate in this process. We look forward to working with the Port in a continuing review and assessment of impacts from the Project, and the development and implementation of effective mitigation.

If you have any questions, please feel free to contact me at 562.997.7550.

Sincerely,

Carri M. Matsumoto
Executive Director
Facilities Development & Planning Branch
Long Beach Unified School District

CM:khr:sa

Long Beach Unified School District, August 7, 2008

LBUSD-1. Your comment is noted and appreciated**.** Please see responses to comments LBUSD-2 through LBUSD-22

LBUSD-2. The comment identifies 11 LBUSD educational facilities within two miles of the Project area boundary, and an additional school located just over 2.1 miles from the boundary. Draft EIS/EIR Appendix A-3 (Table A-3-4) and Draft EIS/EIR Section 3.2.1.2 identifies schools and sensitive receptors evaluated in the Project HRA. The HRA evaluated impacts to almost all of the listed LBUSD schools, including the closest ones to the Project terminal. Therefore, the HRA identified the maximum-impacted school locations and these impacts are within acceptable levels. The HRA did not specifically evaluate three schools on the LBUSD list, including International Elementary School, Bethune Center, and Reid Continuation High School. However, since these schools are more distant from Project emissions, Project impacts at these locations would be lower than those specifically presented in the Draft EIS/EIR. Moreover, the Final EIS/EIR HRA provides an evaluation of Project impacts at these three schools and the results verify this conclusion. Final EIS/EIR Appendix A-3 (Table A-3-4) has been revised to include all schools that occur within the LBUSD jurisdiction.

To further mitigate Project cumulative air quality impacts, the Final EIS/EIR includes new **Mitigation Measure AQ-29**, which would further mitigate Project cumulative air quality impacts.

LBUSD-3. Final EIS/EIR Section 3.2 and Appendix A include revisions that more clearly define assumptions, mitigation measures, and implementation schedules used in the air quality analyses.

LBUSD-4. The comment suggests that the EIS/EIR should include a more comprehensive analysis of air quality impacts on LBUSD facilities. As further explained in the responses to the specific comments, the Draft and Final EIS/EIR adequately assess the Project's potential to cause significant impacts to LBUSD schools. Please see responses to comments LBUSD-2, and LBUSD-5 through LBUSD-12.

LBUSD-5. The Project HRA identifies the maximum health impacts to the sensitive receptor group for each Project alternative. This group includes schools, day care centers, convalescent homes, and hospitals. These maximum impacts identified by the HRA can be used as indicators of the relative impact of each Project alternative to LBUSD school locations. The results of the HRA show that the proposed Project (Alternative 1)/Alternative 3 would produce the highest/lowest impacts to schools. Tables 3.2-23, 3.2-39, 3.2-49, and 3.2-55 summarize these results.

The Project alternatives would generate some additional truck traffic to and from the UP ICTF. The air quality analyses present estimates of daily emissions, criteria pollutant modeling analyses, and HRAs that take into consideration truck trips between the Project terminal and this facility for each Project alternative. Prior to the 2030 horizon, the improvements to expanded Pier F intermodal railyard would eliminate a good portion of the future truck trips between near-dock railyards (such as the UP ICTF) and Middle Harbor container terminal. However, it is forecasted that the expanded Pier F intermodal railyard and adjacent rail system would be unable to handle all Project intermodal cargo by 2030 and at this time; thus, truck traffic would begin to increase between the near-dock railyards and Middle Harbor container terminal. Current forecasts show that Alternative 1/Alternative 4 (No Project) would generate 1,072/1,017 truck trips to and from the near-dock railyards in 2030, compared to 692 that occurred in 2005 (POLB 2008b).

Activities that occur with the UP ICTF fall under the jurisdiction of UP and not the Port. However, for a disclosure of potential future activity levels, air quality impacts, and mitigation

measures associated with the UP ICTF, please see the ARB Railyard Emission Reduction Program web site at http://www.arb.ca.gov/railyard/railyard.htm.

LBUSD-6. Periodic reporting on implementation of mitigation measures proposed in the Final EIS/EIR is a compliance function of the MMRP, which includes monitoring and enforcement mechanisms to ensure appropriate implementation of all mitigation measures (CEQA Guidelines Sections 15091(d), 15097). The MMRP in the Final EIS/EIR would be certified by the Board of Harbor Commissioners and adopted as a Project lease condition. Accordingly, the mitigation measures identified in the Final EIS/EIR will become part of the conditions of the Project terminal lease agreement. Final EIS/EIR Section 3.2.4 has been clarified to explain this process. The MMRP will require an annual mitigation compliance report within the first year of Project approval and then annually thereafter, unless otherwise directed by the Board.

The Draft EIS/EIR evaluates the effects of all feasible mitigation measures under one combined scenario. While performing sensitivity analyses under a range of different control measures would provide interesting information, these analyses are beyond the scope of this EIS/EIR.

The Project air quality analyses are based almost entirely on adopted regulations and CAAP control measures, which would be included as binding requirements in the terminal lease agreement. However, the Draft EIS/EIR analyses simulated implementation of the proposed ARB At-Berth Ocean-Going Vessels Regulation, as it was expected that this regulation would become law prior to Project year 1 (2010). The Office of Administrative Law (OAL) approved the regulation on December 3, 2008 and it became effective on January 2, 2009. Conversely and as stated in Draft EIS/EIR Section 3.2.1.3, the Project air quality analyses did not simulate the Tiers 3 and 4 locomotive emission standards adopted by the EPA on March 14, 2008, as time did not allow for the inclusion of these standards into the Draft EIS/EIR analyses. However, the Final EIS/EIR assumes that based on EPA-estimated remanufacturing rates and new purchases, the fleet of locomotives serving SCAB would have the equivalent of Tier 3 emissions beginning in 2025.

LBUSD-7. The Project lease agreement would require the terminal operator to comply with all mitigation measures identified in the Final EIS/EIR MMRP, including **Mitigation Measure AQ-6**. As the MMRP in the Final EIS/EIR would be certified by the Board of Harbor Commissioners and adopted as a Project lease condition, it is speculative to assume **Mitigation Measure AQ-6** would not be implemented (CEQA Guidelines Section 15064(f)(5)). Furthermore, as this measure is specific to OGV that use the Middle Harbor container terminal, it has a high probability of success. Due to many of the reasons mentioned in your comment, it appeared that the Fuel Sulfur Regulation for OGV approved by the ARB on July 24, 2008 did not have a high probability of being successful. Accordingly, this regulation was not simulated in the Draft EIS/EIR. Since that time, the revised regulation proposed by the ARB on October 21, 2008 appears to have a high potential for success. Therefore, the Final EIS/EIR simulates that all Project scenarios would comply with this regulation. In any case, the lease conditions on the project would serve as a backstop against the successful challenge of the new ARB Fuel Sulfur Regulation for OGV.

LBUSD-8. Please see responses to comments LBUSD-6 and LBUSD-7. The MMRP table in Section 3.4 of the Final EIS/EIR provides the implementation schedule for each of the Project mitigation measures, many of which are CAAP measures. In general, CAAP measures proposed as mitigation measures would take effect in Project year 1, which is assumed to be 2010, or earlier; except for **Mitigation Measure AQ-5** (Shore-to-Ship [“Cold Ironing”] which has a specific implementation schedule of 33 percent of all OGV by 2009, 66 percent of all OGV by March 2012, and 100 percent of all OGV by December 2014; **Mitigation Measure AQ-7a** (RMG Crane) which will be implemented by 2020 or earlier; and **Mitigation Measure AQ-8** (CTP) which will be implement based on the schedule identified in the CAAP (also refer to Table 3.2-59 of the Final EIS/EIR). All control measures and mitigation measures that were

assumed in the analysis to reduce emissions will be a mandatory component of the facility lease. Final EIS/EIR Section 3.2.2.2 Table 3.2-11 includes clarifications of the emission control measures/regulations that apply to each unmitigated/mitigated Project scenario.

LBUSD-9. The comment incorrectly suggests that health impacts in the Draft EIS/EIR are underestimated due to limitations in the HRA methodology. This is not the case, as the Project air quality analysis used the most current methods to evaluate health effects that are recommended by the SCAQMD and ARB. In addition, the criteria pollutant modeling analysis is based on ambient air quality standards that take non-cancer effects into consideration. Draft EIS/EIR Section 3.2.2.3 (Impact AQ-6) includes a section entitled Uncertainty of Risk Analysis for the purpose of discussing some of the limitations of the Project HRA. It is true that the non-cancer REL for DPM approved by the OEHHA was not specifically based upon the types of health effects referenced in this comment (e.g., decreased lung function in children, aggravated asthma, respiratory and cardiovascular hospitalizations, and premature death from non-cancer effects such as respiratory and heard disease). This has been clarified in the Final EIS/EIR. The intent of this statement, which was underscored in the comment, was to indicate that adverse effects would occur due to elevated exposure to particulates, such as those that exceed the DPM HHI. The sentence underlined in this comment has been eliminated from the Final EIS/EIR Section 3.2.2.3 (Impact AQ-6) in order to avoid any confusion. The Draft EIS/EIR acknowledges that DPM causes a variety of non-cancer effects, as discussed in the section entitled PM Morbidity and Mortality Considerations under Impact AQ-6 (Section 3.2.2.3).

LBUSD-10. The comment states that the Draft EIS/EIR does not clearly specify that the HRA results do not account for risk from UFP. The Project HRA did not evaluate UPF as an individual pollutant, as there are no standards or criteria to determine the significance of impacts for this pollutant. The Project HRA evaluated DPM emissions, which includes the entire range of diesel particulate sizes, including UPF. Impact AQ-6 in Section 3.2.2.3 of Final EIS/EIR has been revised to clarify this issue.

LBUSD-11. Regarding clarification on the evaluation of Project non-cancer effects from DPM, please see response to comment LBUSD-9.

LBUSD-12. The Draft EIS/EIR Section 3.2.3 described air quality impacts estimated for projects (as shown in Draft EIS/EIR Table 2.1-1) that would combine with Project impacts and produce the most substantial cumulative impacts. This was determined in terms of the potential strengths of cumulative project emissions and their proximities to Project emission sources. The Draft EIS/EIR did not specifically consider emissions from the proposed UP and SCIG ICTF projects. Rather, it can be inferred from the cumulative air quality analysis that emissions from the UP facility would continue the degraded air quality conditions within the region. Final EIS/EIR Section 3.2.3 has been revised to include summaries of the air quality impacts estimated for these projects and to consider their contributions to project cumulative impacts.

Please see response to comment CBD-26 regarding new Final EIS/EIR **Mitigation Measure AQ-29**, which would further mitigate Project cumulative air quality impacts from schools.

LBUSD-13. Commenter states that the Port should evaluate how often trains would be diverted to the Union Pacific railroad tracks and the impacts those diversions would have on local schools.

Trains primarily utilize the Alameda Corridor. The primary purpose of the UP tracks is to act as an alternative should a blockage occur on the Alameda Corridor. The Alameda Corridor has sufficient capacity to accommodate the proposed Project rail traffic, and a blockage thereof would be extremely rare and related only to trains serving existing warehouses, industrial facilities, and distribution centers connected to this route. Since the Alameda Corridor began operating, no blockages have required the use of the UP tracks. Thus, the Project would not result in additional usage of the UP tracks.

LBUSD-14. Commenter points out that the Draft EIS/EIR Executive Summary statements about Project rail activity regarding no increase in rail activities are inconsistent with statements throughout the Draft EIS/EIR that the Project would result in increased train movements.

Revised statements about Project rail activity have been included in the Final EIS/EIR. Final EIS/EIR Section ES.5 has been amended to read: "Construction would not result in any increases in rail activity." Final EIS/EIR Section ES.6 has been amended to read: "As the Project would not increase the demand for transit services and its incremental effect on rail activities would not be cumulatively considerable, the Project would not contribute towards the cumulative impacts on transit or rail services." Final EIS/EIR Table ES.8-1 (TRANS-4.2) will be amended to read: "TRANS-4.2: Project operations would result in an increase in rail activities, but would not result in significant impacts." Finally, section 3.5.2.3 (Impact TRANS-4.2) has been amended to state: "Impact TRANS-4.2: Project operations would not result in any significant impacts because of rail activity." Although the Project would result in increased train movements to and from the Port, the Project does not increase rail activity by an amount that wouldl have significant impacts on the study intersections.

LBUSD-15. Commenter states that the Draft EIS/EIR describes inconsistent methods for determining levels of service for signalized intersections because it utilizes LOS and V/C ratios.

LOS is a qualitative measure from A (best) to F (worst) describing operational conditions within a traffic stream, generally described in terms of such factors as speed and travel time, freedom to maneuver, traffic interruptions, comfort and convenience, and safety. LOS is measured by degree of volume to capacity ratio. LOS A has a V/C ratio of 0.0 to 0.34, whereas LOS F has a V/C ratio of 1.00 or greater. Therefore, there is no inconsistency in the methodology utilized.

LBUSD-16. Commenter states that trip generation rates do not reflect a worst-case scenario, and should not assume that the Port will necessarily expand operating hours or increase dual transactions.

The traffic study conducted for the proposed Project did not intend to estimate traffic impact based on the worst-case scenario. CEQA does not require analysis based on a worst-case scenario; rather, it requires analysis of the effect which a project is likely to have on the environment. Since this proposed Project includes several fully functioning terminals, the traffic study was able to use field data to validate and calibrate the transportation model and traffic forecast. Specifically, peak-hour trips have been reduced since the *Pier-PASS Off-Peak* program was introduced in 2005. Commenter asserts that the assumed increased efficiencies due to different terminal operating parameters (e.g., more second-shift and hoot shift activity) may not actually occur. However, many of the changes in operation have already started to occur. (Section 3.5.22)

LBUSD-17. Commenter states the Draft EIS/EIRmakes several references to a Caltrans fair share contribution program and states that the references imply that there is no impact when in fact the conclusion is that the Project would have unavoidable adverse impacts on study area freeways.

On the contrary, the Draft EIS/EIR concludes that because the Port cannot unilaterally impose mitigation measures to add improvements to those segments of the area highways that would be impacted by the Project (because they are controlled and maintained by Caltrans), these impacts must be deemed significant and unavoidable. See response to comment CBD-67. It was merely noted that the Port is participating in several regional programs to deal with regional transportation problems (such as the I-710 Corridor EIS/EIR 2008, ATMIS, and the SR-91 Study), which would minimize the Project's impacts on highway segments. In addition, when Caltrans adopts a strategy and a mitigation program to deal with regional traffic impacts, the Port has committed to paying its fair share of the needed improvements. Because it is not guaranteed that Caltrans will develop a fair share mitigation program, approval of the Project would require the adoption of a Statement of Overriding Considerations.

Please see response to comments CT-2 through CT-4, CBD-65, and RCTC-2.

LBUSD-18. Commenter states that the Draft EIS/EIR stated decrease in delays at the Pico Avenue/Pier G Avenue and Harbor Plaza intersection due to construction-related traffic is a questionable assertion.

The Draft EIS/EIR does not state that there will be a decrease in delays at the Pico/Pier G Avenue and Harbor Plaza intersection due to construction-related traffic. Rather, the proposed Project traffic mitigation would upgrade the intersection of Pico/Pier G at Harbor Plaza from ALL-WAY STOP to a fully actuated traffic signal by 2010. This upgrade would significantly reduce wait time on all approaches of traffic, thus resulting in decreased delays.

LBUSD-19. The comment states the Draft EIS/EIR does not address that pile driving activities would result in noise levels that exceed significance thresholds at Cesar Chavez School. The noise measurement locations identified in the Draft EIS/EIR, including Cesar Chavez Park, were selected based on the proximity of sensitive receptors to the Project site and regional transportation corridors. As clarified in Final EIS/EIR Section 3.9.1.2, the specified three dBA increase in ambient noise levels is an industry standard that is consistently used in the environmental review process by local agencies because ambient noise level changes of less than three dBA generally cannot be perceived by the human ear. Several jurisdictions use three dBA to define a "substantial increase" in ambient noise levels as specified in CEQA Guidelines Appendix G (Noise).[9]

The comment notes the lowest ambient level recorded in the vicinity of the school was 57 dBA, and that Cesar Chavez School is located approximately 1,500 feet from the northeastern site boundary. However, the school is located approximately 3,500 feet from the in-water construction areas where pile driving activities would occur. Pile driving would therefore not result in noise levels at the school as high as those noted in the Draft EIS/EIR for a distance of 2,500 feet. In addition, there are numerous intervening structures between the pile driving location and the school which would further attenuate noise over the longer distance leading the EIS/EIR to conclude, "At receiver Sites 3 through 7, increased distance from the Project and the shielding effects of intervening structures and topography would reduce construction noise levels to below the existing ambient level."

As stated in Draft EIS/EIR Section 3.9.1.2 (Existing Noise Environment in the Project Region), noise measurement Site 3, which is located on Golden Avenue immediately east of Cesar Chavez Park, between 4th and 5th Streets, was selected as a representative sensitive receptor site due to existing residential uses east of the site and the school to the south. Consequently, Cesar Chavez School location was evaluated as a sensitive receptor in the assessment of noise impacts during construction activities (i.e., pile driving) at Site 3. Although Cesar Chavez School is located approximately 1,500 feet from the northeastern site boundary, the school is located approximately 3,500 feet from the in-water construction areas where pile driving activities would occur. Pile driving would therefore not result in noise levels at the school as high as those noted in Draft EIS/EIR Section 3.9.2.3 for a distance of 2,500 feet. In addition, there are numerous intervening structures between the pile driving location and the school which would further attenuate noise over the longer distance. While the impact noise of pile driving noise would occasionally be audible at the school site intermixed with ambient levels because of its intermittent character, it is not expected to be obtrusive. However, Final EIS/EIR **Mitigation Measure NOI-1.1a** has been revised to state:

9 The following environmental guidance documents and EIRs use three dBA to define a "substantial" increase in noise: (1) County of Ventura Initial Study Guidelines; City of Santa Barbara Initial Study Guidelines; (3) Final EIR - Riverview Offices Project (City of Del Mar; State Clearinghouse Number: 2007091007); Parklands Specific Plan EIR (City of Ventura; State Clearinghouse No: 2008031082); County of Riverside Public Safety Enterprise Communication Project Draft EIR (County of Riverside; State Clearinghouse No. 2008021126); and Final EIR No. 06.03 for the Oxnard Village Specific Plan Project (City of Oxnard, State Clearinghouse Number: 20066101099).

NOI-1.1a: Temporary noise barriers shall be located between noise-generating construction activities (e.g., pile driving) and hotel/residential buildings and Cesar Chavez School to the east.

In addition, as described in more detail in response to comment USEPA(B)-8, the Port has developed the Schools and Related Sites Program to help mitigate cumulative noise impacts from Port operations, including the Project. The program: (1) establishes eligibility criteria for potential applicants based on facility type and the proximity to the SPBP; (2) provides metrics that will be used to assess a proposed Project's noise impact mitigation potential based on established regulatory mitigation programs and recent scientific information on noise impacts; and (3) explains how the Port Board Harbor Commissioners will choose among eligible proposals and approve funding. Cesar Chavez School, along with other LBUSD schools, will be eligible to apply for funds from this program for noise mitigation projects. Section 3.9.3 of the Final EIS/EIR has been revised to include a discussion of the Schools and Related Sites Program.

LBUSD-20. Please see response to comment LBUSD-19. Final EIS/EIR **Mitigation Measure NOI-1.1a** (Section 3.9.2.3) has been revised to stipulate that temporary noise barriers shall be located between noise-generating construction activities (e.g., pile driving) and Cesar Chavez School to the east. Furthermore, the standard noise construction control in Final EIS/EIR Section 1.7.3 has been revised as follows:

Notification – The Port would publish notices in the Press Telegram and all property managers adjacent to the Project site would be notified in advance of the construction schedule. The Port would coordinate with schools and other affected agencies to ensure construction activities do not substantially interfere with facility operations.

LBUSD-21. The comment requests advance notification of construction schedules for the proposed Project. The Port will ensure that the LBUSD is provided a schedule of construction activities prior to commencement of construction activities. LBUSD is on the Port's mailing list and will receive all public notices for the Project and future projects.

LBUSD-22. Your comment is appreciated. Please see response to comments LBUSD-2 through LBUSD-21 for discussion explaining how the Draft EIS/EIR includes schools as sensitive receptors and adequately evaluates air, noise, and traffic impacts on these receptor sites.

The HRA cancer and non-cancer risk analyses provided in the Draft EIS/EIR consider health impacts from both proposed construction and operational emissions, combined, which goes beyond the requirements of guidance from cognizant agencies, including the "*Air Quality and Risk Assessment Analysis Protocol for Proposed Projects at the POLB"* (POLB 2007b); OEHHA's "*Air Toxics Hot Spots Program Guidance Manual for Preparation of Health Risk Assessments"* (OEHHA 2003); the SCAQMD's "*Supplemental Guidelines for Preparing Risk Assessments for Toxics "Hot Spots" Information and Assessment Act (AB 2588)"* (SCAQMD 2005a); and "*Health Risk Assessment Guidance for Analyzing Cancer Risks from Mobile Source Diesel Emissions"* (SCAQMD 2003). A discussion was included in the Draft EIS/EIR regarding health impacts beyond the HRA, including PM morbidity and mortality, health impacts from DPM emission, and uncertainty in risk analysis (Draft EIS/EIR page Section 3.5.2.2 (Impact AQ-6). Additionally, Draft EIS/EIR Appendix A-3 provides details regarding the HRA modeling analysis.

RCTC
Riverside County Transportation Commission

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July 9, 2008

VIA U.S. CERTIFIED MAIL

Port of Long Beach
925 Harbor Plaza
Long Beach, CA 90802

Attn: Richard D. Cameron, Director of Environmental Planning

Re: California Environmental Quality Act ("CEQA") Comments on the Middle Harbor Redevelopment Project Draft Environmental Impact Statement/Environmental Impact Report

Dear Mr. Cameron,

Thank you for providing the Riverside County Transportation Commission ("RCTC") with the opportunity to review and comment on the Middle Harbor Redevelopment Project Draft Environmental Impact Statement/Environmental Impact Report ("Draft EIS/EIR"). Herein, RCTC raises several issues showing the deficiency of the environmental review under the California Environmental Quality Act ("CEQA") (Public Resources Code section 21000 et seq. and California Code of Regulations, title 14, section 15000 et seq. ["State CEQA Guidelines"]). RCTC wishes to work cooperatively with the Port of Long Beach to ensure that these deficiencies are addressed and submits this comment letter with that goal in mind. RCTC-1

As you may know, CEQA is intended to "[i]nform governmental decision makers and the public about the potential, significant environmental effects of proposed activities." (State CEQA Guidelines, § 15002, subd. (a)(1).) An EIR achieves this objective by "identifying possible ways to minimize the significant effects, and describe reasonable alternatives to the project" for consideration by the public and the lead agency approving the project. (State CEQA Guidelines, § 15121, subd. (a).) Significant effect on the environment means a substantial, or potentially substantial, adverse change in the environment or in any of the physical conditions within the area affected by the project including land, air, and ambient noise. (Pub. Res. Code, § 21068; State CEQA Guidelines, § 15382, *Citizens for Responsible & Open Government v. City of Grand Terrace* (2008) 160 Cal.App.4th 1323, 1333.)

"In assessing the impact of a proposed project on the environment, the lead agency normally examines the 'changes' in existing environmental conditions in the affected area that would occur if the proposed activity is implemented." (*San Joaquin Raptor Rescue Center v. County of Merced* (2007) 149 Cal.App.4th 645, 660; see also State CEQA Guidelines, § 15126.2, subd.

RCTC-1

(a).) In evaluating the significance of the environmental effect of a project, the lead agency must consider direct and reasonably foreseeable indirect physical changes in the environment which may be caused by the project. (See Pub. Res. Code, § 21065; *Citizens for Responsible & Open Government, supra,* 160 Cal.App.4th 1323, 1333.) Direct impacts are those occurring at the same time or place as the project while indirect impacts are those that are reasonably foreseeable to occur at some distance or at a later time. "Direct and indirect significant effects of the project on the environment shall be clearly identified and described, giving due consideration to both the short-term and long-term effects." (State CEQA Guidelines, § 15126.2, subd. (a); *Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184, 1205).)

In *County Sanitation Dist. No. 2 of Los Angeles County v. County of Kern* (2005) 127 Cal.App.4th 1544, various cities and counties eliminated much of their sewage sludge by shipping it to Kern County to be used as fertilizer by farmers. Kern County adopted an ordinance that prohibited the land application of sewage sludge without preparing an EIR. The County argued that the since the ordinance was effective only in Kern County, only the impacts to Kern County land subject to the ordinance should be considered for CEQA purposes. Because the overall effect of the ordinance would produce environmental benefits to Kern County, the County argued that the ordinance had no significant environmental impacts and no EIR was required. The court agreed that the ordinance could have a beneficial effect on Kern County's environment; however, the court found that the County had inappropriately restricted its environmental analysis to Kern County. Instead, the County should have evaluated whatever physical conditions would be affected by the proposed project, regardless of their location. The court found that the County could reasonably foresee that its adoption of the ordinance would cause environmental impacts as far away as Los Angeles because sewage sludge generators would have to find alternative disposal methods for sludge, which had the potential for creating additional air pollution, loss of landfill capacity, and increased consumption of energy and other resources. Accordingly, CEQA requires that impacts be analyzed and disclosed even if they occur hundreds of miles away and not within the control of the lead agency.

Additionally, in *County of San Diego v. Grossmont-Cuyamaca Community College District* (2006) 141 Cal.App.4th 86, the community college district's EIR indicated that off-campus intersections and roadways would be affected by the Master Plan and that implementation of the Plan would result in significant impacts to transportation unless mitigation were imposed. However, the district's CEQA findings in support of the Master Plan approval found that the mitigation of the adverse traffic impacts identified in the EIR was infeasible because the district lacked jurisdiction over the affected roads and could not assure the needed road improvements would actually be implemented. (*Id.* at 97.) The court rejected these arguments, holding

> [t]o the extent the District is required under CEQA to help fund off-campus road and intersection improvements that are needed to mitigate adverse offsite traffic impacts that are created by the project, but fall within the responsibility of the County, the CEQA compliance mandate set forth in California Code of Regulations,

> title 5, section 57121, subdivision (f) and Education Code section 81949 authorize the District to make those expenditure. (*Id.* at 104.)

RCTC-1

Accordingly, the fact that an impact is outside the jurisdiction of the lead agency does not necessarily excuse a lead agency from meaningfully analyzing and mitigating for an impact if enough information is available to determine the impact. RCTC's intent with this comment letter is to make you aware of the deficiencies in the Draft EIS/EIR. Specifically, the Ground Transportation, Air Quality and Health Risk and Cumulative Analysis sections of the Draft EIS/EIR have failed to analyze or mitigate for reasonably foreseeable impacts of the Project in Riverside County despite the availability of meaningful information to do so. As such, the Draft EIS/EIR must be substantially revised to include reasonably foreseeable Project impacts in Riverside County and mitigation for these impacts must be imposed.

GROUND TRANSPORTATION

RCTC-2

As you may be aware, traffic congestion is a serious problem in the Inland Empire, which includes Riverside and San Bernardino Counties. One of the main causes of traffic snarls is port traffic. More railcars are being added to trains to make room for increased numbers of cargo containers, making the trains longer and resulting in extended automobile and truck wait times at at-grade train crossings. For example, a given street may be blocked for an average of 11.7 minutes by a typical port train and individual delays of 28 minutes have been recorded. (Berths 97-109 Container Terminal Project, Draft EIS/EIR, at p. 3.6-46, 4-97.)[1] Specifically, more than 500 police cars and emergency response vehicles have been delayed by freight trains in the City of Riverside in the past five years.[2] Additionally, increased numbers of trucks carrying port cargo containers also add to congestion on Riverside County freeways. Moreover, only a fraction of the cargo from the ports is handled in the Inland Empire, while the majority merely passes through. Thus, Riverside County is forced to subsidize this increased rail and truck traffic in a manner that is onerous and disproportionate to the benefits that Riverside County receives from the Port. There is concern that "increased traffic in and trade through [the Inland Empire] will make the place impassable within a few years."[3]

Routes 60 and 90, and Interstate 15, all running through the Riverside County, serve as key transportation corridors for freight movement to and from the Ports. (Port of Los Angeles Baseline Transportation Study, April 2004, at p. 38 [addressing traffic from Port of L.B. and Port of L.A.].) These freeways "carry goods to distribution warehouses and rail yards within the region, and serve not only direct port truck trips, but also trips associated with transloaded [as opposed to direct trips through and from the Ports] goods on the second or third link of the goods movement chain." (*Id.*) Currently, there are over 2,879 daily direct truck trips on Route 91 to and from the Long Beach and Los Angeles Ports, not including secondary or transloaded truck trips. (*Id.* at p. 37.) This figure is expected to rise to 7,000 by the year 2025, a staggering 147%

[1] Weikel and Rabin, *Cargo Has L.A. Traffic at a Crawl*, Los Angeles Times (June 10, 2008).
[2] *Ibid.*
[3] *Ibid.*

RCTC-2 increase. (*Id.*) Additionally, the number of peak hour port trucks on Route 60 is expected to increase from 180 to 385 by the year 2025, an astounding 114% increase. (*Id.* at p. 39.) Moreover, currently, about 60% of the total goods that are transported outside of California move along the I-15 corridor.[4] The number of truck trips on the 710, 60 and 10 freeways are expected to double in order to accommodate port growth by the year 2025.[5]

RCTC-3 The Project is projected to handle 2,211,751 and 3,320,000 Twenty-foot Equivalent Units in the years 2015 and 2030 respectively. (Draft EIS/EIR, at p. 1-41.) Of the 3,320,000 TEUs, about 2,523,200 (76%) would be moved by trucks while the other 796,800 (24%) would be moved by trains. (*Id.* at p. 1-42.) Moreover, table 1.6-4 on page 1-41 of the Draft EIS/EIR indicates that the Project will generate an estimated 2,098 annual trains by the year 2030, an astounding 1,420 percent increase from the 2005 CEQA baseline. Additionally, the Project is expected to generate 10,112 daily truck trips by the year 2030, an increase of 3,584 over the 2005 CEQA baseline. (*Id.* at p.1-41.) These are enormous increases in annual and daily trips. The cargo would be transported to warehouses and distribution centers in Southern California, including Riverside and San Bernardino Counties, and nearby western states. (*Id.* at p.1-42.)

In spite of the clearly articulated foreseeable increase in cargo traffic through the Inland Empire as a result of the Project, the Ground Transportation section of the Draft EIS/EIR appears only to analyze local impacts adjacent to and nearby the Port and does not analyze reasonably foreseeable inland impacts in Riverside County. With respect to trains, the Draft EIS/EIR states merely that the Alameda Corridor will easily accommodate Project-related increases in the number of trains and concludes that since Project operations would not have any impact on rail services, no mitigation is required. (Draft EIS/EIR, at p. 3.5-21.) This "analysis" of impacts to traffic is deficient in light of the traffic problems experienced in Riverside County due to Port cargo movement. Contrary to the Draft EIS/EIR's conclusion that "Project operations would not result in any increase in rail activity", there will be an increase in daily train trips from .38 trains per day in 2005 to 5.75 trains per day in 2030. (*Id.* at p.1-41, 3.5-20, 3.5-36.) As pointed out by the Port of Los Angeles's Transportation Study, which has considered traffic from Port of Long Beach, the majority of port trains will be using the train tracks going through the Inland Empire, with resulting foreseeable significant adverse impacts to circulation, including longer wait times adjacent to at-grade train crossings, the interruption of traffic flows and attendant congestion and air quality impacts. There is no analysis of the length of the trains and impacts to traffic at at-grade crossings.

RCTC-4 Additionally, the Draft EIS/EIR states that "impacts due to the proposed Project are limited to . . . in and near the port" and that "two local grade crossings . . . could be affected." (*Id.* at p. 3.5-20.) This statement is inadequate in view of *County of Kern* and *Grossmont-Cuyamaca Community College District*. The Port is required to analyze impacts and discuss mitigation measures, if the impact is reasonably foreseeable. The Draft EIS/EIR, however, does not explain why traffic impacts associated with rail impacts are foreseeable at near-Port intersections but not

[4] State Senator George Runner, *Innovative Solutions to Relieve Truck Traffic on Our Freeways*, 2005 (available at http://republican.sen.ca.gov/opeds/17/oped2602.asp).
[5] Weikel and Rabin, *Cargo Has L.A. Traffic at a Crawl*, Los Angeles Times (June 10, 2008).

on roadways in Riverside County. The attached technical analysis shows that significant delays at at-grade crossings will occur as a result of this project. RCTC-4

Moreover, the Project is projected to generate an additional 1,308,160 annual truck trips, many of which will be made via Inland Empire freeways, including Interstate 15 and Routes 60 and 91. Because more than 75% of all goods shipped from California sites are now transported on trucks, these additional truck trips will cause traffic problems similar to those generated by the trains.[6] The freeways in Riverside County are already suffering from congestion due to Port traffic. This additional projected traffic will exacerbate the traffic problem for various reasons. First, trucks generally travel at slower speeds than automobiles, leading to a slow-down of freeway traffic generally. Second, trucks slowing down and merging leads to congestion and increases the likelihood of accidents. Third, trucks carrying heavy cargo causes greater wear and tear on the freeways. Fourth, trucks take up 25-30% of valuable freeway space, which leaves less room for commuters and leads to traffic congestion.[7] RCTC-5

The Ground Transportation section states that additional traffic generated by the Project would have significant impacts on certain highway locations in the study areas, including SR-91. (Draft EIS/EIR, at p. 3.5-18.) It does not include an analysis of the impacts on the SR-60 or I-15. Additionally, the Draft EIS/EIR uses the City of Los Angeles and City of Long Beach thresholds of significance which do not apply in Riverside County. (Draft EIS/EIR, at p. 3.5-2.) The Draft EIS/EIR must analyze port truck impacts on all freeways in Riverside County, not just on SR-91. Moreover, for mitigation measures, the section concludes that the Port "does not own, control, or maintain any of the impacted highway segments" and "does not have authority to unilaterally implement any mitigation measures." (*Id.* at p. 3.5-18.) It states, however, that the Port will pay its fair share of any mitigation program that Caltrans will adopt and concludes that no additional feasible mitigation measures are available at this time. (*Id.* at p. 3.5-19, 3.5-149.) However, other feasible mitigation measures *are* available at this time. RCTC-6

For example, mitigation could include cooperative agreements and payment of fair share fees to assist in constructing grade separations in Riverside County at-grade crossings which have dire traffic backlogs, alleviating some of the congestion. Expanding or redesigning certain off-ramps and on-ramps that cause congestion due to trucks slowing or merging could be another mitigation measure. Other mitigation measures could include shifting truck operation hours from peak hours to off-peak and weekends. Additionally, since only about 24% of Project generated cargo will be transported by trains, shifting cargo transport from trucks to trains is another mitigation measure because each train is equivalent to 700 truck trips. (Port of Los Angeles Portwide Rail Synopsis Review Draft, July 2004, at p. 9.) Similarly, the Port could contribute into a Transportation Uniform Mitigation Fee fund or other similar funds, with proceeds to be used to improve traffic circulation in Riverside County. RCTC staff would be pleased to work with the Port to develop and implement appropriate mitigation for these impacts.

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6 Traffic Congestion is California's Economic Roadblock, May 7, 2001, All Business (available at http://www.allbusiness.com/economy-economic-indicators/economic-conditions-recovery/6069990-1.html).

[7] State Senator George Runner, *Innovative Solutions to Relieve Truck Traffic on Our Freeways*, 2005 (available at http://republican.sen.ca.gov/opeds/17/oped2602.asp).

RCTC-7

AIR QUALITY AND HEALTH RISK

In addition to the deficiencies in the Ground Transportation analysis, the Air Quality and Health Risk section of the Draft EIS/EIR is also deficient. "It has long been recognized that emissions from trains and trucks can significantly affect air quality locally and regionally." (Port of Los Angeles Portwide Rail Synopsis Review Draft, July 2004, at p. 41.) The section states that the Project is located within the South Coast Air Basin ("SCAB"), which includes portions of Riverside and San Bernardino Counties. Several air quality standards in the SCAB are exceeded frequently and by a wide margin. The SCAB is currently in non-compliance with federal standards for ozone, nitrogen dioxide, carbon monoxide and is in non-attainment for 8-hour ozone, PM_{10}, and $PM_{2.5}$. (See Draft EIS/EIR, at p. 3.2-5, 3.2-11, 3.2-62.) The main concern with these pollutants is that they contribute directly to regional human health problems. Furthermore, trucks are responsible for 40% of nitrous oxide emissions and 60% of particulate matter emissions produced from all vehicles.[8] The Long Beach and Los Angeles Ports "contributed approximately 21 percent of the total diesel PM emissions in the air basin in 2002" which resulted in elevated cancer risks. (Berths 97-109 Container Terminal Project Draft EIS/EIR, at p. 3.2-8.)

Although the air quality section does discuss operational emissions associated with trucks and trains generally, it fails to analyze emissions associated with travel through Riverside County. This is problematic in light of the fact that the impact of these emissions will be greater in the Inland Empire because of the increased amount of Project-generated truck and train traffic traveling though the Inland Empire. For example, an increase in daily port train trips results in increased at-grade crossing automobile idling near homes and schools in Riverside County which causes carbon monoxide hotspots. (See Technical Review of Draft EIS/EIR for Middle Harbor Redevelopment Project (2008), at p. 11.) The emissions from these idling vehicles, which have not been analyzed in the Draft EIS/EIR, have serious health impacts on Riverside County residents who live, work, or attend school near the hotspots. (See Draft EIS/EIR, at p. 3.2-6, 3.2-7.) Moreover, since trucks and trains emit excessive diesel particulate matter, the projected increase in such traffic has a foreseeable cumulative impact which needs to be analyzed. Furthermore, the required mitigation measures do not address the impacts to Riverside County. (See Draft EIS/EIR, at p. 3.2-113 through 3.2-114, Table 3.2-57.) Some mitigation for the Port's impacts needs to be directed at improving air quality in Riverside County. For example, one potential mitigation measure is for the Port to contribute funding for grade-separations which would eliminate emissions from idling vehicles and their associated hotspots.

RCTC-8

CUMULATIVE ANALYSIS

The cumulative analysis section of the Draft EIS/EIR is similarly deficient. CEQA requires a reasonable analysis of the significant cumulative impacts of a proposed project. (Pub. Res. Code, § 21083(b).) "An EIR must be prepared if the cumulative impact may be significant and the project's incremental effect, though individually limited, is cumulatively considerable." (State

[8] *Truck Emissions,* ACFNewssource (available at http://www.acfnewsource.org/science/truck_emissions.html); cf. Port of Los Angeles Portwide Rail Synopsis Review Draft, July 2004, at p. 41.)

CEQA Guidelines, § 15064(h).) "Cumulatively considerable" means that the incremental effects of an individual project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects. (*Ibid.*) The discussion of cumulative impacts shall reflect the severity of the impacts and their likelihood of occurrence. (State CEQA Guidelines, § 15130.) An EIR may determine that a project's contribution to a significant cumulative impact will be rendered less than cumulatively considerable and thus is not significant. (*Ibid.*) A project's contribution is less than cumulatively considerable if the project is required to implement or fund its fair share of a mitigation measure or measures designed to alleviate the cumulative impact. (*Ibid.*) RCTC-8

The Draft EIS/EIR identifies thirty-six approved or pending projects within the general Project vicinity that could contribute to cumulative impacts. (Draft EIS/EIR, at p. 2-2.) The Draft EIS/EIR states that "[t]he Project when considered cumulatively would have significant impacts at certain study highway segments...[and] would cumulatively contribute toward the highway segment impacts." (Draft EIS/EIR, at p. 3.5-32.) However, it states that since the Port does not own or control the highway segments, it cannot unilaterally implement mitigation measures but "shall be required to pay its fair share into" any mitigation program that Caltrans adopts. (*Ibid.*)

This cumulative impacts analysis is inadequate because it does not analyze the cumulative impacts of individual port growth related projects, such as the Berths 97-109 Container Terminal Project at the Port of Long Beach, on Riverside County. For example, the combined annual truck trips generated by this Project and the Berths 97-109 Container Terminal Project exceeds a staggering 2,100,000, most of which will be using Riverside County highways. Furthermore, there is no analysis of foreseeable cumulative impacts to all freeways in Riverside County. Additionally, Riverside County is currently one of the state's most rapidly growing areas, adding more commuters on the freeways in addition to truck traffic. Although regional growth was considered in some parts of the traffic analysis, the impact of the expected growth in Riverside County was not considered in the cumulative impacts section. (Draft EIS/EIR, at p. 3.5-19.) More importantly, even if the Port has no jurisdiction over the impacted highways, this does not excuse the Port from disclosing and analyzing potential impacts under CEQA.

With respect to transit and rail services, the Draft EIS/EIR asserts simply that "the Project would not contribute to the cumulative impacts or rails services and would not contribute cumulatively in creating additional vehicular delays at the at-grade rail crossings." (Draft EIS/EIR, at p. 3.5-33.) It concludes that '[s]ince there are no cumulative impacts, no mitigation is necessary." (*Ibid.*) This conclusion is not supported by the evidence, however. As previously noted, the Project alone will be adding 5.75 new daily train trips. Each port train passage typically blocks a given street for about 11.7 minutes. (Berths 97-109 Container Terminal Project, Draft EIS/EIR, at p. 3.6-46). This, coupled with cumulative train trips generated by the other thirty-six identified projects, including the Berths 97-109 Container Terminal Project, could cause significant at-grade delays. Specifically, the Project alone would cause between 3.1 to 14.5 vehicle hours of delay at sixteen at-grade intersections in Riverside County. (See Technical Review of Draft EIS/EIR for Middle Harbor Redevelopment Project (2008), at p. 10.) Therefore, an analysis of mitigation measures to alleviate these cumulative impacts is necessary. RCTC-9

RCTC-9 The cumulative analysis section of the Draft EIS/EIR lacks detail and is deficient. It should include an analysis of cumulative impacts in Riverside County, a thorough discussion of various mitigation measures designed to reduce or negate those impacts, and a discussion of how the Port will "fund its fair share" of these mitigation measures.

RCTC-10 **CONCLUSION**

RCTC urges the Port to diligently consider and analyze all of the Project's potential environmental impacts before determining whether the Board of Harbor Commissioners should certify the EIS/EIR and approve the Project. CEQA does not authorize an agency to proceed with a project that will have significant, unmitigated effects on the environment, unless the measures necessary to mitigate those effects are truly infeasible. (*City of Marina v. Board of Trustees of the California State University* (2006) 39 Cal.4th 341, 368-369; see also Pub. Res. Code, § 21081, subd. (a) and State CEQA Guidelines, § 15091, subd. (a).)

Again, I would like to thank you for providing RCTC with this opportunity to comment on the Middle Harbor Redevelopment Project and its Draft EIS/EIR. However, as discussed above, the Draft EIS/EIR is currently deficient and does not comply with CEQA. Further environmental analysis and mitigation must be completed before the Board of Harbor Commissioners can consider certifying the Draft EIS/EIR or approving the Project. RCTC staff would be pleased to further discuss the impacts that the Port's actions have on Riverside County and to work with the Port to develop feasible mitigation.

Finally, I should note that RCTC has previously requested in writing to be added to the Port's mailing list and to receive copies of all CEQA and public meeting/hearing notices as is permitted under CEQA and the Ralph M. Brown Act. Thank you for your attention to these comments. As a public agency, RCTC looks forward to receiving your written response at least ten days prior to the certification of the Draft EIS/EIR. (Pub. Res. Code, § 21092.5.)

Sincerely,

Jeff Stone
Chairman

Attachment: Technical Review of Draft EIS/EIR for Middle Harbor Redevelopment Project (2008)

Technical Review of
Draft EIS/EIR for
Middle Harbor Redevelopment Project

Final Report

Prepared for:

Riverside County Transportation Commission (RCTC)

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July 2, 2008

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Background

The Port of Long Beach is proposing to redevelop, expand, and modernize existing waterfront property and Port lands to accommodate a portion of the forecasted increase in containerized cargo. To accomplish this, the Middle Harbor Redevelopment Project has been planned to accomplish the following objectives:

- Consolidate operations and wharves of two terminals (Piers E and F) into one terminal;
- Rehabilitate and modernize existing Port facilities and replace obsolete wharf structures with wharf areas, channels, and berths that can accommodate new, larger container vessels;
- Implement the Green Port Policy and the Clean Air Action Plan;
- Provide for efficient terminal traffic flow and cargo handling operations; and
- Link new and improved dock and wharf operations to planned and existing on-dock railyard facilities.

The existing 294-acre Project site would be increased to 345 acres, including 54.6 net acres of newly-created land. When completed, the Project would consist of one consolidated container terminal designed to load and unload containerized cargo to and from marine vessels. When optimized at maximum throughput capacity (by Year 2025), the consolidated container terminal would be designed to accommodate approximately 3.32 million twenty-foot equivalent unit (TEU) containers per year. The baseline (Year 2005) throughput is 1.26 million TEUs per year, so the new facility would accommodate an increase of approximately 2.06 million TEUs annually. Truck trips to and from the Middle Harbor container terminal would increase from the baseline (Year 2005) level of 6,528 trips per day to an average of 10,112 trips per day in 2025.

The EIS/EIR is intended to evaluate the impacts associated with the construction and operation of this container terminal. The U.S. Army Corps of Engineers (Corps or USACE) is the federal lead agency for National Environmental Policy Act (NEPA) compliance and the required Environmental Impact Statement (EIS) for the proposed Project; the Port is the state lead agency for California Environmental Quality Act (CEQA) compliance and the Environmental Impact Report (EIR) for the project.

This draft EIS/EIR was released on May 19, 2008 for public review and comment. The public comment period is in effect until July 11, 2008.

This report consists of two components:

1. A review of the EIS/EIR document that presents how it analyzes and reports the types of potential impacts that could affect Riverside County;
2. Supplemental technical analysis that estimates the impacts of the additional container traffic in Riverside County.

Review

This section presents the findings of the Draft EIS/EIR document review. The findings are presented in four sections: (1) what the document says about potential impacts in Riverside County; (2) identification of the types of impacts anticipated in Riverside County; and (3&4) how the document treats the types of impacts (truck and rail) anticipated in Riverside County, even if its analysis does not include locations in Riverside County.

Treatment of Potential Impacts in Riverside County

The Draft EIS/EIR does not identify potential impacts in Riverside County. The Region of Influence (ROI) of the project is defined as the following five counties: Los Angeles, Orange, Riverside, San Bernardino, and Ventura. However, the analysis of impacts is focused only on the Port and its surrounding areas. Some of the EIS/EIR's rationale for this is presented later in this chapter, where the document's treatment of truck and rail crossing impacts is discussed.

Types of Impacts Anticipated in Riverside County

The additional container terminal capacity at the Port of Long Beach would result in additional containers being carried by rail and by truck to locations around the greater Los Angeles metropolitan area and to destinations across the country. Riverside County is home to many warehousing and truck terminal facilities, and is crossed by three rail lines that carry freight rail destined for points outside California. So the two primary types of anticipated impacts would be associated with additional truck traffic on Riverside County roads (including the trucks' impact on traffic operations, their emission of greenhouse gases and air pollutants, and the health risks associated with these pollutants), and with additional freight rail traffic carrying containers through Riverside County (particularly the impacts caused by the trains passing through at-grade rail crossings, where traffic is delayed waiting for the trains).

Treatment of the Impacts of Additional Truck Trips

By 2025, the proposed Project would generate an increase of approximately 3,584 daily truck trips compared to current levels. Those trips would include local cargo (principally from Southern California but including northern California, Arizona, Nevada, and Utah), national cargo hauled entirely by truck, and intermodal cargo bound for or coming from locations farther east.

The traffic analysis for the EIS/EIR states (page 24):

> *The area of influence for ground transportation consists of the streets and intersections that could be affected by automobile, truck, and rail traffic to gain access to and from the POLB Middle Harbor. This area is generally bounded by Anaheim Street to the north, the Long Beach Freeway (I-710) to the east, the Terminal Island Freeway (SR-47 and SR-103) to the west, and the waterfront to the south.*

The analysis evaluates traffic impacts at 9 intersections in this area. These locations are all located within 3 miles of the proposed terminal. The impact analysis evaluates changes in peak hour intersection levels of service at these locations due to automobile and truck traffic to/from the project site. The determination of significance of transportation/circulation impacts of the proposed project was based on criteria identified in both the City/Port of Long Beach and the City of Los Angeles Department of Transportation Guidelines:

LOS without the project	LOS or Change in V/C with the project
City/Port of Long Beach Guidelines	
A, B, C, or D	To E or F
E, F	0.02 or greater
City of Los Angeles Dept. of Transportation Guidelines	
C	≥ 0.040
D	≥ 0.020
E or F	≥ 0.010

The study intersections are shown in the following figure.

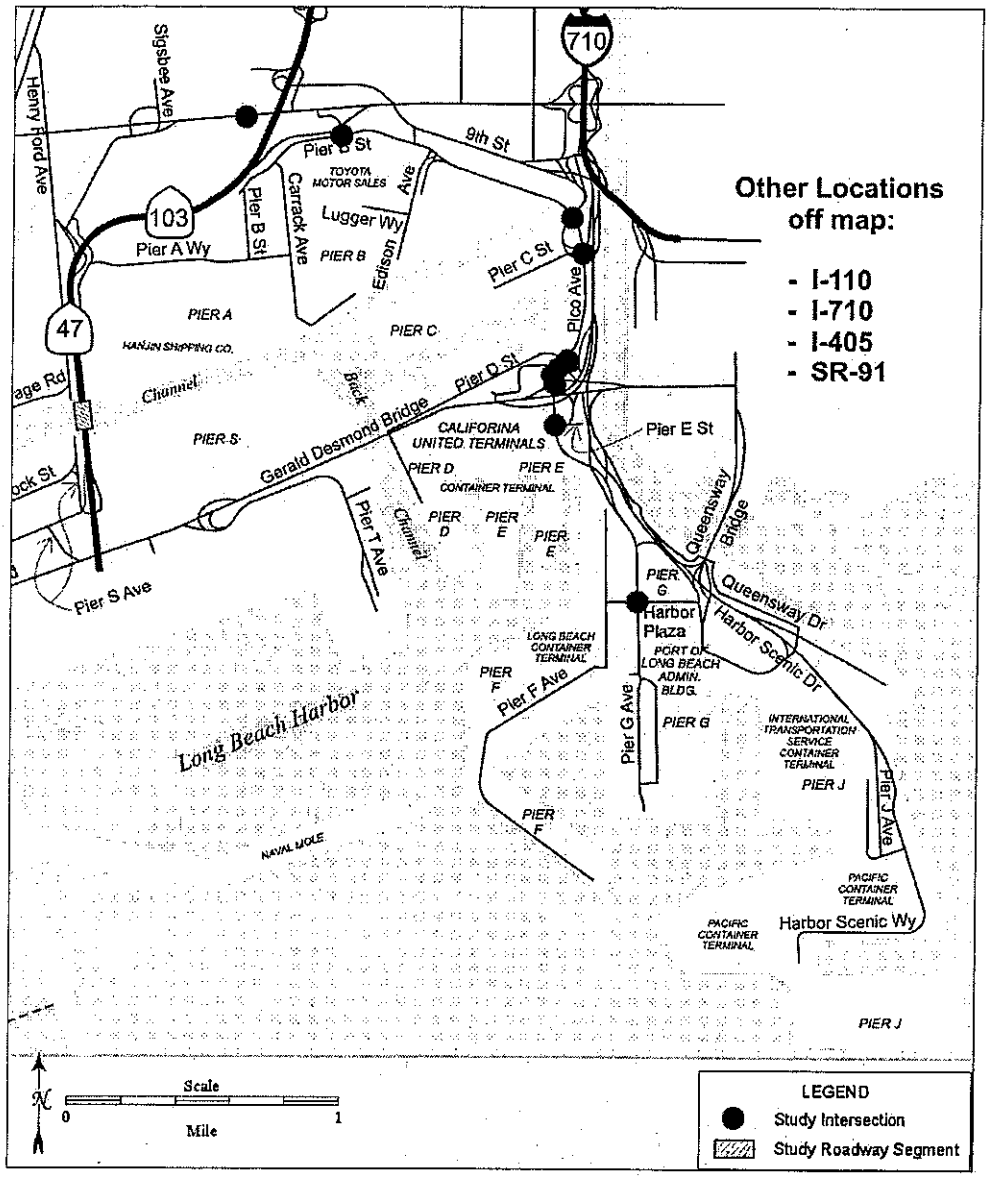

Figure 3.5-1. Study Area

Potential traffic impacts on regional arterial highways were analyzed in conformance with guidelines from the Los Angeles County Congestion Management Program (CMP), adopted by the Metropolitan Transportation Authority (Metro). According to the CMP, a traffic impact analysis is required at a CMP arterial monitoring intersection where the proposed project would add 50 or more trips during either the A.M. or P.M. weekday peak hour. The closest CMP arterial monitoring station to the proposed Project is Alameda Street / Pacific Coast Highway (PCH). Since the Project-related trips do not exceed the CMP minimum threshold at that location, no CMP analysis of the Alameda/PCH station for future conditions was required.

Traffic impacts on freeways were also assessed in conformance with the CMP. Traffic impact analysis for freeway segments is required at CMP freeway monitoring locations where the proposed project would add 150 or more trips during either the A.M. or P.M. weekday peak hours. The traffic study analyzed impacts at seven freeway locations, including locations on I-710, I-405, I-110, and SR-91. The analysis concludes that the project will have significant impacts on some segments of all these freeways. Since the Port does not own, control, or maintain any of the impacted highway segments (they fall under the jurisdiction of Caltrans), it does not have the authority to unilaterally implement any mitigation measures on those segments. The EIS/EIR includes a mitigation measure that requires the Port to pay its fair share of improvement costs if Caltrans either adopts a fair share program to collect funds for mitigation, or obtains the balance of funding needed to improve the impacted highway study segments.

Treatment of Potential Rail Crossing Delay Impacts

Rail activity causes delay at at-grade crossings where the trains pass and cause auto and truck traffic to stop. The amount of delay is related to the length of the train, the speed of the train and the amount of auto and truck traffic that is blocked.

The report discusses potential rail impacts in terms of three areas:

1. Local rail lines in and near the Port
2. The regional rail corridor north of the Port (i.e., the Alameda Corridor)
3. The rail lines that lead north or east of the downtown rail yards (these include the rail lines through Riverside County)

Local rail line impacts: Rail-related impacts due to the proposed Project are limited to the at-grade crossings that are located south of the downtown rail yards, and focus on the at-grade crossings in and near the Port between the proposed Project rail yard and the beginning of the Alameda Corridor. There are two local grade crossings which might be affected, namely, Pier B Street/9th Street and Edison Avenue.

The grade crossing at Edison Avenue will be eliminated as part of the Edison Avenue Closure project; the Harbor Development Permit has already been issued and the closure of this crossing is expected by late summer 2008. Currently, most drivers already take different routes to avoid delays at the Pier B Street/9th Street at-grade crossing because drivers can experience long

delays during the peak hours. Moreover, as part of the Pier B Rail Yard expansion project, this crossing will be eliminated by Year 2015. Since both the crossings are being eliminated in the future and because alternative routes that avoid the crossings are available, the EIS/EIR concludes that the proposed Project would have less than significant impacts at either grade crossing.

Regional rail corridor north of the Port: The report states that the proposed Project would not have any significant impact on regional rail corridors north of the proposed Project site since the Alameda Corridor project has been completed. The completion of the corridor has eliminated all of the regional at-grade rail/highway crossings between the Port and the downtown rail yards; therefore, there would be no change in vehicular delay at any of those crossings due to Project related rail activity (they are now all grade separated).

Rail lines leading north or east of downtown rail yards: The report does not discuss or evaluate any rail-related impacts on lines that lead north or east of the downtown rail yards. This includes the lines through Riverside County. The traffic analysis states that "in the case of rail lines, the area of influence extends along the Alameda Corridor as far as the downtown Los Angeles railyards." (Page 24)

Supplemental Analysis

Since the draft EIS/EIR does not evaluate impacts in Riverside County, supplemental analysis was performed to quantify potential impacts considered to be of importance in Riverside County.

The Project is expected to generate additional truck trips which will travel through Riverside County and may impact roadway systems. Of the additional 3,584 daily truck trips attributable to the Project, the primary origins/destinations in Riverside County would be truck terminal facilities and warehouses, of which the greatest concentration is in the Mira Loma area of northwest Riverside County. The Port of Los Angeles Port-wide Transportation Master Plan has estimated that about 29% of the truck traffic generated at the Ports is oriented toward warehousing and distribution centers in the Inland Empire (including San Bernardino County), meaning that the project's direct truck traffic impact on all of the Inland Empire would be on the order of 1,039 truck trips per day. For comparison purposes, the estimated volume of additional truck trips in the Inland Empire attributable to the proposed new China Shipping terminal at the Port of Los Angeles (POLA) is 1,465 per day. (This does not include the indirect impact of additional trucks taking the goods from the warehouses and terminal facilities and making deliveries to other intermediate or final destinations.) The impact of these truck trips on freeways in Riverside County has not been estimated in the EIS/EIR.

Much of the additional container traffic from the Project will be carried through the region by rail to destinations outside California, and most of this additional rail traffic will pass through Riverside County. This supplemental analysis quantifies the impacts of the additional freight rail traffic on at-grade crossings in Riverside County.

Rail Crossing Traffic Delay

At full operation (anticipated in approximately year 2025), the proposed container terminal would operate approximately 21 hours per day, 365 days per year, and would accommodate approximately 3,320,000 TEUs per year. Proposed terminal operations would result in a 62 percent increase from the 2005 baseline average of 1,264,021 TEUs per year, an increase of about 2,056,000 TEUs per year. For comparison purposes, the volume of additional containers to be handled at the proposed new China Shipping terminal at the Port of Los Angeles is 1,551,000 per year.

To estimate the effects on rail crossing delay in Riverside County, the additional container volume (2.06 million TEUs per year) was first split into modes of transport. Of the international container market, 52% is carried by rail and transported outside the Southern California region (Multi County Goods Movement Action Plan, p. 3-7), some of it after being warehoused or transloaded locally before being transported eastbound in domestic containers. Applying this percentage and a typical ratio of 1/350 to convert annual volume to daily volume, the total amount of daily container traffic to be carried on trains is estimated to be 3,054 TEUs per day. Rail cars typically carry two TEU (i.e., forty-foot) containers in a double-stack configuration, therefore each rail car carries four TEUs. This equates to 763 additional rail cars from the Project.

To conservatively estimate the daily volume of rail cars passing through Riverside County, this number was reduced to 664, based on the fact that Riverside County is the conduit for 87% of the freight passing through the Ports of Los Angeles and Long Beach. (This percentage represents all freight passing through the Ports, so it is probably conservatively low for container traffic carried by rail.) Assuming a typical flatcar length of 53 feet to carry the 40-foot long containers, the 664 daily rail cars equate to 35,192 feet of rail cars passing through Riverside County, or about six trains each 6,000 feet long. (The assumption that the rail cars would consist of six 6,000-foot trains is also a conservative assumption in terms of calculating delay, since a larger number of shorter trains would create greater total delay.)

To calculate the impact in terms of traffic delay at Riverside County rail crossings, the analysis assumed that the six trains would be split evenly between the two rail companies (three would use the BNSF line and three would use UP lines), and that they would use the following rail lines:

- Three trains on the BNSF Transcontinental rail line through Corona and Riverside
- Two trains on the UP LA Sub through Jurupa and Riverside, one of which continues along the UP Yuma Main line through Banning Pass and the Coachella Valley
- One train on the UP Alhambra Line through Ontario and Colton (outside Riverside County) and continuing along the UP Yuma Main line through Banning Pass and the Coachella Valley

These assumptions are consistent with the existing relative volumes of freight rail traffic on these lines (Multi County Goods Movement Action Plan, p. 3-15).

The calculations of rail crossing delay prepared for RCTC as part of the TCIF application and Alameda Corridor East rail crossing priority analysis were used as the baseline for this calculation, assuming that the train volumes already include the additional container traffic from the Project. The without-Project scenario was obtained by subtracting the number of trains from each rail line as outlined above. The calculation was performed for both existing conditions (Year 2005) and future conditions (Year 2030), assuming that one of each company's trains would operate during daytime hours and the other during evening/night hours.

As shown in the following table, the cumulative effect of these additional containers passing through Riverside County today would be a difference of 51.9 vehicle hours of delay per day. The projected difference in delay in Year 2030 is an overall difference of 174.1 vehicle hours of delay per day in Riverside County.

	Vehicle-Hours of Delay (VHD) per day in Riverside County	
	Year 2005	Year 2030
Without Project	793.9	4266.9
With Project	845.8	4,441.0
Difference	51.9	174.1

There are sixteen crossings in Riverside County where the additional container traffic would increase the existing delay by at least one vehicle-hour of delay per day. The estimated vehicle-hours of delay at each of these locations for existing (Year 2005) and future conditions (Year 2030) are shown in the following table:

Train Line	Location	Jurisdiction	2005 Baseline Vehicle Hrs. of Delay per Day	2005 with Project Vehicle Hrs. of Delay per Day	Difference in Vehicle Hrs. of Delay per Day	2030 Baseline Vehicle Hrs. of Delay per Day	2030 with Project Vehicle Hrs. of Delay per Day	Difference in Vehicle Hrs. of Delay per Day
BNSF (SB SUB)	McKinley St	Corona	54.2	58.7	4.4	250.7	265.2	14.5
BNSF & UP (SB SUB)	Iowa Av	Riverside	43.9	47.4	3.5	234.3	246.2	12.0
BNSF (SB SUB)	Adams St	Riverside	34.3	37.1	2.8	107.1	112.9	5.9
BNSF & UP (SB SUB)	3rd St	Riverside	31.7	34.2	2.5	136.6	143.4	6.9
BNSF & UP (SB SUB)	Columbia Av	Riverside	28.8	31.1	2.3	134.2	141.0	6.8
BNSF & UP (SB SUB)	Chicago Av	Riverside	28.0	30.2	2.2	155.1	162.9	7.8
UP (LA SUB)	Clay St	Riverside County	28.5	30.5	2.0	110.2	115.2	5.1
BNSF (SB SUB)	Magnolia Av	Riverside County	22.2	23.9	1.8	96.7	102.0	5.3
BNSF & UP (SB SUB)	7th St	Riverside	18.2	19.6	1.4	134.8	141.6	6.8
BNSF (SB SUB)	Smith Av	Corona	17.7	19.1	1.4	117.8	124.3	6.5
UP (LA SUB)	Riverside Av	Riverside	19.7	21.0	1.4	62.2	65.0	2.8
UP (LA SUB)	Magnolia Av	Riverside	20.1	21.5	1.4	76.5	80.0	3.4
BNSF & UP (SB SUB)	Center St	Riverside County	15.9	17.1	1.3	76.5	80.3	3.8
BNSF (SB SUB)	Tyler St	Riverside	15.2	16.4	1.2	76.3	80.4	4.1
BNSF (SB SUB)	Madison St	Riverside	13.2	14.2	1.0	36.4	38.3	1.9
UP (YUMA MAIN)	Sunset Av	Banning	34.4	35.4	1.0	181.7	184.7	3.1

Emissions from Rail Crossing Delays

Not only would the additional rail traffic delay Riverside County drivers needing to wait for trains at at-grade crossings, but these delays would also result in additional emission of pollutants by the idling vehicles. Typical average emission rates for idling vehicles obtained from the California Air Resources Board (CARB) EMission FACtors (EMFAC) model were applied to the overall vehicle-hours of delay in 2005 and 2030 to estimate daily levels of pollution emissions associated with various air pollutants and greenhouse gases. These estimates of additional pollution emissions are summarized in the following table. It is important to note that these estimates assume that all vehicles will leave their engines idling while they wait for the train to pass. This is likely a high (worst case potential) estimate, since some automobile drivers will turn off their engine while they wait, especially for long freight trains.

	Potential Change in Emissions (grams per day) Due to Increased Idling at Rail Crossings in Riverside County	
	Year 2005	Year 2030
Particulate Matter (PM_{10})	5.4	18.6
Nitrous Oxides (NO_x)	303.3	1,025.2
Volatile Organic Compounds (VOC)	875	2,941.6
Carbon Monoxide (CO)	12,537.4	42,137
Greenhouse Gases (CO_2 equivalents)	23,749	79,666

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Riverside County Transportation Commission, July 9, 2008

RCTC-1. The comment suggests that the Draft EIS/EIR fails to analyze and mitigate reasonably foreseeable Project impacts in Riverside County. 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. Please see response to comments RCTC-2 through RCTC-9 for additional details.

RCTC-2. Commenter provides information to suggest that increased rail and truck traffic from the Port disproportionately burdens the residents of Riverside County. However, the commenter does not distinguish between existing conditions in the County and the impacts of this Project. The purpose of the Draft EIS/EIR is to identify and evaluate the environmental impacts that could potentially be caused by the Project, both individually and cumulatively. CEQA does not require that the document mitigate existing baseline conditions. These existing conditions, which are the result of regional development, are being addressed through regional programs, such as:

- San Pedro Bay CAAP, available at: www.cleanairactionplan.org/reports/documents/;
- SCAG's Regional Transportation Plan, available at: www.scag.ca.gov/rtp2008/final-amendment/;
- Multi-County Goods Movement Action Plan and the State's Goods Movement Action Plan, discussed below;
- Southern California National Freight Gateway Collaboration Agreement, which is being implemented through the Proposition 1B TCIF, discussed below;
- I-710 Corridor EIS/EIR, discussed at pages 3.5-13, 3.5-14 of the Draft EIS/EIR;
- SR-91 Study, discussed at page 3.5-14 of the Draft EIS/EIR; and
- ATMIS system, discussed at pages 3.5-13, 3.5-14 of the Draft EIS/EIR.

With regard to the Project, every aspect of the Draft EIS/EIR transportation analysis, including the traffic study, complies with all applicable environmental regulations, including CEQA. The traffic study was prepared in accordance with City of Long Beach procedures and CMPTIA procedures.

RCTC's comment encompasses three separate issues: (i) the overall impacts on Riverside County from increased rail and freight; (ii) the impacts of truck traffic on freeways in Riverside County; and (iii) the impacts of increased rail at at-grade crossings. Each issue is addressed below.

Overall impacts on Riverside County. Although the analysis indicates that the Project would not exceed the traffic thresholds for significance established for Los Angeles or Riverside Counties or commonly accepted rail impact thresholds, the SCAG Regional Transportation Plan recognizes overall growth in regional population, employment, and goods movement will continue to create congestion on freeways, arterials, and rail corridors, and has adopted policies and programs aimed at addressing congestion impacts. As noted above, these impacts are being addressed outside of this Project through local and regional programs.

In January 2007, the Business, Transportation and Housing Agency and California Environmental Protection Agency prepared the Multi-County Goods Movement Action Plan (MCGMAP, available at: www.metro.net/projects_studies/mcgmap/action_plan/). RCTC is one of the regional MCGMAP representative agencies participating in this unprecedented partnership between county, regional, and state transportation agencies to address the goods

movement challenge faced by Los Angeles, Orange, Riverside, San Bernardino, San Diego, Ventura, and Imperial counties. These counties comprise the U.S.'s preeminent international commerce gateway, handling 44 percent of the Nation's containerized imports. This preeminence reflects southern California's competitive advantage derived from its unique combination of large deep-water ports; the proximity of the California/Mexico border; the West Coast's largest population concentrations; one of the Nation's largest densities of transloading, consolidation, and distribution warehouses; and the availability of intermodal facilities. The region also has unparalleled connectivity by all-weather Interstate freeways and transcontinental rail lines to all points within the U.S. RCTC joined other regional agencies to address infrastructure needs, environmental concerns, and community impacts related to the region's robust goods movement activities. The MCGMAP partners are the transportation and planning agencies that co-manage the development of the Action Plan: Los Angeles County Metropolitan Transportation Authority (Metro), Orange County Transportation Authority, RCTC, San Bernardino Associated Governments, San Diego Association of Governments, SCAG, Ventura County Transportation Commission, and Caltrans Districts 7, 8, 11, and 12. The MCGMAP partners plan, fund, maintain, operate, construct and implement multi-modal transportation projects and influence the goods movement system through the regional planning and programming of funds to transportation projects.

Because federal, state, and regional agencies have varying regulatory authorities over the trucking and rail industries, the MCGMAP partners have little ability to unilaterally regulate the operations, business practices, and/or pollutant emissions of the private sector goods movement operators, and no authority to regulate shippers and ocean carriers. As a result, the MCGMAP partners have focused primarily on goods movement infrastructure while acknowledging the essential roles to be played by the regulatory agencies, the Ports CAAP, and public or private technology initiatives.

Given their defined roles and responsibilities, the MCGMAP partners cannot fully implement many of the plan's recommended strategies on their own. Therefore, to fully realize the benefits of this plan, continued collaboration and consensus building among the MCGMAP partners and other public and private sector stakeholders will be necessary and critical.

Both ports work with regional transportation agencies, including RCTC, as indicated by the "Southern California National Freight Gateway Collaboration Agreement" that the Ports entered into on October 12, 2007 (RCTC Partnership Agreement 07-67-041-00). The agreement confirmed the commitment of all of the agencies that had participated in the MCGMAP process initiated by the State Business, Transportation & Housing Agency. The goal of the collaboration is to improve sustainable and efficient freight transportation operations via rail and truck in the southern California region, while protecting and enhancing health and safety, air quality, and the well-being of adjacent communities.

Like MCGMAP, the Agreement derived from the realization that many of the regional goods movement impacts are attributable to factors outside of the region's direct sphere of influence, namely federal trade and state transportation policies. In furtherance of the USDOT's National Strategy to Reduce Congestion on America's Transportation Network, the agreement establishes collaboration among RCTC, Los Angeles County Metropolitan Transportation Authority (Metro), the Orange County Transportation Authority, San Bernardino Association of Governments, Ventura County Transportation Commission, Imperial County Transportation Commission, SCAG, POLA, POLB, Port Hueneme, State Departments of Business, Transportation and Housing, California Environmental Protection Agency, California Resources Agency, U.S. Department of Transportation, U. S. Department of Interior, USACE, EPA, and the U.S. Department of Commerce. Its purpose is to advance projects that contribute to efficient freight transportation while protecting and enhancing environmental and community issues.

The southern California collaboration and consensus demonstrated its first success during the competition to obtain state TCIF provided by the passage of Proposition 1B (Prop 1B).

The California Transportation Commission allocated approximately 60 percent of the nearly $3.1 billion bond funding for goods movement to the southern California partnership, including $152.7 million for 12 grade separation projects in Riverside County. The funding allocation marked the most significant financial commitment by the State for railroad grade separations and solidified the importance of the regional partnership. The collaboration provided information and data to secure the funding allocation requests; significantly, cargo growth projections for the ports, including projections from this Project, were utilized to support the need for grade separations along key rail corridors in Riverside. This information is also being supplied to support funding requests through federal appropriations, the proposed Stimulus Bill, and the upcoming Transportation Bill.

Impacts on freeways in Riverside County. Commenter states that trucks carrying cargo containers from the Ports will contribute to congestion on the freeways in Riverside County. While some trucks that service the ports use the roadway system in Riverside County, identifying truck traffic from the Ports as one of the "main causes of traffic snarls" (i.e., congestion) is a gross overstatement. Trips from the Ports constitute a small percentage of trips in Riverside County. Cambridge Systematics prepared the "Critical Goods Movement Issues Scan for Riverside County" (September 15, 2006) for RCTC. That study addressed current and future trucking, freight, and distribution center data, specifically focused on Riverside County, finding that the traffic volume on freeways into Riverside County includes only 0.5 to 0.7 percent port truck traffic. Those data include trucks from both ports (Los Angeles and Long Beach), so the volume from the POLB only is even smaller. The Project would only be a small component of the total POLB truck traffic.

Most of the technical support in this comment (as well as comment RCTC-5) appears to be drawn from two sources: an article in the *Los Angeles Times* (Weikel and Rubin, June 10, 2008) and personal opinions from State Senator George Runner. Both of these sources have technical limitations:

The *Los Angeles Times* article states that the truck trips on Riverside County freeways "are expected to double in order to accommodate port growth by the year 2025." There is no evidence to support a contention that the percentage of overall Riverside County freeway truck traffic that is Port-related has or will increase so substantially due to this Project. Some simple calculations illustrate the inaccuracy of that statement:

- Only a small percentage of the projected increase in truck volumes can be attributed to Port traffic. Based on RCTC statistics as noted above, less than one percent of freeway traffic in Riverside County comes from the POLA and POLB (Cambridge Systematics, Inc. 2006[10]).
- Approximately 10 percent of all freeway traffic in Riverside County is trucks (based on Caltrans data available from its Website http://www.dot.ca.gov/hq/traffops/saferesr/trafdata/truck2007final.pdf).
- If less than one percent of all traffic comes from the Ports, even assuming nearly all of this traffic is trucks, less than 10 percent of the truck traffic on Riverside County freeways comes from the Ports.
- If overall Riverside County freeway truck traffic doubled due to Port related traffic only, Port related truck traffic on Riverside County freeways would have to increase from its current 10 percent of overall Riverside County freeway truck traffic to 50 percent of overall Riverside County freeway truck traffic.

10 www.rctc.org/downloads/Critical%20Goods%20Movement%20Issues%20Scan%20for%20Riverside%20County%2006-09-15.pdf

The second citation is to a partisan political statement by an elected official (Runner). Senator Runner's staff identified one piece of data (about trucks taking 25 to 30 percent of freeway space) from a document prepared by the Reason Foundation (http://www.reason.org/ps324.pdf). The accuracy of this particular "fact" is addressed in detail later in this document (see response to comment RCTC-5), but third-hand, unsupported statements are not sufficiently credible to constitute substantial evidence.

To illustrate the relatively small volume of truck traffic from the Project that would affect Riverside County, an additional set of analyses was conducted. First, pursuant to the County of Riverside's methodology, which compares the future "2030 With Project" freeway conditions with the future "2030 No Project" freeway conditions, the additional a.m. and p.m. peak hour truck trips generated by the Project are shown in the table below. The 2030 Project would add a total of 639 a.m. peak hour (8 -9 a.m.) and 560 p.m. peak hour (4-5 p.m.) truck trips to the five-county SCAG region, whereas the "2030 No Project" alternative would add a total of 574 a.m. peak hour and 546 p.m. peak hour truck trips. (Draft EIS/EIR Table 3.5-13 and Table 3.5-44.) As shown in the table below, the difference is 65 a.m. and 14 p.m. peak hour trips, respectively, which are well-below the 100 and 200 peak hour trip thresholds identified in the Riverside County Traffic Impact Analysis Preparation Guidelines (page 12, items 9 and 10).[11]

	2030 Total a.m. Peak Hour Truck Trips	**2030 Total p.m. Peak Hour Truck Trips**
Proposed Project	639	560
No Project Alternative	574	546
Difference	65	14

Thus, even assuming all of the additional 2030 peak hour truck trips went through Riverside County – they will not – there would not be enough Project truck trips to even trigger the need to prepare a traffic analysis under the County's Guidelines.

The above analysis was corroborated using the travel demand model used in the Draft EIS/EIR. The total number of a.m. and p.m. peak hour truck trips associated with the proposed Project in 2030 is 1,199. These trips are the model-estimated total coming in and out of the driveway of the Project site during the 8-9 a.m. and 4-5 p.m. daily peak hour periods in 2030. (Draft EIS/EIR Table 3.5-13). The truck trips leaving the Port were tracked (using a tool called "select link analysis") throughout the region.[12] The total Project-related trips in 2030 on SR 91 (between I-15 and SR 60/I-215); I-15 (between SR 91 and I-10); SR 60 (between SR 71 and I-15); and I-10 (east of I-15) were tabulated using the County of Riverside's methodology, which compares the future "2030 With Project" freeway conditions with the future "2030 No Project" freeway conditions. The select link analysis results are contained in the table below. The table shows that in the p.m. peak hour, the 2030 Project would add only six trucks on SR-91 and would actually result in a decrease of four trucks on I-10. The largest addition of peak hour 2030 Project truck trips on any one freeway was only 17, which would occur on the I-10 East of I-15 (eastbound) during the a.m. peak hour. As stated, the Riverside County Traffic Impact Analysis Preparation Guidelines exempt projects anticipated to generate fewer than 100 vehicles in a peak hour from preparing a traffic study. Under these Guidelines, the Project would be exempt.[13]

11 The Riverside County Traffic Impact Analysis Preparation Guidelines is available at: http://www.rctlma.org/trans/documents/pamphlets/traffic_impact_anaylsis.pdf.

12 Select link analysis provides projections of the distribution of future Project trips. Select link analysis is most accurate within close proximity of the Project and less accurate on links that are further away. Select link data provided in the table below is based on the regional SCAG model land use and socio-economic assumptions. Data has not been post-processed outside of the study area, which explains the low projected traffic volumes on SR-60 and the lack of any Project trips on I-15. In turn, the model could be projecting too many trips on SR-91 and I-10.

13 Even under the most conservative methodology, which compares peak hour Project truck trips to the 2005 CEQA Baseline, the Project would add only 94 a.m. peak hour truck trips on westbound SR-91 and 86 PM peak hour truck trips on eastbound SR-91 (see select link analysis table), which are below the 100 vehicle threshold and well below the 200 vehicle threshold provided on page 12 of the Riverside County Traffic Impact Analysis Preparation Guidelines.

Select Link Analysis Table:**Location**	**2030 Project a.m. Peak Hour**	**2030 No Project a.m. Peak Hour**	**2030 a.m. Peak Hour Difference**	**2030 Project p.m. Peak Hour**	**2030 No Project p.m. Peak Hour**	**2030 p.m. Peak Hour Difference**
SR-91 East of I-15 (eastbound)	78	77	1	86	80	6
SR-91 East of I-15 (westbound)	94	78	16	64	63	1
I-15 North of SR-91 (northbound)	0	0	0	0	0	0
I-15 North of SR-91 (southbound)	0	0	0	0	0	0
SR-60 West of I-15 (eastbound)	8	2	6	17	13	4
SR-60 West of I-15 (westbound)	0	0	0	0	1	1
I-10 East of I-15 (eastbound)	36	19	17	34	38	-4
I-10 East of I-15 (westbound)	22	14	8	51	54	-3

Furthermore, commenter recognized that only about 29 percent of daily truck trips from the Ports travel toward the Inland Empire (Riverside and San Bernardino Counties). (Technical Review of Draft EIS/EIR for Middle Harbor Redevelopment Project prepared by Kimley-Horn and Associates, Inc., p. 8, submitted with RCTC's comment letter.) In 2030, the No Project and Project alternatives would generate 9,594 and 10,112 daily truck trips, respectively – a difference of 518 more daily truck trips with the Project. Because only 29 percent of these daily trips would pass through the Inland Empire, this equates to 150 daily trips. Based on the select link analysis, I-10 and SR-91 are projected to carry 42.5 percent of the a.m. peak hour truck trips and SR-60 is projected to carry 15 percent. In the p.m. peak hour, SR-91 and SR-60 are projected to carry 63 and 37 percent, respectively. This suggests that the 150 daily Project truck trips destined for the Inland Empire would be distributed on three primary east-west freeway corridors.

Please also refer to response to comment RCTC-6.

Finally, the congestion along the freeways in Riverside County is more predominantly a result of agency-approved land use planning and development throughout the County. Riverside County, through its land use policies, has approved the development of a large number of industrial facilities, warehouses, and commercial uses (including big boxes) that generate numerous daily truck trips, not only within the County, but also between the County and the rest of the nation. These developments and their tenants import, export, or otherwise transport goods, raw materials, and finished products to and from Riverside County. Although there are Port-related trips that travel on freeways that extend through Riverside County, those trips are a small percentage of the overall trips.

Impacts at at-grade train crossings. As discussed more fully below, the response to this comment is two-fold: First, the impact of the Project at Riverside County at-grade crossings has been analyzed and found to be less than significant. Second, most of the impacts at at-grade crossings are due to land use decisions in Riverside County where environmental analyses have not identified the need for grade separations as mitigation.

The Draft EIS/EIR (Table 1.6-1) indicates that the Project would increase the number of trains traveling from Middle Harbor to downtown Los Angeles via the Alameda Corridor. The number of trains would increase 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. Existing distribution indicates that approximately 75 percent of the trains travel east and 25 percent travel north. There are two eastern routes, one owned by BNSF that travels along SR-91 and the other owned by UP that travels along I-10. The worst case scenario indicates that the Project would generate an additional three trains per day through Riverside.

The City of Riverside provided the POLA with copies of long-term train counts of 24-hour periods in connection with POLA's consideration of phases II and III of the Berth 97-109 (China Shipping) Container Terminal Improvements project. POLB obtained those Riverside counts from POLA in connection with the consideration of the proposed Project.[14] The following impact analysis utilizes those counts and the methodology employed by Riverside County for prioritizing grade separation projects. Finally, the analysis applies the Highway Capacity Manual (2000) average vehicle delay, which is consistent with Riverside County Traffic Impact Analysis Preparation Guidelines.[15]

The assumptions in this response are based on the following details derived from the City of Riverside's Train Block Delay Study rail counts:

- 70 to 95 trains per day travel on the BNSF line, including 11 passenger trains;
- An average of 40 trains per day travel on the UP line, including 13 passenger trains;
- Average gate down time for freight trains is three minutes and for passenger is one minute;
- No more than seven trains cross per hour;
- During the a.m. peak hours (6:30 to 8:30 a.m.), the average total gate down time per hour is less than six minutes; and
- During the p.m. peak hours (4:30 to 6:30 p.m.), the total average gate down time per hour is less than five minutes.

Regarding at-grade crossing delays, RCTC made substantially identical claims in connection with the Port of Los Angeles's Recirculated Draft EIS/EIR recently prepared for POLA's Berth 97-109 Project. In response, POLA conducted a field survey of trains traveling along rail lines through Riverside County and the City of Riverside, which concluded that the additional project rail traffic would not result in significant impacts to traffic at at-grade crossings in Riverside County.[16] This data is consistent with the data included in the long-term train counts of 24-hour periods provided by the City of Riverside.

POLA found that one additional train in the peak hour in Riverside County and City of Riverside would result in an average vehicle delay of approximately five to six seconds which is deemed a good level of service when compared to the HCM measure of 55 seconds per vehicle.[17]

POLA's study also included a cumulative analysis of the impact of multiple trains from different sources. While the delay would increase, multiple trains would cumulatively contribute to an impact that was less than significant. For example, four trains arriving in a peak hour (with an average gate time of three minutes) would result in an average delay of approximately 24 seconds per vehicle. According to Riverside's 24-hour counts and the POLA peak hour counts, the probability of four freight trains crossing in a peak hour is less than 10 percent. During 48 separate hours of observations in Riverside County in October 2008, there were only three hours (out of 48) when more than two freight trains were observed during the peak hours. This is consistent with the 24-hour counts. It is more likely that the additional trains would travel during different hours of the day when traffic volumes are lower, creating less than five to six seconds of additional delay during more non-peak hours.

14 The City of Riverside's copies of long-term train counts of 24-hour periods available by contacting POLB staff.
15 Riverside County Traffic Impact Analysis Preparation Guide, p. 3, available at: http://www.rctlma.org/trans/documents/pamphlets/traffic_impact_anaylsis.pdfIbid.
16 "Riverside County Train Data Collection and Analysis Technical Memorandum" prepared by CH2MHill in 2008 and available by contacting POLB staff.
17 The threshold for vehicle delay of 55 seconds per vehicle is based on a national resource (the Highway Capacity Manual), which RCTC requires for the preparation of traffic impact analyses. There is no specific applicable guidance for Riverside County rail crossings, but the HCM methodology provides a measure of vehicle delay that can be utilized to determine performance at railroad crossings.

Because the average vehicle delay from cumulative trains from POLA's West Basin terminals would be substantially less than the significance threshold of 55 seconds per vehicle, POLA concluded that there would be no cumulative impact from its projects, and therefore there was no requirement to provide mitigation.

To extend the POLA's analysis and applying the City of Riverside's 24-hour rail counts, a more quantitative cumulative analysis was undertaken to confirm that there would be no cumulative impacts. The cumulative impacts would result from additional trains added from the TraPac, China Shipping, and Middle Harbor projects. The first two projects did not include specific estimates of number of trains, but provided detailed estimates of TEUs. For TraPac, the estimated additional rail freight is 2304 TEUs per day, which translates to four additional trains per day. For China Shipping, the estimated additional rail freight is 128,741 TEUs per month, with 35 percent expected to be on-dock rail. Those projections translate to three additional trains per day. Therefore, the cumulative impact is based on 12 trains/day (four from TraPac, three from China Shipping, and five from Middle Harbor). Of these, 75 percent (nine additional trains) are expected to travel east through Riverside. For most hours of the day, there would only be one additional train, particularly in the peak hours when passenger rail accounts for up to four trains per hour, but even at four additional trains in the peak hour, the average delay would be 24 seconds per vehicle. A delay of 24 seconds would be less than significant, and therefore no mitigation is required.

The City of Riverside provided similar comments about existing delays to emergency service providers in the City of Riverside. In this regard, please also see responses to comments CR-6, CR-8, CR-9, CR-14. The Final EIR for the City's 2007 General Plan concluded that the planned grade separations in the City would address at-grade rail crossing impacts sufficiently to keep them from having to be evaluated as potentially significant impacts in that EIR.

More broadly, the ultimate source of congestion and delays on transportation facilities in the Inland Empire, including at-grade rail crossings within the Inland Empire counties, is from planned and approved land developments and the associated population growth that has occurred on either side of long-standing railroad rights-of-way. A review of the County of Riverside's 2003 General Plan Update and its certified EIR shows that "it is projected that at build out, a population of 1.77 million persons will reside in unincorporated areas of Riverside County." Additional information is available at: (http://www.rctlma.org/genplan/content/eir/volume1/). In addition, the General Plan recognizes the economic importance of goods movement and established the TUMF to fund infrastructure projects throughout the county. The program charges fees to goods movement uses, such as warehouses and distribution centers, to fund freight corridor improvements, such as grade separations. Five City of Riverside at-grade crossings have been fully funded, including the UP and BNSF crossings at Columbia Avenue and Iowa Avenue and the UP crossing at Magnolia Avenue. However, despite the substantial growth planned for the unincorporated areas of Riverside County, the County General Plan EIR did not identify traffic delays at the at-grade rail crossings as potentially significant environmental impacts, even though the information regarding the planned growth was available in a document developed for RCTC to prioritize grade separations (Riverside County Rail Crossing Priority Analysis 2001).

Furthermore, as indicated on page 20 of the FRA report that the City of Riverside provided, the 2006 FRA report entitled *Impact of Blocked Highway/Rail Grade Crossings on Emergency Response Services* (FRA report), grade separations generally are funded by the Caltrans or local agencies. The FRA report also calls for communities to work with the railroads in their communities to determine the most effective methods for addressing at-grade crossing traffic congestion and to minimize costs for grade separations. The Riverside County Transportation Authority has been an integral part of those processes.

As for feasibility of grade separations, low traffic volumes such as those generated by the Project generally do not warrant grade separations because the costs are too high for the benefit received. Costs of grade separations vary depending on various physical constraints,

but the Port of Long Angeles has estimated costs to start at nearly $102 million (based on actual costs from prior grade separation projects at the POLA and not assuming the increased costs of materials). Recent, more focused grade separation projects in Orange County have been estimated at $20 million or more. Regardless of the cost, these projects also often take a number of years to be constructed, which often results in periodic delays in traffic. For relatively low traffic volumes, the costs and potential traffic delays outweigh the potential benefits. In addition, a number of grade crossings and traffic improvements unrelated to the Project in the area are expected to further decrease traffic congestion.

Despite the lack of any demonstrated significant impact of Port traffic on the Inland Empire jurisdictions, the POLB and POLA have supported the region's pursuit of the Prop 1B TCIF for grade separations. The County and City of Riverside combined will receive over $150 million of TCIF for 12 grade separation projects. Also, due to limited trackage on the rail routes through Riverside County and demand for expanded Metrolink and Amtrak passenger rail service, future alterations to rail freight travel are being studied. Per the Inland Empire Rail Study prepared by the SCAG in 2005 (available at: www.metro.net/projects studies/mcgmap/action_plan/), the preferred future rail routes for freight traffic are projected to be the UP Alhambra and UP San Gabriel lines, and therefore will go through San Bernardino County instead of Riverside County.

Also, as stated in the Draft EIS/EIR, should the Caltrans develop a plan for improving freight corridors and a related fair share calculation, the Port would participate as required.

Please see responses to comments CT-1, RCTC-3, RCTC-4, RCTC-5, RCTC-6, CC-3, CBD-65, and CBD-66

RCTC-3. Commenter states that the Draft EIS/EIR analyzes traffic impacts near the Port, and fails to analyze reasonably foreseeable impacts in Riverside County. Commenter further asserts that while the Draft EIS/EIR finds that the Project would not generate more rail activity, data from the Draft EIS/EIR contradict that finding.

In general, the Port recognizes freight movement impacts key freeway corridors, and is working with Caltrans to identify opportunities for improving key freight movement corridors. The Port also recognizes that some goods travel to warehouses throughout the region that lie outside of the study area.

However, the impacts beyond the study area (e.g., Riverside County) have been shown to be less than significant because the number of trips associated with the Project is low and because the trucks disperse to several different routes once beyond the study area. The significance criterion for this assessment is the CMP methodology which requires impact analysis where 150 or more trips during either the a.m. or p.m. weekday peak hours are added to a freeway segment.

As set forth in response to comment RCTC-2, the number of peak hour truck trips associated with the proposed Project is 1,199. These trips are the total coming in and out of the driveway of the Project site during the 8-9 a.m. and 4-5 p.m. daily peak hour periods in 2030 (p. 3.5-46). A select link analysis was conducted to determine the number of Port trucks that would be generated by the Project on Riverside County freeways. As noted in response to comment RCTC-2, the additional truck trips generated by the Project on Riverside County freeways would be less than significant.

The select link analysis provides a means of estimating Project 2030 traffic volumes to determine whether additional traffic analysis is required in accordance with the Los Angeles County CMP for analyzing freeway segments. Riverside County Traffic Impact Analysis Preparation Guidelines include a similar threshold which provides that projects that are anticipated to generate less than 100 peak hour trips in certain circumstances and 200 peak hour trips in other circumstances are generally exempt from further analysis. Since the Project results in only 65 a.m. and 14 p.m. peak hour trips, the Project would not have

significant impacts under either the150-peak hour trip CMP standard or the 100/200-peak hour trip threshold in the County of Riverside Guidelines. The Draft EIS/EIR uses the number of anticipated truck trips as the basis for part of its analysis and presents the information using truck trips during the peak hour, consistent with the significance thresholds and consistent with industry standards for performing traffic analyses. Although the number of annual truck trips might appear "enormous" to the commenter, NEPA and CEQA traffic impact analyses on freeways are performed based on peak-hour impacts, not aggregated annual trip generation.

Warehouse uses in Riverside County and throughout the region generate significant truck trips on local streets. In accordance with CEQA, the Riverside County General Plan EIR addresses traffic impacts from designated land uses and prescribes mitigation measures, including a traffic impact fee program. The program, Transportation Uniform Mitigation Fee, was implemented in 2003 to mitigate traffic impacts generated from various land uses, including warehouse and distribution center uses. The General Plan recognizes the economic importance of goods movement to Riverside and supports it through various policies. Since truck traffic that carries containers to and from these facilities has been accounted for and mitigation has been prescribed, the Project impact on local roadways will be less than significant.

Please also see response to comments CT-1, RCTC-2, RCTC-4, RCTC-5, RCTC-6, CC-3, CBD-66, and CEHJ-2.

As for the proposed Project's rail activity, the Draft EIS/EIR recognizes throughout the document that the Project would generate more rail activity, with annual rail trips going from 138 in the 2005 CEQA Baseline year to 2,098 annual trips by 2020. The heading for Impact TRANS-4.2 mistakenly states: "Project operations would not result in any increases in rail activity." (Draft EIS/EIR Section 3.5.2.3). This mistake is corrected in the text following the heading, and elsewhere, where it states: "The proposed Project would cause an increase in the number of trains and the amount of auto and truck traffic." Final EIS/EIR Section 3.5.2.3 (Impact TRANS-4.2) has been revised to state that "Project operations would not result in any significant impacts because of rail activity."

RCTC-4. Commenter mistakenly states that the Project would have traffic impacts not only locally, but on Riverside County roadways associated with rail impacts, as well. Commenter cites the attached *Technical Review of Draft EIS/EIR for Middle Harbor Redevelopment Project* prepared by Kimley-Horn and Associates, Inc., in support of its position.

Much of the Kimley-Horn technical review does not provide new information; it simply reiterates information already provided in the Draft EIS/EIR. The supplemental analysis (starting on page 8 of the *Technical Review*) is organized in two parts. The first part (top half of page 8), states that 1,039 additional daily Project truck trips would be added to Inland Empire roadways. This statement artificially inflates the number of daily truck trips the Project will add to Inland Empire roadways because it is based on a comparison of the 2030 Project to the 2005 CEQA Baseline (10,112 – 6,528 = 3584; 29 percent of 3584 = 1039), rather than a comparison of the 2030 Project to the "Future No Project" alternative, as is called for in the County of Riverside's adopted methodology. Applying the County's adopted methodology, the Project would add only 150 daily truck trips to Inland Empire roadways (10,112 – 9,594 = 518; 29 percent of 518 = 150). The only comment on these 1,039 daily trips is that their impact on Riverside County freeways has not been addressed. As explained in responses to comments RCTC-2 and RCTC-3, the impact of truck trips on Inland Empire roadways has been addressed and has been found to be less than significant.

The second part ("Rail Crossing Traffic Delay") provides more quantitative information. The Draft EIS/EIR uses more accurate train data based on Project-specific information rather than general derivations that are used in the Kimley-Horn evaluation. The Draft EIS/EIR evaluated the impact of five additional daily train trips of 25 cars (7,500 feet long). The resulting Kimley-Horn calculations yield six new trains per day of over 100 cars each. This is

incorrect. The total future Middle Harbor trains would be six, but the Project would generate five trains. The site currently generates 138 trains per year, or 0.38 per day. The net new trains per day would be five. Of these, 75 percent (four trains) will likely travel east, with one traveling on the UP line through San Bernardino and the other three traveling through Riverside. There also seems to be confusion on Kimley-Horn's part regarding rail cars. A car in rail terms consists of five articulated bare tables and averages 300 feet in length.

After this point, the Kimley-Horn analysis cannot be verified because no backup calculations are provided. Kimley-Horn estimates an added delay of 174.1 vehicle-hours per day throughout Riverside County in 2030.

However, there are no significance criteria attached to these values. The Riverside County General Plan focuses on LOS as its policy guidance on traffic operations. It does not contain standards for assessing whether a daily increase in delay (e.g., 174.1 vehicle-hours per day) is significant. There are no standards for total *daily* delay for two reasons.

First, delays are generally assessed in the peak hour, when impacts are greatest.

Second, the impact of total delay varies depending on traffic volumes. For example, a total delay of 174.1 vehicle-hours per day at a stop controlled intersection with 2,000 vehicles per day is 313 seconds per vehicle. A total delay of 174.1 vehicle-hours per day spread over 12 intersections with 30,000 vehicles per day (typical for a signalized intersection) would be 1.7 seconds per vehicle.

To try to evaluate impacts using total daily delay, an example at a signalized intersection is illustrative. A typical signalized intersection might have a total traffic volume of 50,000 vehicles per day (the intersection of Jurupa Avenue and Van Buren Boulevard in Riverside County has similar traffic volumes, per http://www.rctlma.org/trans/documents/traffic_count_book.pdf. At the midpoint of LOS C (27.5 seconds of delay per vehicle), the total delay at that intersection would be 382 vehicle-hours on a typical day, which is substantially higher than the highest total vehicle delay provided in the Kimley-Horn evaluation (on page 11 of the *Technical Review*).

In conclusion, total vehicle delay does not appear to represent a valid or meaningful threshold upon which to assess significant impacts under NEPA or CEQA, for two reasons:

- The total vehicle delay for the rail crossings provided by Kimley-Horn would be less than the total vehicle delay for a typical signalized intersection along a highway in Riverside County; and
- The total vehicle delays at these signalized intersections are generally considered acceptable (as demonstrated by the ubiquitous nature of signalized intersections along County roadways), and therefore it is assumed that a similar delay at a railroad crossing would be less than significant.

As noted in respose to comment RCTC-2, RCTC and Kimley-Horn made substantially similar claims in connection with the Port of Los Angeles's Recirculated Draft EIS/EIR recently prepared for POLA's Berth 97-109 Project. To assess the impact of trains in Riverside County, POLA conducted a comprehensive data collection and analysis study to determine gate time. Trains were observed at 12 crossings in Riverside County for the week of October 20 to 24, 2008. The 12 crossings were many of the same locations identified on page 11 in the Kimley-Horn report (e.g., McKinley Street in Corona, Iowa Avenue in Riverside, etc.) (A summary of these findings was included in the "Riverside County Train Data Collection and Analysis Technical Memorandum" prepared by CH2MHill in 2008 and available by contacting POLB staff.)

During 48 hours of observations (four hours per location) from October 20, 2008, through October 24, 2008, a total of 54 freight trains were observed (Metrolink trains were not counted). Of those trains, 39 trains were BNSF, and 15 were UP. Most (50) of the trains were

container trains. The average train included 103 platforms (commonly called bare tables and averaging 50-60 feet long). There was no pattern to the train arrivals; they occurred randomly throughout the week.

The average train crossing time was 2:23 (two minutes, 23 seconds). This time did not include the additional gate down/up time (per the analysis in POLA's Recirculated Draft EIS/EIR, which value is 36 seconds per train). Therefore, the average total gate time was 2:59 for trains in Riverside County. Traffic volumes vary by locations, and throughout the day. To test the sensitivity of the calculation and assess potential impacts, traffic volumes between 1,000 and 25,000 vehicles/day were evaluated on two- and four-lane roadways (one or two lanes in each direction). The percentage of traffic during each hour was developed from a random location in Riverside County (on SR-60) using data from the Caltrans PeMS database. Then, the resulting delay was calculated on each of six roadways for a 24-hour period, recording the average and highest (peak hour delay). Table 10-20 below provides a summary of the projected average delay (for a range of at-grade crossings) for different traffic volumes during each hour of the day.

Table 10-20. Sample Delay Calculations (seconds/vehicle)

Hour	Delay % of Traffic	Daily Traffic Volumes					
		1,000	5,000	10,000	15,000	20,000	25,000
12 to 1 a.m.	1.1%	4.5	4.5	4.6	4.6	4.6	4.7
1 to 2 a.m.	0.8%	4.5	4.5	4.6	4.5	4.6	4.6
2 to 3 a.m.	0.7%	4.5	4.5	4.6	4.5	4.6	4.6
3 to 4 a.m.	0.8%	4.5	4.5	4.6	4.5	4.6	4.6
4 to 5 a.m.	1.6%	4.5	4.6	4.7	4.6	4.7	4.8
5 to 6 a.m.	35%	4.5	4.7	5.0	4.9	5.0	5.2
6 to 7 a.m.	6.1%	4.5	4.9	5.6	5.2	5.6	6.0
7 to 8 a.m.	6.8%	4.6	5.0	5.8	5.4	5.8	6.2
8 to 9 a.m.	6.4%	4.5	5.0	5.7	5.3	5.7	6.1
9 to 10 a.m.	5.6%	4.5	4.9	5.5	5.2	5.5	5.8
10 to 11 a.m.	5.3%	4.5	4.9	5.4	5.1	5.4	5.7
11 a.m. to 12 p.m.	5.5%	4.5	4.9	5.4	5.2	5.4	5.8
12 to 1 p.m.	5.7%	4.5	4.9	5.5	5.2	5.5	5.8
1 to 2 p.m.	5.8%	4.5	4.9	5.5	5.2	5.5	5.9
2 to 3 p.m.	5.8%	4.5	4.9	5.5	5.2	5.5	5.9
3 to 4 p.m.	5.8%	4.5	4.9	5.5	5.2	5.5	5.9
4 to 5 p.m.	5.7%	4.5	4.9	5.5	5.2	5.5	5.8
5 to 6 p.m.	5.7%	4.5	4.9	5.5	5.2	5.5	5.8
6 to 7 p.m.	4.9%	4.5	4.8	5.3	5.1	5.3	5.6
7 to 8 p.m.	4.5%	4.5	4.8	5.2	5.0	5.2	5.5
8 to 9 p.m.	4.1%	4.5	4.8	5.1	5.0	5.1	5.4
9 to 10 p.m.	3.6%	4.5	4.7	5.1	4.9	5.1	5.2
10 to 11 p.m.	2.6%	4.5	4.6	4.9	4.8	4.9	5.0
11 p.m. to 12 a.m.	1.7%	4.5	4.6	4.7	4.6	4.7	4.8
Weighted Average		**4.5**	**4.9**	**5.4**	**5.1**	**5.4**	**5.7**
Maximum		**4.6**	**5.0**	**5.8**	**5.4**	**5.8**	**6.2**

To summarize the results, POLA completed a comprehensive set of calculations to assess the impacts of different trains on different roads at different times of day. Based on the adjusted average gate time of 2:59, the results are summarized in Table 10-21.

As can be seen in Table 10-21, based on the average total gate time of 2:59, the average delay (approximately five to six seconds per vehicle throughout the peak hour) would be below the impact threshold (55 seconds average delay per vehicle per hour of traffic), and significant vehicle delay impacts at the at-grade crossings in Riverside County (and City of Riverside) are not anticipated. Therefore, no mitigation for such impacts is required.

Table 10-21. Projected Average Delay at Riverside County Crossing (seconds/vehicle)						
Lanes[a]	1	1	1	2	2	2
Daily Traffic Volume[b]	1,000	5,000	10,000	15,000	20,000	25,000
Average Delay[c]	4.5	4.9	5.4	5.1	5.4	5.7
Peak Hour Delay[c]	4.6	5.0	5.8	5.4	5.8	6.2

Notes:
a. Number of approach lanes per direction
b. Vehicles/day
c. Seconds/vehicle

Source: "Riverside County Train Data Collection and Analysis Technical Memorandum" prepared by CH2MHill in 2008 and available by contacting POLB staff.

Please also see responses to comments SCAQMD-7, RCTC-2, RCTC-3, RCTC-9, CR-5, CR-8, CR-9, CR-11, CR-12, and CC-3.

RCTC-5. Commenter erroneously states that additional truck trips from the Project would exacerbate traffic problems in Riverside County, in part due to increased congestion, higher risks for accidents, and increased wear on highway infrastructure.

As explained in response to comment RCTC-3, this Project would not cause significant impacts to freeways in the Inland Empire. With regard to the statement that the freeways in Riverside County are already congested with Port traffic, please see response to comment RCTC-2, which explains that only a small portion of the freeway traffic in Riverside County can be attributed to POLB and POLA. Characterizing congestion in Riverside County as caused by the Ports is incorrect and unsubstantiated. Rather, congestion in Riverside County is predominantly a result of land use planning and growth policies and decisions of the jurisdictions within the County.

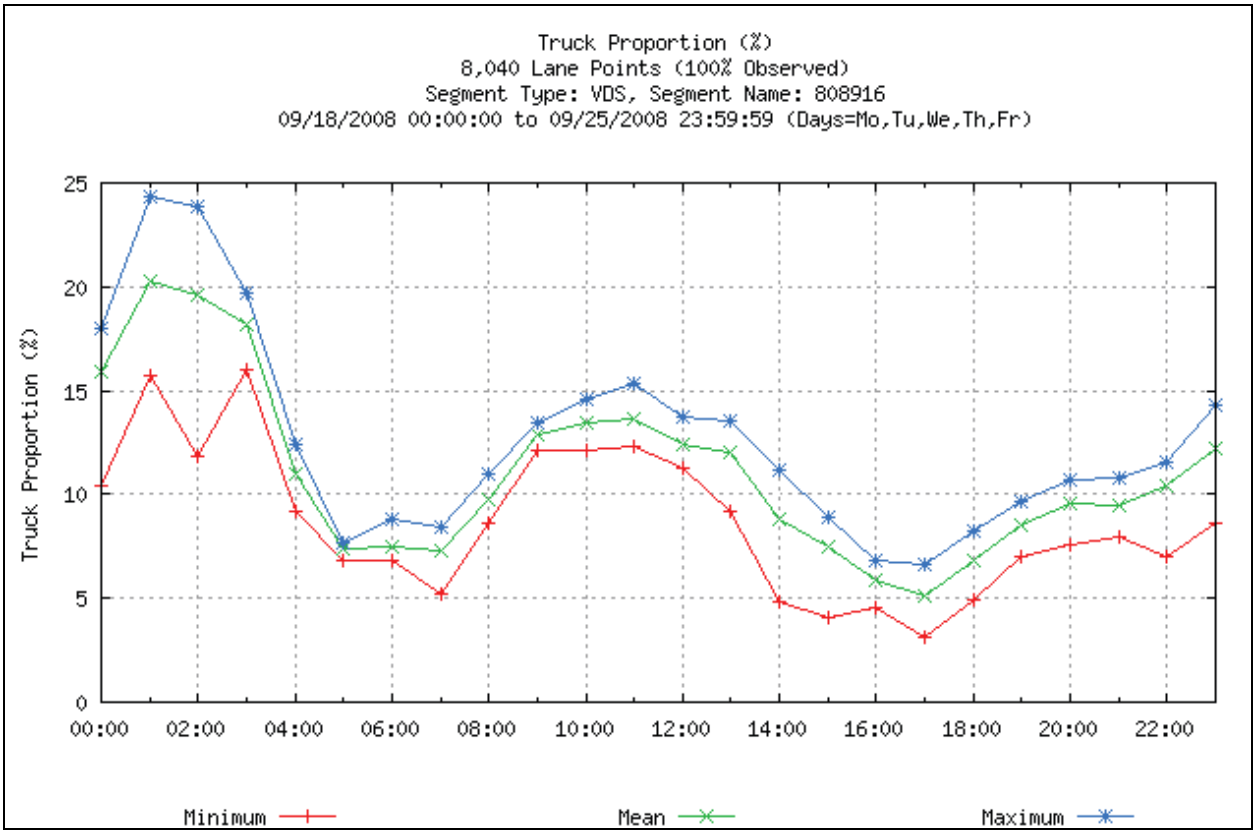
RCTC suggests that trucks traveling at slower speeds will lead to a "slow-down of freeway traffic generally." While trucks do travel at slower speeds than cars, the effects are not significant. A small change in speed will have a negligible impact on overall capacity. For example, a five mph difference in free-flow speed of the overall traffic stream translates to a difference of 50 vehicles per hour per lane in the capacity of a freeway, per the HCM. If trucks travel 20 percent slower than the current average traffic, and 10 percent more trucks are added, the average travel speed will be reduced by less than 0.2 percent. Even a one percent difference in average speed would translate to a capacity difference of only six vehicles per hour per lane (or 24 vehicles per hour on a four-lane directional freeway). While this might be loosely interpreted as a "general slow-down," it is not significant.

RCTC asserts that "trucks slowing down and merging leads to congestion and increases the likelihood of accidents." While most research suggests that speed differentials do have an effect on safety, quantifying these effects due to a specific increase in truck volumes is not possible. Similarly, the congestion impacts of an increase in truck traffic can only be quantified if the exact volume of trucks on a specific freeway is known. The trucks in question (from Project traffic) are either through-trucks or trucks destined for local land uses (e.g., distribution centers, warehouses, or manufacturing facilities in Riverside County). Through-trucks do not use the ramps in Riverside County (i.e., they do not need to slow down and merge). Based on RCTC data, these through-trucks are somewhat less than 50 percent of Port trucks in Riverside County (see page 2 of the *Critical Goods Movement Issues Scan for Riverside County*) (Cambridge Systematics, 2006). Furthermore, if trucks traveling on freeways within Riverside County slow down to exit the freeway or merge onto the freeway, it is because they are traveling to and from destinations such as businesses or warehouse facilities within the Inland Empire. These destinations or origins are likely land uses that have been approved by a local jurisdiction, which has also considered the environmental impacts of its approvals.

The statement that "trucks take up 25-30 percent of valuable freeway space" is without merit. The cited source of that statement (http://www.reason.org/ps324.pdf) reads:

On some of these routes, even though very heavily trafficked by commuters and other light vehicle traffic, trucks constitute over 10 percent of the traffic stream. Considering that a tractor/semitrailer [sic] occupies about 2.5 to 3 times the road space of a light vehicle, trucks often take up 25 to 35 percent of highway capacity in these corridors.

This calculation is not correct. First, while trucks are up to three times longer than passenger vehicles, they do not take up "2.5 to 3 times" more space. The space requirements for all vehicles depend on the size of the vehicle and the gaps between vehicles. The standard traffic engineering reference on this topic is the HCM, which has factors to estimate the amount of capacity ("road space" in the common vernacular) for different vehicle types. On level freeways (which constitute most of the congested freeways in Riverside County), the PCE factor for trucks is 1.5 (per the HCM). While the word "space" hasn't been clearly defined, trucks constitute 25 to 30 percent of available freeway capacity only if they constitute 19 to 25 percent of the vehicles on the freeway. As examples, average daily truck percentages in Riverside County range from six to eight percent on SR-91, from 11 to 14 percent on SR-60, six to nine percent on I-15, and six to seven percent on I-215 (Caltrans, USDOT, and FHWA 2008). During the peak periods, when congestion occurs, the percentages are much lower. For example, on I-15 near SR-60, the graph below shows the reduced truck percentages during the peak periods. The average percentage for trucks at that location is about nine percent, but the peak average is five to seven percent (Caltrans, 2008).



The comment expresses concern regarding wear and tear of the freeways caused by trucks. However, 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 response to comment CR-14, there are various

regional and statewide efforts to address various goods movement issues and fund solutions, and the RCTC has been an integral part of those processes.

Please also see responses to comments RCTC-2, RCTC-3, RCTC-4, and CSE(A)-12.

RCTC-6. Commenter asserts that (i) the Draft EIS/EIR does not analyze traffic impacts on SR-60 or I-15; (ii) the significance thresholds for the Cities of Los Angeles and Long Beach do not apply to Riverside County; and (iii) the Draft EIS/EIR must analyze traffic impacts for all freeways in Riverside County.

Additional analyses have corroborated the Draft EIS/EIR's assumption that the proposed Project's truck traffic would have less than significant impacts on freeways in Riverside County. Please see response to comment RCTC-2, which explains that: (1) pursuant to the County of Riverside's methodology for determining freeway impacts, which compares the future "2030 With Project" freeway conditions with the future "2030 No Project" freeway conditions, the additional truck trips generated by the Project on Riverside County freeways would be only 65 a.m. and 14 p.m. peak hour truck trips; and (2) under the Port's select link analysis, the largest addition of peak hour 2030 Project truck trips on a particular freeway would be only 17 peak hour trips (eastbound on the I-10 East of I-15 during the a.m. peak hour). As for SR-60, the 2030 Project would generate only six a.m. and five p.m. peak hour truck trips. The 2030 Project would not generate any a.m. or p.m. peak hour truck trips on the I-15. As stated, the Riverside County Traffic Impact Analysis Preparation Guidelines exempt projects anticipated to generate fewer than 100 vehicles in a peak hour from preparing a traffic study. Under these Guidelines, the Project would be exempt because the maximum number of peak hour truck trips it is projected to generate in 2030 is well under the 100 and 200 vehicle thresholds of the Guidelines.[18]

Please also see responses to comments CT-1, RCTC-2, RCTC-3, RCTC-4, RCTC-5, CC-3, CC-5, CBD-66, CEHJ-2, and CSE(B)-18.

RCTC-7. 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 SCAB portion of Riverside County to their first point of rest are included in the Draft EIS/EIR. The Draft EIS/EIR also estimated annual and daily emissions from Project trains that would travel through the SCAB portion of Riverside County. Thus, the emissions within the entire air basin were identified, assessed, and mitigated, to the extent feasible.

The Draft EIS/EIR presents air dispersion modeling analyses for each Project Alternative under Impact AQ-3 in Section 3.2.2. These analyses focused on the area directly adjacent to the proposed Middle Harbor container terminal, as the density of proposed emissions and resulting ambient impacts would be the greatest in this area. The results of these analyses show that each Project scenario would produce significant impacts to ambient nitrogen dioxide levels and less than significant impacts to all other ambient pollutant levels. The density of emissions produced from proposed trucks and trains that travel within Riverside County would be substantially less than those that would occur adjacent to the Middle Harbor container terminal. As a result, these sources would produce less than significant localized impacts within Riverside County.

The Technical Review (page 12) that accompanies your comment letter presents an estimate of emissions that would occur from vehicles that idle while they wait at grade crossings affected by Project train trips. This analysis shows that the magnitude of these emission increases would range from a low of 0.3 (PM_{10}) to a high of 65 (CO) pounds per day (other

18 Even under the most conservative methodology, which compares peak hour Project truck trips to the 2005 CEQA Baseline, the Project would add only 94 a.m. peak hour truck trips on westbound SR-91 and 86 PM peak hour truck trips on eastbound SR-91, below the 100 vehicle threshold and well below the 200 vehicle threshold provided on page 12 of the Riverside County Traffic Impact Analysis Preparation Guidelines.

than CO_2). These emission increases would be substantially less than one percent of the Project emission scenarios evaluated in the dispersion modeling analyses mentioned in the above paragraph. These impacts are intermittent. As noted in response to comment RCTC-2, the added average delay associated with one addition train is minimal (five to six seconds.) Therefore, due to the low magnitude of these emission increases, their intermittent nature, and the fact that they would be spread over several at-grade crossing, they would produce less than significant localized air quality and health impacts within Riverside County.

As stated in Section 3.2.3 of the Draft EIS/EIR, the Project region within the SCAB presently does not attain the national and/or state ambient air quality standards for O_3, PM_{10}, and $PM_{2.5}$. These pollutant nonattainment conditions within the Project region, which includes Riverside County, are cumulatively significant. The combined emissions of Project trains and trucks that travel through Riverside County would increase compared to existing conditions (2005) by year 2015. As stated in Draft EIS/EIR Section 3.2.3, the impact of these emission increases would be cumulatively considerable within the SCAB and Riverside County. Project **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 emissions and localized air quality impacts from the operation of Project trucks, including within Riverside County. Additionally, many other Project mitigation measures would indirectly reduce the impact of Project emissions transported into Riverside County from the POLB and offshore waters. Conversion of the national line haul locomotive fleet to adopted EPA Tiers 3 and 4 non-road standards will also substantially reduce emissions from Project trains that traverse through the Riverside County on the UP line in future years. Regarding the feasibility of eliminating at grade crossings and information regarding delays, see response to comment RCTC-2.

RCTC-8. Thank you for providing the additional CEQA information. As a point of clarification, the Berths 97-109 Container Terminal Project is a POLA project that was included in the cumulative impact analysis. Please see Draft EIS/EIR Section 2.1.1 (Table 2.1-1; Figure 2.1-1) for a list of related and cumulative projects that were included in the cumulative impact analysis. Please see response to comments RCTC-2 and RCTC-3 for additional details.

RCTC-9. Commenter erroneously states that the Draft EIS/EIR indicates that the Project would be adding 5.75 trains per day, and mistakenly concludes that the evidence does not support the Draft EIS/EIR's conclusion of no cumulative impact in this regard because this could cause significant at-grade delays in Riverside County. Commenter asserts mitigation measures are necessary to negate these impacts.

The Project would not add 5.75 trains per day; rather, train traffic will increase from the baseline number of 138 rail trips per year (0.378/day) to 2,098 per year in 2030 (5.75/day), or around five trains per day. Moreover, the No Nroject Alternative would result in 786 annual trains (3.59 trains per day), and thus, the Project would add only 2.16 more trains per day than the No Project Alternative. Please refer to response to comment RCTC-2 regarding the lack of cumulative impacts.

RCTC-10. Your comment is appreciated. For the reasons discussed in response to comments RCTC-2 through RCTC-9, the USACE and Port believe that the analysis presented in the document meets the requirements of NEPA and CEQA. RCTC is on the Port's mailing list and will receive all public notices for the Project and future projects.

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INTERNATIONAL BROTHERHOOD OF TEAMSTERS
LONG BEACH GREENS
LONG BEACH MOTHERS' BRIGADE
LONG BEACH COMMUNITY PARTNERS COUNCIL
LOS ANGELES ALLIANCE FOR A NEW ECONOMY
NATURAL RESOURCES DEFENSE COUNCIL
SIERRA CLUB HARBOR VISION TASK FORCE

August 8, 2008

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RE: JOINT COMMENTS ON MIDDLE HARBOR REDEVELOPMENT PROJECT DRAFT ENVIRONMENTAL IMPACT STATEMENT (DEIS)/DRAFT ENVIRONMENTAL IMPACT REPORT (DEIR) AND APPLICATION SUMMARY REPORT BERTHS

Dear Mr. Cameron:

CBD-1

On behalf of the undersigned organizations, we write to provide comments on the Middle Harbor Redevelopment Project Draft Environmental Impact Statement (DEIS)/Draft Environmental Impact Report (DEIR) and Application Summary Report Berths ("DEIR/S"). We appreciate the opportunity to provide comments on the DEIS/DEIR. While this DEIR/S shows improvement in certain aspects compared to previous environmental review documents produced by the Port of Long Beach ("Port" or "POLB")), such as the DEIS/DEIR for the Pier J project, we still have several concerns about the project itself and the accompanying environmental document. After careful review, we have concluded that it fails in many respects to comply with the requirements of the California Environmental Quality Act ("CEQA") and the National Environmental Policy Act ("NEPA"). As described below, the DEIR/S is inadequate because it fails to carry out CEQA's mandates. It does not accurately identify or analyze the significant environmental impacts that would result from the implementation of the massive Project,

CBD-1 and it fails to provide sufficient mitigation for such impacts as it does identify. Moreover, it fails to consider alternatives that effectively protect the environment while providing good, well-paying, sustainable jobs for the region's workforce.

Given the inevitable regional and acute local impacts of the proposed Project, it is especially important that the DEIR/S contain the necessary analysis to enable both the decision makers and the public to understand the significant environmental repercussions of the Project. Additionally, it is also critical that the DEIR/S compare the proposed Project to other possible alternatives for redeveloping the Port. Instead, the DEIR/S effectively disguises the true impacts of the Project by omitting crucial information regarding what the Project will actually do, underestimating many environmental impacts and ignoring others altogether.

As a result of the DEIR/S's inadequacies, there can be no meaningful public review of the Project. CEQA accordingly requires the Port to prepare and circulate a revised DEIR/S to permit a complete understanding of the environmental issues at stake.

I. Overview of Project

Like previous plans, this project will expand port operations, creating numerous impacts on residents in the Harbor area and beyond. From an air quality perspective, this project has special relevance in that this is the first major EIR/EIS released since the Board of Harbor Commissioners ("Board") unanimously voted to adopt the San Pedro Bay Ports Clean Air Action Plan ("CAAP"). Thus, as deadlines slip in implementation of the CAAP, we become concerned about the general approach of this EIR/EIS. Thus, it is critical that the Port makes sure all impacts are adequately studied and truly mitigated in order that this project will result in minimal impact to residents near the Port. Moreover, the Project has many impacts beyond air quality that will affect residents, and we are concerned that the Port has not adequately mitigated these impacts.

CBD-2 At the outset, it is important to provide perspective on the magnitude of this project. At full build out, just the projected increase in throughput at this terminal is the equivalent of inserting the container throughput of the Port of Vancouver into the Harbor area.[1] Also, the projected final throughput for the project, 3.3 million Twenty-foot Equivalent Units ("TEUs"), will be approximately 1/3 greater than the container throughput of the current operations of the Port of Oakland, the fourth busiest container port in the nation.[2] Between the baseline year and full build-out, more than 3,000 trucks trips per day will be added to the roads surrounding the port.[3] Thus, this one project, part of a long list of

[1] Compare projected throughput increase from the Middle Harbor project, to 2006 throughput at the Port of Vancouver. Data from American Association of Port Authorities website. Accessed 9/18/07. Available at http://aapa.files.cms-plus.com/PDFs/2006_North_American_Container_Traffic.pdf

[2] *Id.*

[3] DEIR/S, at Table 1.6-1.

container expansion projects in the Harbor area,[4] will undoubtedly impact port-adjacent communities and the region in general. Without an expanded suite of mitigation measures, this terminal expansion will have a harsh impact on the land, water and air. CBD-2

a. The Proposed Project will have an indelible impact on port-adjacent communities and the region in general. CBD-3

The health impacts and regional air quality impacts from port activities are well documented. Of all listed TACs identified by the California Air Resources Board ("CARB"), diesel particulate matter ("DPM") is known to present the greatest health risks to Californians.[5] Dozens of studies have shown adverse impacts from DPM and NO_x including respiratory disease, cardiovascular mortality, cancer, and reproductive effects as well as an increase in regional smog and water contamination. CARB has determined that diesel exhaust is responsible for over 70% of the risk from breathing our air statewide and in the South Coast Air Basin ("SCAB").[6] Further, the South Coast Air Quality Management District ("SCAQMD") in the Multiple Air Toxics Exposure Study II ("MATES II") identified harbor-area communities as having among the highest cancer risks in the South Coast.[7] The MATES II study identified mobile sources, i.e. trucks, trains, ships, etc., to be the primary sources of toxic diesel particulate emissions.[8]

CARB recently revised its analysis of annual impacts from PM2.5 pollution. Previously, CARB estimated that statewide, 2,400 premature deaths annually are linked to goods movement, mostly from particulate pollution and 50% of these deaths are in the SCAB.[9] Now, as the chart below demonstrates, CARB estimates that there are 3,700 premature deaths statewide associated with PM2.5 from Goods Movement activities.[10]

[4] DEIS/DEIR, at Figure 4-1.
[5] CARB, *Emissions Reduction Plan for Ports and Goods Movement in California*, 7 (2006)(hereinafter "ERP").
[6] ERP, at 7.
[7] SCAQMD, Multiple Air Toxics Exposure Study for the South Coast Air Basin-II, at ES-5 (March 2000) *available at* http://www.aqmd.gov/matesiidf/matestoc.htm. (hereinafter "MATES II").
[8] MATES II, at ES-3, ES-9.
[9] ERP, What's New-1 at 4.
[10] CARB, *Methodology for Estimating Premature Deaths Associated with Long-Term Exposures to Fine Airborne Particulate Matter in California Draft Staff Report*, (May 22, 2008) [*See* "Attached Literature" Exhibit A].

CBD-3

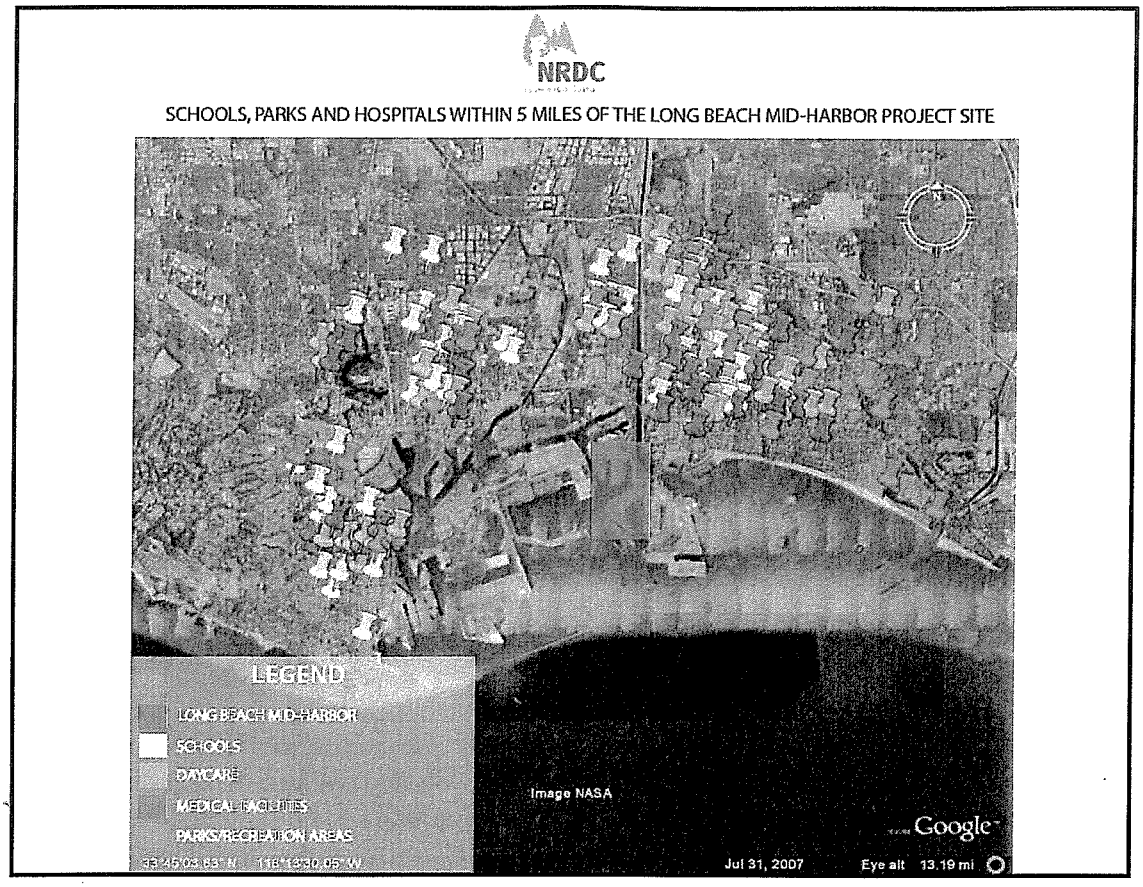
Table 6: Annual premature deaths associated with PM2.5 from Goods Movement activities[1]

Pollutant	*Low*	*Mean*	*High*
Primary Diesel PM	600	2,000	3,500
Secondary Diesel PM (Nitrates)	480	1,600	2,800
Secondary Diesel PM (Organic Aerosols)	15	49	85
Other Primary PM2.5[2]	12	39	68
Statewide Total[3]	***1,100***	***3,700***	***6,500***

[1]For the year 2005, these estimates do not include the contributions from particle sulfate formed from SO_X emissions, which is being addressed with several ongoing emissions, measurement, and modeling studies. Results listed are based on the previous emission inventories used in the Goods Movement Emission Reduction Plan in April of 2006 but with the new PM2.5-mortality relationship of 10 percent per 10 $\mu g/m^3$ increase in PM2.5 exposures; these values may change if emissions inventories are updated.
[2]PM2.5 includes tire wear, brake wear, and particles from boilers, which are not covered under primary diesel PM.
[3]Totals do not add up due to rounding.

Residents of Long Beach and other harbor area communities will undoubtedly face additional impacts due to the increased pollution from this project. For sensitive populations, such as children and the elderly, and for those who live and work in close proximity to these major sources of diesel exhaust, the risk will be even higher. Using Google Earth, the Natural Resources Defense Council ("NRDC") created the map below showing the myriad of sensitive sites within a 5-mile radius of the Middle Harbor Project. This chart clearly demonstrates the need for strong protections to ensure the health of these most sensitive populations are protected from the ills of port operations.

CBD-3



In this submission, we are attaching several studies that should be evaluated in improving the DEIS/DEIR.

Moreover, in addition to the huge impacts on residents and workers closest to the sources of emissions, port operations pose a particularly acute threat to regional air quality. The South Coast Air Basin ("SCAB"), where POLB is located, consistently ranks near the top of the lists for the nation's filthiest air quality. Freight transport, including the operations at the Port, greatly contributes to the persistent failure of the SCAB to meet clean air standards established by the Environmental Protection Agency. In fact, the SCAQMD has determined that the ports of Los Angeles and Long Beach are the single largest fixed-source of air pollution in Southern California. Pollution from the ports is responsible for more than 100 tons per day of smog and cancer-causing nitrogen oxides, more than the daily emissions from all 6 million cars in the region.[11] Without all feasible mitigation, the SCAB could fail to achieve the federal annual PM2.5 standard by 2014. This project proposes to add additional pollution that would not have occurred if the project was not

[11] SCAQMD, 2007 Air Quality Management Plan ("AQMP"), at IV-A-146.

CBD-3 built. Against this backdrop, there are several deficiencies in the DEIR/S that must be addressed.

CBD-4 **II. The DEIR/S's Project Description is Inadequate.**

The DEIR/S's project description fails to address numerous Project features. These omissions skew the DEIR/S's analysis of impacts and, thus, undercut the validity of the entire document under CEQA. Without a complete and accurate project description, an agency and the public cannot be assured that all of a project's environmental impacts have been revealed and mitigated.

"An accurate, stable and finite project description is the sine qua non of an informative and legally sufficient EIR."[12] A complete project description is indispensable because "[a] curtailed or distorted project description may stultify the objectives of the reporting process.[13]

The DEIR/S's description of the proposed Project fails to meet this mandate in a number of respects. First, the Project description does not provide any specificity regarding the loading and unloading procedures at the expanded facilities. The DEIR/S acknowledges that many hazardous materials will be handled at the new project site.[14] Petroleum products, and certainly others identified in the document, have very different potential impacts than non-hazardous materials. Loading and unloading procedures could implicate several potential impacts, including direct discharges and discharges through storm water runoff into receiving waters. The CEQA Guidelines define a project as "the whole of an action, which has potential for resulting in a physical change in the environment."[15] The Project under review thus clearly includes these activities. In order for the public to have an opportunity to meaningfully comment on these impacts, the revised DEIR/S must disclose more detail regarding the protocol for handling hazardous materials at Middle Harbor.

CBD-5 Second, with respect to the dredging description, the DEIR/S describes only a portion of the actual dredging required for the Project. The DEIR/S describes the proposed dredging that would occur initially to implement the Project, but omits any description of future maintenance dredging activities, which are an integral part of most dredging projects. The revised DEIR/S must include an accurate and complete estimate of the frequency and volume of dredged material as part of the project description, and the analyses of dredging impacts must take these ongoing activities into account.

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[12] *County of Inyo v. City of Los Angeles* (1977) 71 Cal. App. 3d 185 192-93.
[13] *Id.* at 199; *see also San Joaquin Raptor/Wildlife Center v. Stanislaus County*, 27 Cal.App.4th 713, 730 (1994) ("An accurate project description is necessary for an intelligent evaluation of the potential environmental effects of a proposed activity.")
[14] DEIR/S, at 3.10-1.
[15] CEQA Guidelines § 15378.

Third, the DEIR/S's discussion of the need for the Project is circular. On the one hand, the Port contends that it cannot accommodate projected growth without facility improvements and upgrades.[16] On the other hand, long-term forecasts didn't take into account capacity limitations of infrastructure.[17] In sum, the Port relies on forecasts that assume new infrastructure but then justifies the new infrastructure to accommodate the forecasted growth. The Port cannot have it both ways. The revised DEIR/S should include demand forecasts under existing conditions to provide a true picture of forecasted growth under the No Project Alternative. CBD-6

Finally, CEQA requires the Port to assess and consider alternative uses for this terminal, which includes development smaller container terminal.[18] By starting with the intention to "increase and optimize cargo handling efficiency of the Port"[19] the deck has been stacked at the outset to uncritically validate the project. Any alternative or mitigation measure that takes away from "increas[ing] and optimiz[ing] cargo handling efficiency of the Port"[20] will be deemed to violate the overall purpose of the project. For example, by utilizing such an erroneous project description, a broader range of smaller container operations were excluded from consideration. By predetermining the outcome, the Port has fallen into the trap warned by the court in *County of Inyo*, and it has precluded an open discussion of the various uses of this land in violation of CEQA. CBD-7

III. The Port's Past Failure to Effectively Mitigate Its Impacts Provides Great Concern. CBD-8

Courts allow a review of prior shortcomings in analyzing the adequacy of mitigation measures. The Supreme Court has stated that "[b]ecause an EIR cannot be meaningfully considered in a vacuum devoid of reality, a project proponent's prior environmental record is properly a subject of close consideration in determining the sufficiency of the proponent's promises in an EIR."[21] As one of the largest fixed source of pollution in the region,[22] the Port should have made greater strides in protecting residents from its harmful pollution before moving forward with a project that will increase throughput and will increase emissions.[23] While the Port has developed the CAAP, it is falling way behind in implementing some of the key measures contained within it. For example, the ports failed to meet the Spring 2007 deadline to adopt "San Pedro Bay Standards" that would commit the ports to reducing air pollution to levels that would help the region

[16] DEIR/S, at 1-4.
[17] *Id.*
[18] Cal. Pub. Resources Code §§ 21002 et seq.
[19] DEIR/S, at ES-2.
[20] *Id.*
[21] *Laurel Heights Improvement Assoc. of San Francisco v. Regents of the University of California*, 47 Cal.3d 376, 420 (Cal. 1988).
[22] SCAQMD, Air Quality Management Plan, at IV-A-146.
[23] Letter from NRDC et al. to Mayor and Port of Los Angeles and Mayor and Port of Long Beach, September 25, 2007.

CBD-8 attain federal air quality standards.[24] Moreover, the Port is behind schedule in implementing several clean air technologies that will provide demonstrable benefits to harbor-area residents and the region in general.

This past record of delay in implementing feasible technologies to reduce pollution raises significant red flags for those mitigation measures that are not truly enforceable and do not require strict timelines. CEQA is clear that "[m]itigation measures must be fully enforceable through permit conditions, agreements, or other legally-binding agreements."[25] As such, we articulate below several concerns about the mitigation measures contained within the DEIR/s because they are unduly vague and fail to insure residents that clean up of sources will occur.

IV. The Air Quality Analysis and Associated Mitigation Measures Are Inadequate Under CEQA and NEPA.

CBD-9

a. Failure to Comply with the Clean Air Action Plan in Adopting San Pedro Bay Standards Serves as a Major Flaw of this Project.

The Port promised in Section 2.2 of the CAAP that it and the Port of Los Angeles would establish these standards for the San Pedro Bay:

- Reduce public health risk from toxic air contaminants associated with port-related mobile sources to acceptable levels.
- Reduce criteria pollutant emissions to the levels that will assure that port-related sources decrease their "fair share" of regional emissions to enable the South Coast Air Basin to attain state and federal ambient air quality standards.
- Prevent port-related violations of the state and federal ambient air quality standards at air quality monitoring stations at both ports.

As the CAAP states: "[P]rojects that meet the Project Specific Standard associated with health risk must also meet the criteria pollutant emissions reductions associated with their "fair share" of regional emissions, and health risk reductions, as stated in the San Pedro Bay Standard."[26]

In the Middle Harbor case, the decision makers cannot know whether the project specific standards are tough enough precisely because San Pedro Bay Standards have not been adopted by either port. The monitoring stations whose data is available on the ports' CAAP website consistently show that PM 2.5 emissions are well above the federal and

[24] *Id.* at 26-27.
[25] CEQA Guidelines § 15126.5(a)(2).
[26] CAAP Final Technical Report at 24.

California annual average standards.[27] The recent MATES III report from the Southern California Air Quality Control District[28] shows that the areas of highest cancer risk in the District are those immediately adjacent to the Ports – just as they were in the MATES II report.[29] Accordingly, it is impossible for decision makers to know whether moving forward with this project will allow the Port to meet clean air goals because the goals have not been established yet. Moreover, this is not an issue that is in front of the Port for the first time. On September 25, 2007, more than ten months ago, several members of the CAAP stakeholder group brought the extreme delay in setting these standards to the Port's attention. While we appreciate the Port providing an explanation of the difficulty in setting these standards at the last CAAP stakeholder meeting, we also note that publishing the Middle Harbor Project DEIR/S was a large task too, and the Port managed to produce this document. As such, we would prefer that resources be shifted to complete this critical CAAP commitment before moving forward with work on the Middle Harbor Project. CBD-9

Given these circumstances, it would not be in the public interest to decide whether to certify the Middle Harbor Project or approve the Project before the San Pedro Bay Standards promised in the CAAP have been adopted.

b. The Air Quality Analysis Makes Several Unsupported Assumptions. CBD-10

Initially, the air quality analysis is flawed in several respects. The Port has engaged in an analysis that assumes many of the benefits of the CAAP will proceed even in the unmitigated air quality numbers. Given that the CAAP is only a five year plan that could be changed at any point, the Port must include actual enforceable mitigation measures as a part of this project. Moreover, CAAP was designed by the Ports to be implemented through leases, so we are discouraged by the failure of the environmental document to include specific, enforceable mitigation measures. Before discussing the mitigation, it is important to cull out some of the major flaws in the air quality analysis. The following bullets provide a list of several assumptions that lack support:

- The air quality analysis assumes that 33% of the OGVs would cold-iron by 2010.[30] There is no basis to assume this without an enforceable commitment to achieve this level of cold-ironing.
- In its unmitigated emissions analysis for auxiliary engines, the Port assumes that 100% of vessels calling at the Port will use .2% Marine Gas Oil ("MGO").[31] The Port has provided no basis to conclude that 100% of ship auxiliary engines will

[27] See http://caap.airsis.com/. The U.S. EPA standard for annual average PM 2.5 exposure is 15 milligrams per cubic meter. The analogous California standard is 12 milligrams per cubic meter.
[28] SCAQMD, Draft Report Multiple Air Toxics Exposure Study-III, at ES-3 (Jan. 2008), *available at* http://www.aqmd.gov/prdas/matesIII/matesIII.html (hereinafter "MATES III").
[29] *See* MATES II.
[30] DEIR/S, at A-1-5.
[31] *See* DEIR/S, at Table A.1.2-Alt1-U9, Table A.1.2-Alt1-U10.

CBD-10 burn .2% MGO within the timeframes analyzed in the DEIR/S because the unmitigated project will not have any enforceable commitment to use this fuel until 2012 when the CARB regulation applies.[32] Even with the CARB regulation, the Port will need a backstop because industry groups may sue to block implementation of this regulation. Perhaps, the Port relies on its voluntary fuel incentive program that is set to run from July 2008 until the end of the June 2009 as the basis to assume 100% use of .2% sulfur fuel.[33] However, given that this is simply a one year program and there is not even 100% participation, this should not be included in the unmitigated emission numbers.

- In its unmitigated emissions analysis for auxiliary engines, the Port also assumes 100% compliance with vessel speed reduction. It is our understanding that under the Port's voluntary program, there is not 100% compliance. This defect in the analysis must be cured.

CBD-11
- It is unclear whether the Port included the 2005 ARB/Railroad Statewide Agreement in its emissions assumptions for the mitigated and unmitigated emissions. This should not be included in these assumptions, and if the Port relied upon emissions assumptions for its analysis, it should write those assumptions as a mitigation measure. For example, although the Statewide Agreement includes a provision for idling, there are many exceptions to this provision. In addition, there is no assurance that even the agreed upon idling scenarios would be limited to 1.5 hours, since the Statewide Agreement contains exemptions for self-determined "essential" idling and CARB enforcement staff cannot feasibly enforce more than a small portion of idling events. Please clarify whether this was assumed in the next version of the document.

CBD-12
- Commenters could not find the description in the DEIR/S of what peak daily emissions would entail. The DEIR/S claims that "annual average daily emissions...are more representative of typical port conditions, as peak daily conditions occur more infrequently and they are based on a more theoretical set of assumptions."[34] However, it is hard for commenters to verify this without the assumptions that form the basis for peak daily emissions. Commenters believe that the DEIR/S should not be so quick to assume that peak daily emissions will not occur at the facility.

CBD-13
- The DEIR/S air quality analysis assumes that the mitigated project will comply with the CAAP. However, as mentioned above, the CAAP is only a five year plan set to expire in 2011. The Port has provided no guarantee that all the measures within the CAAP would extend beyond this 2011 date.[35] The

[32] Even reliance on the CARB regulation should be backstopped with enforceable mitigation commitments
[33] *See* POLB News Release, Vessel Fuel Incentive Program Launched (July 10, 2008)(noting "projected participation of 50%").
[34] DEIR/S, at 3.2-30.
[35] DEIR/S, at 3.2-20.

appropriate approach here is to codify the mitigation measures as enforceable commitments with clear timelines under CEQA and NEPA. CBD-13

- Since the publication of this report, CARB has revised its numbers on the impacts of goods movement in California. The chart on page 3.2-59 of the AQ should be updated to reflect these updated numbers. CBD-14

c. The Project Must Include An Analysis of Construction Emissions and Operational Emissions Combined. CBD-15

This project entails significant construction to take place over a decade.[36] Accordingly, construction emissions and operations emissions will take place concurrently. Given the significant construction involved in the development of this project (e.g. 9 stages over 2 construction phases), the environmental documentation must include an analysis of the emissions combined. Moreover, this analysis should include information on peak daily construction and peak daily operational emissions combined.

d. The Clean Air Act Conformity Analysis Must be Improved.

i. Reliable Scientific Evidence Shows Elevated PM2.5 in the Near-Highway Environment. CBD-16

The evidence that highway emissions have a significant impact on air quality in the near-highway environment is not new. MATES-II first identified the importance of highway emissions in 2000. Although MATES-II was focused on the significance of diesel particulate as the largest source of cancer risk in the air basin, it also provided important findings that demonstrated that higher levels of diesel pollution occur near highways. The Report found the greatest exposure to diesel PM at locations where "the dominance of mobile sources is even greater than at other sites." It also found that "model results, which are more complete in describing risk levels...than is possible with the monitored data, show that the higher risk levels occur... near freeways." "Results show that the higher pollutant concentrations generally occur near their emission sources." These findings provided evidence that neighborhoods near highways would experience higher concentrations than the regional averages. Based on these observations, MATES-II concluded that "[f]or mobile source compounds such as benzene, 1-3 butadiene, and particulates associated with diesel fuels, higher concentration levels are seen along freeways and freeway junctions." This work identified the near-highway environment as a high risk environment where elevated levels of PM would be expected because of emissions from diesel vehicles.

This triggered further research in the region. A team from USC conducted seminal studies to measure the concentrations of highway pollutants as a function of distance

[36] DEIR/S, at 1-25.

CBD-16 from the I-710 and I-405 freeways.[37] Both studies included measurements of concentrations of CO and black carbon (BC) at increasing distances from the freeway. CO and BC were intentionally selected because their ambient concentrations are strongly related to vehicle emissions. Black carbon, also measured as elemental carbon (EC) in the monitoring reported in MATES-II and MATES-III, is a species of PM2.5 that was used in the MATES-II study as a measure of diesel PM in the Air Basin. The MATES-III study reported more recent investigations showing that elemental carbon is an inadequate measure of diesel PM, and that other methods show that total diesel PM is at least 72% greater than elemental carbon.[38] The AQMP relies on the MATES-III data to identify elemental carbon as one of the six major species of PM2.5 in the South Coast air shed that contribute significantly to PM2.5 nonattainment.

The freeway studies show the dramatic increase in BC/EC in the near-highway environment. The studies measured concentrations at five distances downwind and upwind from the freeways. By comparing the upwind measurements which provide a good estimate of regional carbon loadings in the Air Basin with the downwind measurements, these studies provide a good estimate of the increase in concentrations of primary carbon particles emitted from highways in the vicinity of major highways compared to regional concentrations measured in the urban air shed.

The BC measurements from each of the freeway studies are summarized separately below along with measured upper and lower limits, and the observed difference between the comparable upwind and downwind BC concentrations:

Measured Average (and Upper and Lower Limit) BC Concentrations at Increasing Distances from the 405 Freeway

Downwind Distance (m)	BC (µg/m3)	BC (µg/m3) Downwind-Upwind Average Concentration
30	5.4 (3.4-10.0)	4.75
60	3.2 (3.0-3.5)	2.55
90	2.5 (2.4-2.6)	1.85
150	1.6 (1.1-2.0)	0.95
300	1.3 (1.1-1.5)	0.65

[37] *See* Zhu Y. et al., *Concentration and Size Distribution of Ultrafine Particles Near a Major Highway*. J. Air & Waster Management, 52: 1032-1042 (2002) [*See* "Attached Literature" Exhibit B1]; Zhu Y. et al. *Study of Ultrafine Particles Near a Major Highway With Heavy-Duty Diesel Traffic*. Atmospheric Environment, 36: 4323-4335 (2002). [*See* "Attached Literature" Exhibit B2]

[38] MATES-III, at 2-9.

CBD-16

Measured Average (and Upper and Lower Limit) BC Concentrations at Increasing Distances from the 710 Freeway

Downwind Distance (m)	BC (µg/m3)	BC (µg/m3) Downwind-Upwind Average Concentration
200 m (upwind)	4.6 (3.1-5.9)	N/A
17 m	21.7 (20.3-24.8)	17.1
20	19.4 (16.5-21.6)	14.8
30	17.1 (12.6-19.3)	12.5
90	7.8 (4.5-9.3)	3.2
150	6.5 (3.9-9.2)	1.9
300	5.5 (3.5-7.7)	0.9

Notice the large increase in the near-highway concentrations of BC downwind of the I-710 compared to the I-405. The Interstate 710 study was conducted in part because the freeway has a much higher percentage of heavy-duty diesel truck travel than the Interstate 405 freeway. Average traffic flow during sampling periods was 12,180 vehicles per hour with more than 25 percent of vehicles being heavy-duty diesel trucks. This is perhaps the highest density of diesel truck traffic anywhere in the U.S. Measurements were taken at 17, 20, 30, 90, 150 and 300 meters downwind and 200 meters upwind from the center of the freeway. As with the 405 freeway study, relative concentrations of CO and BC downwind from the freeway were found to be many micrograms per cubic meter greater than upwind concentrations and tracked each other well as one moves away from the freeway.

These studies show that in the impact zone downwind of a heavily traveled freeway in the Air Basin with average truck traffic (I-405), emissions of BC from the freeway will add 4.75 µg/m3 to PM2.5 at 30 meters from the freeway dropping off to 0.65 µg/m3 greater than the regional concentration at 300 meters. The study also shows a freeway with heavy truck traffic will add 12.5 µg/m3 at 30 meters dropping off a 1.9 µg/m3 increase above the regional levels at 300 meters.

The incremental effect of highway emissions downwind from the I-710 have been confirmed in recent weeks by data released as part of the deployment of Mobile Monitoring Platform Results in the I-710 corridor.[39]. These results include BC concentrations within the so-called buffer zone 500 feet from the freeway compared with results measured beyond the 500 feet buffer. Concentrations measured in West Long Beach residential area on the morning of July 17, 2007, show nearly a four-fold greater BC level within 500 feet from the 710 freeway compared to the same neighborhood outside the 500 feet zone (18 vs. 5 µg/m3). This difference of 13 µg/m3 is highly consistent with the upwind/downwind results reported in the original 710 study.

[39] *See* CARB, Mobile Monitoring Platform Update and Results, April 17, 2008, at the HCMS Community Meeting, Wilmington Senior Center. [See "Attached Literature" Exhibit C]

CBD-16

These results were supported by measurements made in other regions. A study in Seattle, WA measured the relationship between BC levels at an urban near-roadway monitoring site, and a heavily traveled freeway.[40] This study showed that near the I-5 there was frequently peak evening rush hour BC levels of 5 μg/m3 or above. The BC data was obtained from the Olive Street monitoring site located at the EPA-designated micro scale within the I-5 traffic corridor. The traffic volumes and BC readings correlate well, supporting the hypothesis that traffic is a major contributor to PM2.5 at the site, given that BC originates from motor vehicle exhausts as ultrafine or fine particles. The Olive Street air monitoring site is about 20 meters west of the southbound lane of I-5 in the CBD. This area of I-5 contains express lanes along with several high use overpasses, which all contribute to the area traffic. In 2003, daily volumes along this section of I-5 average 284,700 vehicles per day. Light-duty traffic has peak weekday flows above 10,000 vehicles per hour, with diesel traffic of about 1,000 vehicles per hour (10%). BC tends to peak during weekdays with high traffic volumes, and is sharply lower on weekends. This reduction parallels the significantly lower weekend diesel traffic volumes. Peak BC measurements occur during the afternoon rush hour (4-6 pm). Correlations between light-duty vehicle volumes and BC peaks (readings above 5 μg/m3) are better than those between diesel truck volumes and BC peaks. This may occur because light-duty volumes overwhelm diesel truck volumes during this peak period (93 percent of the traffic volume is from light-duty vehicles).

The Seattle study also measured BC at a Beacon Hill site about 600 meters from a major freeway, which is used as the urban background for Seattle. Hourly BC readings during the study period stayed within the range of 0 to 2 μg/m3, with readings mostly below 1.0 μg/m3. Comparing these sites demonstrates results similar to the data obtained from the I-405 study with BC concentrations in the near-highway environment being about 4 μg/m3 greater than the urban regional concentration.

The East Bay (California) Children's Respiratory Health study[41], conducted with support from Cal EPA's Office of Environmental Health Hazard Assessment, obtained measurements of PM2.5 concentrations at monitors located in the schoolyards of 10 middle schools in communities across the East Bay. This study reported the distance of each monitor from major freeways, the traffic density on the nearest freeway, and whether the school was located downwind of the traffic source. The PM2.5 measured at the school closest to (60 meters away) and downwind from a major freeway, was 15 μg/m3 which was 3 μg/m3 greater than the 12 μg/m3 PM2.5 concentrations reported at the regional air district network monitor located about 1 mile from major traffic sources.

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[40] Curtis H. et al., *Traffic Flows and Black Carbon Levels in the Urban Seattle Environment*, (Fall 2004). [See "Attached Literature" Exhibit D]

[41] Kim J. et al., *The East Bay (California) Children's Respiratory Health Study*, (June 2004). [See "Attached Literature" Exhibit E].

The recently released West Oakland Health Risk Assessment[42] conducted by the CARB provides similar results from a modeling study that shows highly elevated concentrations of diesel PM in a neighborhood downwind of the Port of Oakland and surrounded by heavily traveled major freeways. The risk assessment showed that despite the significant contribution of emissions from ocean going vessels, local watercraft, railyard and port activities, the emissions from non-port related on-road truck operations accounted for 80% of the diesel PM in West Oakland. CBD-16

These and other studies provide credible evidence that PM2.5 concentrations in the near-highway environment are expected to range from 3 μg/m3 to as much as 13 μg/m3 greater than concentrations measured at regional monitors located outside the high impact zone of heavily traveled freeways.

Data from these highway studies were expressly relied upon by US EPA to decide that it must establish a transportation conformity program to review the localized impacts of PM2.5 emissions from highways.[43] EPA concluded that the evidence of localized impacts from highways was sufficiently compelling to require that "it is essential that a quantitative PM2.5 or PM10 hot-spot analysis be performed for all projects of air quality concern." *Id.* If the evidence of localized impacts was sufficient to justify a national regulatory program to protect against NAAQS violations caused by new highways, it is also compelling enough to require a quantitative analysis to ensure that the SIP will protect against existing localized NAAQS violations caused by highway emissions.

ii. The Conformity Analysis is Inadequate Because it Fails to Assure Attainment in the Near-Highway Environment. CBD-17

Despite the Port's claims that - "[t]he POLB regularly provides its Port-wide cargo forecasts to SCAG for the development of the AQMP" and that "[c]argo projections have been included in all SCAB attainment and maintenance plans, including the most recent EPA-approved 1997/1999 SIP. As a result, the Proposed Project would conform to the most recently EPA-approved SIP,"[44] - these attainment plans failed to consider the spike in emissions occurring in the near-highway environment. As such, the Port cannot claim the Project will conform under the Clean Air Act because the SIP's and associated documents do not show attainment in the near highway environment.

Moreover, given the data exhibiting the spike in emissions in the near highway environment demonstrates a need for the Port to ensure greater monitoring and protection of those residents residing in close proximity to these major goods movement freeways. CBD-18

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[42] CARB, *West Oakland Health Risk Assessment*, (March 2008) [See "Attached Literature" Exhibit F]. Appendices A through E not attached and available at http://www.arb.ca.gov/ch/communities/ra/westoakland/westoakland.htm.
[43] *See* Transportation "hot spot" rule, 71 Fed.Reg. 12468, 12494 (March 10, 2006).
[44] DEIR/S, at 3.2-12.

e. Mitigation Measures Must Be Strengthened in the DEIR/S.

CBD-19

i. AQ-6: Low-sulfur Fuels in OGV.

We are pleased that the DEIR/S mentions an emissions reduction strategy for the main engines of ocean-going vessels that is in line with the auxiliary engine requirements. However, the DEIR/S provides an exceptionally vague description of the commitments related to use of low sulfur fuels. At the CAAP Stakeholder group meeting that took place on July 25, 2008, Port of Long Beach staff indicated that the low sulfur fuel requirements would be implemented 100% upon lease renewal. However, the document provides no detail on the timeline and percentages of compliance. This lack of specificity violates CEQA. This must be cured in subsequent versions of the EIR/S.

Cleaner fuels in both types of engines could significantly reduce emissions from virtually unregulated engines transiting and maneuvering at the Port of Long Beach. In its current state, the mitigation measure is unenforceable, and as such, must be strengthened in subsequent iterations of the environmental document. Strengthening this measure could result in significant decreases in PM10 and PM2.5 levels as well as reduced cancer risk from DPM.

The Maersk commitment to cleaner fuel, information provided by marine engine manufacturers, and CARB's Auxiliary Engine Regulation now provide substantial evidence that any technological concerns regarding the use of cleaner fuels in auxiliary engines and main engines have been addressed. At a recent Maritime Working Group meeting, representatives of some of the world's biggest engine manufactures and shipping lines including MAN B&W, Wartsila, BP Shipping, DNV, Maersk and other participants, concurred that the implementation of cleaner fuels in main engines is an excellent approach to achieve significant emission reductions in a cost-effective manner.[45] They consider fuel switching to be a standard operation that can be conducted safely by any competent marine engineer. These technical experts made it clear that low sulfur levels, such as 1,000 ppm, in marine fuels were compatible with large ship engines and maritime operations in general, and that if it were required, the "free market" would respond and make supplies available. In fact, it is our understanding that NYK Line at the Port of Los Angeles is currently using <.1% sulfur fuel.[46]

Given the likely shortfall that exists to achieve the CEQA significance thresholds in the short-term horizon years, it is imperative that the DEIR/S pursue the cleanest lower sulfur distillate fuels in both auxiliary and main engines for all ships visiting these terminals. Additionally, CARB announced at their September 25, 2007 marine regulation workshops that emissions from boilers are ten times higher than previously calculated.

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[45] The Maritime Air Quality Technical Working Group, Focus on Fuel Switching, hosted by CARB, July 24, 2007; http://www.arb.ca.gov/ports/marinevess/meet.htm.
[46] SCAQMD, Mitigation Measure Examples: Ocean Going Vessels, *available at http://www.aqmd.gov/CEQA/handbook/mitigation/ogv/TableIX.doc*.

The resulting SOx, NOx and PM emissions must be addressed at the outset with the use of significantly cleaner fuels. In fact, without a high level of stringency on marine fuel usage for auxiliary engines, main engines and boilers, the South Coast AQMD's ability to meet Federal Standards for PM2.5 will be jeopardized. CBD-19

Therefore, we recommend that the DEIS/DEIR require the following:
• Ensure 100% compliance and enforcement of the 2,000 ppm requirement for auxiliary engines, regardless of the status of the CARB auxiliary engine regulation; and
• By January 1, 2010, take necessary steps to ensure 100% compliance and enforcement of the 1,000 ppm requirement for auxiliary engines (interim deadlines should include a 50% requirement by 2009).
• Main engines and boilers, at a minimum, should fall under the same requirements and timetable as we recommend for auxiliary engines and, by 2010, main engines should be required to use 1,000 ppm fuel.

Ultimately, the Port must commit to unconditionally require low sulfur fuel immediately upon lease renewal. Finally, we want to emphasize that dock-side power should not be viewed as a substitute for cleaner fuels. These two strategies must be used in concert to ensure that emissions from large vessels are significantly reduced and significance thresholds are met.

ii. Locomotive Mitigation Must Be Strengthened.

While we appreciate the inclusion of on-dock rail in this project, the rail mitigation measures are completely lacking. We have identified two major deficiencies. CBD-20

First, the project should incorporate more on dock rail. Though rail is a more efficient means to transport cargo rather than adding more drayage trucks, the proposed expanded Pier F intermodal rail yard would handle only 24 percent (796,800 TEUs per year) of the terminal's expected throughput.[47] The Port fails to explain why this number is not higher. In fact, the Port of Long Beach's own consultants explain that "[a] near-dock intermodal rail facility has some attractive characteristics, but it also has significant disadvantages and negative impacts relative to on-dock facilities."[48] Considering that current demand on the Alameda Corridor is "very low" and that forecasted project-related increases in trains could be "easily accommodated,"[49] the Port needs to explore further increasing on-dock rail to at least 50 percent. We suggest that the actual percentage should be even greater—more on the order of 70% or more[50]—because clean rail is a

[47] http://www.polb.com/civica/filebank/blobdload.asp?BlobID=5131 pg. 5
[48] *See* Moffatt and Nichol, *Screening Analysis of Container Terminal Options Part 2: Evaluation of Options*, 43 (Aug. 28, 2007).
[49] DEIR/S, at 3.5-21
[50] The Port should commit to a similar or greater percentage on-dock rail usage as committed to by the Port of Seattle (approximately 70%). *See* NRDC and CCA, *Harboring Pollution: The Dirty Truth about U.S. Ports* at 42.

CBD-20 more efficient means to transport the additional cargo generated from this project rather than adding more drayage trucks to transport containers to off-dock rail facilities. The increase of rail will also assist with the mitigation of impacted highway segments (MM TRANS-2.1), where the POLB is currently depending on Caltrans to implement measures in order to avoid significant impacts.[51]

CBD-21 Second, the Project should seek to expeditiously transfer to electrified rail. There is not even an analysis of this in the DEIR/S. Electrifying the rail will also aid in reducing the GHG footprint from this proposed project.

CBD-22 Third, *MM AQ-9 (Clean Railyard Standards)* Must Be Augmented—The Port states that the Clean Railyard Standard (MM AQ-9) will incorporate the cleanest railyard technologies but fails to quantify any section of the measure because "some of the systems are not yet available."[52] Yet even the technologies that are ready and commercially on the market are not assessed or mandated as requirements. The following systems within the Clean Railyard Standard should be quantified and phased in for locomotives:

- **Diesel electric hybrids**—the Green Goat provided by RailPower has been commercially available since 2005, and provides a 40 to 70 percent reduction in greenhouse gases and diesel fuel consumption.[53]

- **Multiple generator sets**—Union Pacific has been testing and operating Genset locomotives since 2005, and currently owns 159 Genset locomotives running in California and Texas. The Genset yard switcher reduces emissions of NOx by 80 percent and particulate matter by 90 percent while using as much as 30 percent less fuel compared to current older switching locomotives. The fuel savings also translates into a 30 percent reduction of greenhouse gas.[54]

- **Idling shut-off devices**—Line Haul locomotives can spend up to 40 percent of their time idling and switchers as much as 90 percent.[55] At least four EPA-recommended models of idling shut-off devices are already on the market for locomotives,[56] and CARB signed agreements with UP and BNSF in 2005 ensuring "idling devices limiting idling to 15 minutes" were to be installed on 99 percent of the 450 CA-based locomotives by July 1, 2008.[57]

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[51] DEIR/S, at 3.5-18.
[52] DEIS/DEIR, at 3.2-34. http://www.polb.com/civica/filebank/blobdload.asp?BlobID=5127
[53] http://www.dieselforum.org/technology-spotlight/diesel-hybrid-corner/bnsf-green-goat-release/
[54] http://www.uprr.com/newsinfo/chi-genset.shtml
[55] SCAQMD. *Container Movement Technology Forum and Roundtable Discussion.* January 2007. http://www.aqmd.gov/TAO/ConferencesWorkshops/Container_Forum-01-26-07/ContainerForumReport.pdf. pg. 27
[56] http://www.epa.gov/otaq/smartway/idlingtechnologies.htm#loco-mobile-sdsu
[57] http://www.arb.ca.gov/railyard/hra/031808hra_stra_fs.pdf

iii. Shoreside Power Mitigation is Weak.

Mitigation measure AQ-5 must be improved. We are disappointed that only 33% of the vessels calling at this terminal will cold-iron by 2010. While this may technically comply with the CAAP commitment, this does not comply with the Port's duty to adopt all feasible mitigation. The DEIR/S should include a schedule to require 70% to 80% of all ships—both frequent and non-frequent visitors—to use shore-side power at every terminal by 2010 as exemplified by the China Shipping terminal and the RFP for Berths 206-209 at the Port of Los Angeles. In addition, there should be greater specificity on the percentages of use that will be achieved between 2010 and 2015. According to the Mitigation Measure, there will be a jump from 33% to 100% between 2010 and 2015. Does this mean that the terminal could wait until 2014 to accelerate its use of shoreside power? Finally, we remind the port that in addition to being a way to mitigate traditional criteria pollutant emissions, cold-ironing serves to mitigate greenhouse gas emissions too. CBD-23

iv. Main Engine Controls for New Vessel Builds and Existing Vessels Must Be Included as a Mitigation Measure.

The Port must include a mitigation measure for new vessel builds to require new vessels to utilize a combination of advanced control technologies to achieve fleet average emission reductions of 30% for NOx and particulates by 2014, and a 70% reduction of NOx and 50% reduction of particulates by 2023. Currently, there are many vessels on order to be constructed. Once those vessels are built, it is more difficult to control their emissions. Controls such as water injection, emulsified fuels or humid air are feasible technologies. In addition, SCR is a mature technology in use on a wide variety of sources including marine vessels. The feasibility of using advanced controls on marine vessel engines, including main engines, is supported by the recent proposal by the Marine Environmental Protection Committee of the International Maritime Organization to establish increasingly stringent marine vessel emissions limits. CBD-24

v. The Construction Mitigation Measures Must be Improved.

The mitigation measures for construction are vague. We recommend that the construction mitigation comply with the following requirements: CBD-25

Construction Equipment
Equipment[58] greater than 25 horsepower must:
(1) Meet current emission standards[59] *and*

[58] Equipment refers to vehicles such as excavators, backhoes, bulldozers propelled by an off-road diesel internal combustion engine.
[59] These standards are described in Division 3 Chapter 9, Article 4, Section 2423(b)(1)(A) of Title 13 of the California Code of Regulations, as amended. An explanation of current and past engine

CBD-25

(2) Be equipped with Best Available Control Technology (BACT)[60] for emissions reductions of PM and NOx, *or*
(3) Use an alternative fuel.

Diesel Trucks
On-road trucks used at construction sites, such as dump trucks, must:
(1) Meet current emission standards, *or*
(2) Be equipped with BACT[61] for emissions reductions of PM and NOx, *and*
(3) Any trucks hauling materials such as debris or fill, must be fully covered while operating off-site (i.e. in transit to or from the site).

Generators
Where access to the power grid is limited, on-site generators must:
(1) Meet the equivalent current off-road standards for NOx, *and*
(2) Meet a 0.01 gram per brake-horsepower-hour standard for PM, *or*
(3) Be equipped with Best Available Control Technology (BACT) for emissions reductions of PM.

Special Precautions Near Sensitive Sites
All equipment operating on construction sites within 1,000 feet of a sensitive receptor site (such as schools, daycares, playgrounds and hospitals)[62] would either:
(1) Meet US EPA Tier IV emission standards *or*
(2) Install ARB Verified "Level 3" controls (85% or better PM reductions), and
(3) Notify each of those sites of the project, in writing, at least 30 days before construction activities begin.[63]

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standards can also be accessed at http://www.dieselnet.com/standards/. Currently all new equipment are meeting the US EPA Tier II standards and most equipment also meets Tier III standards (all 100HP to 750HP equipment). Note that Tier IV standards would automatically meet the BACT requirement.

[60] Here BACT refers to the "Most effective verified diesel emission control strategy" (VDECS) which is a device, system or strategy that is verified pursuant to Division 3 Chapter 14 of Title 13 of the California Code of Regulations to achieve the highest level of pollution control from an off-road vehicle.

[61] Here BACT also refers to most effective VDECS as defined by the California Air Resources Board (CARB).

[62] Sensitive sites are defined and described in the CARB Air Quality and Land Use Planning Guidelines, 2005; http://www.arb.ca.gov/ch/landuse.htm.

[63] Notification shall include the name of the project, location, extent (acreage, number of pieces of equipment operating and duration), any special considerations (such as contaminated waste removal or other hazards), and contact information for a community liaison who can answer any questions.

vi. The Port Should Provide Funding to Provide Clinics and Other Sensitive Site Mitigation to Reduce the Impacts from Port Pollution. CBD-26

To avoid injury to public health, the project must mitigate its impacts through the reduction of emissions to as near zero as possible, and this comment letter offers numerous measures that should be used in pursuing that goal. Given that increases in pollution are likely even after these measures are implemented and given the lasting effects of baseline pollution, further mitigation is needed to address the extraordinary impact of port related emissions on the respiratory health of communities near the ports and port-related goods movement corridors. The impact of this pollution is perhaps most demonstrable in children in the harbor area. According to the 2003 National Health Interview Survey, an estimated 9 million (12.5%) children under the age of eighteen in the United States have been diagnosed with asthma at some time in their lives. Data from the 2005 LA County Health Survey shows that 13.7% (381,000) of children 0-17 years old in LA County have been diagnosed with asthma. Research conducted by the Long Beach Health District demonstrates that 19.8% (28,000) of Long Beach children have been diagnosed with asthma.

Many residents of goods movement communities and workers at the ports have already suffered irreparable long term damage to their lungs – as noted earlier, diminished lung function in children generates lifelong health effects. The ports should fund the establishment of one or several medical facilities in Long Beach dedicated to the respiratory and general health of the people most affected by port emissions – those living in the neighborhoods closest to the port and along the I-710 corridor, and workers at the port.

Many of the goods movement adjacent neighborhoods in Long Beach and along the I-710 and other routes are heavily populated with low and moderate income families unable to afford health insurance. Similarly, while some workers at the port earn relatively high wages with good benefits, thousands of others earn low wages with few or no benefits. For example, the most recent academic study of port truck drivers – a class of workers severely impacted by diesel emissions – concluded that the drivers earn on average $29,000 per year, and that 90% of them lack health insurance.

Thus, funding for clinics should be sufficient not only to construct appropriate facilities, but also include adequate support for operations so that two classes of patients – residents of the identified goods movement adjacent communities and port workers can access the facility without out of pocket cost regardless of insurance status.

Finally, the Port needs to explore installation of air filtration system to protect residents from harmful levels of air pollution. The Port of Los Angeles agreed through the TraPac MOU to fund filtration systems in school in the vicinity of that project, and this Project should also include this type of mitigation. CBD-27

CBD-28

f. The Cumulative Impacts Analysis Does Not Meet CEQA Guidelines.

CEQA requires that an EIR address cumulative impacts "when the project's incremental effect is cumulatively considerable."[64] The DEIR/S concedes that it will have many cumulatively considerable impacts under both CEQA and NEPA.[65] However, although there is some discussion of the incremental impact that the Middle Harbor project will have, there is no discussion of the effects of the recognized cumulative impacts as a whole on human health or the physical environment. Nor is there any discussion of how to mitigate the cumulative impacts of the identified Port projects.

This lack of analysis violates CEQA. CEQA Guideline 15130(b)(4) provides that the following (among others) element is necessary "to an adequate discussion of significant cumulative impacts . . . .(4) A summary of the expected environmental effects to be produced by those projects with specific reference to additional information stating where that information is available . . . ." The policy reason supporting Section 15130(b)(4) is that decision makers need to know, in deciding whether to approve a project, what the expected impacts will be on the ground as a result of all of the projects identified as cumulative impacts. A person living across the fence line from the Port breathes or will be breathing air that is affected by all of these projects, not just by the Middle Harbor Project or another individual project. At some point, the decision makers may decide, for example, that the overall health risks from Port development are just too high, even though the contribution of a single project may be relatively small – and they need the data and analysis to make this call. This is especially true given the conclusions of the recent MATES III study and CARB's updated study of the number of goods movement-related deaths in California each year.[66] But the data required to evaluate this issue is not present in the DEIR/S.

Of the list of projects on pages 3.2-108 to 3.2-109 of the DEIR/S, many have already commenced the formal planning process, and many have CEQA-related documents already in existence. There is sufficient data already available in documentation about these Port of Long Beach-related projects for the DEIR to describe the current environmental and health impacts from these projects, taken together, as well as the expected situation on the ground when and if the Middle Harbor project is constructed and operated. Each of these is a public project for which substantial environmental documentation is or will be available.[67]

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[64] CEQA Guidelines § 15130; *see also* CEQA Guidelines § 15355.
[65] DEIR/S, at 3.2-110.
[66] CARB, Methodology for Estimating Premature Deaths Associated with Long-Term Exposures to Fine Airborne Particulate Matter in California Draft Staff Report (May 22, 2008).
[67] For example, there are existing EIRs, Notices of Preparation or other environmental planning documents that can be consulted on these Port of Los Angeles projects listed in Table 4-1: Pier 400 / Plains All American, Berth 136-147, San Pedro Waterfront Project, Channel Deepening Project, Cabrillo Way Marina Phase II, Port Police Headquarters, Ultramar lease renewal, Berth 206-209, Southern California International Gateway, Port Transportation Master Plan, I-110/SR-

Nonetheless, as we noted in our initial comment letter, there is no discussion of the effects of the recognized cumulative impacts as a whole on human health or the physical environment. Nor is there any discussion of how to mitigate the cumulative impacts of the identified projects. This violates CEQA. CBD-28

Finally, it is unclear why the DEIR/S excludes the I-710, Southern California International Gateway, and the Union Pacific ICTF projects in its cumulative impacts air quality analysis. This is especially egregious because this project will placed added stress to potentially force the need for these expansion projects. Accordingly, they should be included in the cumulative impacts section. CBD-29

V. The Greenhouse Gas Analysis and Associated Mitigation Measures Are Inadequate Under CEQA and NEPA.

a. The DEIR/S Fails to Adequately Set Forth the Threat of Greenhouse Gas Emissions. CBD-30

The DEIR/S's exceedingly cursory summary of the present and future impacts of global warming is inadequate and fails to fulfill the informational requirements of CEQA and NEPA. The DEIR/S devotes only one sentence to describe the impacts of global warming, stating that global warming and GHG emissions may lead to "potentially negative environmental, economic, and social consequences around the globe."[68] There is no discussion of what these consequences may be, how global warming will impact California, or how global warming will effect the environment throughout the United States and in other countries around the world.

CEQA requires that an "EIR must demonstrate that the significant environmental impacts of the proposed project were *adequately investigated and discussed* and it must permit the significant effects to be considered in the *full environmental context*."[69] Accordingly, the DEIR/S should at a minimum describe the cumulative impacts of global warming on the environment and how increasing GHG emissions will affect those impacts. Furthermore, an EIR "must include a description of the physical environmental conditions in the vicinity of the project, as they exist at the time the notice of preparation is published...or...at the time the environmental analysis is commenced, from both a local and regional perspective."[70] In other words, the DEIR/S should describe the current state of the "local and regional" environment as it is affected by global warming in order

47 Connector, Terminal Free Time, Pier Pass, Union Pacific ICTF Modernization. The same is true for Long Beach projects Middle Harbor Terminal Redevelopment , Piers G and J, and Pier T, and for the Alameda Corridor Transportation Authority / CalTrans project the Schuyler Heim Bridge Replacement and SR 47 Expressway.

[68] DEIR/S, at 3.2-8.

[69] CEQA Guidelines, § 15125(c), (emphasis added).

[70] CEQA Guideline § 15125(a)

CBD-30 to establish a baseline for comparing the impacts increased GHG emissions will have on the environment. Because an EIR is intended "to demonstrate to an apprehensive citizenry that the agency has, in fact, analyzed and considered the ecological implications of its action," the DEIS/R must be revised to adequately inform the public about the risks associated with increasing GHG emissions.[71]

Similarly, NEPA requires an EIS to "succinctly describe the environment of the area(s) to be affected or created by the alternatives under consideration."[72] This description "shall be no longer than is necessary to understand the effects of the alternatives" but "shall be commensurate with the importance of the impact."[73] In light of the seriousness and worldwide scope of global warming impacts and considering the cumulative nature of GHG emissions, an DEIS must describe the affected environment in sufficient detail to convey the potential risks both California and the world may face due to increasing GHG emissions.

To more accurately convey the severity of the impacts of global warming, the DEIR/S should be revised to include numerical estimates of the extent of projected impacts. The DEIR/S should include specific information about the projected impacts in California caused by GHG emissions, for example, by describing that loss for the Sierra snowpack is estimated to be between 30-90%, depending on the extent to which emissions are reduced now and in the near future.[74] Additional impacts projected for California by the end of the century include:

- Temperature rises between 3-10.5°F;
- 6-30 inches or more of sea level rise;
- 2-4 times as many heat wave days in major urban centers;
- 2-6 times as many heat-related deaths in major urban centers;
- 1.5-5 times more critically dry years;
- 25-85% increase in days conductive to ozone formation;
- 3-20% increase in electricity demand;
- 10-55% increase in the expected risk of large wildfires; and
- 7-30% decrease in forest yields (pine).

Id. By providing details as to the ranges of proposed impacts, and indicating that the higher-range of impact estimates are projected if GHG emissions continue to increase under a "business as usual" scenario, decision-makers and the public will be better

[71] *Laurel Heights Improvement Ass'n v. Regents of Univ. of Cal.*, 47 Cal.3d 376, 392 (1988).
[72] CEQ Regulation, §1502.15.
[73] *Id.*
[74] California Climate Change Center, "Our Changing Climate, Assessing the Risks to California." (2006). (*See* "Attached Literature" Exhibit G).

informed of the magnitude of the climate crisis and the urgency with which it must be addressed. Furthermore, the DEIS/R should consider supplementing its description of global warming impacts with data from the recently released report of the Committee on Environment and Natural Resources, the *Scientific Assessment of the Effects of Global Change on the United States* (May 2008).[75] CBD-30

b. THE DEIR/S FAILS TO ANALYZE AND MITIGATE BLACK CARBON EMISSIONS

i. Background: Black Carbon Has a Significant Impact on Global Warming, and as a Short-Lived Pollutant, Mitigation Can Provide Immediate Significant Climate and Health Benefits

CBD-31

While the DEIS/R provides some treatment of traditional greenhouse gases, it utterly fails to address black carbon, an important short-lived pollutant that contributes to global and regional warming. Black carbon is produced by incomplete combustion and is the black component of soot. Although combustion produces a mixture of black carbon and organic carbon, the proportion of black carbon produced by burning fossil fuels, such as diesel, is much greater than that produced by burning biomass.

Black carbon heats the atmosphere through a variety of mechanisms. First, it is highly efficient at absorbing solar radiation and in turn heating the surrounding atmosphere. Second, atmospheric black carbon absorbs reflected radiation from the surface. Third, when black carbon lands on snow and ice, it reduces the reflectivity of the white surface which causes increased atmospheric warming as well as accelerates the rate of snow and ice melt. Fourth, it evaporates low clouds. Notably, black carbon is often complexed with other aerosols such as sulfates, which greatly increases its heating potential.[76]

Due to black carbon's short atmospheric life span and high global warming potential, decreasing black carbon emissions offers an opportunity to mitigate the effects of global warming trends in the short term.[77] Black carbon is considered a 'short-lived pollutant' (SLP) because it remains in the atmosphere for only about a week in contrast to carbon dioxide, which remains in the atmosphere for over 100 years. Furthermore, the global warming potential of black carbon is approximately 760 times greater than that of carbon

[75] [*See* "Attached Literature" Exhibit H].
[76] Ramanathan, V. & Carmichael, G., *Global and Regional Climate Changes Due to Black Carbon*, Nature Geoscience 1:221-227 (2008); AND Jacobson M., *Strong Radiative Heating Due to the Mixing State of Black Carbon in Atmospheric Controls*, Nature 499: 695- 697 (2001). [*See* "Attached Literature" Exhibit I and J, respectively].
[77] Ramanathan, V. & Carmichael, G., *Global and Regional Climate Changes Due to Black Carbon*, Nature Geoscience 1:221-227 (2008). [*See* "Attached Literature" Exhibit I].

CBD-31 dioxide over 100 years[78] and approximately 2200 times greater over 20 years.[79] It is estimated that black carbon is the second greatest contributor to global warming behind carbon dioxide.[80]

Unlike traditional greenhouse gases, which become relatively uniformly distributed and mixed throughout the Earth's atmosphere, black carbon exerts a regional influence. The impacts of black carbon on a regional level include both atmospheric heating, as discussed above, and hydrological changes. Hydrological changes occur due to alterations in cloud formation and heat gradients.[81] For instance, aerosol pollution has been linked to decreases in the summer monsoon season in tropical areas as well as the drought in the Sahel region of Africa.[82] California is an area of particular concern because of the drought-fire cycle. The more drought conditions prevail, the more forest fires burn, and the forest fires in turn emit massive quantities of black and organic carbon. The release of these aerosols intensifies the drought effect.

Another impact of black carbon is accelerated snowmelt; for instance, black carbon is likely contributing to the retreat of Himalayan glaciers and the resulting water shortage in areas of Asia.[83] When black carbon settles on snow, it makes the snow darker so that it absorbs more solar radiation. This directly leads to snow melt. In addition, local atmospheric heating due to black carbon increases the melting rate. These same effects may well be operating on the Sierra Nevada, which would reduce water availability throughout California at crucial times of the year.

CBD-32 Black carbon is also detrimental to human health. The health effects of particulate matter (PM), of which black carbon is one constituent, have been documented in the DEIR/S. But black carbon specifically has a number of negative effects on human health. Black carbon has been linked to a variety of circulatory diseases. One study found an increased mortality rate was correlated with exposure to black carbon.[84] The same is true for heart attacks.[85] Another study found that residential black carbon exposure was associated

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[78] Reddy, M.S. & Boucher, O., *Climate impact of black carbon emitted from energy consumption in the world's regions*. Geophys. Res. Letters. 34: L11802 (2007). [*See* "Attached Literature" Exhibit K].
[79] Bond, T. & Sun, H. *Can Reducing Black Carbon Emissions Counteract Global Warming?* Environ. Sci. Technol. 39:5921-5926 (2005). [*See* "Attached Literature" Exhibit L].
[80] Ramanathan, V. & Carmichael, G., *Global and Regional Climate Changes Due to Black Carbon*, Nature Geoscience 1:221-227 (2008).
[81] Id.
[82] Id.
[83] Id.
[84] Maynard, D. et al., *Mortality risk associated with short-term exposure to traffic particles and sulfates*. Environ. Health Perspect. 115:751-755 (2007). [*See* "Attached Literature" Exhibit M].
[85] Tonne, C. et al., *A case control analysis of exposure to traffic and acute myocardial infarction*. Environ Health Perspect. 115:53-57 (2007). [*See* "Attached Literature" Exhibit N].

with increased rates of infant mortality due to pneumonia, increased chronic bronchitis, and increased blood pressure.[86] CBD-32

In developed countries, diesel burning is the main source of black carbon. Diesel emissions include a number of compounds such as sulfur oxides, nitrogen oxides, hydrocarbons, carbon monoxide, and particulate matter. Diesel particulate matter is approximately 75% elemental carbon.[87] The Port has numerous diesel engines in use: marine vessels, cargo loading equipment, stationary equipment engines, construction vehicles, heavy-duty trucks, and locomotives. Thus, it is crucial that black carbon be addressed in the DEIR/S.

ii. The DEIS/R Must Quantify the Project's Black Carbon Emissions

1. Analyzing Particulate Matter is Insufficient to Address Black Carbon CBD-33

Particulate matter (PM) refers to the particles that make up atmospheric aerosols. The primary constituents of PM are sulfates, nitrates, and carbon compounds. Sulfates and nitrates form in the atmosphere from the chemical reaction of sulfur and nitrogen dioxides. These may often be present as ammonium sulfate or nitrate salts. Carbon compounds may be directly emitted, e.g. black carbon emitted from combustion, or may form in the atmosphere from other organic vapors, e.g. oxidation of volatile organic compounds.

Because PM can be reduced through mitigation of other constituents of PM than black carbon, it is essential that black carbon emission reduction strategies be considered independently from PM reductions. The proportions of the constituents of PM vary over time and by location.[88] According to a recent series of surveys conducted at various U.S. cities under the EPA's "Supersite" program, black carbon was often only about 10% of total measured $PM_{2.5}$.[89]

In contrast to total $PM_{2.5}$, diesel PM is composed largely of black carbon. Nonetheless, some diesel PM reduction strategies do not affect black carbon. For instance, diesel oxidation catalysts can reduce diesel PM emissions as a whole by approximately 20 to

[86] Schwartz, J. Testimony for the Hearing on Black Carbon and Arctic, House Committee on Oversight and Government Reform United States House of Representatives (Oct. 18, 2007). <http://oversight.house.gov/documents/20071018111144.pdf>
[87] EPA (2002) *Health Assessment Document for Diesel Engine Exhaust*, EPA/600/8-90/057F. <http://cfpub.epa.gov/ncea/cfm/recordisplay.cfm?deid=29060>
[88] *See* EPA (2004) *The Particle Pollution Report*, EPA 454-R-04-002. http://www.epa.gov/air/airtrends/aqtrnd04/pm.html
[89] For an overview of the program and initial results see http://www.epa.gov/ttn/amtic/supersites.html

CBD-33

40%, yet they do not decrease black carbon emissions.[90] In addition, while low-sulfur fuel will reduce sulfate emissions, in and of itself low-sulfur fuel will not reduce black carbon. Low-sulfur fuel is important because it *allows* for better technology to reduce black carbon.[91] Yet those reductions can only occur once the technology has been implemented.

2. Methods Are Available to Specifically Quantify Black Carbon Emissions from the Project

Although the DEIR/S quantifies the estimated traditional GHG emissions from the proposed Project, it makes no attempt to quantify black carbon. This omission must be rectified. Like GHG, black carbon emissions from various types of engines and activities can be estimated through numerical calculations.[92] Considering the importance and ability of quantifying black carbon emissions, the DEIR/S should be revised to incorporate an analysis of the Project's contribution of black carbon.

The estimated black carbon emissions from the Project can be inventoried similarly to other greenhouse gas emissions:

- Estimate the mass of diesel fuel consumed by each type of diesel engine, e.g. ship, machinery, truck, construction equipment, and locomotive.
- Calculate a black carbon emission factor (EF) using reference values available in the literature.[93] For instance, Bond and colleagues provide an equation for "EF_{BC}" from various types of diesel engines that takes into account 4 different factors.[94]
- Multiply the emission factor times the mass of diesel (in kilograms) used for each engine type. This will provide the grams of black carbon emitted by that engine type.
- Sum all black carbon emissions from each engine category to obtain total black carbon emissions from the Project.

After obtaining the total black carbon emissions from the Project, the relative global warming impact of the emissions can be compared to other global warming pollutants. Carbon dioxide-equivalent values, such as those in Table 3.2-6 of the DEIR/S, can be obtained by multiplying total black carbon emissions (in kilograms) from the Project by the global warming potential (GWP) for black carbon. Although there is some variation

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[90] Walker, A.P., *Controlling Particulate Emissions from Diesel Vehicles*, Topics in Catalysis 28: 165-170 (2004). [*See* "Attached Literature" Exhibit O].
[91] *See, e.g.* 69 Fed. Reg. 38957, 38995 (June 29, 2004).
[92] *See, e.g.,* Bond T. et al., *A technology-based Global Inventory of Black and Organic Carbon Emissions from Combustion.* J. Geophys. Res., 109: D14203 (2004).
[93] Id.
[94] Id. at 4 and Table 7.

in estimated GWP values, representative black carbon GWP values are: 760 over 100 years[95] or 2200 over 20 years.[96] CBD-33

c. The DEIS/R Grossly Understates the Level of Emissions Resulting from the Project.

i. The DEIR/S Violates CEQA and NEPA by Improperly Excluding GHG Emissions Generated Outside California as a Result of the Project. CBD-34

In calculating the emissions for Project sources that travel outside of California (namely on-road trucks, line haul trains, and ships) the DEIS/R only includes emissions from the portion of travel that is within California borders.[97] Emissions generated outside California are excluded on the grounds that the California Climate Action Registry (CCAR) "does not require reporting of [this type] of emissions" and because the CCAR has "not developed assumptions for operational or geographical boundaries" of these out-of-state emission sources.[98] Restricting the analysis of increased GHG emissions to only those within the California border reflects the Port and USACE's failure to comply with the reach of both CEQA and NEPA. Since CCAR does not dictate the scope of effects analyzed under CEQA and NEPA, the Port and USACE must re-total the GHG emissions caused directly and indirectly by the Project and then must reassess the impacts these additional emissions may cause.

Under CEQA, an EIR must consider "reasonably foreseeable indirect physical changes in the environment which may be caused by the project."[99] An indirect impact is a physical change in the environment that is "not immediately related to the project but…is caused indirectly by the project."[100] These indirect impacts or effects may be removed in time or distance but are still reasonably foreseeable.[101] Redevelopment of Middle Harbor will result in foreseeable increases in the number of annual ship calls, truck trips, and rail trips which will generate both direct and indirect increases in GHG emissions.[102] Additionally, "[a]ny emissions or discharges that would have a significant effect on the environment in the State of California are subject to CEQA where a California public agency has authority over the emissions or discharges."[103] Here, because a California

[95] The combined global average direct (480) and indirect (281) GWP for black carbon as reported in Reddy & Boucher, supra Note 3.
[96] Bond T. & Sun H. *Can Reducing Black Carbon Emissions Counteract Global Warming?* Environ. Sci. Technol. 39:5921-5926 (2005).
[97] DEIR/S, at 3.2-17.
[98] *Id.* at 3.2-23.
[99] Guidelines § 15064(d)
[100] Guidelines § 15064(d)(2).
[101] Guidelines § 15358(a)(2).
[102] DEIR/S at 1-7.
[103] Guidelines § 15277

CBD-34

public agency, namely CARB, has authority over regulating GHG emissions, and because out-of-state emissions will indisputably have an effect on the environment in California, all indirect emissions, both within and outside California, must be quantified and addressed. Regardless of the point of origin of these additional trips, the increased transit will partially be a result of the increased capacity of the Port, and their corresponding GHG emissions must be must be included in the calculation of total GHG emissions.

Furthermore, CEQA requires an agency to "use its best efforts to find out and disclose all that it reasonably can."[104] Nothing in CEQA limits its focus to environmental effects occurring within California. Rather, CEQA examines effects to "ecosystems," the boundaries of which are in no way influenced by state lines.[105] Indeed, as CEQA is "to be interpreted in such manner as to afford the fullest possible protection to the environment within the reasonable scope of the statutory language" the DEIR/S's narrow interpretation of indirect environmental effects flies in the face of one of CEQA's foremost principles.[106] Because the full trip length from these transportation modes is reasonably foreseeable, it must be incorporated into the DEIR/S's emissions calculations.

Similarly, NEPA requires every EIS to address and describe the indirect effects of a project, defined as those effects "which are caused by the action and are later in time or farther removed in distance, but are still reasonably foreseeable."[107] Included in the definition of "indirect effects" under NEPA are those "growth inducing effects and other related effects on air and water and other natural systems, including ecosystems."[108] The GHG emissions emanating from the increased ship, truck, and train traffic both to and from the Port are considered indirect effects of the Project under NEPA, as they are "father removed in distance," "reasonably foreseeable," and are considered "growth inducing effects" since they result from the increased ship handling capacity of the Port. Furthermore, NEPA "is clearly not limited to actions of federal agencies that have significant environmental effects within U.S. borders."[109] Therefore, to ignore GHG emissions simply because they originate outside of the California borders is to ignore the

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[104] Guidelines § 15144; *see also* Guidelines § 15151 (an EIR must disclose what is "reasonably feasible").

[105] *See* Guidelines § 15358(a)(2).

[106] *Laurel Height Improvement Ass'n v. Regents of University of California*, 47 Cal.3d 376, 404 (1988).

[107] 40 C.F.R. Guideline 1508.8

[108] *Id.*

[109] *Environmental Defense Fund v. Massey*, 986 F.2d 528, 536 (D.C. Cir. 1993); 42 U.S. C. § 4332(2)(F) (requiring all federal agencies to "recognize the worldwide and long-range character of environmental problems," and promote international cooperation in solving environmental challenges.); 42 U.S.C. § 4321 (NEPA is intended to "encourage productive and enjoyable harmony between *man and his environment"* as well as to "promote efforts which will prevent or eliminate damage to the environment and *biosphere."*) (emphasis added); Cal. Pub. Res. Code § 21002.1(a) (requiring that an EIR "identify the significant effects on the environment of a project.").

clear language of the NEPA regulations.

As demonstrated by the Memorandum of Understanding between the Port of Los Angeles (POLA), California Attorney General Edmund G. Brown, and the Mayor of Los Angeles,[110] emissions outside California indirectly resulting from the Project are both reasonably foreseeable and feasible to quantify. In the Memorandum of Understanding, POLA agreed to set the geographic boundary for its GHG emissions calculations at the point of origin/destination for ships, the major cargo destination/distribution points for rail transit, and the major destination/distribution points for out-of-state truck transit. The POLA inventory recognizes the proper geographic scope for port-related GHG analyses, and for the above stated reasons, this model of calculating and reporting emissions should be incorporated into the Port's NEPA and CEQA analyses. CBD-34

Accordingly, the DEIR/S should be revised to include GHG emissions from all sources resulting from implementation of the Project. Such an inventory should include all indirect effects from additional ship, truck, rail, and automobile traffic resulting from the project, regardless of where such emissions occur.

ii. The DEIS/R Misrepresents the CCAR Protocol for Tracking GHG Emissions. CBD-35

Reliance on the CCAR Protocol as a method for calculating direct and indirect effects under NEPA and CEQA is also improper because, unlike NEPA and CEQA, the Protocol does not require reporting of indirect emissions. The CCAR Protocol was not intended to be used as a tool to measure a project's impact on the environment, but was designed "to help organizations [] establish GHG emissions baselines against which any future GHG emission reduction requirements may be applied."[111] Because a purpose of the Protocol is to help entities establish their GHG baseline, it is important that the Protocol limit reporting to sources of emissions that each entity is directly responsible for. However, NEPA and CEQA require agencies to analyze both the direct *and* indirect effects on the environment. Therefore, the focus of the CCAR Protocol on direct emissions and its requirement that entities at a minimum report sources of emissions within the state does not constitute a "reasonable explanation for the geographic scope" of the GHG analyses.[112]

The DEIR/S also misstates the scope of emissions covered by the CCAR Protocol. The CCAR Protocol does not limit an entity's emissions reporting to only California-based sources, but it encourages its members to report all their GHG emissions, regardless of where they occur, setting the California border as the floor for the geographic scope of

[110] Memorandum of Understanding between POLA, the Attorney General, and the Mayor of Los Angeles, December 6, 2007. ("See "Attached Literature" Exhibit P).
[111] *General Reporting Protocol, Version 3.0* at 9. [*See* "Attached Literature" Exhibit Q].
[112] Guidelines § 15130 (b)(3).

CBD-35 emissions.[113] Furthermore, the CCAR Protocol requires its members to report out-of-state emissions from car and truck trips if the vehicles are registered in California.[114] Recognizing the global impact of GHG emissions, the CCAR Registry also accepts emissions data from an entity's sources outside the U.S; although it currently is unable to verify international emissions data.[115]

CBD-36

iii. The NEPA Baseline Adopted by USACE Is Flawed.

The DEIS/R is fundamentally flawed because USACE improperly incorporates upland construction projects as part of the NEPA baseline. Section 1.2.1.2 of the DEIS/R states:

> The NEPA Baseline for this Project assumes that increases in cargo throughput will occur in the future as a result of demands for higher levels of containerized shipping and Port authorized upland developments not under federal jurisdiction. As a result, this baseline is not bound to a "no growth" scenario. Potential impacts are determined by comparing conditions with and without the federal components of the Project at given points in the future... The NEPA Baseline would include construction of site improvements and operational activities that could occur without issuance of federal permits. Therefore, the baseline would not include any in-water activities (e.g., dredging, filling, and/or new wharf construction)... [T]his baseline would include redevelopment and backland expansion on existing lands within the Project site to accommodate additional containerized cargo up to the capacity of the existing wharves and berths... The NEPA Baseline is equivalent to Alternative 3 (Section 1.6.3.3) because Alternative 3 only includes construction and operational activities that would not require issuance of federal permits.

Incorporating project activities that are outside the jurisdiction of USACE into the NEPA baseline depends on the degree of USACE involvement in the Project. Where USACE participation is nominal, the scope of the NEPA analysis corresponds to the degree of "control and responsibility" the USACE exercises over the Project.[116] Therefore, if the USACE exerts minimal control or if the regulated activity is "merely a link" in a corridor type project, the NEPA baseline should include all the environmental conditions and changes that are beyond the USACE's jurisdiction.[117] In other words, only those environmental impacts that stem directly and indirectly from the portion of the project within USACE's jurisdiction will be analyzed under NEPA.

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[113] *General Reporting Protocol*, at 6.
[114] *Id.* at 11.
[115] *Id.* at 12.
[116] 33 C.F.R. Pt. 325, App. B (7)(b)(1).
[117] 33 C.F.R. Pt. 325, App. B (7)(b)(2)(i).

However, where, as here, USACE activity is more substantial, the extent of USACE's participation suffices "to turn [the] essentially private action into a Federal action" and all impacts and effects from the Project must be considered under NEPA.[118] Indeed, this Project is very similar to the "shoreside facility" example in the USACE's NEPA Implementing Procedures which represents a type of project that merits "extending the scope of analysis to include the upland portions of the facility."[119] Activities normally permitted at a shoreside facility, such as: "dredging, wharves, bulkheads, berthing areas and disposal of dredged material" typically warrant extending USACE control over an entire project for purposes of NEPA review.[120] The Middle Harbor Redevelopment Project is extremely similar to the activities planned at the "shoreside facility," consisting largely of dredging, wharves, berthing areas, and disposal of dredged material. Specifically, the activities under USACE warrant extending federal jurisdiction include: CBD-36

- Removal of 14.4 acres of existing land producing 680,000 cubic yards (cy) of dredged material and 1,290,000 of excavated material, resulting in the filling of 65.3 acres of water and creating approximately 54.6 acres new land;
- Removal of portions of Pier D and Pier E;
- Demolishing existing wharf at Berths D29-D31, E12-13, E23-26, F6-F10;
- Construction of dikes at Berths D29-D31, E24, the southern boundary of Slip 1, between Berths E24 and F10;
- Construction of new wharf structures at the extension of Berth E23, E24, E25, E26;
- Construction of four temporary pile-supported mooring dolphins. [121]

Considering the extensive nature of these activities and their dominance among the Project components as a whole, the USACE has sufficient "control and responsibility" to extend the scope of the NEPA analysis over the all activities planned in the Project.

Second, the Corps' own regulations properly recognize that "[i]n some situations, a permit applicant may propose to conduct a specific activity requiring a Department of the Army (DA) permit (e.g., construction of a pier in a navigable water of the United States) which is merely one component of a larger project." 33 C.F.R. Pt. 325 (App. B., § 7(b)(1)); *see also Friends of the Earth v. U.S. Army Corps of Engineers*, 109 F. Supp.2d 30, 40-41 (D.C. Dist. 2000)(holding that the Corps was required to prepare an EIS that assessed the impacts of the *entire* project, including the building and operation of hotels, parking garages and other related complexes on the upland area, and not just from the physical mooring of the boat at the harbor as the Corps had contended). The regulations further explain that "shipping terminals" are one clear example of a project for which the Corps should expand the scope of its environmental review to include the impacts of the CBD-37

[118] 33 C.F.R. Pt. 325, App. B (7)(b)(2)
[119] 33 C.F.R. Pt. 325, App. B (7)(b)(3)
[120] *Id.*
[121] DEIR/S, at 1-25 through 1-37.

CBD-37 larger project. In such an instance, the Corps must determine whether an EIS is required for the larger project. The regulations explain:

> a shipping terminal normally requires dredging, wharves, bulkheads, berthing areas and disposal of dredged material in order to function. Permits for such activities are normally considered sufficient Federal control and responsibility to warrant extending the scope of analysis . . .

33 C.F.R. § 325 (App. B., § 7(b)(3)) (emphasis added).

CBD-38 Third, many of the activities which were improperly incorporated into the NEPA baseline, also known as Alternative 3 - Landside Improvements Alternative, are partially dependent on the increased berthing capacity resulting from the dredging and wharf improvements. Alternative 3 activities, such as the redevelopment of terminal areas and container yard and updating railroad infrastructure, are designed to respond to the increased throughput from the modern cargo vessels which will be able to berth in the deeper waters.[122] If not for the increased ship handling capacity and the Port's future ability to handle much larger ships, there would be less of a need for the upland terminal and rail improvements.[123] The dependent nature of the upland Project activities upon the resulting increased berthing capacity from the USACE controlled activities is reason enough to extend the scope of the NEPA analysis to the Project as a whole.

CBD-39 Due to the considerable "control and responsibility" the USACE maintains over the Project as a whole and the clear guidance within USACE regulations, the NEPA baseline should be set similar to the CEQA baseline, at a fixed time before the commencement of any redevelopment activities. Therefore, all activities associated with the Project occurring after the baseline date should be analyzed under NEPA.

CBD-40 **d. The Project's Impact on Global Warming is Also Significant Under NEPA.**

While the Port properly determined that annual GHG emissions from the Project are significant under CEQA because they exceed baseline emissions, USACE refuses to acknowledge the significance of the Project's GHG contribution under NEPA on the grounds that there are no adopted GHG significance thresholds.[124] USACE's failure to find that the Project's GHG emissions are a significant impact is fundamentally flawed. Neither NEPA, CEQ guidelines, nor USACE NEPA Regulations require quantitative thresholds of significance in order to discuss the environmental impacts of a proposed project. The Ninth Circuit in *Center for Biological Diversity v. National Highway Traffic Safety Administration* recognized the legal necessity of evaluating the cumulative significance of GHG emissions under NEPA, despite the absence of a quantitative

[122] DEIR/S, at 1-47,48; 1-7.
[123] DEIR/S, at 1-6.
[124] DEIR/S, at 3.2-112.

threshold, stating "[t]he impact of greenhouse gas emissions on climate change is precisely the kind of cumulative impacts analysis that NEPA requires agencies to conduct."[125] "Thus, the fact that climate change is largely a global phenomenon that includes actions that are outside of [the agency's] control . . . does not release the agency from the duty of assessing the effects of *its* actions on global warming within the context of other actions that also affect global warming. The cumulative impacts regulation specifically provides that the agency must assess the impact of the action when added to other past, present, and reasonably foreseeable future actions *regardless of what agency (Federal or non-Federal) or person undertakes such other actions.*"[126] CBD-40

In addition, "it is reasonable to anticipate a cumulatively significant impact on the environment" from increased GHG emissions.[127] The DEIR/S recognizes that there will be an "appreciable impact on global climate change" resulting from a project's emission combined with other anthropogenic GHG sources.[128] Therefore, the failure to analyze the indisputable significance of the Project's GHG emissions violates NEPA because the DEIS/R misrepresents the environmental impact of the proposed actions.[129]

Furthermore, by substantially increasing California's existing emission levels, the Project threatens the successful implementation of the California Global Warming Solutions Act (AB 32, 2006) and Executive Order S-3-05, which require deep reductions in current levels of GHGs in California.[130] Accordingly, a revised DEIR/S must be prepared that adequately analyzes the cumulative significance of the Project's GHG emissions on global warming under NEPA.

e. Additional Feasible Mitigation Measures Must be Adopted to Eliminate the Project's GHG Contribution. CBD-41

Mitigation of a project's significant impacts is one of the "most important" functions of CEQA.[131] Under CEQA, feasible mitigation measures must be adopted that will avoid or substantially lessen significant environmental effects.[132] As presented in the DEIR/S, proposed mitigation will only reduce annual Project GHG emissions by 40,974 metric

[125] 508 F.3d 508, 550 (9th Cir. 2007) (holding an EA inadequate for inadequate cumulative impacts analysis).
[126] *Id.* (internal citations and quotations omitted; emphasis in original).
[127] CEQ Reg. 40 C.F.R. § 1508.27(7)
[128] DEIR/S at ES-22.
[129] 42 U.S.C. § 4332 (C)
[130] *See* 40 C.F.R. § 1508.27(10) (factor in significance determination includes whether action threatens to violate federal, state, or local law or requirements); *see also* Executive Order S-3-05 (June 1, 2005) (setting greenhouse gas emissions reduction targets for California); Control of Emissions From New Highway Vehicles and Engines, 68 FR 52922 (September 8, 2003) (affirming EPA's recognition of climate change and the need to reduce greenhouse gases).
[131] *Sierra Club v. Gilroy City Council*, 222 Cal.App.3d 30, 41 (1990).
[132] Pub. Res. Code § 21002.

CBD-41 tons of CO_2 equivalent in 2010, from 587,463 to 546,669 metric tons.[133] The mitigation measures applied for the purposes of calculating mitigated emissions data were AQ-5, AQ-12, and AQ-13.[134] Depending on the Project year, these three measures would reduce the Project's GHG emissions by 8 to 10 percent, leaving 90 to 92 percent of emissions unmitigated.[135] While the mitigation measures adopted by the Port to reduce greenhouse gas emissions are an important first step, much more can be done to reduce the significance of this impact. Indeed, absent further mitigation, the sizable annual emissions resulting from the Project will frustrate achievement of California's mandate to reduce emissions under AB 32 and Executive Order S-3-05. With the potential to influence the environmental performance of the shipping sector, an industry that is largely unregulated and contributes more greenhouse gases than most Annex I countries to the Kyoto Protocol, the Port and USACE are in a unique position to have considerable impact on global warming and fully mitigate the Project's global warming impacts.

The Port and USACE should include the following mitigation measures, some of which were derived from the International Council on Clean Transportation's report, *Air Pollution and Greenhouse Gas Emissions from Ocean-going Ships: Impacts, Mitigation Options and Opportunities for Managing Growth,*[136] which provides a detailed analysis of potential mitigation a port can adopt to reduce GHG emissions from the shipping sector.

a. **Create a Technology Advancement Program ("TAP") for GHG Mitigation:** The Port needs to take seriously the impacts associated with climate change. Accordingly, the Port should develop (or expand the already existing criteria pollutant TAP under the CAAP) to include the development of technologies to reduce GHG emissions from freight movement.

CBD-42 b. **Implement Stricter Fuel-Efficiency/Design Standards for Heavy Duty Trucks:** While MM AQ-8 partially addresses the significant contribution of GHG emission from heavy duty trucks, the DEIR/S does not fully explore the mitigation options available in this sector.[137]

- Aerodynamics: Aerodynamic truck designs can improve fuel economy

[133] DEIR/S, at 3.2-64, 3.2-69.
[134] DEIR/S, at 3.2-68.
[135] *Id.*
[136] International Council on Clean Transportation (ICCT) (Mar. 2007) *Air Pollution and Greenhouse Gas Emissions from Ocean-Going Ships: Impacts, Mitigation Options and Opportunities for Managing Growth* at 34, <http://www.theicct.org/documents/MarineReport_Final_Web.pdf> [hereinafter "ICCT"] [*See* "Attached Literature" Exhibit Q].
[137] *See* Union of Concerned Scientists, *Technology Options for Tractor Trailers,* 2008. [*See* "Attached Literature" Exhibit R].

15 to 20 percent, but manufacturers continue to produce trucks with the "classic," and less efficient, body style.[138] MM AQ-8 does not address the potential GHG reductions in truck aerodynamics. Therefore, as well as phasing out truck models based on their year of manufacture, the Port should also ban trucks, both new and old, that are of the "classic" and inefficient design. Truck aerodynamics can be improved by adding integrated roof fairings, cab extenders, and air dams. The tractor-trailer gap can be minimized by adding side skirts and rear air dams. Single unit trucks can be improved with air deflector bubbles. Improving the aerodynamics of a typical line-haul truck by 15 percent could cut annual fuel use more than 2,000 gallons, save over $3,500 in fuel costs, and eliminate 20 metric tons of carbon dioxide. CBD-42

- Reduce Rolling Resistance:
  - All truck tires should be of a make and model identified by the EPA's SmartWay program[139] as having the lowest rolling resistance and best fuel economy improvements. Also, it is important that tires which are retreaded continue to meet the same standards for rolling resistance as the original tire.
  - When possible, truck owners should use single wide tires, or "super singles," which are designed to replace two side-by-side tires. Single wide-base tires save fuel by reducing vehicle weight, rolling resistance and aerodynamic drag, while also improving tank trailer stability by allowing lower mounting. Specifying single wide-base tires on a new combination truck could save $1,000 immediately and reap annual fuel savings of two percent or more while cutting carbon dioxide by more than four metric tons. These offer the advantage of reduced rolling resistance and reduced overall weight.
  - All trucks should be equipped with automatic tire inflation systems to ensure tires are maintained at the proper inflation level, thereby improving fuel efficiency. Retrofitting a line-haul truck with an automatic tire inflation system could save 100 gallons of fuel annually and reduce tire wear and maintenance, while eliminating one metric ton of carbon dioxide. An ATI system used on a typical line-haul truck can generally pay for itself in just over two years, while decreasing the risk of expensive tire failure caused by under inflation.

[138] *Id.*
[139] <http://epa.gov/smartway/documents/420f07033.htm>

CBD-42

- Weight Reduction- Lighter weight tractor and trailer components, such as aluminum axle hubs, frames and wheels, can reduce truck weight by thousands of pounds, thus improving fuel economy. Every 10 percent drop in truck weight reduces fuel use between 5 and 10 percent.
- Low Viscosity Lubricants- Low viscosity lubricants can reduce friction and energy losses. Typically, the combined effect of low viscosity synthetic engine oils and drive train lubricants can improve fuel economy by at least 3 percent. Despite the higher cost of synthetic oils, truck owners can save nearly 500 gallons of fuel and cutting five metric tons of carbon dioxide annually. Additional monetary savings may be possible due to reduced wear and maintenance.
- Driver Training Program- Even highly experienced drivers can enhance fuel economy using simple practices such as cruise control, coasting whenever possible, limiting use of cab accessories, smooth and gradual acceleration, progressive shifting, etc. Driver training can reduce fuel consumption by 5 percent or more, eliminating about eight metric tons of greenhouse gas emissions per truck each year.[140]

CBD-43

c. **Incorporation of Efficiency/Low GHG Emissions Standards into Construction and Operation Equipment:** MM AQ-2, MM AQ-3 and MM AQ-7 should be modified to incorporate criteria for low-emission/high efficiency criteria for construction and operation equipment. Criteria can include the use of alternative fuels, hybrid technology, and specific fuel economy standards.

CBD-44

d. ***Ocean Going Vessels***: We recommend that the Port analyze further technologies that could be adopted to take advantage of increased fuel savings and promote the use of alternative energy sources.

   i. **Bulbous Bows**: Application on large tankers and bulk cargo ships result in a 5-15% decrease in resistance, thus decreasing the amount of fuel necessary to power ships and reducing emissions.[141] Bows save significant fueling costs and overall life cycle costs.[142]

   ii. **Sky Sail**: Initial retrofit of a cargo vessel utilizing the Sky Sail system was completed in January 2008. Testing under normal shipping operation is currently being conducted, with potential fuel reduction use of up to 35 percent.[143] Since high propulsion power

[140] US EPA. *A Glance at Clean Freight Strategies.* http://epa.gov/smartway/documents/drivertraining.pdf
[141] Kyriazis, Georgios. *Bulbous Bow Design Optimization for Fast Ships.* Massachusetts Institute of Technology, 1996. http://dspace.mit.edu/bitstream/1721.1/40238/1/36001502.pdf
[142] Zoccola, Mary. *Bulbous Bows Save Fuel.* http://www.dt.navy.mil/pao/excerpts%20pages/1997/bulbous3.html
[143] http://news.bbc.co.uk/2/hi/europe/7205217.stm and

can only be reached from 70 degrees onwards, with optimal courses between 120 and 140 degrees,[144] the Sky Sail is not appropriate for all routes. However, the Ports should analyze up to what extent the Sky Sail would be feasible and develop requirements to encourage vessel owners to test and adopt the technology. CBD-44

iii. The DEIS/DEIR also fails to mention some measures that are recommended in the CAAP. For new ships, the following should be considered as mandatory measures:

1. **Energy Recovery Systems:** Incorporate shaft generators, micro turbines, and waste heat recovery/economizer devices to take advantage of main engine power and exhaust heat. These systems allow for better energy efficiencies and can allow boilers and auxiliary engines to be shut down during ocean transits. Such systems can reduce fuel consumption and corresponding GHG emissions by 10 percent.[145]

2. **Fueling Flexibility-** Design extra fuel storage tanks and appropriate piping to run both main and auxiliary engines on a separate/cleaner fuel, as ports, states, and national governments set regional or localized fuel standards.

iv. **Utilization of Environmentally Differentiated Port Fees Based on Vessel GHG Emissions**: Environmentally differentiated port dues would provide a significant incentive for large shipping companies to invest in emission control technologies for new and existing vessels and substantially reduce the GHG generated as a result of the Project. CBD-45

f. Limitations/Controls on Use of GHG Refrigerants: The Port and USACE did not address any mitigation measures that would reduce GHG emissions caused by escaped refrigerants. Fluorinated and chlorinated hydrocarbons are still used as cooling agents in refrigerated vessels. Hydrofluorocarbons (HFCs) are highly potent greenhouse gases. Because some HFCs have a global warming impact of close to 12,000 times that of carbon dioxide, even small reductions in HFC CBD-46

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http://www.skysails.info/index.php?id=64&L=1&tx_ttnews[tt_news]=98&tx_ttnews[backPid]=6&cHash=c1a209e350

144 http://www.skysails.info/fileadmin/user_upload/Pressedownload/Dokumente/EN_Technology_Information.pdf pg.3

145 Maersk. *Maersk Pilot Fuel Switch Initiative.* 16 May 2008. http://www.futureports.org/events/airquality/aq-flanagan-ppt.pdf

CBD-46 emissions can have a large impact. It is estimated that 50 percent of HFCs on a ship are released to the air during operation and that an additional 15 percent are emitted during maintenance.[146] To reduce HFC emissions, the Port should evaluate the following mitigation measures:

1. Require all ships using the Port to use alternative refrigerants.
2. Use environmentally differentiated fees for vessels that use alternative refrigerants. Fees should be set at a rate significant enough to encourage a switch to alternative refrigerants.
3. Establish a mitigation fund to assist ships in switching to alternative refrigerants.
4. Require periodic leak inspections for ships, trucks, and trains that use HFC refrigerants.
5. Provide refrigerant servicing at the Port to help ensure HFC's are recovered during servicing.

In addition, the Environmental Protection Agency's *Global Mitigation of Non-CO_2 Greenhouse Gases* specifically addresses HFCs and potential mitigation.[147] While the DEIR/S's estimate of emissions from refrigerant leaks is relatively low, the DEIR/S improperly limits its analysis to leaks occurring within California, not the entire trip length.

CBD-47 **g. Preferential Contracting with Cleanest Carriers.** To the extent the Port contracts with third parties, much like environmentally differentiated port dues, preferential contracting with the cleanest carriers can provide incentives for additional GHG reductions. In addition, by only contracting with the cleanest carriers, the Port will reduce the emissions resulting from the Project. An examination of preferential contracting and environmentally differentiated fees should extend to the use of rail over trucks as a means of transport.

CBD-48 **h. Increased Use of Renewable Power for Electricity Generation:** The feasibility of generating additional on-site renewable electricity generation should be explored as well as a higher percentage of off-site renewable electricity.

- Maximize use of Solar Power: The Port should further consider the use of solar power as a self-generated source of renewable energy. Apart from the installation of solar panels on the main terminal building that is identified in MM AQ-17, the Port should explore additional locations for panels, such as installing panels on other buildings at the Port and on canopies over parking lots, which has the added benefit of providing shade.

[146] ICCT Report at 34. [*See* "Attached Literature" Exhibit Q].
[147] (*See* "Attached Literature" Exhibit S).

The Port should also commit to producing a specified amount of energy from its own solar panel system. In the December 7, 2007 Memorandum of Understanding between the Port of Los Angeles (POLA), the Attorney General of California, Edmund G. Brown, Jr., and the Mayor of Los Angeles, POLA committed to installing a solar panel system capable of producing approximately of 10 Mega-Watts of energy.[148] During the initial phase of solar development, POLA agreed to install panels on the cruise terminal and in adjacent parking lots, with later plans of installing panels on other POLA building and possibly tenant properties.[149] Like POLA, the Port should make a similar Mega-Watt commitment and capture solar energy. To the extent space for solar power may be limited at POLB, the solar can be installed in the surrounding community to offset Project emissions. CBD-48

i. **Enhance *MM AQ-10 (Truck Idling Reduction Measures)***: The Port assumes that methods such as increasing the amount of time gates are open as well as creating a tracking and appointment-based delivery schedule will result in idling minimization. However, the Port fails to limit the idling time allowed or present any monitoring or enforcement of this mitigation measure. We recommend that the Port mandate specific idling restrictions, such as time limits for Cargo-Handling Equipment required by CARB, and include a 30 minute limit on truck turnaround time. Further measures in order to assist drivers in meeting the requirement should also be established. For example, the Port should provide plug-ins for trucks that must keep engines running for operational purposes. Climate-controlled "comfort stations" could be provided for drivers who would otherwise idle their trucks in order to operate the air conditioner or heating. Mandatory logistics software as a part of the tracking system would improve scheduling, increase efficiency and ensure full truckloads. CBD-49

j. **Utilize Recycled Materials:** Use of recycled materials will lessen the carbon footprint of the Project. The DIES/R should commit to using recycled materials whenever possible in the construction and operation phases of the Project. CBD-50

k. **Implement Fleet Monitoring for Hull Efficiency:** Managing hull resistance involves an evaluation of ship performance data to determine the extent of resistance on a ship from fouling on the hull and propeller and ascertain the point where ship maintenance (such as hull cleaning) would be economically CBD-51

[148] Memorandum of Understanding between POLA, the Attorney General, and the Mayor of Los Angeles, December 6, 2007. [*See* "Attached Literature" Exhibit P].
[149] Memorandum of Understanding between POLA, the Attorney General, and the Mayor of Los Angeles, December 6, 2007. Attachment C, *Conceptual Scope of Solar Photovoltaic Development: Port of Los Angeles*, [*See* "Attached Literature" Exhibit T].

CBD-51 beneficial.[150] A rough hull (through use of poor quality paints and algae growth) requires additional power (and thus more fuel) to move.[151] Fleet monitoring for hull efficiency is a service provided in Long Beach.[152] Requiring the monitoring of hull efficiency, use of low-resistance hull paint, and hull cleaning when appropriate would reduce fuel consumption, and consequently, emissions of GHG and criteria pollutants from the excess and needless burning of fuel.

CBD-52 l. **AQ-19 (Tree Planting):** We also support the planting of trees around the main terminal building in order to decrease the amount of energy needed for heating and cooling, as well as for the uptake of carbon. This is another measure that could be expanded beyond the Port complex. Enhancement of Long Beach's Urban Forest is an effective way of not only reducing greenhouse gas emissions, but also improving air quality and reducing air pollution.

- A single mature tree can absorb as much as 48 lbs of CO2 per year and release enough oxygen into the atmosphere to support two human beings.
- Urban forests provide tangible economic benefits, including: energy savings, enhancement of property values, deferred street maintenance costs, reduced costs associated with poor air quality, and increased commercial activity.[153] The Port should work with the city of Long Beach in order to survey the current urban forest and create appropriate targets and programs for the planting and maintenance of trees within the city; ideal canopy is considered to be between 30 to 40 percent. [154] Guidelines on analyzing an Urban Forest as a carbon sink can be found under the Urban Forest Greenhouse Gas Protocol.

CBD-53 m. **Electrified Tugs**: The Port should plug in to charge at dock and use stored electric energy to perform ship assist operations. Fast-charging systems have already been commercialized for use at airports (for ground support equipment) and other industrial settings, powering over 15,000 vehicles in North America. The DEIR/S should include a mitigation measure requiring the Port to provide, within one year of project approval, an AMP staging area and require tugs servicing the terminal to plug into shoreside power when not in use.

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[150] Munk, Torben. *Fuel Conservation Through Managing Hull Resistance*, (2006). [*See* "Attached Literature" Exhibit U].

[151] IMO, *Study of Greenhouse Gas Emissions From Ships*, Part 5. "Technical and Operational Measures to Reduce Greenhouse Gas Emissions from Ships," Issue No. 2-32 (Mar. 2000) at 72 [*See* "Attached Literature" Exhibit V].

[152] Propulsion Dynamics, Inc. <http://www.propulsiondynamics.net/cms/index.php>

[153] ICLEI Local Governments for Sustainability. *Talking Trees An Urban Forestry Toolkit for Local Governments.* November 2006.

[154] California Climate Action Registry, US Forest Service et al. *Urban Forest Greenhouse Gas Reporting Protocol.* June 1, 2008.

n. **Cranes**: Already electrically powered cranes could be further optimized to save energy. Virtually all ship-to-shore cranes are equipped with regenerative breaking to capture energy while lowering containers. However, this energy often goes unused for lack of storage or load sharing. We recommend optimization of cranes to fully utilize regenerative power. Other cargo-handling equipment can be electrified, at least partially. RailPower Technologies, for example, offers a retrofit hybrid system for rubber-tired gantries. CBD-54

o. **Yard hostlers**: This equipment may be the most promising piece of yard equipment to electrify, since these are the greatest source of GHGs from yard equipment. Yard hostlers idle up to half the time, often pull minimal loads rather than a full container, and operate at low speeds. These characteristics make yard hostlers amenable to similar technology used to electrify airport ground support equipment. The Port of Los Angeles and SCAQMD are currently in development of an electric hostler,[155] and POLA is also considering the substitute of electric drayage trucks for hostlers. Once these prototypes have been developed, POLB should commit to using as many electric yard hostlers or electric trucks as possible. CBD-55

p. **Intelligent Container Design:**[156] The Port should commit to exploring efficiency and design improvements to containers. Dramatically reducing the weight and improving the design of containers can result in greenhouse gas reductions as well as criteria pollutant reductions. The container itself is typically 10-25% of the gross weight of a container loaded with cargo, and 20% of containers are shipped empty. Container design has not changed in almost 50 years. Clear targets for redesign include weight reduction and technology to facilitate logistics, such as tracking devices, as well as improved design for refrigeration. The most significant gains from redesign are the following: CBD-56

- Reduced loads and increased efficiency for ships, trucks, and trains that carry containers;
- Reduced loads and increased efficiency for cargo handling equipments at ports, rail-yards, and warehouses;
- Reduced emissions of climate-changing refrigerant compounds and improved efficiency in refrigeration;
- Improved facility of security scanning and related logistical benefits;
- Improved ease of recycling or non-container reuse to reduce the waste caused by shipping and storing empty containers resulting from the trade imbalance; and

[155] SCQAMD. *Board Meeting Date: April 4, 2008. Agenda No. 5.* http://www.aqmd.gov/hb/2008/April/08045a.htm

[156] Information provided by Laura Schewel, Rocky Mountain Institute, Personal Communication, 21 September 2007.

CBD-56

- Fewer trips necessary to carry the same amount of freight because of reduced tire weights.

Nationwide adoptions of a lightweight container (~30-50% weight reduction) could reduce at least 1 million tons of CO2e (assuming that 5% of Class 8 trucks carry new containers and 20% of freight trains carry new containers).

Also, there is significant potential to reduce greenhouse gas emissions from the volatilization of HFCs via alternate refrigeration and improved efficiency of the refrigerated containers. Refrigerated transport is responsible for around 14 million tons of CO2-equivlanet emissions in the US.

CBD-57 It should also be noted that other equipment at container terminals could be "lightweighted" to save fuel or energy and reduce GHGs. For example, Super-post- Panamax cranes can weigh 1,400 metric tons; reducing this unnecessary weight would cut energy use.

CBD-58 **q. AQ-17 (Solar Panels):** We are pleased that the DEIS/DEIR includes the installation of photovoltaic panels in order to increase the amount of renewable power used and reduce GHGs. However the small amount of photovoltaics on the main terminal building will result in a less than 1% reduction in GHGs created by the project, while solar panels are a measure that could be expanded beyond the main terminal building and beyond the Port complex. The installation of photovoltaic panels on all buildings, parking lots or carports within the project, as well as to houses, schools and buildings within the community of Long Beach could make a large impact on the amount of carbon emissions for the project.

- Photovoltaic panels are a renewable, clean energy source that would provide 3.6 MWh/year per average household for 250 square feet of PV panels, saving approximately over 3,000 pounds of CO2 and over a thousand dollars per average household annually.[157]

- The solar industry is one of the few construction sectors currently growing, with solar companies employing between 16,500-17,500 California workers and expecting to hire approximately 5,000 more in the next year. Most of these jobs are in installation, requiring limited training and providing annual salaries ranging from $31,200 to $60,000.[158] An increase in solar power in Long Beach would not only mean

[157] Assumptions: 50% capacity, annual usage is 7200 KWh/year, average electricity rate is $0.1738/kWh. http://www.findsolar.com/index.php?page=rightforme
[158] Baker, David. *Solar industry needs workers.* San Francisco Chronicle. May 8, 2008. http://www.sfgate.com/cgi-bin/article.cgi?f=/c/a/2008/05/10/BUGD10JVGP.DTL

reductions in greenhouse gases and energy cost savings for city residents, but also the creation of well-paid green collar jobs. CBD-58

r. **Fully Mitigate Remaining GHG in Surrounding Community:** Despite the implementation of the mitigation measures outlined in the DEIR/S, the remainder of unmitigated emissions may still be substantial.[159] The Port needs to look for GHG mitigation opportunities at the Project Site and the Port in general before looking elsewhere. The DEIR/S must examine the ability to achieve these additional reductions in GHG through programs in the surrounding community. GHG offset programs can be designed to benefit local communities, both contributing global reduction benefits and demonstrating an entity's commitment to sustainable business practices. For example, in a recent settlement with the Attorney General regarding the mitigation of GHG emissions from a proposed refinery expansion, ConocoPhillips Co. agreed to contribute $7 million to a carbon offset fund created by the Bay Area Air Quality Management District, with the goal of achieving "verifiable quantifiable reductions in GHG emission, with priority given to projects near" the expansion site.[160] The Settlement also provided $2.8 million to fund reforestation and conservation projects and $200,000 for restoration of the San Pablo Bay wetlands. CBD-59

s. **Specific Mitigation Measures are Necessary to Reduce Black Carbon Emissions** CBD-60

Apart from the mitigation measures the Port should implement to reduce and offset the Project's GHG emissions, the Port should also establish measures to monitor and control black carbon.

i. **Monitor and Report Black Carbon Emissions from the Port:** One of the first steps towards reducing black carbon is to develop a proper monitoring and reporting system. The Port of Long Beach currently reports daily concentrations of various air pollutants, including PM, on the Clean Air Action Plan website.[161] As discussed above, however, black carbon must be considered separately from PM.

The Port should monitor and make publicly available the daily concentrations of black carbon. This can be accomplished using measuring devices called *aethalometers*, which are commercially available and simple to operate.[162] An aethalometer is an electronic

[159] DEIS/R at 3.2-64.
[160] Settlement Agreement between ConocoPhillips Co. and the California Attorney General, Sept. 10, 2007. (*See* "Attached Literature." Exhibit W].
[161] <http://caap.airsis.com/Default.aspx>
[162] See <http://www.mageesci.com/> (one of the companies that mass produces aethalometers).

CBD-60 box that measures the attenuation of light in certain wavelengths of particles that collect as air passes through a filter.[163] The units come in rack-mounted as well as portable versions.[164]

CBD-61 ii. **Accelerate Compliance Schedules:** Because black carbon pollution causes rapid and significant atmospheric heating as well as substantial human health risks, it is necessary to address this pollutant as rapidly as possible.

Mitigation Measures AQ-2, 3, 7, and 8 require that non-road construction equipment, tug boats, container handling equipment and heavy-duty trucks implement PM emissions control strategies. Because black carbon is a component of diesel PM, these strategies will also reduce black carbon. One of the most common options is the use of a catalyzed diesel particulate filter, which can be added to existing engines as well.[165] The schedule for compliance, however, is far too lax. These technologies are available today and should be introduced as rapidly as possible. The DEIR/S must set earlier deadlines for implementation.

Likewise, MM AQ-5 will eventually require 100% use of shore power or other emissions reduction strategy. This will reduce total PM emissions as well as black carbon. But full implementation is not required until 2015 and only 33% compliance is required by 2010. Full compliance should be required much earlier.

CBD-62 iii. **Detect and Mitigate "Super-emitters":** Some engines that receive poor maintenance or have mechanical difficulties emit 10 to 15 times the average levels of black carbon.[166] While these may be older engines, engine age is not the single indicator of emissions levels. A single super-emitter can negate the positive reductions achieved through retrofitting or replacing a number of "average" diesel engines. Therefore, it is essential to add a mitigation measure that requires the Port to develop a monitoring system to detect diesel engines of all varieties that emit high levels of black carbon.

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[163] See the Magee Science Aethalometer Owner's Manual available at: <http://www.mageesci.com/support/downloads/Aethalometer_book_2005.07.03.pdf>
[164] *Id.*
[165] See generally 69 Fed. Reg. 38957 (June 29, 2004) (discussing diesel particulate filters as a means of complying with EPA's Non-road Diesel Rule).
[166] Bond, T. et al., *A technology-based Global Inventory of Black and Organic Carbon Emissions from Combustion.* J. Geophys. Res., 109: D14203 (2004). [*See* "Attached Literature" Exhibit X].

A potential monitoring device is the new AE90 aethalometer which has a tailpipe monitoring extension.[167] Periodic measurement of Port vehicles using this device should be required. A mitigation fund could be created to help vehicle operators rapidly and effectively mitigate the emissions from super-emitting vehicles. CBD-62

iv. **Require Mitigation of Locomotive Black Carbon Emissions:** As mentioned above, MM AQ-9 requires that the "cleanest locomotive technologies" be used, but sets no explicit criteria.[168] Like non-road engines and heavy-duty road engines, locomotive engines are also subject to PM emissions reductions standards under the EPA's recent Locomotive Rule.[169] Similar to the accelerated standards set for other types of diesel engines in use as the Port, this mitigation measure should create an explicit and accelerated timetable by which new and existing locomotives must reach Tier 3 and Tier 4 standards. CBD-63

v. **Require Ocean Going Vessels (OGV) to Reduce Black Carbon Emissions:** The shore power requirement in MM AQ-5 is a first step towards reducing black carbon emissions from OGVs. But more needs to be done. As mentioned above, the compliance schedule could be greatly accelerated. OGVs should be required to implement similar diesel emissions reductions as other diesel engines in use at the Port. CBD-64

Many of the same technologies used in trucks and locomotives could be translated to use in large marine engines. Technologies such as diesel particulate filters require low-sulfur fuel, but MM AQ-6 and 13 already mandate use of this fuel. Consequently, there is no barrier to requiring that large OGVs achieve substantial reductions in diesel PM emissions on a similar schedule to that of other diesel engines at the Port.

IV. The DEIR/S Provides Inadequate Analysis of and Mitigation For the Project 's Traffic Impacts. CBD-65

Study after study shows that the Port of Long Beach is one of the major contributors to the egregious traffic congestion on the 710 freeway. The Project, by substantially

[167] Hansen, T. From Magee Science, 2005. A recent presentation on this device is available at: <www.epa.gov/airnow//2005conference/sunday/hansen.ppt> [*See* "Attached Literature" Exhibit Y].
[168] DEIS/R at 3.2-114.
[169] 73 Fed. Reg. 25098 (May 6, 2008).

CBD-65 increasing throughput and employment at the Port will inevitably worsen these conditions through trips related both to goods movement and to commuting. Traffic is surely one of the issues that most concern the Port's local and regional neighbors. Any decision made concerning the Project that was not supported by complete and accurate information about traffic could not be considered an unformed decision. And, of course, CEQA's entire purpose is to promote informed decisionmaking.

It is thus disappointing that the DEIR/S has chosen to take a view of traffic impacts so narrow as to make accurate analysis impossible. Even as other documents make clear that the Port has region-wide traffic impacts, the DEIR/S limits its analysis to the relatively tiny area south of Anaheim Street. At the same time, the DEIR/S the only substantial mitigation measures the EIR considers are road improvements, and it fails even to accurately describe, or even identify, those improvements. In short, the DEIR/S's treatment of traffic issues is far less than its community and their decisionmakers deserve.[170]

CBD-66

i) The DEIR/S Uses a Study Area That Inaccurately Minimizes the Project's Severe Traffic Impacts.

The study area chosen for the DEIR/S's traffic analysis is unaccountably small, considering no freeway segments north of the 405/710 junction, and no part of the 710 north of Willow Road. The DEIR/S provides no explanation, let alone substantial evidence, supporting its apparently arbitrary exclusion of the long stretch of the 710 freeway impacted by Port-related traffic, running at least as far north as the City of Commerce.

The short segment of the 710 that the DEIR/S does consider has an LOS of F under baseline conditions and would obviously get worse if the Project were built as proposed without mitigation. There is every reason to believe that the northerly segments of the same freeway are, and will be, similarly effected by Port traffic. According to one recent important freeway study, "large numbers of trucks that use I-710 to travel between the Ports and rail freight yards located near Interstate 5 (I-5), and to warehousing and distribution points scattered *throughout the Southern California urban area*"[171] (emphasis added). This study, which focused on the same Port-related congestion problems at issue here, considered a study area extending through Commerce to SR 60.

CBD-66

More specifically, the Port of Los Angeles Baseline Transportation Study[172] prepared by Meyer, Mohaddes Associates, Inc. ("MMA") illustrates the projected and current volume of truck trips that is directly related to the combined operations of both Ports' (the Port of

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[170] *Laurel Heights Improvement Association, Inc. v. Regents of the University of California* (1988) 47 Cal. 3d 376, 494.

[171] Los Angeles County Metropolitan Transportation Authority, "I-710 Major Corridor Study" at S-9. [*See* "Attached Literature" Exhibit Z].

[172] *See* "Attached Literature" Exhibit AA.

Los Angeles and Port of Long Beach). MMA found that the I-710 carries over 25,000 port truck trips per day for travel south of the 405. Truck travel further north on I-710 carries 20,000 port trucks north of I-405, 15,000 north of Route 91, and 11,600 north of I-105. MMA projects that in a worst-case scenario, by 2025 unmitigated "port-related truck volume (for both ports combined) is projected to reach 60,000 on I-710 just north of the Ports, compared to 25,300 currently." The Port's own documents demonstrate the Port of Long Beach's share of traffic on these segments, which are outside the DEIR/S's arbitrary study area, is substantial in its own right.[173] CBD-66

By excluding large portions of heavily-impacted freeways, the DEIR/S severely understates the Project's traffic impacts. The California Supreme Court has emphasized that "an EIR may not ignore the regional impacts of a project approval, including those impacts that occur outside of its borders; on the contrary, a regional perspective is required."[174] An EIR must analyze environmental impacts over the entire area where one might reasonably expect these impacts to occur.[175] This principle stems directly from the requirement that an EIR analyze all significant or potentially significant environmental impacts.[176] An EIR cannot analyze all such environmental impacts if its study area does not include the geographical area over which these impacts will occur.

Traffic from the Project, together with traffic from the cumulative development anticipated in the region, would inundate area freeways. It would also contribute to the Project's air quality and noise impacts, discussed in Sections VI and VII, respectively. Yet this DEIR/S leaves the public and decision-makers in the dark as to the Project's actual traffic impacts because it arbitrarily omits critical freeway segments north of Anaheim Street. The DEIR/S has clearly failed to meet CEQA's mandate, and must be revised and recirculated if it is to support approval of this Project.

ii) The DEIR/S Ignores Several Feasible Measures That Would Mitigate the Project's Traffic Impacts. CBD-67

Even with its truncated study area, the DEIR/S still finds that Project-related traffic will contribute to significant impacts at several intersections and freeway segments. Faced with these substantial traffic impacts, the DEIR/S proceeds to shirk its duty to identify measures that would mitigate or avoid the Project's traffic impacts. The EIR's duty in this regard is straightforward: it "shall describe feasible measures which could minimize

[173] *See* Port of Long Beach, "2006 Emissions Inventory." Section 6 Heavy Duty Vehicles. (2008) [*See* "Attached Literature" Exhibit AB.]
[174] *Citizens of Goleta Valley*, 52 Cal. 3d at 575.
[175] *See Kings County Farm Bureau*, 221 Cal. App. 3d at 721-23.
[176] *See* Pub. Res. Code §§ 21061, 21068; *see also Citizens to Preserve the Ojai v. County of Ventura* (1986) 176 Cal. App. 3d 421, 432-33 (finding "an absolute failure to comply [with CEQA]" where information relevant to project's impacts was omitted).

CBD-67 significant adverse impacts."[177] The DEIR/S flatly declines to follow this mandate, and so fails at its most essential duty– minimizing the environmental impacts of the Project.[178]

Instead of identifying measures to mitigate traffic impacts, the DEIR/S simply states that it will contribute its fair share into a hypothetical Caltrans program "to improve the impacted study highway segments in a manner that will improve the segments[']' level of operation."[179] Where, as here, the lead agency does not have the authority to implement needed road improvements, a commitment to "fair share" payments is a reasonable beginning for a traffic mitigation program, but it is nowhere near sufficient. First, the DEIR/S must identify the specific measures that would reduce or avoid the Project's significant traffic impacts. Punting to Caltrans does not fulfill the Port's duty to describe mitigation measures. While CEQA allows a lead agency, as part of its approval of a project, to make findings that mitigation measures are "within the responsibility and jurisdiction of another public agency"[180] this provision does not in any way relieve the EIR of its duty to identify those measures. The DEIR/S must be revised to include a clear, specific list of improvements that would mitigate the Project's significant traffic impacts. Only then will its commitment to a fair share program begin to be meaningful and legally adequate.

Moreover, merely stating that the Port will contribute its "fair share" to the hypothetical Caltrans program is insufficient. An EIR must include evidence of a mitigation measure's efficacy.[181] The DEIR/S's vague commitments to pay a "fair share" toward improvements does not meet this requirement. The term "fair share" is hardly self-defining. The DEIR/S must include an outline of the procedures by which the Port will determine its fair share. Without an explanation of how fair share would be determined, the measure does nothing to assure the public that the Port's contribution to the hypothetical improvement program will be sufficient to ensure that the improvements are actually implemented.

CBD-68 Similarly, there is no guarantee that the Port and Caltrans will be able to reach agreement on the magnitude of the Port's contribution to cumulative traffic impacts. Mitigation

[177] CEQA Guidelines § 15126.3(a)(1); *see also Woodward Park Homeowners Ass'n, Inc. v. City of Fresno* (2007) 150 Cal. App. 4th 683, 724 ("The EIR also must describe feasible measures that could minimize significant impacts.").
[178] *See, e.g., Save Round Valley Alliance v. County of Inyo* (2007) 157 Cal. App. 4th 1437, 1446 ("The foremost principle under CEQA is . . . to afford the fullest possible protection to the environment . . .") (internal quotation marks omitted).
[179] DEIR/S, at 3.5-15.
[180] CEQA Guidelines section 15091(a)(2)
[181] *See Save Our Peninsula Committee v. Monterey County Board of Supervisors* (2001) 87 Cal. App. 4th 99, 130.

measures must be "fully enforceable."[182] The lead agency must provide substantial evidence showing that measures "will actually be implemented . . ., and not merely adopted and then neglected or disregarded."[183] Again, with neither an explanation of how the Port intends to determine its fair share nor any provision to make this obligation enforceable, the measure does not meet CEQA's standards. CBD-68

CEQA's core substantive component—with which every public agency must comply—requires that the Port "*shall* mitigate or avoid the significant effects . . . of projects that it carries out or approves *whenever* it is feasible to do so"[184] (emphasis added). Despite this clear mandate, the DEIR/S ignores several feasible mitigation measures that could substantially reduce the Project's traffic impacts. CBD-69

First, as the DEIR/S admits, the Port is not well served by public transit.[185] Improving this situation by increasing transit service to the Port would obviously reduce traffic impacts. The DEIR/S contains nothing to suggest that such improvements would be infeasible. While the document states that work schedules at the Port are "non-typical," transit schedules could be coordinated with those work schedules. Given the large number of Port employees, it is likely that efficient, effective transit routes and schedules could be devised. These transit improvements would, moreover, serve as effective mitigation measures for the Port's air quality and greenhouse gas impacts, and must be considered in those contexts as well. Implementing such transit improvements would likely require further study of where Port workers live; as discussed below, such a study is already necessary for accurate analysis of the Project's population and housing impacts.

Another potential traffic mitigation measure would focus on improving the efficiency of truck usage at the Port. Currently, the port drayage market is structured to maintain a truck to driver ratio of close to 1:1. A system, like the one currently in place at the Port, that relies on individual drivers to own and operate their own trucks, inevitably contributes excessive traffic to the roadway system, as drivers must bring their trucks to and from work. If, however, trucks are owned by the trucking companies according to an asset-based employee model, then trucks could be slip-seated. That is, a trucking company could dispatch a single truck on multiple shifts to be driven by different drivers. This would reduce the number of trucks needed to move the same number of containers on any given day. Additionally, with trucking companies owning their trucks and providing parking while trucks are out of use, this system would ensure that trucks were used for their real purpose—moving goods—and would reduce the amount of time trucks spend on the region's freeways–and causing congestion—solely for the purpose of getting a driver to or from work. By limiting the number of commute-only truck trips, CBD-70

[182] CEQA Guidelines 21081.6(b); *see also Federation of Hillside and Canyon Associations v. City of Los Angeles* (2000) 83 Cal. App. 4th 1252, 1260-61.
[183] *Federation of Hillside and Canyon Associations*, 83 Cal. App. 4th at 1261.
[184] Pub. Res. Code § 21002.1(b).
[185] DEIR/S, at 3.5-1.

CBD-70 the asset-based model and slip-seating could substantially reduce the Project's traffic impacts. The Port could implement this system simply by creating a concession system that requires all trucks accessing the Port to be owned by an asset-based trucking company. This system would, moreover, diminish idling time, substantially improving trucks' emissions performance and reducing the Project's air quality and greenhouse gas impacts. We see no reason it is not feasible.

CBD-71 Similar efficiency-focused measures would shift goods movement away from trucks, reducing the numbers of trucks on the road. Such measures include the use of maglev systems or on-dock rail for short-distance goods movement in the Port vicinity. A recent study found maglev to be both feasible and capable of eliminating up to 1 million truck trips per year within the Port of Los Angeles.[186] The increased use of on-dock rail, discussed in Section IV.e.ii above in the context of air quality mitigation, would also serve to relieve freeway congestion and must be considered as a traffic mitigation measure as well. The program discussed in Section IV.e.ii above, by which rail is to be given preferential treatment over truck transport, would have a similar effect and must also be identified as a traffic-reducing measure. Measures to improve the utilization and efficiency of the regional rail system would also reduce dependence on trucks. These include the implementation of a Goods Movement High Speed Rail Transport for freight, a computer-based technology that improves efficiency with near zero emissions[187], or an effort to maximize the use of the currently under-utilized Alameda Corridor. Finally, the Port could reduce truck usage, and all its related impacts, by making the transfer from trucks to rail easier through the construction of an intermodal facility on Port property, perhaps on the import car lot off Anaheim Street.

Again, these systems would clearly take trucks off the region's roads and reduce all of the Project's impacts related to truck traffic: congestion, air quality, and noise. There is no indication in the DEIR/S that such infrastructure measures would be infeasible. CEQA therefore requires that they be implemented. The DEIR/S cannot be certified as adequate, and the Project cannot be approved, until these measures have been considered.

CBD-72

VII. The DEIR/S Severely Understates the Project's Noise Impacts.

The noise generated by Port operations greatly affects the residents of Long Beach, particularly residents of the Cesar Chavez Park neighborhood, located approximately a quarter mile from the project site's boundary. The DEIR/S acknowledges that the sensitive receptors in the vicinity of the Port already suffer noise levels that exceed the maximum noise limits prescribed by the Long Beach Municipal Code ("LBMC") and that the proposed Project will substantially increase the noise levels in and around the Project

[186] *See* General Atomics, "Conceptual Design for the Electric Cargo Conveyor System" (2006) at 1, 10. [*See* "Attached Literature" Exhibit AC].
[187] *See* Southern California Association of Governments, "Regional Transportation Plan" (2008), at 32. Hereafter, "SCAG RTP". [*See* "Attached Literature Exhibit AD].

area.[188] Nonetheless, the analysis and proposed mitigation measures for noise impacts are wholly inadequate for the reasons described below. First, the DEIR/S establishes thresholds of significance that are not appropriate given the context of the Project site. Second, the DEIR/S employs faulty methodology for selecting noise monitoring sites. The noise analysis goes on to omit obvious sources of noise from the Project, inadequately describe others, and neglect important effects noise has on human health. Finally, the DEIR/S proposes only minimal measures to lessen the severity of noise and vibration impacts and absolutely no measures to avoid them. For all of these reasons, the DEIR/S's noise analysis does not meet the requirements of CEQA. CBD-72

i) The Noise Analysis Identifies Improper Significance Criteria. CBD-73

By selecting inaccurate and misleading significance criteria, the DEIR/S understates the significance of the noise impacts resulting from development and operation of the Project. First, the DEIR/S's significance criteria state impacts in terms of increases of ambient noise levels of three dBA or exceedance of maximum noise levels allowed by the LBMC, even if ambient noise levels already exceed compatible levels for nearby uses.[189] These criteria are inappropriate at this project site given that "existing ambient noise levels already exceed the maximum day and nighttime noise limits prescribed by the LBMC . . . in some cases by a substantial margin."[190] In fact, according to the DEIR/S, residents of the Cesar Chavez Park neighborhood already tolerate ambient noise levels that exceed the maximum allowed by the LBMC by 11 dBA on average during both daytime and nighttime hours.[191] In effect, this level of exceedance results in a doubling of loudness compared to the maximum allowed under the LBMC.[192]

CEQA does not countenance finding significant impacts only if a project contributes an arbitrary increase over existing impact levels.[193] Rather, any worsening of noise impacts could be considered a significant impact depending on the Project setting.[194] Where, as here, the Project occurs in a neighborhood setting where residents are already faced with noise problems, any worsening of noise impacts should be considered a significant impact. The Port provides no justification for its approach of automatically deeming all such increases of less than three dBA insignificant. The DEIR/S must consider that the noise impacts will be experienced by residents already exposed to exceptionally high noise levels from the Port.

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[188] DEIR/S, at 3.9-8.
[189] DEIR/S, at 3.9-11.
[190] DEIR/S, at 3.9-8.
[191] DEIR/S, at Table 3.9-5.
[192] DEIR/S, at 3.9-1.
[193] *See Los Angeles Unified School District v. City of Los Angeles*, 58 Cal.App.4th 1019, 1025-26 (1997).
[194] *See id.*

CBD-74 The DEIR/S also fails to adequately address residents' existing noise concerns or to discuss the adverse effects that noise has on people. The DEIR/S provides no attempt to gauge existing levels of communication interference, sleep interference or physiological responses and annoyance, nor does it attempt to predict future levels associated with the Project. At the very least, the DEIR/S should have included a community attitude survey to assess how residents perceive existing noise levels. Such a survey should include a summary of the type and extent of the noise complaints that have been registered with the Port of Long Beach. Additional significance criteria for all stages of the Project should have been included based on this information.

CBD-75 Accordingly, in order to accurately evaluate the effects of the Project on nearby residents, the EIR must utilize thresholds of significance that are based on *all* of the following: (1) existing noise impacts experienced by residents; (2) community attitude and health criteria (described below); (3) the EPA's noise regulation, which identifies 55 dB DNL as the requisite level with an adequate margin of safety for areas with outdoor uses, including residential and recreation uses; and (4) the noise regulations set forth in the City of Long Beach's Municipal Code.

CBD-76

ii) The DEIR/S Employs Faulty Methodology to Select Noise Monitoring Sites.

The DEIR/S selects Cesar Chavez Park (Site 3) as the noise monitoring site to represent noise experienced by residences in the vicinity of the park. However, measurement of noise levels at this park alone are not necessarily representative of the noise levels residents will experience. As the DEIR/S states "a substantial sound wall at the western boundary of the park....provides significant attenuation of the noise produced by traffic flows..." on the freeway and area roadways.[195] However, the document assumes that the only noise impacts of consequence to the residents would be noise generated by project traffic. As discussed further below, operational noise impacts to this neighborhood must also be evaluated. It stands to reason that those residences located some distance away from the soundwall would be susceptible to noise impacts not only from roadway noise but also from increased operations at Pier E. Therefore, a noise monitoring station should have been established at both the park and at an actual residence in the neighborhood.

CBD-77

iii) The DEIR/S Does Not Adequately Analyze or Mitigate Noise Impacts.

The DEIR/S erroneously omits numerous sources of noise from the acoustical model in its assessment of project impacts. To determine operational noise impacts, the DEIR/S employed a "road traffic model," which included noise from cars and trucks. The DEIR/S also compared existing train movements with future train volume projections to estimate train operation and vibration impacts. The DEIR/S failed to evaluate operational noise

[195] DEIR/S, at 3.9-4.

from several key operations and Project elements: 1) a substantial increase in the number of ships entering the Port, 2) a substantial increase in noise from ship loading and unloading operations, 3) increased use of gantry cranes and yard tractors for loading and unloading operations, and 4) noise associated with construction and maintenance dredging activities. These omissions render the documents acoustical model inadequate. Noise associated with these activities, as well as others (e.g. increased rail and truck traffic), must be quantified and incorporated into a revised assessment of potential noise impacts. CBD-77

The DEIR/S's description of impacts related to construction noise is equally unsatisfactory. In lieu of actually analyzing construction related noise impacts on nearby sensitive receptors, the document summarily concludes that for Sites 3-7, in all residential communities and all but one located within two miles of the project site, construction noise levels would be reduced to less-than-significant levels due to distance, intervening structures, and topography.[196] Similarly, the document concludes that for Sites 3-7 construction noise would be reduced to levels below the maximum allowed by the LBMC due to distance, intervening structures, and topography.[197] In both instances, the DEIR/S provides no evidence, let alone analysis, to conclude that the Project's construction-related noise impacts would be less than significant. Furthermore, compliance with a certain standard does not necessarily mean noise impacts are insignificant.[198] This is especially true in an area that is already adversely impacted by high noise levels. Here, the effected public is given no specific information as to the type and severity of potential noise impacts. Any revised document must quantify and analyze noise levels experienced at sensitive receptor sites. CBD-78

Most egregiously, the documents analysis of impacts related to operational noise dismisses entirely the residential communities surrounding the Port by concluding that since the nearest sensitive receptors are outside Port property, operational noise sources generated at the Project site would not increase noise levels at sensitive receptor sites.[199] Again, the document provides no evidence to support this conclusion. A conclusion regarding the significance of an environmental impact that is not based on an analysis of the relevant facts fails to fulfill CEQA's informational goal.[200] The Port of Long Beach DEIR/S fails to fulfill this paramount CEQA purpose both because it neglects to present all relevant facts relating to the Project's construction and operational noise impacts upon sensitive receptors and because its cursory conclusions are based upon no analysis. Without a detailed quantitative analysis of construction and operation related noise, it is not possible to assess the significance of noise effects, determine the severity of these CBD-79

[196] DEIR/S, at 3.9-13.
[197] DEIR/S, at 3.9-14.
[198] *See Oro Fino Gold Mining Corporation v. County of El Dorado*, 225 Cal. App. 872, 881-82 (1990).
[199] DEIR/S, at 3.9-15.
[200] *See also Stanislaus Natural Heritage Project*, 48 Cal.App.4th at 182; *Citizens of Goleta Valley*, 52 Cal.3d at 568.

CBD-79 impacts, or establish whether the proposed mitigation measures would effectively reduce such effects.

CBD-80 The DEIR also understates appropriate noise limits and ignores other relevant indicators of significance. For example, as discussed above, the DEIR/S's significance threshold of changes in noise levels of 3 dBA or greater ignores established standards for noise levels to protect human health and welfare. According to the U.S. Environmental Protection Agency ("EPA"), a noise impact is significant if it exceeds 55 DNL, which the EPA has identified as the requisite level with an adequate margin of safety for areas with outdoor uses, including residential and recreational uses.[201] The same report identifies 70 dB as the requisite 8-hr exposure level necessary to protect against hearing loss from intermittent noise.[202] Here, we know that residents in neighborhoods already suffer ambient noise levels above maximum allowable levels in the LBMV. The blatant disregard for established appropriate noise limits combined with a lack of analysis of likely impacts that will be experienced by sensitive receptors results in a wholly inadequate analysis of noise impacts under CEQA.

Furthermore, the DEIR/S's antiseptic approach to noise analysis omits the most relevant effects that come from noise. The DEIR/S fails to identify the multiple criteria which have been established to help protect public health and safety and prevent disruption of certain human activities.[203] These criteria are based on the effects of noise on people such as communication interference, sleep interference, physiological responses and annoyance. These are described more fully below.

(1) Communication Interference

A primary concern in environmental noise problems is communication interference including speech interference and interference with activities such as social interaction. Normal conversational speech is in the range of 60 to 65 dBA and any noise in this range or louder may interfere with speech. There are specific methods of describing speech interference as a function of distance between speaker and listener and voice level.

(2) Sleep Interference

Sleep interference is a major noise concern in noise assessment and is most critical during nighttime hours. Noise can make it difficult to fall asleep, create momentary disturbances of natural sleep patterns by causing shifts from deep to lighter stages and cause awakening. Noise may also cause awakening which a person may or may not be able to recall. Extensive research has been conducted on the effect of noise on sleep

[201] *See* EPA, "Information on Levels of Environmental Noise Requisite to Protect Public Health and Welfare with an Adequate Margin of Safety" 21 (March, 1974), http://www.nonoise.org/library/levels74/levels74.htm [*See* "Attached Literature" Exhibit AD].
[202] *Id.* at 20.
[203] Id.

disturbance. Recommended values for desired sound levels in residential bedroom range from 25 to 45 dBA, with 35 to 40 dBA being the norm. CBD-80

The National Association of Noise Control Officials has published data on the probability of sleep disturbance with various single event noise levels. Based on experimental sleep data as related to noise exposure, a 75 dBA interior noise level event will cause noise induced awakening in 30 percent of the cases.

(3) Physiological Responses

These are measurable effects of noise on people such as changes in pulse rate and blood pressure. Generally, physiological responses are a reaction to a loud short term noise such as a rifle shot or a loud jet overflight.

Annoyance is a very individual characteristic which can vary widely from person to person. What one person considers tolerable can be quite unbearable to another of equal hearing capability. The level of annoyance depends on the characteristics of the noise, defined as the loudness, frequency, time and duration of the noise, and how much speech and/or sleep interference results from the noise. The level of annoyance is also a function of the attitude of the receiver. Personal sensitivity to noise varies widely. It has been estimated that 2 to 10 percent of the population is highly susceptible to annoyance from noise not of their own making, while approximately 20 percent is unaffected by noise.

VIII. The DEIR/S Fails to Analyze the Projects Impacts to Hydrology and Water Quality Accurately. CBD-81

The DEIR/S's discussion of water quality impacts and mitigation is also inadequate. The document fails to identify and fully describe potential impacts and fails to discuss feasible mitigation measures. First, the DEIR/S fails to describe with any specificity several activities at the proposed Project site that could lead to violation of regulatory standards pertaining to water quality. For example, as discussed above, the document does not describe the unloading and loading procedures of bulk materials at the Port. This omission renders the document insufficient to determine if there is a potential for discharge of materials into harbor waters apart from any potential contamination from runoff.

Second, the DEIR/S fails to adequately analyze several potential impacts related to additional pollutants entering the receiving waters through stormwater runoff. For example, with respect to stormwater discharges, the document acknowledges that "impacts would depend on the material spilled, speed of cleanup, and sedimentation rate of the material" but stops short of actually analyzing the impacts of a spill.[204] Even though there are several parameters that would influence the impact, the document should CBD-82

[204] DEIR/S, at 3.3-18.

CBD-82 analyze potential impacts from a spill of materials typically transported through this facility and measures to be employed to avoid and mitigate the effects of such a spill. Furthermore, the document does not discuss the Port's historical record regarding compliance with applicable water quality permit provisions and regulations. A review of the DEIR/S' section on Hazards and Hazardous Materials reveals that the Port's history of hazardous materials spills, both container-related spills and overall spills, is far from stellar.[205] The DEIR/S should evaluate the effects of all hazardous materials spills that can potentially occur based both on the Port's compliance history and on the added potential for future spills given a dramatic increase in operations. Without such an analysis the DEIR/S provides insufficient evidence to substantiate its claim that any resulting impacts to receiving waters from spills would be less than significant.

CBD-83 Similarly, the DEIR/S states that increased truck and rail activities at the site could increase the amount of particulate and chemical pollutants settling from the air and brought in by vehicles and that these pollutants would enter the East Basin waters through stormwater runoff.[206] The document goes on to say that sampling at the POLB showed that "copper, lead, nickel, and zinc were found in concentrations that could have the potential to exceed the standards for marine water quality standards" in other parts of the Port.[207] Yet, the document concludes that "project activities are unlikely to result in runoff of metals at concentrations that would exceed water quality standards."[208] The conclusion begs the question of why exactly activities at the expanded facilities would not result in this type of runoff. Once again, the DEIR/S provides no evidence to support this statement.

CBD-84 Third, although the DEIR/S acknowledges that turbidity can impact water quality and that turbidity would increase during several project construction activities, the document concludes in each potential instance that the turbidity would be localized to the area of the activity and would thus not result in violation of regulatory standards or guidelines for water quality.[209] However, the conclusion is not supported with evidence. The document reports that dredging and excavation would occur twelve times over a period of ten years for a total of 528 days; pile removal would occur seven times over eight years for a total of 800 days; pile and bulkhead installation would occur eleven time in nine years for a total of 503 days; and placement of riprap would occur nine times in nine years for a total of 695 days.[210] It is difficult to imagine that all of these "localized" impacts would not combine to constitute an impact to water quality. Given an estimated construction schedule of ten years, or 3,650 days, the proposed turbidity-inducing activities would take place on approximately 2,526 of these days, and that is if one calculates the average number of days that the construction activities take place rather than the maximum

[205] *See* DEIR/S, at 3.10-2 and 3.10-3.
[206] DEIR/S, at 3.3-18.
[207] *Id.*
[208] *Id.*
[209] DEIR/S, at 3.3-14.
[210] DEIR/S, at 3.3-12.

number of days it could occur. Even if these impacts are localized, in the least it would seem that water quality in the immediate vicinity of the construction activities would be severely affected. Nowhere does the document analyze the potential for these activities to overlap and the resulting impacts from having multiple construction activities happening at once. CBD-84

Similarly, the cumulative impacts analysis dealing with potential water quality impacts caused by suspension of sediments during construction concludes that impacts would not be significant. The estimated cumulative development at the Port of Los Angeles and the Port of Long Beach will combine to fill approximately 277 acres of marine waters and construction activities from all the projects "would cause suspension of sediments that could alter water quality parameters," such as dissolved oxygen, nutrients, and turbidity.[211] Yet, the document asserts that the impacts will be less than significant because the effects are dispersed in time and space and are not expected to exceed regulatory quality standards. The DEIR/S provides no analysis to support this conclusion.

Third, the DEIR/S states that "the amount of vessel traffic in East Basin would nearly double compared to baseline conditions...as a result of the Project."[212] Despite this enormous increase in ship traffic, however, the DEIR/S fails to discuss potential impacts related to a decrease in dissolved oxygen associated with turbidity from increased ship traffic. CBD-85

Finally, the proposed dredging would impact the tidal prism of the Long Beach harbor, i.e. the volume of water that flows into a tidal channel and out again during a complete tide, excluding any upland discharges. In general, increased harbor system volume, especially via channel deepening, increases the tidal prism and, thus, the salinity intrusion. Although the DEIR/S states that "the tidal prism would be slightly reduced by the fill" called for by the Project, it fails to provide any further information or analysis to support its conclusion that the change will not result in a significant impact.[213] The DEIR/S is silent as to potential impacts to the tidal prism due to cumulative effects and silent as to projected sea-level rise from global climate change. The revised DEIR/S must assess the direct, indirect, and cumulative impacts of the proposed Project on the tidal prism and salinity of the Port of Long Beach harbor system. CBD-86

IX. The DEIR/S Fails to Disclose the True Risk Hazardous Materials Pose to Water Quality. CBD-87

The DEIR/S discloses spills of petroleum and other hazardous materials between 1997 and 2007.[214] The POLB has experienced an average of 43 spills of hazardous material

[211] DEIR/S, at 3.3-22.
[212] DEIR/S, at 3.3-18.
[213] DEIR/S, at 3.3.-16.
[214] DEIR/S, at Table 3.1-1 at 3.10-2.

CBD-87 per year during the past decade.[215] This number does not reflect all spill incidents (approximately 100-250 spills annually), but rather only those spills that were of a sufficient size to warrant investigation. The document also presents a segregated list of container-related spills.[216] The DEIR/S's analysis, however, focuses only on those hazardous materials spills directly associated with container terminals. Thus, the document's evaluation of potential risk associated with the probability of a spill is falsely skewed because it is based on a lower number of spills per year. Yet, the proposed Project area is likely to include several of the activities that have the potential to result in spills other than those listed in Table 3.10-2. For instance, incidental spills of hazardous materials used in boat maintenance, fuel dock and bunking accidents, incidental spills from onshore vehicles and large commercial vessels discharging oil-contaminated ballast water could all conceivably take place at the proposed facilities. These spills, although not strictly container-related, can still occur as a result of proposed Project activities and can still result in significant environmental impacts. This faulty analysis is particularly disturbing because it implicates other issue areas evaluated by the document including impacts on water quality and biota and habitat. The DEIR/S should have included all potential spills in its projections of future probable spills and in its analysis of potential impacts from those spills. Moreover, the DEIR/S should have used this more comprehensive analysis to inform other relevant sections of the document.

X. The DEIR/S Presents an Inadequate Analysis of the Project's Impacts to Biological Resources

CBD-88 The analysis of impacts on biological resources from dredging is similarly defective. The DEIR/S glosses over potential impacts on special status birds and marine mammals (e.g., brown pelicans, least terns, seals and sea lions) by characterizing the loss of foraging habitat as "temporary." For example, the DEIR/S attempts to reason that mammals and birds will be disturbed by construction activities because the activities "would likely cause fish and birds to leave the immediate construction area."[217] This mischaracterization of the Project's construction-related impacts downplays the nature and time-frame of the Project construction. The Project's protracted construction schedule proposes an intensive and disruptive array of construction activities for the next 10 years. Ten years is not an insignificant amount of time to evict special status species from foraging habitat in and around Middle Harbor.

CBD-89 Furthermore, the document's treatment of cumulative impacts on biota and habitats falls far short of meeting CEQA requirements. The document summarily concludes that since cumulative projects in the POLB and POLA would be "dispersed in time and space" no significant impacts to birds and marine mammals would occur.[218] Rather than presenting an analysis of construction activities and construction schedules that can reasonably be

[215] *Id.*
[216] DEIR/S, at Table 3.10-2.
[217] DEIR/S, at 3.4-18.
[218] DEIR/S, at 3.4-28.

anticipated, the DEIR/S takes a "trust us" approach and asks the reader to believe that cumulative impacts from a long list of massive construction projects would result in minimal impacts to wildlife in the harbor. This approach is not acceptable, and its conclusion that potential cumulative impacts to biota and habitats would be less than significant cannot stand. CBD-89

Moreover, the DEIR/S's analysis of dredging impacts fails to quantify the impacts of re-suspended contaminants on fish mortality rates.[219] The revised document must identify and analyze this impact and propose and adopt adequate mitigation. Finally, the DEIR fails to identify and analyze the impacts associated with the any dredging necessary for maintenance. This "maintenance" dredging could exacerbate all of the above impacts, and could keep the habitat value of the Middle Harbor and the larger POLB/POLA low by preventing the reestablishment of the benthic community and fish populations. CBD-90

XI. The DEIR/S's Analysis of the Project's Effect on Regionwide Population and Housing Is Seriously Flawed. CBD-91

The DEIR/S's discussion of the Project's population and housing impacts is hardly worthy of the name "analysis." It is, rather, a series of assumptions repeated in various forms, with no attempt to describe the Project's actual impacts on the real world. As explained below, the DEIR/S's analysis cannot support its conclusions.

Initially, the DEIR/S is quite confused as to the area of analysis in this section. At first, the DEIR/S sets out clear standards of significance for the Project's impact on population and housing: If the Project would increase employment, population, or housing demand by 0.5 percent or more, it is deemed to have a significant impact.[220] The study area for employment is the five-county Los Angeles region, and the study area for population and housing is the Gateway Cities subregion.[221] Moreover, the standards for population and housing demand focus on impacts to individual cities within the subregion, while the employment standard looks at the region as a whole.[222] The DEIR/S provides no explanation for wither the different study areas or for the shifting focus from regionwide to local impacts.

While the tables within the chapter reflect these studies, the headings preceding *all* the impact discussions, however, state that each standard concerns the entire five-county region. Thus, it is not unclear why the DEIR/S focuses on particular geographic areas, and it is unclear which areas it actually focuses on. Until these discrepancies are remedied, and substantial evidence provided to support the choice of study areas and standards, the EIR/S will remain wholly inadequate and insufficient to support project approval.

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[219] DEIR/S, at 3/4-17.
[220] DEIR/S, at 3.12-7.
[221] *Id.*
[222] *Id.*

CBD-92 | Moreover, population and housing demand standards, by their own terms, require an analysis of the Project's impact on individual cities. The DEIR/S, however, only analyzes population and housing impacts on a subregion-wide basis. It simply calculates the Port and the Project's percentage of the total population and housing demand of the Gateway Cities subregion, and assumes that the population will be spread out evenly--the same percentage in each individual city.[223] The tables listing the individual cities thus do not represent an analysis of the Project's impact on those cities; they are merely restatements of the original subregion-wide calculation. These tables provide no support whatsoever for the DEIR/S's conclusion that the Project will have a less than significant impact on population and housing demand in any individual city.

CBD-93 | By spreading the population so thinly, the DEIR/S's approach minimizes the Project's impact. In fact, some cities will certainly have a higher percentage of new Port-related residents than others; it is very likely that some cities' population growth will exceed the stated standards of significance. This is especially true with respect to housing demand, where the percentage of subregion-wide demand attributable to the Project is 0.4 percent, just below the threshold.[224] For just one example, if further study demonstrated that the Project would likely lead to new demand for 52 housing units in Bell Gardens (just 13 units more than the DEIR/S currently claims), then it will have crossed the threshold into significance. It is very likely that at least one of the cities in the Gateway subregion will have an increase in housing demand of 0.5 percent or more; the same may well be true of population.

The only way the DEIR/S could answer the questions posed by its own significance standards would be to create formulae for projecting the percentages of new Port-related population that will live in each city. The current residences of Port-related workers, along with historical trends, would provide a good start. The EIR would then need to analyze the types of jobs that will be created, and to compare the likely incomes against housing prices in the various cities.

This analysis would also provide much-needed information related to other sections of the DEIR/S and the CEQA process. The housing data would also help analyze traffic, as it would explain where commuters are likely to be coming from, and the employment data will be essential for the Port's determination of whether or not this project will provide the community with sufficient benefits to make its serious environmental impacts worthwhile.

Until the DEIR/S is revised to undertake this analysis, and recirculated to allow public review and input regarding the analysis, it will remain inadequate. As the documents

[223] *See, e.g.*, DEIR/S at 3.12-9 ("[I]t is assumed that the incoming population would be distributed through the 27 cities of the Gateway Cities subregion based on the relative population of each city . . . .").
[224] Table 3.12-18.

stands now, there is no evidence supporting its impact conclusions, let alone the substantial evidence required by CEQA. In light of the total lack of evidence, the DEIR/S cannot validly be certified, nor may the Project be approved.[225] CBD-93

XII. The EIR Fails to Provide an Accurate Picture of the Project's Growth-Inducing Effects. CBD-94

An EIR must discuss the ways a project could directly or indirectly facilitate or remove obstacles to population growth or new development in the surrounding environment.[226] A proposed project is considered either directly or indirectly growth-inducing if it: (1) fosters economic or population growth or additional housing; (2) removes obstacles to growth; (3) taxes community services or facilities to such an extent that new services or facilities would be necessary; or, (4) encourages or facilitates other activities that cause significant environmental effects.[227] An environmental impact report must discuss how a proposed project, if implemented, could induce growth.[228] While the growth-inducing impacts of a project need not be labeled as adverse, the secondary impacts of growth (e.g., loss of open space/habitat/agricultural lands, air quality, transportation, etc.) may be significant and adverse. In such cases, the secondary impacts of growth inducement must be disclosed as significant secondary or indirect impacts of the project.

The appropriate components for an adequate analysis include: (1) estimating the amount, location and time frame of growth that may occur as a result of the project (e.g., additional housing, infrastructure, and mixed use developments); (2) applying impact assessment methodology to determine the significance of secondary or indirect impacts as a result of growth inducement; and (3) identifying mitigation measures or alternatives to address significant secondary or indirect impacts. The Port of Long Beach's DEIR/S's growth-inducing impacts analysis fails to contain these essential components.

At the outset, the analysis of growth inducing impacts includes a glaring inconsistency regarding the number of jobs the proposed Project will create. While one portion of the section claims the Project would generate 2,961 new jobs in addition to construction jobs, another section claims the Project would add 24,779 jobs.[229] This inconsistency must be rectified.

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[225] *See Santiago County Water Dist. v. County of Orange* (1981) 118 Cal. App. 3d 818, 829 ("[T]he ultimate decision of whether to approve a project . . . is a nullity if based upon an EIR that does not provide the decision-makers, and the public, with the information about the project that is required by CEQA."); *Citizens to Preserve the Ojai v. County of Ventura* (1985) 176 Cal. App. 3d 421, 428 ("Certification of an EIR which is legally deficient because it fails to adequately address an issue constitutes a prejudicial abuse of discretion . . . .")

[226] Pub. Res. Code § 21100(b)(5); *City of Antioch v. City Council of Pittsburg* (1986) 187 Cal. App. 3d 1325, 1337.

[227] CEQA Guidelines § 15126.2(d).

[228] *Id.* at § 15126(d).

[229] DEIR/S at 5-2 and 5-3, respectively.

CBD-95 The DEIR/S's analysis of the projects effect on region-wide population and housing is seriously flawed. First, while the document acknowledges that the Project would result in growth-inducing effects during the construction period, it dismisses the potential impacts of this growth by calling them incremental short-term effects. Ten years of construction is not "short-term," however. These impacts must be analyzed.

CBD-96 Moreover, the DEIR/S fails to consider any of the growth-inducing effects of the Project's operation, and provides thoroughly insufficient justification for this failure. First, the DEIR/S fails to consider the substantial economic activity that is indirectly induced by Port operations. Presently, Long Beach and other near-Port cities host dozens, if not hundreds of ancillary facilities that serve the Port, including such operations as warehouses, truck service and fueling centers, container storage yards, and distribution centers. A small sampling of these facilities are shown on the map attached to this letter as Exhibit AE, titled "Map of Off-Port Goods Movement Related Facilities". *See also, e.g.*, SCAG RTP at 3, 4. Such facilities have a wide range of environmental impacts, including noise, air pollution, greenhouse gas emissions, land use conflicts, and stormwater runoff.

For just one example, as noted in a recent study, "warehousing and redistribution centers may be located as far as 60 miles inland from the ports."[230] Carrying goods to an increased number of such ancillary facilities would add to the Project's already significant traffic-related impacts, including congestion, air quality, greenhouse gas emissions, and noise. In other communities, closer to the Port, ancillary facilities lead to the accumulation of empty containers that blight views and pose serious hazards to residents, especially children.[231] These aesthetic and safety impacts are nowhere analyzed in the DEIR/S.

These facilities are directly induced by the Port. The Project, by greatly expanding Port operations, will similarly cause these ancillary facilities—and their environmental impacts--- to multiply and grow. The DEIR/S must analyze this induced growth and all of its environmental impacts, both in the standalone Growth-Inducing Effects section, and as a part of the main analysis of each relevant impact area.

CBD-97 Second, despite the impacts to housing demand discussed in Section XI above, the DEIR/S denies that this housing demand will have environmental impacts, because the "residential area in the Project vicinity is largely built out."[232] This statement displays, once again, that the DEIR/S has an inappropriately narrow view of the Project's impact

[230] Wilbur Smith and Associates, "Economic Benefits and Costs of Growth in Goods Movement: Multi-county Goods Movement Action Plan" (2007), at 1-13. [*See* "Attached Literature" Exhibit AF].
[231] *See* Deborah Schoch, "Unsightly Evidence of U.S. Trade Gap Piles Up," Los Angeles Times (June 9, 2006). [*See* "Attached Literature" Exhibit AG].
[232] DEIR/S at 5-2.

area. Large parts of the Los Angeles region, notably the Inland Empire area of Riverside and San Bernardino counties, are far from built out. It is very likely that many new Port-related workers, or workers brought to the region by induced growth, will settle in these fast-growing areas. CBD-97

Housing patterns in the Inland Empire tend to be sprawling and therefore to have substantial environmental impacts. To provide an accurate account of these indirect impacts, the DEIR/S will need to include, as discussed above, a thorough study of where Port-related workers live, and where new such workers will live. Again, this study will require considering the types and compensation levels of the jobs that will be created, both directly at the Port and indirectly through the Project's growth-inducing effects.

Finally, regardless of where new workers live, the increase in population, both during the prolonged construction period and during Project operation, would also place additional demands on region's roadways, nearby school facilities, and other public services. Yet the DEIR/S fails to disclose and analyze these related impacts. As with numerous other impact analyses in the DEIR/S, the document never bothers to actually analyze these impacts or provide any evidence to support its cavalier conclusions. The associated environmental impacts to, for example, traffic, air quality, and public infrastructure and services, resulting from the increased population growth must be addressed in any revised document. CBD-98

XIII. The DEIR/S Does Not Adequately Discuss Alternatives to the Proposed Project. CBD-99

The analysis of alternatives to the proposed project lies at "[t]he core of an EIR."[233] In this analysis, the EIR must consider a reasonable range of alternatives that would avoid or substantially lessen this impact while feasibly attaining most of the Project's basic objectives.[234] If the EIR refuses to consider a reasonable range of alternatives or fails to support its analysis with substantial evidence, the purposes of CEQA are subverted and the EIR is legally inadequate.[235] If a feasible alternative exists that will meet the project's objectives while reducing or avoiding its significant environmental impacts, the project may not be approved.[236]

An adequate alternatives analysis is a crucial component of complying with CEQA/NEPA. The CEQ has labeled the alternatives requirement as the "heart" of the

[233] *Citizens of Goleta Valley II*, 52 Cal. 3d at 564; *see also* Pub. Res. Code § 21002.1(a) ("The purpose of an environmental impact report is . . . . to identify alternatives to the project . . . .").
[234] *See* § 21100(b)(4); CEQA Guidelines § 15126.6(a).
[235] *San Joaquin Raptor*, 27 Cal. App. 4th at 735-38; *Kings County Farm Bureau*, 221 Cal. App. 3d at 736-37.
[236] Pub. Res. Code § 21002.

CBD-99 EIS.[237] Further, NEPA contains a clear mandate that the alternatives must be explored in depth and with the same level of detail as the proposed action.[238] The analysis of the alternatives throughout the document fails in this respect. As articulated in detail above, the incorrect project description inhibits an accurate assessment of the alternatives to this expansion project by artificially limiting the number of alternatives that could fulfill this flawed objective.

The alternatives analysis, moreover, misconstrues the Coastal Act by stating "Port activities should be water-dependant and give highest priority to navigation, shipping, and necessary support facilities to accommodate the demands of foreign and domestic waterborne commerce."[239] However, the DEIR/S fails to note that the Coastal Act states explicitly that ports must "[g]ive highest priority to the use of existing land use of existing land space within harbors for port purposes, including, but not limited to, navigational facilities, shipping industries, and necessary support and access facilities."[240] As such, the choice of four alternatives, which include two that require the creation of new land out of ocean, do not appear to comply with this mandate.

CBD-100 The proposed project would have significant and unavoidable air quality and traffic impacts. Similarly, though many of the proposed greenhouse gas mitigation measures included in the DEIS/DEIR such as utilizing compact fluorescent lights, LEED building and increased recycling rates (AQ 15, AQ-14 and AQ-18) are commendable, they fail to tackle the project's largest sources of greenhouse gases: the transport and movement of goods. Considering that the 2030 Annual GHG Emissions Associated with Operations of the Middle Harbor Container Terminal are projected to grow by more than fourfold, the Port must analyze an alternative that seriously curbs GHG emissions. CEQA requires the DEIR/S to consider alternatives that directly address these impacts.[241]

As the Port is well aware, California passed an ambitious law to tackle climate change, and it is discouraging that the DEIR/S for a project with such a great increase in GHG includes neither adequate mitigation any alternative, other than required No Project

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[237] 40 C.F.R. § 1502.14; *see also Monroe County Conservation Council, Inc. v. Volpe*, 472 F.2d 693, 697-98 (2d. Cir. 1972)("The requirement for a thorough study and a detailed description of alternatives…is the linchpin of the entire impact statement."); Cal. Pub. Res. Code § 21002; 14 Cal. Code Regs. § 15126.6.

[238] *See* 40 C.F.R. § 1502.14 (a) and (b); *see also Forty Most Asked Questions Concerning CEQ's National Environmental Policy Act* Regulations, 46 Fed. Reg. 18026 (Mar. 23, 1981)("The degree of analysis devoted to each alternative in the EIS is to be substantially similar to that devoted to the "'proposed action.'").

[239] DEIR/S, at 1-13.

[240] Cal. Pub. Res. Code Div. 20 at § 30708.

[241] . *See* CEQA Guidelines § 15126.6(b); *Laurel Heights*, 47 Cal. 3d at 401-04; *Kings County Farm Bureau,* 221 Cal. App. 3d at 732 ("[I]f there is evidence of one or more potentially significant impacts, the report must contain a meaningful analysis of alternatives . . . which would avoid or lessen such impacts.").

alternative, that eliminates the proposed project significant and unavoidable greenhouse gas emissions. CBD-100

Fortunately, many of the mitigation measures aimed at SCAQMD thresholds also increase efficiency or utilize technologies that decrease diesel fuel use and corresponding emissions of greenhouse gases; these measures can form the basis of an alternative project design aimed at improving the efficiency of ships, trucks, locomotives, and cargo-handling equipment, in order to reduce the Port expansion's carbon footprint.

The most important aspect of this alternative would be the reduction of the Port's dependence on diesel trucks, primarily through rail electrification and other technologies, none of which the DEIR/S addresses.. Electricity coming from power plants does create GHG emissions, however each kilowatt-hour that replaces diesel saves 2–4 pounds of carbon dioxide (depending upon the source of electricity replacing it is).[242] Several electric rail systems were reviewed under the *CAAP Joint Port Transportation Technology Review Program - Zero Emissions Container Mover System* which is partly funded by the Technology Advancement Program.[243] The following systems were deemed either "More Feasible" or "More Ready": [244]

Maglev- utilizing electromagnetic force, a Maglev system would create zero emissions at source and has been demonstrated in La Jolla, CA as a feasible cargo shipping technology, though not yet ready and market available. At 80 mph new, elevated guideways would move cargo, also requiring associated terminal infrastructure. A demonstration project would not be undertaken to prove technological capacity but economic feasibility, since the Maglev is admittedly expensive. Port of Los Angeles study cost estimates $45.5 million/mile however annual fuel savings in 2007 were estimated to be $2 million.[245]

LIM-Rail-Linear motors would be placed along railroad tracks and aluminum plates attached to the bottom of cars. A magnetic field moving along the motors in the track would induce a current in the plates and propel the vehicles. The LIM-Rail system uses existing infrastructure and current railroad operational practices, but can also be used in conjunction with the Maglev system. There is currently no test track for this concept, though the principles have been applied in other systems.

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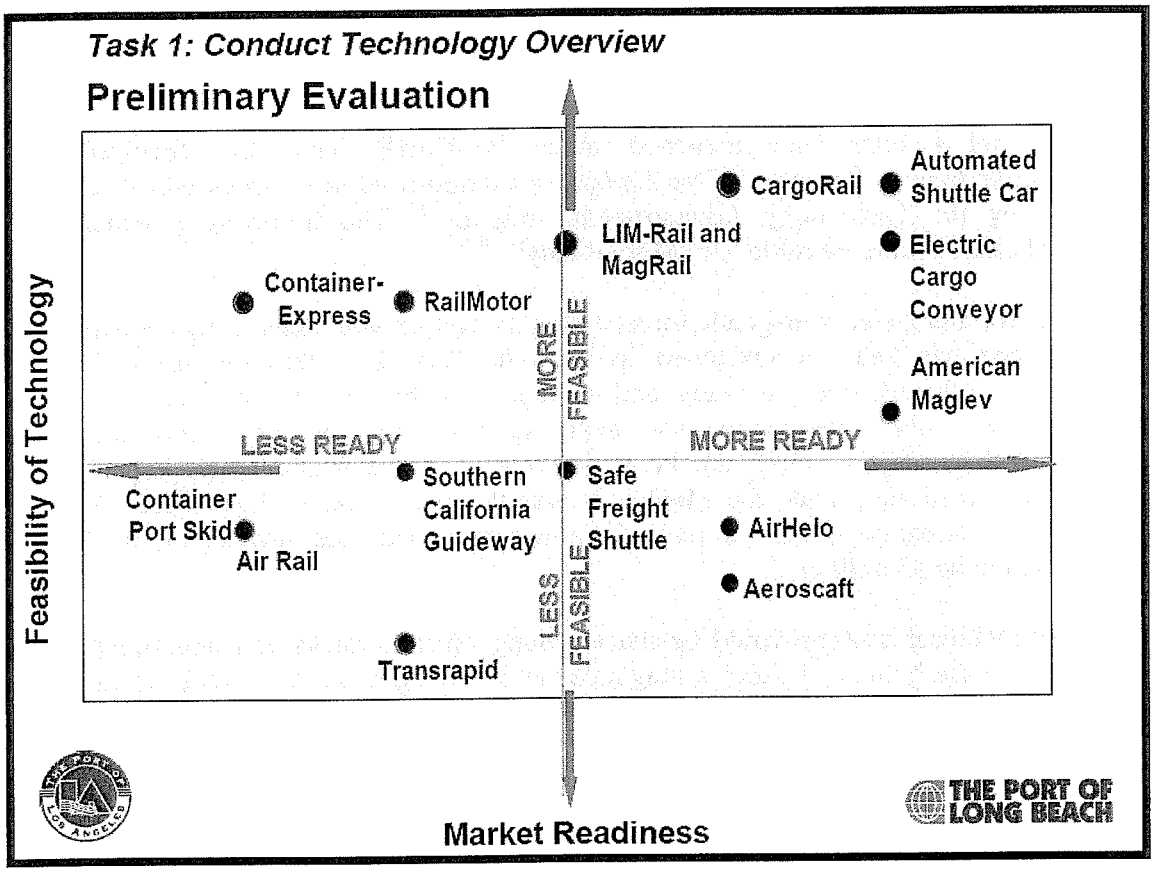
[242] Port Innovation Workshop Final Report, Rocky Mountain Institute, April 2007
[243] Lyte, William. *Building a Maritime Technology Cluster at the San Pedro Ports.* Kennedy/Jenks Consultants. Presented 12/4/07. http://www.metrans.org/nuf/2007/documents/Lytepresentation.pdf
[244] General Atomics. *MAGLEV and Linear Motors for Southern California Transportation Presentation to Southern California Association of Government MAGLEV Task Force.* February 8, 2007. pg. 28.
[245] Assumptions: 10-mile route, 1 million cargo cars and 50 tons/car or 500 million ton-miles per year. Ibid. pg. 42.

CBD-100 **Electric Dual-Mode Trams-** The CargoRail trams are rubber-wheeled vehicles that can carry marine cargo containers at 75 mph on an elevated guideway or on local streets. On the guideway, they would be propelled by electricity via permanent magnet hub motors in the wheels. On local streets they could be fueled by clean fuel, such as CNG, to generate the electricity for the motor.

Moreover, in conjunction with the POLA, the POLB commissioned a study of Zero Emission Container Mover Systems. As the chart from a presentation to the Board of Harbor Commissioners demonstrates, there are several technologies that have been quantified as "More Feasible" and "More Ready."[246]



Finally, we are providing some rough calculations of the benefits and costs of various technologies that have been proposed as alternatives to traditional modes of diesel transport.

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[246] Zero Emissions Container Mover System Evaluation Status Update, (September 6, 2007) *available at* http://www.portoflosangeles.org/DOC/Zero_Emissions_Container_Mover_System_Pres_090607.pdf.

Table 1: Technology Comparison

	Commercial Applications?	Use w/ existing infrastructure?	Ton-mile/kWh[247]	Cost per Mile (single track estimates)
LIM on the vehicle	TRANSIT	NO[248]	N/A	$100+ million (transit applications)
LIM on the Track	NO	YES	5-10	$10-20 million[249]
EMS Maglev	TRANSIT	NO	5-10	$70-170 million[250] (double track cost)
EDS Maglev	NO	NO	5-10	$45.5 million[251]
Electric Rail	YES	YES	8-10	$9-13 million[252]
CargoRail Concept	NO	NO	N/A	$40-54 million[253]
Automated Shuttle Car Concept	YES[254]	NO	N/A	N/A
Container Pipelines	NO	NO	N/A	N/A

CBD-100

[247] The ton-mile/kWh figures are estimates since it is hard to determine efficiency without pilot tracks under weight. Direct use of electricity will likely have higher efficiency. Efficiency will differ based on loads and speeds. Electric applications also lose efficiency in creating and transferring electricity to the vehicle.

[248] Transit applications have been dedicated lines only. Likely lower grade steel rails not capable of withstanding heavy freight applications. All the concepts would require new guideway construction.

[249] Does not include costs to apply metal reactive plates to locomotives and railcars.

[250] Low cost figure based on the Transrapid dual guideway system built in Shanghai, China for high-speed transit. The high cost figure is based on the cost/mile for the low-speed Linimo transit line in Nagoya, Japan.

[251] Does not include cost of the vehicles estimated at $800,000 each – General Atomics figures.

[252] Cost estimates are from early 1990's SCAG study of electrifying the Alameda Corridor. Costs include cost of implementing electric infrastructure and 12-14 electric locomotives. Cost figures were put in 2007 dollars with inflation calculator. Total costs were divided by 20 miles to derive cost per mile estimates.

[253] Includes the cost of 180 to 285 vehicles needed per mile at $120,000 per vehicle.

[254] The concept has been used in the Steel industry for heavy applications.

CBD-100 A reasonable range of alternatives must include proposals that "offer substantial environmental advantages" over the proposed project.[255] The technologies discussed here offer such an advantage and are proven to be feasible. Thus, it is inexplicable why this DEIR/S is devoid of any true analysis of alternatives to ease the Port into a more efficient and less polluting future.

CBD-101

XIV. The Environmental Justice Analysis Is Similarly Lacking.

It is no secret that port operations implicate several environmental justice concerns. Accordingly, we found the environmental justice analysis completely lacking in that it skewed the real impacts of who is being impacted by Port operations. Perhaps, the most glaring example of this inadequacy is the discussion related to Impacts AQ-2 and AQ-4 where the DEIR/S concludes that there are no environmental justice impacts from construction and operations of the facility because "[t]he criteria pollutant dispersion model indicates the highest offsite concentrations of one-hour and annual NO2 would be well within the industrial areas of the Port."[256] This conclusion completely misses the point that Figures 3.15-1 and 3.15-2 show that there are significant census tracts that have a high percentage of low income communities of color just outside of the port complex.

CBD-102 In fact, for another air quality impact (odor), the DEIR/S finds that this impact would represent a disproportionately high and adverse impact on minority and low-income populations because "the populations in closest proximity to the Port, where effects are likely to be greatest, are predominantly minority...and disproportionately low-income."[257] It is hard for commenters to fathom why the air quality impact would not result in this same conclusion, especially considering there are significant impacts for several air pollutants. This myopic view of the environmental justice impacts from project-related air pollution that effectively precludes the Port from looking beyond its own gates is not valid under CEQA and NEPA.

CBD-103

XV. A Revised Draft EIR Must Be Prepared and Recirculated.

Because of the inadequacies discussed above, the Port of Long Beach DEIR/S cannot form the basis of a final EIR/EIS. CEQA requires preparation and recirculation of a supplemental draft "[w]hen significant new information is added to an environmental impact report" after public review and comment on the earlier draft EIR.[258] The opportunity for meaningful public review of significant new information is essential "to test, assess, and evaluate the data and make an informed judgment as to the validity of the

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[255] *See Citizens of Goleta Valley*, 52 Cal. 3d at 565-66.
[256] DEIR/S, at 3.15-9.
[257] DEIR/S, at 3.15-9.
[258] Pub. Resources Code § 21092.1.

conclusions to be drawn therefrom."[259] An agency cannot simply release a draft report "that hedges on important environmental issues while deferring a more detailed analysis to the final [EIR] that is insulated from public review."[260] CBD-103

In order to cure the panoply of DEIR/S defects identified in this letter, the Port must obtain substantial new information to adequately assess the proposed Project's environmental impacts, and to identify effective mitigation and alternatives capable of alleviating the Project's significant impacts. This new information will clearly necessitate recirculation. CEQA requires that the public have a meaningful opportunity to review and comment upon this significant new information in the form of a recirculated draft supplemental EIR.

We appreciate your consideration of our comments. Please feel free to contact us if you have any questions.

Sincerely,

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[259] *Sutter Sensible Planning, Inc. v. Sutter County Board of Supervisors*, 122 Cal. App. 3d 813, 822 (1981); *City of San Jose v. Great Oaks Water Co.*, 192 Cal. App. 3d 1005, 1017 (1987).
[260] *Mountain Lion Coalition v. California Fish and Game Comm'n*, 214 Cal.App.3d 1043, 1052 (1989).

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ATTACHED LITERATURE

1) Exhibit A -- CARB, *Methodology for Estimating Premature Deaths Associated with Long-Term Exposures to Fine Airborne Particulate Matter in California Draft Staff Report*, (May 22, 2008).

2) Exhibit B -- Zhu Y. et al., *Concentration and Size Distribution of Ultrafine Particles Near a Major Highway*. J. Air & Waster Management, 52: 1032-1042 (2002).

3) Exhibit B2-- Zhu Y. et al. *Study of Ultrafine Particles Near a Major Highway With Heavy-Duty Diesel Traffic*. Atmospheric Environment, 36: 4323-4335 (2002).

4) Exhibit C -- CARB, Mobile Monitoring Platform Update and Results, April 17, 2008, at the HCMS Community Meeting, Wilmington Senior Center.

5) Exhibit D -- Curtis H. et al., *Traffic Flows and Black Carbon Levels in the Urban Seattle Environment*, (Fall 2004).

6) Exhibit E -- Kim J. et al., *The East Bay (California) Children's Respiratory Health Study*, (June 2004).

7) Exhibit F -- CARB, *West Oakland Health Risk Assessment*, (March 2008).

8) Exhibit G -- California Climate Action Registry, *General Reporting Protocol, Version 3.0*: Reporting Entity-Wide Greenhouse Gas Emissions (April 2008).

9) Exhibit H -- Committee on Environment and Natural Resources, National Science and Technology Council, *Scientific Assessment of the Effects of Global Change on the United States,* (May 2008).

10) Exhibit I -- Ramanathan, V. & Carmichael, G., *Global and Regional Climate Changes Due to Black Carbon*, Nature Geoscience 1:221-227 (2008).

11) Exhibit J -- Jacobson, M., *Strong Radiative Heating Due to the Mixing State of Black Carbon in Atmospheric Controls*, Nature 499: 695- 697 (2001).

12) Exhibit K -- Reddy, M.S. & Boucher, O., *Climate impact of black carbon emitted from energy consumption in the world's regions*. Geophys. Res. Letters. 34: L11802 (2007).

13) Exhibit L -- Bond, T. & Sun, H. *Can Reducing Black Carbon Emissions Counteract Global Warming?* Environ. Sci. Technol. 39:5921-5926 (2005).

14) Exhibit M -- Maynard D. et al., *Mortality risk associated with short-term exposure to traffic particles and sulfates*. Environ. Health Perspect. 115:751-755 (2007).

15) Exhibit N -- Tonne, C. et al., *A case control analysis of exposure to traffic and acute myocardial infarction*. Environ Health Perspect. 115:53-57 (2007).

16) Exhibit O – Walker, A.P., *Controlling Particulate Emissions from Diesel Vehicles*, Topics in Catalysis 28: 165-170 (2004).

17) Exhibit P – Memorandum of Understanding between POLA, the Attorney General of California, and the Mayor of Los Angeles. Dec. 6, 2007.

18) Exhibit Q – International Council on Clean Transportation (ICCT) (Mar. 2007) *Air Pollution and Greenhouse Gas Emissions from Ocean-Going Ships: Impacts, Mitigation Options and Opportunities for Managing Growth* at 34.

19) Exhibit R – Union of Concerned Scientists, *Reducing Global Warming Pollution: Technology Options for Tractor Trailers,* (2008).

20) Exhibit S -- Environmental Protection Agency: Office of Atmospheric Programs. *Global Mitigation of Non-CO_2 Greenhouse Gases* (June 2006).

21) Exhibit T -- Memorandum of Understanding between POLA, the Attorney General, and the Mayor of Los Angeles, Dec. 6, 2007. Attachment C, *Conceptual Scope of Solar Photovoltaic Development: Port of Los Angeles.*

22) Exhibit U -- Munk, Torben. *Fuel Conservation through Managing Hull Resistance*, (2006).

23) Exhibit V -- IMO, Study of Greenhouse Gas Emissions From Ships, Part 5, Technical and Operational Measures to Reduce Greenhouse Gas Emissions from Ships, Issue No. 2-32 (Mar. 2000) at 72.

24) Exhibit W -- Settlement Agreement between ConocoPhillips Co. and the California Attorney General, Sept. 10, 2007.

25) Exhibit X -- Bond, T. et al., *A technology-based Global Inventory of Black and Organic Carbon Emissions from Combustion.* J. Geophys. Res., 109: D14203, (2004).

26) Exhibit Y -- Hansen, T. from Magee Science, PowerPoint on the AE90 Aethalometer Presented to EPA NAQC in San Francisco, CA (2005).

27) Exhibit Z -- Los Angeles County Metropolitan Transportation Authority, "I-710 Major Corridor Study", March 2005.

28) Exhibit AA -- Meyer, Mohaddes Associates, Inc, Port of Los Angeles Baseline Transportation Study, April 2004.

29) Exhibit AB – Port of Long Beach, 2006 Emissions Inventory, Section 6 Heavy Duty Trucks, pg. 149 (published in June 2008).

30) Exhibit AC -- General Atomics, "Conceptual Design for the Electric Cargo Conveyor System" (2006) at 1, 10.

31) Exhibit AD -- Southern California Association of Governments, "Regional Transportation Plan" (2008), at 32.

32) Exhibit AE -- EPA, "Information on Levels of Environmental Noise Requisite to Protect Public Health and Welfare with an Adequate Margin of Safety" 21 (March, 1974) http://www.nonoise.org/library/levels74/levels74.htm.

33) Exhibit AF – NRDC Map of Off-Port Goods Movement Related Facilities.

34) Exhibit AG -- Wilbur Smith and Associates, "Economic Benefits and Costs of Growth in Goods Movement: Multi-county Goods Movement Action Plan" (2007).

35) Exhibit AH -- Deborah Schoch, "Unsightly Evidence of U.S. Trade Gap Piles Up," Los Angeles Times (June 9, 2006).

Other Cited Literature

1) Environmental Protection Agency, *Health Assessment Document for Diesel Engine Exhaust*, EPA/600/8-90/057F (2002).

Center for Biological Diversity, et al., August 8, 2008

CBD-1. This comment suggests that the Draft EIS/EIR fails to address numerous environmental issues associated with the proposed Project 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.

The Final EIS/EIR provides an adequate analysis of air quality impacts for NEPA/CEQA purposes. **Mitigation Measures AQ-1 through AQ-29** represent all feasible means to reduce air pollution impacts from proposed construction and operational emission sources. The Final EIS/EIR added additional mitigation measures as discussed in more detail in the following responses.

CBD-2. As discussed in the Draft EIS/EIR, with the redevelopment Middle Harbor container terminal, it is estimated that there would be would an increase from 1,264,021 annual TEUs to 3,320,000 annual TEUs over a 25-year period. Without the redevelopment of the Middle Harbor container terminal, it is estimated that the increase in annual TEUs for that same time period would be from 1,264,021 annual TEUs to 2,600,000 annual TEUs, which is 720,000 fewer annual TEUs than the Project (refer to Draft EIS/EIR Section 1.6.3.2 (Table 1.6-4) and Section 1.6.3.4 (Table 1.6-10)). Thus, approximately 1.34 million annual TEUs will be added to the Middle Harbor throughput over the next 25 years without the proposed redevelopment. Thus, in terms of assessing the magnitude of this Project by comparing it to the 2006 Vancouver annual TEU throughput (2,207,730), the growth that will occur without the proposed terminal redevelopment represents approximately 58 percent of the 2006 Vancouver TEUs, and the added growth enabled by the terminal redevelopment represents approximately one-third of the 2006 Vancouver TEUs. The environmental analysis addresses environmental impacts as a result of this expansion and incorporates mitigation measures that reduce significant impacts to the fullest extent feasible. As described in Draft EIS/EIR Section 1.7, the Port has several environmental programs, including the Port's Green Port Policy and the CAAP, to reduce the potential environmental impacts associated with the Port's daily activities and future expansions. In addition, the Port has developed two programs to mitigate the cumulative effects of its projects: the Schools and Related Sites Program and the Healthcare and Seniors' Facility Program. Please see response to comment USEPA(B)-8 for discussion of these two programs.

CBD-3. Your comment is noted and will be forwarded to the Board of Harbor Commissioners for their consideration. Section 3.2.1.2 of the Final EIS/EIR describes the existing air quality of the Project region and the fact that operations within the Ports contribute to degraded air quality conditions within the Ports area. Implementation of adopted regulations and **Mitigation Measures AQ-4 through AQ-29** proposed in the Final EIS/EIR would reduce future air emissions compared to 2005 baseline operations associated with the Middle Harbor container terminals. Regarding the statement about purported deficiencies in the Draft EIS/EIR stated in the comment, please see responses to comments CBD-4 through CBD-103.

CBD-4. This comment incorrectly asserts that the project description included in the Draft EIS/EIR is inadequate as it fails to disclose details regarding loading and unloading procedures at the Middle Harbor container terminal. A detailed discussion of proposed stevedoring (loading/unloading ships) and container storage activities is included in Draft EIS/EIR Section 1.6.3.1(Terminal Operations). As discussed in Draft EIS/EIR Section 3.10.2.3, the proposed Project would involve construction activities and increased throughput during operations that would increase the potential for spills or leaks of petroleum products and hazardous substances. Due to the localized nature of these accidents and the low annual rainfall at the Project site, it is very unlikely that hazardous material spills would enter the harbor. Moreover,

the potential for spills of hazardous materials to enter the harbor in storm water runoff is extremely low because the spill would have to occur on one of the few days each year when rain falls. Please see response to comment CBD-82 for additional details. No revisions to the Final EIS/EIR are required.

CBD-5. Shoaling and sedimentation is limited within the harbor as there is no continuing source for new sediments to be deposited (i.e., a river). Consequently, maintenance dredging is conducted rarely and only on an as-needed basis. For this reason, maintenance dredging is not part of the proposed project. Moreover, maintenance dredging at the Port is conducted pursuant to a separate permit that requires environmental review.

CBD-6. The comment correctly notes that redevelopment, expansion, and modernization of existing terminal facilities in the Project area is required to accommodate a portion of the forecasted increases in containerized cargo throughput volumes. However, the comment misconstrues the information provided in the Draft EIS/EIR regarding future cargo forecasts. As stated in Draft EIS/EIR Section 1.3.1.2, the purpose of future cargo forecasting is to project the maximum container throughput capacity at the Port which reflects the expected demand for containerized goods moving through the Port based on long-term demographic and economic trends for the U.S. In order to accurately forecast the overall container throughput for the SPBP, it's necessary to base future assumptions on the unlimited capacity of the ports. Accordingly, the potential capacity limitations of Port infrastructure were not considered in the development of the future cargo forecasts included in the SPBP Long-Term Cargo Forecast (Mercer and Standard & Poor's DRI 1998) or the Ports of Long Beach/Los Angeles Transportation Study (Meyer, Mohaddes Associates 2001). No revisions to the Final EIS/EIR are required.

CBD-7. The comment inaccurately states that the Project would increase emissions. As explained above and in the Draft EIS/EIR, implementation of adopted regulations and **Mitigation Measures AQ-4 through AQ-29** proposed in the Final EIS/EIR would reduce future operational air emissions compared to 2005 baseline operations emissions associated with the Middle Harbor container terminals.

With regard to the SPBS, please see response to comment SCAQMD-9. The development of the SPBS is a complex process that includes input from several members of the SPBS working group. The Ports recently completed the Draft SPBS, which is currently under review by the other members of the SPBS working group, including the SCAQMD. The SPBS includes methodologies that will be used to assess whether a Project is consistent with the SPBS. This Project is consistent with the goals and objectives of the draft SPBS, and will in no way interfere with the attainment of those goals.

CBD-8. The Final EIS/EIR incorporates all feasible measures to reduce air pollution impacts from proposed construction and operational emission sources during the life of the Project. Periodic reporting on implementation of mitigation measures proposed in the Final EIS/EIR is a compliance function of the MMRP, which includes monitoring and enforcement mechanisms to ensure appropriate implementation of all mitigation measures (CEQA Guidelines Sections 15091(d), 15097). The MMRP in the Final EIS/EIR would be certified by the Board of Harbor Commissioners and adopted as a Project lease condition. Final EIS/EIR Section 3.2.4 identifies the Project MMRP process. The Port has also made significant gains in air pollution control at the POLB through implementation of its Green Port Policy, such as the OGV Green Flag Incentive Program, CHE Diesel Emissions Reduction Program, and the PHL locomotive engine replacement program.

CBD-9. Regarding adoption of the SPBS by the Port, please see responses to comments CBD-8 and SCAQMD-9. The Project would adopt all applicable CAAP measures, as required by the SPBS.

CBD-10. Generally, CAAP measures assumed in the unmitigated Project scenarios are Port-wide measures that would necessarily occur with or without the Project. Regardless, all adopted

be included as binding requirements in the terminal lease agreement. Regarding the implementation and enforcement of proposed mitigation measures, please see response to comment CBD-8.

Three new berths with the capacity to cold-iron OGV would become available according to the following Project construction schedule: (1) December 2009; (1) March 2012; and (3) December 2014. As each of these berths become available, they would cold-iron one-third of the total annual ship visits at the Middle Harbor container terminal, so by December 2014, 100 percent of the Project's ship visits would cold-iron. Given the magnitude and scale of proposed construction, this is the earliest that the Project could provide cold-iron capable berths. This schedule complies with the CAAP and it exceeds the requirements of the ARB At-Berth Ocean-Going Vessels Regulation. Essentially, any Project OGV that is retrofitted to cold-iron would moor at a berth with cold-ironing capabilities unless it is already in use. This requirement would be part of the new lease for the terminal facility.

Use of 0.2 percent sulfur diesel in OGV auxiliary engines under the unmitigated scenarios would be a condition of the Project lease agreement. Ultimately, this requirement could serve as a backstop against the successful challenge of the new ARB Fuel Sulfur Regulation for OGV.

Regarding the Project vessel speed reduction compliance rate, vessels calling at the existing Project terminal currently achieve a 100 percent compliance rate with this measure (POLB 2007d). This demonstrates the feasibility of this goal in the unmitigated scenario. The analysis for CEQA Baseline assumes that the vessels calling at the Project terminal would comply with the original VSRP with extends out 20 nm from Point Fermin.

CBD-11. The air quality analyses in the Draft and Final EIS/EIR did not simulate the 2005 ARB/Railroad Statewide Agreement in either unmitigated or mitigated Project scenarios.

CBD-12. Tables in the A.1.3- series in Appendix A-1 include assumptions used in the peak day analysis. For example, Table A.1.3-Alt1M-1 outlines the assumptions for peak day ship operations for each Project year: for 2010, it assumes one round trip transit for a 4000-4999 TEUs vessel and further assumes that two ships would be hoteling (one 8,000-8,999 TEUs vessel and one 6,000-6,999 TEUs vessel). Additionally, Table A.1.3.-AltM-15 sets forth the assumption that there would be three tug assists on the peak day per ship call. The text of Final EIS/EIR Appendix A-1 Section 3.0 more clearly references the locations of peak day operational source emissions assumptions to the tables in Appendix A-1 Attachments A.1.3. This approach was followed as providing a substantial amount of technical data in the text would not improve the readability of the document.

CBD-13. Please see responses to comments CBD-8 and CBD-10. All adopted regulations, CAAP measures, and mitigation measures proposed in the Final EIS/EIR would be included as binding requirements in the terminal lease agreement and would apply for the life of the Project. They would continue as lease measures even if the CAAP were to expire.

CBD-14. Final EIS/EIR Section 3.2.2.3 (Table 3.2-24) has been revised to include updated results on impacts of goods movement in California from the ARB.

CBD-15. The response to comment SCAQMD-2 presents an analysis of peak daily emissions associated with overlapping Project construction and operational activities. Additionally, the HRA cancer and non-cancer risk analyses provided in the Draft and Final EIS/EIR consider health impacts from both proposed construction and operational emissions, combined.

CBD-16. Your comment is noted and appreciated. The Project air quality analyses evaluate the ambient impact of potential $PM_{2.5}$ emissions, including those that would occur from trucks that travel on highways in the Port area. As discussed in Draft EIS/EIR Section 3.2.2.3, Impact AQ-4, the analysis determined that the location of maximum impact from the mitigated Project, thus the impacts at all other locations would be less than that location. The analysis indicated the mitigated Project would only slightly increase $PM_{2.5}$ ambient impacts

compared to existing conditions. Additionally, review of Draft EIS/EIR Tables 3.2-5 and 3.2-18 show that mitigated Project truck emissions would substantially decrease compared to existing conditions, even with the expected increase in future Project truck trips. Therefore, Project emissions would not contribute to an exceedance of a national ambient air quality standard in the near highway environment.

CBD-17. Based on the methods outlined in the General Conformity Rule, as currently promulgated, the Project conformity determination concludes that the proposed USACE action would conform to the SIP, as presented in Appendix A-4 of the Final EIS/EIR. The USACE and other federal agencies will use new methods to determine conformity, when they are promulgated by the EPA.

CBD-18. Your comment is acknowledged and appreciated. Please see responses to comments CBD-16 and CBD-17. **Mitigation Measures AQ-1 through AQ-29** in the Final EIS/EIR represent all feasible means to reduce air pollution impacts from proposed construction and operational emission sources. The MMRP for the Final EIS/EIR includes monitoring and enforcement mechanisms to ensure appropriate implementation of all mitigation measures (CEQA Guidelines Sections 15091(d), 15097).

CBD-19. The unmitigated Project scenarios would operate according to the ARB Fuel Sulfur Regulation for OGV, meaning use of 1.5/0.1 percent sulfur fuel in Project year 1/year 2012. The mitigated Project scenarios would implement **Mitigation Measure AQ-6** in Project year 1, which requires the use of 0.2 percent sulfur diesel in OGV auxiliary generators and main engines. Beginning in year 2012, the mitigated Project scenarios would use 0.1 percent sulfur diesel in auxiliary generators, main engines, and boilers and consistent with the requirements of the ARB Regulation. The Final EIS/EIR and MMRP have been revised with these assumptions. Mandating the use of 0.1 percent sulfur diesel in Project OGV prior to this time would be infeasible, due to its unavailability in the international setting. Additionally, the new IMO regulations recently adopted do not require 0.1 percent sulfur until January 2015 and only for the ECAs. Otherwise, the global standard (areas other than ECAs) only lowers the fuel sulfur content to 0.5 percent sulfur in 2020, but it is subject to a review in 2018, but no delay past 2025.

To facilitate implementation of low-sulfur fuel in OGV, the Port operates the Main Engine Low-Sulfur Fuel Incentive Program to encourage vessel operators to use low-sulfur (0.2 percent or less) MGO in their main engines within 20 or 40 nm of Point Fermin. The Port provides funding to cover the cost differential between burning low-sulfur and heavy bunker fuel. To receive the incentive, vessel operators must also participate in the VSRP and use low-sulfur fuel in their auxiliary engines while at berth. This one-year program is in place from July 1, 2008 through June 30, 2009, after which time the ARB Fuel Sulfur Regulation for OGV is in effect. The Port has committed up to $10 million for this program. However, the result is that the terminal operators will be required to fulfill these requirements, as they will be specific elements of the terminal lease.

CBD-20. Regarding the ability of the expanded Pier F intermodal railyard to handle all Project intermodal cargo, please see response to comment SCAQMD-7. 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 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.

On-Dock Rail Issue. 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 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 transported via rail for financial and operational reasons.

Please see responses to comments SCAQMD-7 and CBD-71 for additional details regarding on-dock rail capacity.

Electrified Rail Issue. Due to power source issues and cost, as well as the Alameda Corridor Agreement, electrifying the rail corridors is currently infeasible. Refer to responses to comments SCAQMD-27, CBD-71, CSE(A)-3, CSE(A)-4, and CSE(B)-3 for detailed explanations regarding the request to electrify the rail corridors.

CBD-21. Regarding research associated with implementing zero- or near-zero emission transport technologies such as rail electrification through the CAAP process, please see response to comment SCAQMD-27. Both the ACTA and the SCAG have analyzed the feasibility of electrifying rail corridors serving the Ports. Due to power source issues and cost, as well as the Alameda Corridor Agreement, their findings determine that electrifying the rail corridors is financially and operationally infeasible at this time. Please see responses to comments SCAQMD-27, CBD-20, CBD-71, CBD-100, CSE(A)-3, CSE(A)-4, and CSE(B)-3 for additional information.

CBD-22. The comment requests integration of additional systems into the Clean Railyard Standards identified in the Draft EIS/EIR (**Mitigation Measure AQ-9**). 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) six 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 2005b). This idling limitation is consistent with the ARB agreements with UP and BNSF referenced in the third bullet point in the comment. Additionally, as part of CAAP measure RL-1, upon successful demonstration, these locomotives will install DOCs to further reduce emissions of DPM.

Implementation of the requested emission control measures to line haul locomotives that service the Pier F intermodal railyard is infeasible, as these sources are not bound by the Project terminal lease agreement. For a more complete explanation of this issue, please see response to comment SCAQMD-6. However, on March 14, 2008, the EPA adopted Tiers 3 and 4 emission standards for diesel line-haul and switcher locomotives. Conversion of the national line haul locomotive fleet to these standards will substantially reduce emissions from these sources, compared to the fleet with only Tier 2 standards. As stated in the Draft EIS/EIR, since the air quality analysis in this Draft EIS/EIR was finalized in March 2008, it was not able to simulate implementation of these updated non-road Tier 3 and 4 standards. As a result, the analysis somewhat overestimates future emissions from these sources. However, the Final EIS/EIR assumes, based on EPA assumptions for remanufacturing, that fleet of line haul locomotives serving the Ports would have the equivalent of Tier 3 standards beginning in 2025.

With regard to the use of diesel electric hybrids and genset locomotives (referenced in bullets one and two), the technologies were mainly created for older locomotives in services, where there is a lot of idle time, such as yard switching. As indicated above, after completion of the Draft EIS/EIR, the EPA adopted Tier 3 and Tier 4 emission standards for diesel line-haul and switcher locomotives. Conversion of the locomotive fleets to these standards will substantially reduce emissions from these sources as compared to the fleet with only Tier 2 standards and was assessed in the Final EIS/EIR for operations past year 2025. With respect to hybrid locomotives, there have been failure problems (Boyd 2009) and there is no long-term performance record for the use of genset locomotives. Thus, it would not be feasible for this Project to require the use of these two new technologies specifically based on available information. Nonetheless, the two technologies were identified in Draft and Final EIS/EIR

Mitigation Measure AQ-9 as some of the control methods that could be used to reduce locomotive emissions.

CBD-23. The comment requests that a greater percentage of vessels calling at the Middle Harbor container terminal should be required to cold-iron by 2010. Three new berths with the capacity to cold-iron OGV would become available according to the Project construction schedule: (1) December 2009; (2) March 2012; and (3) December 2014. As each of these berths become available, they would cold-iron one-third of the total annual ship visits at the Middle Harbor container terminal, so by December 2014, 100 percent of the Project's ship visits would cold-iron. Essentially, any Project OGV that is retrofitted to cold-iron would moor at a berth with cold-ironing capabilities unless it is already in use. This schedule complies with the CAAP and it exceeds the requirements of the ARB At-Berth Ocean-Going Vessels Regulation. Given the magnitude and scale of proposed construction (for example, new wharf construction in currently open water), this is the earliest that the Project could provide cold-iron capable berths.

An interim retrofit of the existing berths for cold ironing pending their reconstruction as scheduled in the proposed Project would not be feasible. It would be prohibitively expensive to install, operate for a few years, and then remove cold-ironing infrastructure at the remaining existing berths that are operational during construction.

At stated in Draft EIS/EIR Section 3.2.2 (Impact AQ-8, Mitigation Measures), use of cold-ironing would reduce GHG emissions from OGV at berth by reducing fuel usage.

CBD-24. Regarding installation of new vessel builds OGV with the advanced control technologies requested in the comment, please see response to comment SCAQMD-8. It is expected that with implementation of **Mitigation Measure AQ-11** (slide valves), **Mitigation Measure AQ-6** (low sulfur fuels in OGV), and the introduction of IMO-compliant OGV, the Project OGV fleet would achieve the fleet average NOx and PM emission reductions requested in the comment.

Emission controls in new OGV engines is also a topic of research by the CAAP TAP process. Additional emission controls on new OGV builds will be implemented as they are deemed feasible through the TAP process. Implementation of the requested controls is best handled at the national and international regulatory level and progress has been made in this area. Project shippers must comply with the IMO MARPOL Annex VI NOx limits that took effect in 2005 and the new standards approved by IMPO in October 2008 that limit fuel sulfur content and NOx emissions. These requirements include (1) global standards and (2) tighter standards for ships that operate in areas with air quality problems, designated as ECAs. However, to help address this concern, the Final EIS/EIR includes a new **Mitigation Measure AQ-25** that requires the terminal tenant in 2015 and every five years afterwards, to review new air quality technological advancements for the purpose of implementing new feasible mitigations.

CBD-25. Consistent with the Draft EIS/EIR project description, the unmitigated air quality analysis for construction assumed that land-based construction equipment (including onsite generators) would be the cleanest equipment available, meaning they would achieve EPA non-road Tier 3 standards at a minimum. This essentially equates to BACT, as requested in the comment. Final EIS/EIR Sections 1.7.3 and 3.2.2.2 have been revised to clarify this assumption. Additionally, Final EIS/EIR **Mitigation Measure AQ-2** requires Tier 4 standard engines in construction equipment, where feasible. As requested in comment SCAQMD-14, the Final EIS/EIR includes new **Mitigation Measure AQ-2a** that will require additional BMPs, with the qualifier that they shall be implemented where feasible.

As requested in comment SCAQMD-12, the Final EIS/EIR includes new **Mitigation Measure AQ-2b**, which requires trucks used for construction prior to 2015 to use engines with the lowest certified NOx emissions levels, but no greater than the 2007 NOx emission standards; and in 2015 and beyond to meet EPA 2010 emission standards.

The calculation of unmitigated emissions from construction tugboats is based on composite emission factors for the SCAB harbor craft fleet developed by the ARB due to implementation of the ARB Commercial Harbor Craft Regulation. This analysis assumes that with time the POLB harbor craft fleet would turn over to engines that meet EPA Tiers 2 through 4 standards. By year 2013/2016, the composite fleet emission factors reach Tiers 2/3 emission levels (See Appendix A-1 Table A.4.1-Alt 1-135). Tier 3 standard harbor craft engines whose sizes match those needed for proposed construction are not required by the EPA Final Marine Engine Rule until 2012 through 2014. Due to the slow penetration of Tier 3 engines into the harbor craft fleet and the substantial cost associated with engine replacement, it would be economically infeasible to require these engines on proposed tugboats during construction. However, Final EIS/EIR **Mitigation Measure AQ-3** requires Tier 3 standard engines in tugboats, where feasible.

Covering truck loads is a requirement identified in the Draft EIS/EIR (**Mitigation Measure AQ-1**), and is also a State law.

Regarding the request for special precautions near sensitive sites, proposed construction would not occur within 1,000 feet of these sites.

Regarding onsite generators that would be used during construction, the Draft EIS/EIR analysis assumed that all unmitigated construction equipment (including generators) would be the cleanest equipment available, meaning they would achieve the most stringent available equipment at a minimum, which is equivalent to EPA non-road Tier 3 standards as stated in Section 3.2.2.2. This requirement is one of the many environmental controls required of the unmitigated Project, as identified in Section 1.7.3 of the Final EIS/EIR. Final EIS/EIR **Mitigation Measures AQ-2** and **AQ-2a**, would also require construction equipment such as generators to meet to soon to be most stringent EPA Tier 4 standards, where feasible. Consequently, all the construction equipment (including generators) would exceed current standards for offroad equipment, as requested in the comment.

CBD-26. The Port has developed two programs with corresponding guidelines in an effort to mitigate potential cumulative air quality and noise impacts of projects in the SPBP's' area (including marine terminal expansions/modernizations for the POLB and POLA and related transportation projects). In particular, the programs are designed to (1) reduce emissions (e.g., school bus DPM filters) and/or (2) exposure to air emissions and noise impacts directly (e.g., high-efficiency particulate air (HEPA) filters, noise berms, etc.) or though prevention, education, and outreach programs. The programs are specifically aimed at sensitive populations (i.e., school-age children, senior citizens, and persons with specific respiratory illnesses), which have been identified by state and local air agencies as particularly sensitive to air pollutants. One program is focused on school-age children; the Port has prepared Schools and Related Sites Guidelines for the Port of Long Beach Grant Programs that identify eligible applicants as schools, pre-schools, and daycare centers where children spend a significant portion of their waking hours. The other program is focused on specific prevention, education, and outreach programs, as well as direct mitigation projects for hospitals, healthcare facilities, retirement homes, senior centers, and convalescent homes. The Port has prepared *Healthcare and Seniors Facility Program Guidelines for the Port of Long Beach Grant Programs*, which includes funding opportunities for prevention/education/outreach programs to help sensitive receptors which include children, senior citizens, and people with respiratory illnesses in areas determined to be most affected by cumulative air impacts near the ports as well as direct mitigation projects for certain facilities described previously.

The eligibility criteria for eligible applicants have been developed to take into account cumulative air quality and noise impacts as a function of distance from the SPBP area and

the related goods movement transportation routes (e.g. I-710 and SR-47). The most recent SCAQMD MATES III[19], the ARB Diesel Particulate Matter Exposure Assessment Study for the Ports of Los Angeles and Long Beach study[20] and recent modeling work during the development of the CAAP Baywide health standard have shown that areas downwind (north and east) of the Port are most heavily impacted by pollution from port and related goods movement activities. For this reason, the guidelines give preference to those facilities closer to the Port because the sensitive receptors at those facilities would likely be exposed to greater cumulative air and noise impacts.

The Port has developed a list of projects that can be implemented effectively at schools, preschools and daycare centers with demonstrated direct improvements to exposure to air and noise pollution, or prevention programs designed to minimize/prevent exposure to health impacts from port-area air pollution sources, particularly sources of DPM. These projects have specified criteria to ensure that the demonstrated improvements will be achieved. The air-related projects are predominantly modeled after programs promulgated and approved by the ARB and SCAQMD. These projects have been shown to result in either a decrease in PM (as well as other criteria pollutant) emissions or to reduce exposure to those pollutants.

These guidelines (1) establish eligibility criteria for potential applicants based upon the facility type and proximity to the SPBP; (2) provide the metrics that will be used to assess a proposed project's air quality and/or noise impact mitigation potential based on established regulatory air reduction/mitigation programs and the latest scientific information on noise impacts, or the proven effectiveness of proposed air pollution-based health impact prevention-education-outreach programs; and (3) explain how the Port Board of Harbor Commissioners will choose among eligible proposals and approve funding for them.

Therefore, to implement the above programs and further reduce cumulative air quality impacts from the Project, the Final EIS/EIR includes new **Mitigation Measure AQ-29**. Please see response to comment CSB-2.

CBD-27. Regarding providing funds for other sensitive site mitigations, please see response to comment CBD-26.

CBD-28. Final EIS/EIR Section 3.2.3 has been revised to show the connection between cumulative impacts of Project toxic air contaminants and their health effects, as presented in Final EIS/EIR Section 3.2.2.3 under Impact AQ-6.

It is beyond the scope of this NEPA/CEQA process to quantify Project cumulative health impacts, as this would require a dispersion modeling analysis that takes into consideration all sources of TACs within the Ports region. As a worst-case, the Project cumulative air quality analysis qualitatively assumed that the existing degraded air quality conditions within the Project region would continue into the immediate future. The Draft EIS/EIR Section 3.2.3 described air quality impacts estimated for projects (Draft EIS/EIR Table 2.1-1) that would combine with Project impacts and produce the most substantial cumulative impacts. This was determined in terms of the potential strengths of cumulative project emissions and their proximities to Project emission sources. The Draft EIS/EIR did not specifically consider emissions from the proposed UP and SCIG ICTF projects. Rather, it can be inferred from the cumulative air quality analysis that emissions from the UP facility would continue the degraded air quality conditions within the region. Final EIS/EIR Section 3.2.3 has been revised to include summaries of the air quality impacts estimated for these projects and to consider their contributions to project cumulative impacts.

19 The September 2008 SCAQMD MATES III Report, interactive map and related information can be found at http://www.aqmd.gov/prdas/matesIII/matesIII.html.
20 Diesel Particulate Matter Exposure Assessment Study for the Ports of Los Angeles and Long Beach, dated October 3, 2005

Upon completion of the SPBS by the POLB and POLA, data will be publically available that quantifies the cumulative health effects from existing and proposed emission sources within the SPBP, including the Middle Harbor Redevelopment Project. These data are described in the Bay-wide HRA that was conducted as part of this process. The Bay-wide HRA evaluates emission scenarios for years 2014 and 2023 that include implementation of applicable CAAP measures to many of the Ports CEQA projects proposed in Draft EIS/EIR Table 2.1-1.

The Final EIS/EIR includes all feasible measures to reduce incremental air quality impacts from the Project. Implementation of these measures also would reduce Project cumulative air quality impacts to the maximum extent feasible. Please see response to comment CBD-26 for further mitigations that would reduce cumulative Project impacts.

CBD-29. The Draft EIS/EIR Section 3.2.3 focused on describing air quality impacts estimated for projects (as shown in Table 2.1-1) that would combine with Project impacts and, therefore, produce the most substantial cumulative impacts. It is assumed that impacts from the proposed I-710, SCIG, and UP ICTF projects are included in the future cumulative conditions described in the Draft EIS/EIR. However, Final EIS/EIR Section 3.2.3 has been revised to summarize air quality impacts estimated for the I-710, SCIG, and UP ICTF projects.

CBD-30. Please see response to comment DOJ-3. Pursuant to the request of the California Attorney General's Office, Section 3.2.1.2 of the Final EIS/EIR includes descriptions of potential effects of climate change to California and the world.

CBD-31. The comment criticizes the Draft EIS/EIR for not having a specific analysis and specific mitigation relating to black carbon. None of the agencies, organization (including the commenters) or individuals who received the NOP/NOI for the Draft EIS/EIR requested that the Draft EIS/EIR address black carbon. While both the EPA and the SCAQMD responded to the NOP/NOI, neither agency suggested that an analysis of black carbon be included, and neither has raised this issue in their comments on the Draft EIS/EIR. Moreover, neither agency has adopted regulations or protocols relating to assessing or mitigating black carbon emissions. The entities that submitted Comment CBD-31 responded to the NOP/NOI, but did not request any analysis of black carbon.

More than a week after the release of the Middle Harbor Draft EIS/EIR, the author of this comment submitted a letter to SCAQMD requesting that it identify methodologies to quantify black carbon as well as mitigation measures to mitigate black carbon emissions. The letter acknowledges that methodologies for quantifying black carbon did not then exist, but noted that black carbon should be considered in GHG analysis "as soon as methodologies are available to quantify black carbon emissions." (Center for Biological Diversity Letter to SCAQMD, May 27, 2008).

Nevertheless, Section 3.2.1.2 of the Final EIS/EIR has been revised to describe potential effects of climate change from black carbon. Additionally, the discussion under Impact AQ-8 in the Final EIS/EIR acknowledges that since the Project would reduce emissions of DPM compared to existing conditions, this effect would reduce the overall significant impact to climate change from other Project emissions.

CBD-32. Please see response to comment CBD-31**.** As stated in the comment, black carbon is a subset of DPM and of fine particulate matter ($PM_{2.5}$). Emissions of DPM are the focus of the Project HRA and the health risk factors, which were established by the ARB's OEHHA, for DPM take into consideration all of its chemical constituents, which include black carbon, as discussed in the following link: http://www.oehha.ca.gov/air/toxic_contaminants/pdf_zip/diesel_final.pdf. Additionally, the general health effects of airborne black carbon is evaluated with the use of PM_{10} and $PM_{2.5}$ standards, as there are no standards that specifically regulate elemental or black carbon. Therefore, the Project air quality analysis indirectly considers the health effects of Project emissions of black carbon and provides an adequate analysis of air quality impacts for NEPA/CEQA purposes.

CBD-33. The comment states that black carbon emission reduction strategies should be considered independently from particulate matter reductions. Please see responses to comments CBD-31 and CBD-32. The Final EIS/EIR includes all feasible measures to reduce proposed DPM (of which black carbon is a subset) and GHG emissions. Proposed measures that would reduce fuel usage, such as **Mitigation Measures AQ-4, AQ-5, and AQ-10**, would directly reduce black carbon emissions. Additionally, Final EIS/EIR **Mitigation Measure AQ-25**, that requires the terminal tenant in 2015 and every five years afterwards to review new air quality technological advancements for the purpose of implementing new feasible mitigations, could identify measures that would further reduce Project emissions of black carbon.

CBD-34. Please see response to comment DOJ-4. The Draft EIS/EIR analysis used the boundary of California to delineate the domain for the estimation of Project baseline and proposed GHG emissions, as the Port believes it is of adequate size to provide an indicator of the significance of proposed GHG emissions. Nonetheless, in response to comment DOJ-4, the Port provides a good faith estimate of GHG emissions that would occur from the transport of Project cargo between the POLB Middle Harbor and its first point of rest, regardless of whether this point is within or outside of California.

CBD-35. As explained in Appendix A-1 in Section 1.1.2 of the Draft EIS/EIR, the GHG emissions were calculated based on methodologies provided in the CCAR's General Reporting Protocol. At the time that the Draft EIS/EIR was released, the Governor's OPR had not yet issued its Technical Advisory on CEQA and Climate Change. When the Technical Advisory was issued on June 19, 2008, it included guidance on the calculation of GHG Emissions. The Advisory states on pages 5-6: "Lead agencies should make a good-faith effort, based on available information, to calculate, model, or estimate the amount of CO_2 and other GHG emission from a project, including emissions associated with vehicular traffic, energy consumption, water usage and construction activities..." The analysis in the Draft EIS/EIR satisfies this good-faith effort.

There are many methods used in the CCAR Protocol beside geographic scope that are applicable to the calculation of Project GHG emissions. Some of these include applicable activity data and emission factors needed to calculate GHG emissions. With regard to the portion of the comment regarding emissions outside of California, as requested by the Office of the Attorney General, the Port has revised the calculations to include those emissions as well. Please see response to comment DOJ-4.

CBD-36. NEPA does not specify the scope of analysis that federal agencies must conduct in determining whether their actions, when combined with private actions, come within the mandate of 4332(2)(C). USACE, however, adopted regulations that set forth how it should determine the proper scope of analysis under NEPA. Where the activity requiring a permit is one component of a larger project, USACE regulations provide that the USACE must address in the NEPA document impacts of the specific activity requiring a DA permit and those portions of the entire project over which the USACE has sufficient control and responsibility to warrant federal review, 33 CFR Part 325, Appendix B Section 7(b)(1). The USACE District Engineer has control and responsibility for portions of the project beyond USACE jurisdiction "where the environmental consequences of the larger project are essentially products of USACE action," 33 CFR Part 325, Appendix B Section 7(b)(2).

The USACE scope of analysis established in the Draft EIS/EIR includes construction and operational activities that would not require issuance of federal permits. The NEPA Baseline does not include in-water activities (e.g., dredging, filling Slip 1 and the East Basin, and new wharf construction), no wharf upgrades would occur (except the provisions for shore-to-ship power), and channel and berth deepening would not occur. The USACE has no authority or responsibility to regulate activities, such as upland operations, that are occurring or could occur absent a USACE permit. These activities and resulting conditions, therefore, comprise the NEPA Baseline. Accordingly, the NEPA Baseline would include redevelopment of the existing terminal areas on Piers E and F and the land north of Gerald Desmond Bridge and

Ocean Boulevard with the Project site would be converted to a container yard. The NEPA Baseline would include construction of the following upland site improvements: redevelopment and backland expansion on existing lands within the Project site (the Berth E23 oil area would be abandoned and redeveloped as container yard area); construction of a new 66kV Pier E Substation; construction of shore-to-ship infrastructure at Piers E and F to cold-iron vessels while at berth; construction of a Mainline Track Realignment at Ocean Boulevard/ Harbor Scenic Drive and the Pier F storage yard and tracks; and expansion of the existing Pier F intermodal railyard to six tracks.

The Project area already operates a functional container terminal at this location, and continued operations and additional development of the upland portions of the Project could and undoubtedly would occur in the absence of a USACE permit, which would result in increased throughput and additional impacts over time. Existing terminal operations include containerized cargo and break-bulk activities that are operated by two terminal operators (CUT and LBCT); the existing terminal consists of four berths with a total container berth length of 4,480 LF and a 10,000 track-feet intermodal rail facility (Pier F). By 2015, the existing total container terminal acreage (244 acres) would increase to 267 acres due to redevelopment of land (13 acres) north of Gerald Desmond Bridge and Ocean Boulevard as a container yard, and, absent USACE authorization of regulated activities in waters and navigable waters of the U.S. The change from existing to reasonable forecasted improvements under the NEPA Baseline would result in an 80 percent increase in TEUs, a 10 percent increase in total container terminal acreage, a 50 percent increase in annual vessel calls, and a 45 percent increase in average daily truck trips.

This upland area represents portions of the Project area that could be developed for container storage and transfer (i.e., nonfederal or private action) entirely independent of the CWA Section 404 and River and Harbor Act Section 10 authorization from USACE (i.e., federal action). The environmental consequences of using this site for container storage and transfer are clearly not the result of USACE permit action, and there is no other federal funding, guarantee, other financial assistance, or regulation pertaining to the Project area uplands requiring further expansion of the USACE scope of analysis into this nonfederal portion of the Project area (i.e., minimal federal control and responsibility). Vessel traffic and container throughput have increased and substantial additional increases are expected, necessitating an increased need for cargo-handling areas, such as this one, whether or not a USACE permit is issued.

For this project, the NEPA Baseline is not fixed because the upland area is expected to increase its throughput and impacts regardless of whether a USACE permit is issued. In contrast, the CEQA Baseline is static as normally required by CEQA (i.e., the conditions at the issuance of the NOP). The fact that Project area conditions would change in the absence of a USACE permit underscores the limited federal control and responsibility that exists and the need for a dynamic Project NEPA Baseline.

The Draft EIS/EIR specifically analyzes the portion of each impact attributable to federal control and responsibility, and, as appropriate, evaluates each NEPA increment in a broader context to assess Project-specific and cumulative effects. The Draft EIS correctly identified USACE's scope of analysis and area subject to federal control and responsibility for each resource or issue of concern, performed the appropriate independent analyses, and made justifiable NEPA impact determinations for the Project's direct and indirect impacts, as well as the cumulative impacts. Therefore, no revisions to the Final EIS/EIR are required.

CBD-37. This Project differs from the shipping terminal example in 33 CFR 325,Appendix B Section 7(b)(3) "…a shipping terminal normally requires dredging, wharves, bulkheads, berthing areas and disposal of dredged material in order to function. Permits for such activities are normally considered sufficient federal control and responsibility to warrant extending the scope of analysis to include the upland portions of the facility." In the case of Middle Harbor, the past, present, and reasonably foreseeable future use of the uplands include, and would

continue to include, container shipping storage and transfer operations. The Project area already operates a functional container terminal at this location, and continued operations and additional development of the upland portions of the Project could and undoubtedly would occur in the absence of a USACE permit, which would result in increased throughput and additional impacts over time. Existing terminal operations include containerized cargo and break-bulk activities that are operated by two terminal operators (CUT and LBCT); the existing terminal consists of four berths with a total container berth length of 4,480 LF and a 10,000 track-feet intermodal rail facility (Pier F). By 2015, the existing total container terminal acreage (244 acres) would increase to 267 acres due to redevelopment of land (13 acres) north of Gerald Desmond Bridge and Ocean Boulevard as a container yard, and, absent USACE authorization of regulated activities in waters and navigable waters of the U.S. The change from existing to reasonable forecasted improvements under the NEPA Baseline would result in an 80 percent increase in TEUs, a 10 percent increase in total container terminal acreage, a 50 percent increase in annual vessel calls, and a 45 percent increase in average daily truck trips.

This upland area represents portions of the Project area that could be developed for container storage and transfer (i.e., nonfederal or private action) entirely independent of a CWA Section 404 and River and Harbor Act Section 10 authorization from USACE (i.e., federal action). The environmental consequences of using this site for container storage and transfer clearly would not be the result of a USACE permit action, and there is no other federal funding, guarantee, other financial assistance, or regulation pertaining to the Project area uplands requiring further expansion of the USACE scope of analysis into this nonfederal portion of the Project area (i.e., minimal federal control and responsibility). Vessel traffic and container throughput have increased and substantial additional increases are expected, necessitating an increased need for cargo-handling areas, such as this one, whether or not a USACE permit is issued. No revisions to the Final EIS/EIR are required.

CBD-38. Please see response to comment CBD-36. The upland area of the Project site represents portions of the Project area that could be developed for container storage and transfer (i.e., nonfederal or private action) entirely independent of the CWA Section 404 and River and Harbor Act Section 10 authorization from USACE (i.e., federal action). The environmental consequences of using this site for container storage and transfer clearly would not be the result of USACE permit action, and there is no other federal funding, guarantee, other financial assistance, or regulation pertaining to the Project area uplands requiring further expansion of the USACE scope of analysis into this nonfederal portion of the Project area (i.e., minimal federal control and responsibility). Vessel traffic and container throughput have increased and substantial additional increases are expected, necessitating an increased need for cargo-handling areas, such as this one, whether or not a USACE permit is issued. No revisions to the Final EIS/EIR are required.

CBD-39. Please see response to comment CBD-36. For this project, the NEPA Baseline is not fixed because the upland area is expected to increase its throughput and impacts regardless of whether a USACE permit is issued. In contrast, the CEQA Baseline is static as normally required by CEQA (i.e., the conditions at the issuance of the NOP). The fact that Project area conditions would change in the absence of a USACE permit underscores the limited federal control and responsibility that exists and the need for a dynamic Project NEPA Baseline.

CBD-40. Please see response to comment DOJ-7.

CBD-41. Please see responses to comments DOJ-5 and CBD-54. The Final EIS/EIR includes new measures that would provide GHG emission reductions that would exceed those proposed in the Draft EIS/EIR. Proposed **Mitigation Measures AQ-2 through AQ-29** represent all feasible means to reduce criteria pollutant and GHG emissions from proposed construction and operational sources.

The Port regards climate change seriously, as evidenced by the number of sustainability programs included in the Green Port Policy. The City of Long Beach is a reporting member of the CCAR and the POLB GHG emissions inventory will become part of the City's overall CCAR inventory. Additionally, the Port is actively involved in tree planting and urban forest renewal efforts as evidenced by participating in the City of Long Beach's Urban Forest Master Plan. The TAP process evaluates a variety of technologies that would reduce fuel usage and GHG emissions from Port operations. If the TAP process determines that an emission control technology is feasible, it will be promoted in the future. Additionally, Final EIS/EIR **Mitigation Measure AQ-25** requires the terminal tenant in 2015 and every 5 years afterwards to review new air quality technological advancements for the purpose of implementing new feasible mitigations.

Please see the discussion of the new **Mitigation Measures AQ-28**, Greenhouse Gas Emission Reduction Program in response to comment DOJ-5. This new measure should result in additional reductions in GHG emissions beyond those that would be achieved through the direct project mitigation measures described above. Additionally, reducing GHG emissions from the transportation sector is an issue that is expected to be addressed at state and federal levels in the near future.

CBD-42. The CTP identified in Final EIS/EIR **Mitigation Measure AQ-8** is the mechanism that the Port would use to control emissions from drayage trucks[21] that call at the Project terminal. This is the case, as given the complexities and difficulties of coordinating with the unconsolidated and highly competitive drayage industry, it is infeasible to further mitigate these emissions through a terminal-by-terminal approach, such as with the measures requested in the comment. In addition, the large number of truck drivers would make this coordination difficult, as 869 licensed motor carriers on 2/24/09 have an executed concession agreement with the POLB (POLB 2009). Many of the proposed measures in the comment are not consistent with the CTP. The CTP specifies that trucks funded by the program have duty cycles that are more efficient for a typical drayage trip as opposed to long haul trucking. Since the CTP in the future would turn over the Port truck fleet to newer vehicles, it would convert the fleet to the most fuel efficient trucks available. However, it should be noted that CTP funded trucks are equipped with tire pressure gauges, as requested in the comment.

The EPA SmartWay creates benefits by reducing drag and improving fuel efficiency. This is achieved by operating at highway speeds for long-haul distances. The truck fuel efficiency/design standards identified in the comment are mainly designed to reduce GHG emissions from long haul truck trips rather than shorter truck trips generated by the Project terminal for the following reasons. The average drayage truck trip length is about 20 miles and travels through local congested roads and freeways. The requested aerodynamic truck designs and reduced rolling resistance measures would not provide substantial benefits for this type of low-speed trip, as the weight added by these measures would counteract their associated fuel usage benefits that only occur at higher speeds. Implementation of the detailed weight reduction measures to the Port truck fleet would be procedurally infeasible, as noted in the first paragraph of this comment response, and would result in negligible benefits. The use of Low viscosity lubricants cannot be enforced by the Port and thus is not being proposed. With respect to drivers training, based on the large number of truck drivers that service the Port, it would be infeasible for the Port to implement a driver training program. However, in the Final EIS/EIR new **Mitigation Measures AQ-28**, Greenhouse Gas Emission Reduction Program, was added achieve additional reductions in GHG emissions beyond those that would be achieved through the direct project mitigation measures described under response to comment DOJ-5. Additionally, reducing GHG emissions from the transportation

21 Drayage trucks are diesel-fueled, heavy-duty trucks that transport containers, bulk, and break-bulk goods to and from ports and intermodal railyards to other locations. https://secure.cascadesierrasolutions.org/downloads/css_library/drayagetruckfactsheet.pdf

sector is an issue that is expected to be addressed at state and federal levels in the near future.

CBD-43. Regarding the incorporation of the requested efficiency/low GHG emission standards into construction and operational equipment, please see responses to comments DOJ-5 and SCAQMD-19. Unmitigated construction activities will use equipment (other than tugboats) that achieve the EPA non-road Tier 3 standards at a minimum. This requirement ensures that proposed construction activities would use relatively new equipment with the highest achievable fuel efficiency rates. Final EIS/EIR **Mitigation Measure AQ-2** also requires Tier 4 standard engines in construction equipment, where feasible, which also would result in the use of the most fuel efficient equipment, since these standards do not take effect until 2011. Final EIS/EIR includes new **Mitigation Measure AQ-2a** to include the BMPs requested by the SCAQMD in comment SCAQMD-14. Some of these BMPs would reduce fuel usage from proposed construction sources. No other feasible mitigation measures are available to reduce GHG emissions from proposed land-based construction equipment.

The Final EIS/EIR air quality analysis assumes that over time unmitigated construction and assist tugboats would turn over to engines that meet EPA Tier 2 through 4 standards. This assumption is consistent with the definition of the future SCAB harbor craft fleet developed by the ARB for implementation of the ARB Commercial Harbor Craft Regulation. Final EIS/EIR **Mitigation Measure AQ-3** also requires Tier 3 standard engines in construction tugboats, where feasible. These assumptions and requirements imply that proposed tugboats used during construction and operation would have relatively new engines with the highest achievable fuel efficiency rates. Additionally, the Final EIS/EIR includes new **Mitigation Measure 3a** at the request of comment SCAQMD-15, which requires all construction tugboats that home port in the SPBP to use electrical shore power. Therefore, no other feasible mitigation measures are available to reduce GHG emissions from these sources.

The most feasible and economical way to comply with Draft EIS/EIR **Mitigation Measure AQ-7** is to replace current CHE with new equipment that achieve the EPA non-road Tier 4 standards. This infusion of new, more fuel efficient engines would minimize GHG emissions from the proposed CHE fleet. Additionally, the Final EIS/EIR includes a new mitigation (**Mitigation Measure AQ-7a**) that would replace all diesel-powered RTGs with electrified RMGs with high efficiency, regenerative drive systems by the end of proposed construction, or year 2020 at the latest. This measure would reduce GHG emissions from proposed CHE sources.

The use of hybrid technology has not been proven for use on CHE and therefore has been determined by the Port to be infeasible. However, this technology is a topic of research for the CAAP TAP process. If the TAP process determines that an emission control technology is feasible, it will be promoted in the future. Additionally, a lease reopener mechanism has been included as part of Final EIS/EIR **Mitigation Measure AQ-25**.

CBD-44. Due to the high costs associated with performing the requested retrofits and the limited reductions in GHG that would be achieved, it is financially infeasible for the Port or terminal operator to retrofit existing OGV (which they do not own or control) with the requested design features, such as bulbous bows and energy recovery systems. Use of these technologies is more economically feasible by implementing on vessel new builds. Vessels typically are built to maximize fuel efficiency and it is expected that new vessels will include the most advanced types of designs for this purpose. The IMO encourages the use of fuel efficiency techniques through their ship efficiency management plan (IMO 2008). Fueling flexibility is a common feature of most modern OGV and it is expected that new vessel builds will include this feature to enable compliance with the latest IMO fuel standards. The application of sky sails to trans-Pacific container vessels has not been demonstrated and therefore they are technologically and economically infeasible at this time. As explained in Navy Ship Propulsion Technologies: Options for Reducing Oil Use – Background for Congress, by Ronald O'Rouke, June 2, 2006, pp. 21-22:

> Sails on masts have certain potential disadvantages. One article states: In unfavorable winds, large masts create a lot of drag. In gales, masts cause ships to heel, sometimes dangerously. ... Loading and unloading is more expensive, since the cranes that lift containers must work around the masts. Engineers designed taller (and more expensive) masts, some exceeding 100 metres in height, to reduce their number and limit the loss of storage space. But the Panama Canal limits masts to 60 metres, and collapsible masts would be prohibitively expensive to build, operate and service. The cost of retrofitting a cargo ship with a row of masts, and strengthening its hull and deck to dissipate the additional stress, was estimated at euro10m ($12.5m).

However, these and other OGV designs are topics of research by the TAP process which is intended to further advance the development of such technologies for future implementation. Additionally, Final EIS/EIR **Mitigation Measure AQ-25** requires the terminal tenant in 2015 and every five years afterwards to review new air quality technological advancements for the purpose of implementing new feasible mitigations.

CBD-45. Regarding the infeasibility of utilizing environmentally differentiated Port fees bases on vessel GHG emissions, please see response to comment DOJ-5. Proposed **Mitigation Measures AQ-2 through AQ-29** represent all feasible means to reduce criteria pollutant and GHG emissions from proposed construction and operational sources.

Please see response to comment DOJ-5 regarding new **Mitigation Measures AQ-28**, Greenhouse Gas Emission Reduction Program Guidelines. This new measure should result in additional reductions in GHG emissions beyond those that would be achieved through the mitigation measures described above. Additionally, reducing GHG emissions from the transportation sector is an issue that is expected to be addressed at state and federal levels in the near future.

CBD-46. Regarding the request to control GHG refrigerants in bulleted paragraph #1, please see response to comment DOJ-5. The terminal operators only perform basic maintenance activities on these systems that are owned by multiple ocean carriers and not themselves. They cannot make decisions on behalf of the owner to make changes to the refrigeration system, such as replacing a refrigerant. Therefore, it is administratively infeasible to implement the requested refrigerant control measures.

Regarding the infeasibility of implementing environmentally differentiated fees or incentive programs, such as mitigation funds, to reduce GHG emissions on vessels, please see response to comment DOJ-5.

Regarding the request for periodic leak inspections for ships, trucks, and trains that use HFC refrigerants, this activity is already carried out by the operators of these vehicles as part of routine maintenance.

Regarding the infeasibility of implementing an HFC-recovery process at the Port, please see the first paragraph of this response.

As part of the TAP program, the Port will be considering strategies for reducing GHG refrigerants from reefers. This mechanism also has been included as part of Final EIS/EIR **Mitigation Measure AQ-25** that requires the terminal tenant in 2015 and every five years afterwards to review new air quality technological advancements for the purpose of implementing new feasible mitigations. Additionally, reducing GHG refrigerants will be considered in the future under the POLB CC/GHG Plan and Final EIS/EIR **Mitigation Measures AQ-28**.

The Draft EIS/EIR analysis assumes that Project reefers 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 2002).

CBD-47. The Port does not contract with third party carriers. Therefore the comment is not applicable to the Project.

CBD-48. Regarding the request to provide additional renewable electrical generation beyond what is proposed in **Mitigation Measure AQ-17**, please see response to comment DOJ-5. The Final EIS/EIR proposes new **Mitigation Measure AQ-17a** that requires the applicant to install carport-mounted PV solar panels over the employee and visitor parking areas to the maximum extent feasible.

The Port's Renewable Energy Working Group is developing strategies to expand renewable energy at the Port. Criteria for emerging technologies will be established so that the technologies can be evaluated in a manner similar to the existing TAP. The Port's Renewable Energy Working Group recently finalized a Solar Energy Technology and Siting Study ("Solar Siting Study") that reviewed available solar technologies and the estimated solar energy generation potential for the entire Harbor District. The study determined that there are many sites within the Harbor District where solar energy generating technologies could be developed on building rooftops and at ground-level. Based on the Solar Siting Study, Port staff are developing a program to provide grant funding to Port tenants for the installation of solar panels on tenant-controlled facilities.

CBD-49. Please see response to comment SCAQMD-22. Implementation of the proposed terminal systems and **Mitigation Measure AQ-10** would maximize terminal efficiencies and they would keep truck idling to less than what was assumed in the air quality analysis.

AB 2650, codified as Health and Safety Code Section 40720, already requires shipping terminal operations to limit truck idling to no more than 30 minutes, as requested in the comment. The SCAQMD enforces this regulation, but despite months of monitoring they have not cited anyone for a violation of this requirement in the POLB/POLA. The terminal operator would be required to enforce this law as part of their general operations.

It is impractical to limit truck turnaround time to 30 minutes, since while the proposed appointment system would minimize this situation from occurring, disturbances to the cargo handling activities within the terminal could cause longer turnaround times.

The enforcement mechanisms for **Mitigation Measure AQ-10** are included in Section 3.2.4 of the Final EIS/EIR. The terminal would be required to make available to truckers an appointment system such as eModal or Voyager Tracker to manage truck arrivals at the gate. This system would allow trucks to schedule their arrival for a specific period. In addition, marine container terminal gates are now highly automated and allow trucks to quickly move through the gate and into the terminal.

The requested measures for truck plug-ins and comfort stations to minimize truck idling on site are impractical, as trucks would not stay in one location long enough to take advantage of these measures and is in direct conflict with gate operations.

Regarding the requested measure for a mandatory logistics software tracking system, Final EIS/EIR **Mitigation Measure AQ-10** includes a requirement to implement such a system.

CBD-50. Regarding the request to use recycled materials whenever possible in the construction phases of the Project, Section 1.7.3 of the Draft EIS/EIR identified that Project construction proposes the beneficial reuse of construction-generated materials. Additionally, Final EIS/EIR

Mitigation Measure AQ-18 includes a requirement to use recycled materials in the Project terminal buildings.

CBD-51. The requested implementation of monitoring of hull efficiencies on Project OGV is already practiced by shippers worldwide, as they are aware of the benefits they provide to fuel savings. These measures also are promoted by the IMO (IMO 2008). Therefore, is it unnecessary to require these measures as specific mitigations in the Final EIS/EIR or the Project terminal lease agreement, as they are currently part of routine operational procedures for shipping activities and they can not be enforced by the Port or terminal operator.

CBD-52. Please see response to comment DOJ-5. The Port participates in the City of Long Beach's Urban Forest Master Plan. Additionally, the Final EIS/EIR proposes new **Mitigation Measure AQ-19a**, Tree Planting – Transportation Corridors that requires the Port to plant new shade trees on Port-controlled lands adjacent to the roads into the Middle Harbor container terminal to the extent practicable given safety and other land use considerations.

CBD-53. It has not been demonstrated that an electric tug could perform the assist operations needed by Project OGV. Therefore, this technology is currently infeasible.

Note that within the jurisdiction of the Project, neither the Port or tenant contract directly with the tug assist operator. When tugboats complete OGV assist activities at the Project berths, they either return to their home berth or transit to another assist operation. Tugboats are rarely if ever "not in use" at the Project berths and therefore it is impractical for these vessels to use shore-side power at the Project berths. However, tugboat operators that home port within the SPBPs are considering the use of cold-ironing at their home berths, per CAAP measure HC1.

CBD-54. The comment recommends optimization of cranes to fully utilize regenerative power. Dock cranes today typically are equipped with regenerative systems, so this is a feasible measure. The Final EIS/EIR includes new **Mitigation Measure AQ-27**, electrical regenerative systems on dock cranes, which requires the terminal operator to have these systems on all Project dock cranes in Project year 1.

AQ-27. Electrical Regenerative Systems on Dock Cranes. Port will require that the terminal operator to have electric regenerative systems on all Project dock cranes in Project year 1.

Regarding electrification of other CHE, please see responses to comments SCAQMD-19 and CBD-43. Final EIS/EIR **Mitigation Measure AQ-7a** proposes the replacement of all Project diesel-powered RTGs with electric-powered RMGs by 2020. This measure also requires each RMG to include regenerative drive systems. However, electrification of other CHE is deemed economically infeasible at this time. Nevertheless, to promote an ongoing evaluation of future air emission control technologies, Final EIS/EIR **Mitigation Measure AQ-25** requires the terminal tenant in 2015 and every five years afterwards to review such advancements for the purpose of implementing new feasible mitigations.

CBD-55. Regarding the electrification of yard hostlers and drayage trucks, please see responses to comments SCAQMD-19 and SCAQMD-20.

CBD-56. The comment states that the Port should commit to researching efficiency and design improvements to containers. Container weights, structures, and refrigeration systems are designed to industry standards. The Port is very supportive of a redesign of containers to reduce the energy needed to transport, handle, and refrigerate them. However, the Port is not in the business of designing or manufacturing containers and requiring new container design on a project-specific basis is infeasible. Due to the fact that multiple ocean carriers make use of a single marine terminal, it would not be feasible to implement the requested measures outside of the industry standard process. With regard to the infeasibility of implementing the requested refrigerant control measures on refrigerated containers handled at the Project terminal, please see response to comment CBD-46.

CBD-57. Other equipment at the Project terminal are designed to industry standards. In addition, since most of the crane weight is associated with the support structure, it is unclear how weight reductions would reduce GHG emissions on an ongoing basis.

CBD-58. Regarding the request to install photovoltaic panels beyond what is proposed in **Mitigation Measure AQ-17**, please see responses to comments DOJ-5 and CBD-48.

CBD-59. Regarding the request to further reduce Project GHG emissions by contributing to GHG offset programs, please see response to comment DOJ-5**.** The Final EIS/EIR includes new **Mitigation Measure AQ-24**, Offsite GHG Mitigation, which requires the terminal tenant to use green commodities, such as those available from the CCAR's Climate Action Reserve, to offset carbon emissions from electrical consumption at the terminal. This commitment includes a not to exceed annual cap on expenditure for purchased offsets based on a percentage of electricity costs.

CBD-60. The comment states the Port should establish measures to monitor and control black carbon. The POLB (and POLA) has done limited monitoring for black carbon in their ambient air quality monitoring programs through the analysis of filter-related particulate monitors. At both POLB monitoring stations, the POLB collects 24-hour average $PM_{2.5}$ samples on filter-based particulate monitors. These filters have been analyzed for elemental carbon by the Desert Research Institute, a leading particulate laboratory that is part of the University of Nevada. Elemental carbon is the equivalent of black carbon. The particulate filters are archived and can be analyzed in the future if need be. There are also real-time instruments that measure black carbon (aethalometers) that have been deployed at several of the Ports area monitoring stations by the SCAQMD. These data are available for review by the public. Therefore, no further monitoring of this compound is deemed necessary.

Please see responses to comments CBD-32 and CBD-33. The Final EIS/EIR includes all feasible measures to mitigate Project emissions of DPM (of which black carbon is a subset) from proposed construction and operational emission sources. The Project air quality analysis also adequately considers the health effects of Project emissions of DPM and, therefore, black carbon for NEPA/CEQA purposes.

CBD-61. Please see response to comment CBD-60. As the implementation schedules for DPM mitigation measures proposed in the Final EIS/EIR are already very aggressive, further acceleration of these schedules would make their implementation less feasible. Regarding the infeasibility of accelerating **Mitigation Measures AQ-2, AQ-3, and AQ-5**, please see responses to comments USEPA(B)-18, USEPA(B)-19and CBD-10.

CBD-62. Please see response to comment CBD-60. In the past, the Port has conducted source testing to gain a better understanding of source emission rates from Port operations. Source testing will be an ongoing research topic of the TAP.

CBD-63. Please see responses to comments CBD-22 and CBD-60.

CBD-64. Regarding the infeasibility of accelerating the schedule of **Mitigation Measure AQ-5**, please see response to comment CBD-10. Regarding the infeasibility of implementing diesel emissions reduction measures on OGV engines, please see responses to comments SCAQMD-23 and SCAQMD-24. Implementation of the truck and locomotive diesel emission reduction strategies identified in the comment to OGV would be more infeasible than the ones suggested in comments SCAQMD-23 and SCAQMD-24. This is the case, as OGV engines are substantially larger and engineered much differently than land-based vehicle engines.

CBD-65. Commenter states that the Port is a major contributor to the egregious traffic conditions on I-710, and that the Draft EIS/EIR takes too narrow a view of traffic impacts by not analyzing the impacts of the Project north of Anaheim Street, fails to consider non-road improvement mitigation measures, and fails to describe traffic mitigation measures in adequate detail.

The traffic analysis in the Middle Harbor Draft EIS/EIR does analyze Project impacts on highway segments north of Anaheim Street, including those impacts concerning the I-710. The traffic analysis was prepared in accordance with CEQA guidelines and complies with City of Long Beach procedures and CMPTIA procedures. Mitigation measures within the Harbor District have been developed as part of the monitoring program. These mitigation measures (which are limited to road improvements because there are no significant rail impacts from the Project) address all significant impacts of the Project that are within the power of the Port to impose. The Port cannot unilaterally impose specific mitigation measures concerning the I-710, as these measures would be within the jurisdiction of Caltrans. Nevertheless, the Port has not ignored the regional impacts of the Port operations, and has committed to pay its fair share towards highway improvements that will mitigate impacts caused by the Project once Caltrans formulates the scope and cost of such improvements.

The Port is committed to working with Caltrans and regional transportation agencies to improve the transportation system and mitigate the impacts of goods movement (Draft EIS/EIR Section 3.5.2.3[Impact TRANS-2.1]). Such commitment is reflected in the Port's $5 million financial contribution to the on-going I-710 Corridor Project EIR/EIS, along with the implementation in 2009 by POLB/POLA of the ATMIS project, which will help mitigate the I-710 impacts of the Project, and POLB's cooperation with the Gateway Cities Council of Governments' initiation of the SR-91 Corridor Study, which will improve traffic conditions on that freeway. As stated in the Draft EIS/EIR, the Port does not own, control, or maintain any of the impacted highway segments, and cannot unilaterally implement any mitigation measures without the consent of Caltrans. Therefore, the Port is working with Caltrans and other jurisdictions to jointly develop a mitigation plan, and has committed to assume the proposed Project's fair share of necessary improvements as set forth in Draft EIS/EIR Table 3.5-23.

In addition, the overall anticipated growth in container throughput in both POLB and POLA, and associated traffic impacts, are included in the current SCAG Regional Transportation Plan. The Port also partners with regional transportation agencies in pursuing state and federal funding to improve freight movement. This collaborative approach in addressing the region's transportation needs is reflected in the Multi-County Goods Movement Action Plan (MCGMAP) and the State's Goods Movement Action Plan. In addition, the Port has implemented off-peak incentives to shift truck traffic to nighttime operations and will continue to support such initiatives.

Both ports work with regional transportation agencies, as indicated by the "Southern California National Freight Gateway Collaboration Agreement" that the Ports entered into on October 12, 2007. The goal of the collaboration is to improve sustainable and efficient freight transportation operations in the southern California region, while protecting and enhancing health and safety, air quality, and the well-being of adjacent communities. As pointed out in the Draft EIS/EIR, the proposed Project would not result in significant Los Angeles County CMP impacts at freeways near the Port (measured by subtracting future without Project trips from future with Project trips). That is, Project-related traffic at northbound I-710 at Willow Street would be well below the CMP threshold of 150 peak-hour trips (there would be 92 a.m. peak-hour trips and 121 p.m. peak-hour trips). Hence, no mitigation is required under the CMP guidelines. In fact, no analysis is even required if below 150 peak-hour trips. Nevertheless, as stated, the Port is committed to working with Caltrans and regional transportation agencies to improve the transportation system and mitigate the impacts of goods movement (Draft EIS/EIR Section 3.5.2.3). Such commitment is reflected in the Port's $5 million financial contribution to date to the on-going I-710 Corridor Project EIR/EIS. The Port's commitment to contribute a fair share would apply to any I-710 improvement plan ultimately adopted that would address impacts of the Middle Harbor Redevelopment Project.

Please see responses to comments RCTC-2 through RCTC-4, CT-3, CT-4, CC-7, CBD-67, CBD-68, CEHJ-2, and LBUSD-17.

The Project reviewed, but did not include, non-road mitigation measures above and beyond the on-dock rail included in the Project. Refer to response to comment CBD-69 response regarding transit use. Refer to response to comments SCAQMD-7, SCAQMD-27, CBD-20, CBD-71, CSE(A)-4, and CSE(B)-3 for additional information about Maglev and electrified rail.

CBD-66. Commenter erroneously asserts that (i) the Draft EIS/EIR understates traffic impacts because the study area is too small, and arbitrarily excludes large sections of freeways that will be affected by increases in Port-related traffic; (ii) the I-710 carries 25,000 port truck trips per day south of the I-405, 20,000 north of the I-405, 15,000 north of Route 91, and 11,600 north of I-105; and consequently; and (iii) the study area should be expanded through Commerce to SR 60.

The Project study area appropriately reflects the area of potential impact. The boundaries were selected by applying the Los Angeles County CMP Traffic Impact Analysis guidelines. The CMP requires analysis of any freeway segments where a project will generate more than 150 trips in one direction during the peak hour. The CMP defines project trip generation as the difference between the "Future with Project" and the "Future without Project." The Project went a step further than the CMP requirement and compared the "future with project" to the 2005 CEQA Baseline, a more conservative approach that resulted in a finding of significant impacts. As shown in the table in response to comment CC-3, the Project would not significantly impact the City of Commerce in accordance with City of Commerce and the Los Angeles County thresholds of significance. Furthermore, the total number of total future Project trips compared to the 2005 CEQA Baseline does not exceed 150 trips in any one direction on the roadways that the Commenter is requesting for additional analysis. Refer to response to comment CC-3 and CC-5 for additional information regarding traffic volumes in and near Commerce. The Project would not significantly impact the City of Commerce in accordance with City of Commerce and the Los Angeles County thresholds of significance. Refer to response to comment CC-3 and CC-5 for additional information regarding traffic volumes in and near Commerce.

CBD-67. Erroneously asserting that the Port's commitment to paying a fair share to Caltrans mitigations is insufficient and vague, commenter states that the Draft EIS/EIR fails to identify several feasible traffic mitigation measures, and needs to include a specific list of measures.

Please refer to responses to comments CT-2 through CT-4, RCTC-2 through RCTC-4, CC-7, CBD-65, CBD-68, CEHJ-2, and LBUSD-17 for a discussion about fair share for the I-710 Corridor Project.

Commenter should keep in mind that the Draft EIS/EIR does **not** conclude that the Project's impacts on highway segments is reduced to less than significant because of the mitigation measures imposed on the Port to pay its fair share of future improvements. Since those improvements have not yet been identified and are under the jurisdiction of another agency, it would be impossible to make such a finding. Thus, the Draft EIS/EIR concludes that the Project's impacts to certain highway segments are significant and unavoidable, and to approve the Project, the Board of Harbor Commissioners will have to approve a Statement of Overriding Considerations, finding the benefits of the Project outweigh the identified unavoidable significant impacts. Commenter asks the Port to do the impossible – address and mitigate at a Project EIR stage, regional problems that need to be addressed, and are being addressed and mitigated, on a regional level. As reflected in the MCGMAP and the State's Goods Movement Action Plan, the region needs a holistic approach to addressing freight needs. The Port cannot specify what exact mitigation measures will be developed for the I-710 corridor, because those measures are still being formulated by Caltrans and the other agencies involved in addressing the I-710 problems. The Port's participation in the numerous regional programs and studies referenced in the Draft EIS/EIR and response to comments RCTC-2, CR-14, and CBD-65 demonstrates its commitment to addressing and mitigating the Port's environmental impacts, not only from this Project, but at a regional, cumulative level.

Furthermore, the fair share calculation applied in the Draft EIS/EIR is more conservative than Caltrans' calculation and commits the Project to providing a greater share than would be required by Caltrans. The Los Angeles County CMP Traffic Impact Analysis guidelines utilize the typical traffic impact analysis methodology that measures the "Future with Project" traffic against the "Future without Project" traffic to determine a project's traffic impacts. This is the methodology used by most cities in Los Angeles County for determining traffic impacts on freeway segments, at CMP intersections, and on freeway on- and off-ramps. As stated in the Draft EIS/EIR, the future Project condition will result in only 518 more daily truck trips than the future No Project condition.

As stated, however, the Draft EIS/EIR for the Project utilizes a more conservative methodology to determine impacts, which compares "Future with Project" traffic conditions to the 2005 CEQA Baseline, rather than comparing the difference between the future with and without Project traffic conditions. This very conservative approach does not take into account either the traffic that will occur or the highway improvements that will be constructed even were the Project not approved. Use of this very conservative methodology resulted in a finding of unavoidable significant traffic impacts at the I-405 north of the I-710 (NB and SB); south of the I-710 (NB and SB); the I-710 between Willow and PCH (NB and SB); the I-110 north of C Street (NB); the SR-91 east of the I-710 (EB and WB); and the SR-91 west of the I-710 (EB and WB Draft EIS/EIR.Section 3.5.2.3. The Project's fair share contribution was based on this analysis.

More detailed information regarding CMP analysis and Caltrans fair share calculation is provided in other responses referenced below.

The Port is also in the process of reviewing possible 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 functionally or financially feasible. Pursuant to its commitments under CAAP, the Port is exploring technologies for a potential zero-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 railyardrailyards.

Please also see responses to comments SCAQMD-27, CBD-20, CBD-71, CBD-100, CSE(A)-3, CSE(A)-4, CSE(B)-3.

CBD-68. Commenter states that the Port and Caltrans have no guarantee that they will agree on the magnitude of traffic impacts from the Project. Moreover, the Draft EIS/EIR does not describe how the agencies plan to enforce traffic mitigation measures.

Please see responses to comments RCTC-2, CT-2 through CT-4, CC-7, CR-14, CBD-65, CBD-67, CEHJ-2, and LBUSD-17.

CBD-69. Commenter states that the Port can increase public transit service to reduce traffic.

The Project is not required to mitigate existing conditions or impacts that are not significant. As stated in Draft EIS/EIR Section 3.5.2.3 (Impact Trans-3.1), the Project impacts on transit services would be less than significant, and therefore no mitigation is required.

Further, increased public transit would not take Project trips off the road. The public does not travel to the Project site. The vehicle traffic generated by the Project will be largely truck

traffic that would not involve public transit, and terminal operators currently operate shuttles to transport longshoremen to the terminals when ships arrive. This practice will continue and is part of the CAAP that the Port will continue to enforce through leases with the terminal operators. Therefore, increased transit service would not address Project traffic issues.

CBD-70. Commenter states that the Port can improve truck efficiency — and reduce truck traffic — by having trucking companies own trucks and assign a single truck to different drivers on multiple shifts. This would reduce the amount of commute-only truck trips.

As part of the CAAP, the POLB and POLA implemented a CTP in October 2008. The program imposes fees on trucks older than 1989 models and provides funding to assist with the purchase of new, cleaner-burning trucks. In addition to the replacement program, the POLA included a concession, similar to the commenter's request, that requires drivers to be hired by a trucking company that would own and operate the trucks. The POLB adopted a very similar concession, except that it permits non-employee owner operator drivers to continue operating at the Port. The current drayage system in the ports of San Pedro Bay is overwhelmingly based on owner operators. Long Beach felt that allowing this model to continue while requiring newer trucks and subsidizing their purchase would be the best mechanism to move to a clean and sustainable drayage fleet. Los Angeles chose the employee model to pursue this end. It is too early to tell which policy choice is the most successful in practice. However, the Los Angeles model has been more controversial and has been a particular focus of litigation by the America Trucking Associations (ATA) and the Federal Maritime Commission (FMC).

Commenter's claim that the employee-model improves truck efficiency and reduces truck traffic is unsubstantiated. There have not been any comprehensive studies supporting a finding that the employee-model reduces commute-only truck trips. Nor have there been documented findings on efficiency differential since an owner-operated truck could also be used for multiple shifts. In fact, under the POLA concession more personal trips by truck drivers will likely occur as they commute to and from work site for their shifts. Such increase in personal trips would simply shift traffic congestion from one region to another and yield no environmental benefit.

CBD-71. Commenter states that increased use of on-dock rail and Maglev would mitigate traffic. In addition, the Port could construct an intermodal facility on its property to make it easier to transfer cargo from trucks to rail. The import car lot off Anaheim Street is one potential place to build such a facility. Since these options have not been shown to be infeasible, they must be implemented.

The proposed Project will include 47 acres of on-dock rail capacity. The expanded Pier F intermodal railyard would reduce a significant number of trucks on congested roadways. Please see response to comments SCAQMD-7 and CBD-20 for more detailed information about maximization of on-dock rail. By replacing locomotives with new, cleaner-burning locomotives that meet EPA's Tier 3 and Tier 4 locomotives, the proposed Project's on-dock rail operations will be both physically and financially feasible while improving air quality. For the reasons set forth in response to comments SCAQMD-27 and CSE(A)-3, Maglev is not a feasible mitigation for the Project, technologically, physically, or financially at this time.

The use of Port terminals is bounded by long-term lease agreements. Commenter's assertion that an intermodal facility should be constructed on the import car lot off Anaheim Street is financially and legally infeasible as it would significantly and negatively interrupt tenant operations. The Port is exploring options for an intermodal facility, such as an expansion of the Pier B railyardrailyard, ICTF, and enhancements to the Port's rail system (listed as item 10 in Table 2.1-1). Also, a near-dock project, the Southern California International Gateway (listed as item 23 in Table 2.1-1) is under consideration. These two projects are in the planning stage. Environmental analyses will be required for these proposed projects; therefore, it is not feasible to include them as mitigation measures for the Project. See response CEHJ-2 for more information about proposed near-dock facilities.

CBD-72. As discussed in responses to comments CBD-73 through CBD-80, the Draft EIS/EIR provides an adequate analysis of noise impacts for NEPA/CEQA purposes. The document uses approved criteria that are set forth in Section 8 of the LBMC. The noise measurement locations identified in the Draft EIS/EIR, including Cesar Chavez Park, were selected based on the proximity of sensitive receptors to the Project site and regional transportation corridors. The document incorporates project-specific and cumulative analyses for all potential noise sources associated with proposed construction and operational activities that would potentially affect surrounding sensitive noise receptors. In addition, the Draft EIS/EIR identifies mitigation measures to reduce impacts determined to be significant.

The Port also has developed the Schools and Related Sites Program to help mitigate cumulative noise impacts from Port operations, including the Middle Harbor Redevelopment Project. The program: (1) establishes eligibility criteria for potential applicants based on facility type and proximity to the SPBP; (2) provides metrics that will be used to assess a proposed project's noise impact mitigation potential based on established regulatory mitigation programs, recent scientific information on noise impacts, and the proven effectiveness of proposed education/outreach programs; and (3) explains how the Port Board of Harbor Commissioners will choose among eligible proposals and approve funding. Please see response to comment USEPA(B)-8 for additional details.

CBD-73. The comment asserts that the Project underestimates potential noise impacts by using inaccurate significance criteria. As clarified in Final EIS/EIR Section 3.9.1.2, the specified three dBA increase in ambient noise levels is an industry standard criterion for the threshold of audibility that is widely used in the environmental review process by local agencies.[22]

A healthy human ear is able to discern changes in sound levels of one dBA in a very quiet environment. However, it is widely accepted that changes of three dBA 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. Also, as the comment notes and as indicated in Draft EIS/EIR Section 3.9.1.2 (Tables 3.9-4 and 3.9-5), ambient noise at sites near main streets and the I-710 generally exceed the LBMC noise limits for predominantly residential areas. While the Draft EIS/EIR concludes that the impacts are less than significant because the increment attributable to the proposed Project "would not increase ambient noise levels by three dBA", the actual amount by which the proposed Project would increase noise levels is no more than 0.5 dBA. (Draft EIS/EIR, Section 3.9 (Table 3.9-9) [compares 2020 Alternative 1 (0.9) and Alternative 4 (0.4) at Site 2 in the PM – all other differences are 0.4 or less]). Final EIS/EIR Section 3.9.2.3 has been modified to note that the increment is actually 0.5 dBA or less. This level is virtually undetectable by the human ear, and is therefore considered less than significant even though ambient levels are above the LBMC limits.

The comment confusingly states that "this level [11 dBA] results in a doubling of loudness when compared to the maximum allowed under the LBMC." Actually, a doubling of sound pressure level results in an increase of three dBA, that is, two equal noise sources (e.g. two 60 dB sources) at the same location, when combined, will produce a sound pressure level that is three dB higher than each by itself (63 dB total for both together). The doubling of loudness as perceived by the human ear requires an increase of 10 dB. The primary issue is the *perception* of the noise level by the human ear. While the dBA scale goes lower than the three dB threshold, levels below three dB fall generally into the imperceptible range and levels below 0.5 dB, therefore, would not constitute significant perceptible changes.

22 Examples of Guidelines or Environmental Documents using the three dBA standard include: County of Ventura Initial Study Guidelines; City of Santa Barbara Initial Study Guidelines; Final and Draft EIR - Riverview Offices Project (City of Del Mar; State Clearinghouse Number: 2007091007); Parklands Specific Plan EIR (City of Ventura; State Clearinghouse No: 2008031082); County of Riverside Public Safety Enterprise Communication Project Draft EIR (County of Riverside; State Clearinghouse No. 2008021126); Final EIR No. 06.03 for the Oxnard Village Specific Plan Project (City of Oxnard, State Clearinghouse Number: 20066101099). The three dB threshold is also generally accepted in the acoustic profession as an appropriate and widely applicable threshold of detection for human hearing (FHWA 1995).

Furthermore, the Draft EIS/EIR appropriately acknowledges that the Project's cumulative contribution to existing noise levels during construction would be significant and unavoidable after implementation of proposed mitigation measures (Draft EIS/EIR Section 3.9.3).

Please see response to comment LBUSD-19 for additional details.

CBD-74. Final EIS/EIR Section 3.9.1.2 has been revised to include additional information on the potential health effects of noise on people. Please see response to comment CBD-80 for additional details. The noise survey that was conducted as part of the proposed Project appropriately quantified ambient noise levels in the Project vicinity. This information was used to characterize the existing noise environment and establish baseline conditions (CEQA Guidelines Section 15125 [a]). The acoustics of human hearing are well understood. While attitudes to noise may be of interest to some, such attitudes are subjective and variable over time. In contrast, the purpose of the noise impact analysis in the EIR is to assess the actual documented effects of noise on potential receptors, now and in the future, not to identify current attitudes towards existing noise levels. Therefore, the recommended community attitude study is not required or appropriate to establish baseline noise conditions.

CBD-75. The significance criteria used in the Draft EIS/EIR are based on an industry standard developed to measure the point at which noise from a particular project is first perceptible to the human ear. Three dBA is an appropriate standard because most people will not detect any change in noise level that is less than three dBA. Please see response to comment CBD-73 for additional details.

The comment recommends using "all" of a series of four inconsistent documents or threshold sources "to adequately address residents' existing noise concerns or to discuss the adverse effects that noise has on people." The "existing noise impacts experienced by residents" are documented in Draft EIS/EIR Section 3.9.1.2 (Tables 3.9-4 and 3.9-5). As noted in response to comment CBD-74, community attitudes do not represent actual noise impacts and would not be appropriate for assessing acoustic effects of the Project. The 1974 EPA noise "regulation" cited in the comment specifically states under the main heading that "It does not constitute a standard, specification, or regulation." This document was an early attempt to provide guidelines to local jurisdictions for the establishment of noise standards. It was not intended as an impact assessment guide. While it contains a great deal of information from 1973 and before, the EIS/EIR has adopted more current practices for impact analysis. Finally, the EIS/EIR does employ the LBMC, which is more current that the EPA's guidance and consistent with widely utilized noise impact procedures for EIS/EIR documents. Therefore, no revisions to the Final EIS/EIR are required.

CBD-76. The comment suggests that noise monitoring on Site 3 does not adequately represent noise levels at adjacent sensitive receptors. The comment fails to recognize that the residential receptors near Cesar Chavez Park are farther from the Project and the freeway than the Park. Since noise attenuates with distance, Project-generated noise levels at residential locations near the Park would be lower than those estimated at the Park itself. The sound wall attenuates existing traffic noise, and is therefore reflected in the existing ambient measurements. The Project impact analysis, based as it is on a closer receptor, therefore overstates the Project impacts and likewise conservatively assesses the potential impacts on the residential areas near the Park. It therefore is appropriate to use the Park as a surrogate for an actual residence in the neighborhood. As stated in Draft EIS/EIR Section 3.9.2.3, since these sensitive receptors are located outside Port property and a substantial distance from Middle Harbor, operational noise sources generated at the Project site would not increase noise levels at these locations. No revisions to the Final EIS/EIR are required.

CBD-77. The comment asserts that the Draft EIS/EIR "… omits numerous sources from the acoustical model." This may be based on a misunderstanding of how (1) a "road traffic model" was used for traffic noise, and (2) generalized noise and vibration attenuation calculations were applied for other noise sources, including operational noise from future Middle Harbor activity.

Port operations were assessed, including transportation impacts and onsite operations,(Draft EIS/EIR Sections 3.9.2.3). Attention was focused on transportation noise because that would occur in much closer proximity to sensitive receptors than port operations. Table 3.9-9 assesses transportation noise related to the project in considerable detail. However, Port operations in the harbor and wharf area would be comparable in intensity to existing conditions. Because the distance between Middle Harbor operations and the sensitive receptors is considerable, and the increment of noise expected compared to current conditions is expected to be negligible, the impact of Port operations absent transportation noise was considered too small to quantify. However, Project-related truck and rail traffic would generate noise levels adjacent to sensitive receptor sites on local surface streets and the Port's perimeter roadways, including I-710, Harbor Scenic Drive, Pico Boulevard, and PCH. Accordingly, these increases in road traffic noise level at each receptor site were quantified and included in the acoustical modeling. The Project's contribution to traffic noise would not exceed 0.5 dBA at any location. (Draft EIS/EIR, Section 3.9 (Table 3.9-9) [compares 2020 Alternative 1 (0.9) and Alternative 4 (0.4) at site 2 in the p.m. – all other differences are 0.4 or less].)

CBD-78. The comment correctly notes that construction noise impacts at sensitive receptor sites (Sites 3 – 7) would be reduced to less than significant levels due to distance attenuation, intervening development, and topography. Although Site 3 (Cesar Chavez Park) is located approximately 1,500 feet from the northeastern site boundary, this site is located approximately 3,500 feet from the in-water construction areas where pile driving activities would occur. Sites farther away from Middle Harbor operations than Site 3 would experience even lower impacts due to the greater distance and attenuation and therefore could not experience significant impacts if closer locations do not. Thus, it is unnecessary to formally analyze the impacts to more distant sites. Please see response to comment CBD-77 regarding transportation noise which was formally assessed for Sites 3-7 because of their proximity to the I-710 (Draft EIS/EIR Section 3.9.2.3 Table 3.9-9). No revisions to the Final EIS/EIR are required.

CBD-79. Please see response to comment CBD-77. The Draft EIS/EIR provides an adequate analysis of noise impacts for NEPA/CEQA purposes. The Draft EIS/EIR incorporates a Project-specific analysis for all potential noise sources generated by proposed operations that would potentially affect surrounding sensitive noise receptors. The Draft EIS/EIR has appropriately evaluated the Project's environmental effects on noise and identified mitigation measures to minimize significant environmental impacts to the extent feasible.

The comment incorrectly asserts that "the documents [sic] analysis of impacts related to operational noise dismisses entirely the residential communities surrounding the Port…" The Draft EIS/EIR evaluates operational impacts to residential communities as described in response to comment CBD-75, above, by using Cesar Chavez Park as an appropriate surrogate for the residential communities in Long Beach. Final EIS/EIR Section 3.9.1.2 has been revised to clarify this issue. The Park is closer to the location of Port activity than the residential communities. Again, since point source noise attenuates with distance at an exponential rate, small increases in relative distance result in much larger relative reductions in sound pressure level. Therefore, once a suitable location at a suitable distance has been evaluated and the impact found to be less than significant, that conclusion can reasonably be applied to any other location the same distance or further from the project source.

CBD-80. The comment asserts that the Draft EIS/EIR "also understates appropriate noise limits and ignores other relevant indicators of their significance." While this comment again mentions EPA's 1974 document, as explained in response to comment CDB-75, more recent models and sources, such as the LBMC, were used in the noise evaluation of this Project. The comment further asserts that communication interference, sleep interference, and physiological responses and annoyance were not considered in the EIS/EIR and suggests that the consequences of these effects in humans are well understood and settled. However, research of available scientific information reveals that studies are inconclusive on many points related to

human health effects of noise. Additional text has been added to Final EIS/EIR Section 3.9.1.2 to expand upon the human health aspects of noise including the following:

> A number of studies have linked increases in noise with health effects, including hearing impairment, sleep disturbance, cardiovascular effects, psychophysiological effects, and potential impacts to fetal development (Babisch 2006). Potential health effects appear to be caused by both short and long term exposure to very loud noises and long term exposure to lower levels of sound (chronic exposure). Acute exposure to sounds of at 120 dB can cause mechanical damage to hair cells of the cochlea (the auditory portion of the inner ear) and hearing impairment (Babisch 2005). As noted in Draft EIS/EIR Section 3.9.1.2 (Table 3.9-2), 110-115 dB is the noise level associated with a rock concert or a jet plane flying overhead at 300 meters.
>
> The WHO and EPA consider L_{eq} = 70 dBA to be a safe daily average noise level for the ear. Some research has suggested that even this "ear-safe" level may cause disturbance to sleep and concentration and may be linked to chronic health impacts such as hypertension and heart disease (Babisch 2006). A number of studies have looked at the potential health effects from the sound of chronic lower noise levels, such as traffic, especially as these noise levels affect children. In a study of school children in Germany, blood pressure was found to be 10 mmHg higher in a group of students exposed to road traffic noise from high traffic transit routes (Babisch 2006). A study by Kawanda (2004) showed that in pregnant women, exposure to airplane noise was found to be associated with decreased fetal body weight.
>
> However, a meta-analysis of 43 epidemiological studies of the association between noise exposure and blood pressure and ischemic heart disease (van Kempen et al. 2002) found no statistically significant correlation between community exposure and heart disease, although small but statistically significant correlations were found for occupational exposures. This paper found a positive correlation between high blood pressure and elevated noise exposure in the workplace. It was not, however, able to identify a threshold above which significant health effects could be expected to occur in the general population. The meta-analysis concludes that "epidemiological evidence on noise exposure, blood pressure, and ischemic heart diseases (IHDs) is still limited" (van Kempen et al. 2002). Extending upon this and other studies, Babisch (2006) concluded that evidence of health effects related to hypertension and IHDs has increased in recent years, although other health effects have not been clearly demonstrated.

In conclusion, there appears to be a relationship between exposure to higher than normal noise levels and some health effects, although the evidence is inconsistent at this time. Recent research has not unequivocally identified community noise levels above which specific health effects may occur. In the absence of more definitive research, a level of 120 dBA may be a suitable threshold above which acute exposure would be health threatening. Similarly, chronic exposures above the 70 dB threshold used by the WHO and EPA may potentially be health threatening.

Finally, the commenter notes, without citation, a study that suggests that a 75 dBA interior noise level would cause sleep deprivation in 30 percent of the cases. Assuming this fact to be true, it is not directly relevant in this instance because the noise study results indicate that such an interior noise level is highly unlikely as a consequence of the proposed Project.

CBD-81. The comment incorrectly asserts that the Draft EIS/EIR failed to accurately evaluate impacts on hydrology and water quality. The proposed new Middle Harbor facilities are all related to shipment of containers. These containers are unloaded/loaded using on-dock cranes. The containers are temporarily stored in the associated backlands, and imports are transferred to trucks or rail for shipment outside the Port. No liquid-bulk cargo, such as petroleum products, or other bulk cargo of any kind would be loaded or unloaded at the Project berths. The new facilities are designed to handle container cargo in a safe and efficient manner. No revisions to the Final EIS/EIR are required.

CBD-82. This comment suggests that the Draft EIS/EIR failed to evaluate impacts associated with stormwater runoff. Based on the past hazardous material spill history described in Draft EIS/EIR Section 3.10.1.2.(Past Accidents and Spills), and the estimated average maximum throughput at the Project facilities, less than two accidents per year are predicted to occur as a result of container handling. Due to the localized nature of these accidents and the low annual rainfall at the Project site, it is very unlikely that hazardous material spills would enter the harbor. Moreover, the potential for spills of hazardous materials to enter the harbor in storm water runoff is extremely low because the spill would have to occur on one of the few days each year when rain falls. Samples taken at POLB storm drains in 2005 (MBC 2005) and 2006-2007 (MBC 2007) found no exceedance of water quality standards or objectives in receiving waters (i.e., the harbor). Therefore, Project activities are unlikely to result in runoff of pollutants at concentrations that would cause harbor waters to exceed water quality standards. No revisions to the Final EIS/EIR are required.

CBD-83. Please see response to comment CBD-82. The Project would not change the type of activities that occur in the harbor or the type of pollutants that could occur in runoff. Although the amount of land surface would be increased, this would not increase the amount of pollutants entering harbor waters from aerial deposition because the deposition that currently occurs on the water surface to be filled would subsequently be on the new landfill surface and be washed off by rainfall. In addition, the continued use of existing pollution controls and implementation of improved storm drain infrastructure on the new fill areas would reduce the potential for pollutants to enter the harbor (Impact WQ-1.3 in the Draft EIS/EIR). Although Project operations would result in additional truck and rail activities, the potential for associated aerial deposition would be reduced by adherence to agency regulations and proposed mitigation measures that would reduce DPM emissions. Furthermore, all tenants would be required to comply with pollution control measures in the City of Long Beach Municipal Stormwater Permit, which would prevent exceedance. No revisions to the Final EIS/EIR are required.

CBD-84. The comment infers that the Draft EIS/EIR turbidity analysis is not supported by evidence. The Draft EIS/EIR turbidity assessment in Section 3.3.2.3 (Impact WQ-1.1) is based on a pilot dredging project. Sampling that was based on water transmissivity at 82, 164, and 382 feet from the pilot dredging study (USACE et al. 2002; Moore and Edmunds 2002) found the turbidity plume for clean sediments did not extend over 328 feet in the down current direction. A typical mixing zone in a dredging permit is 328 feet (USACE 2002). Based on this information, turbidity from Project dredging would affect a small area of the East Basin near the dredging site and would not substantially affect water quality outside the mixing zone. Installation of piles and bulkheads generally cause minimal turbidity as very little bottom is disturbed during pile driving and/or sheet pile installation. Turbidity dissipates rapidly, so individual events separated by time and space would not result in a cumulative impact. Furthermore, Project-specific permits will require monitoring to verify that construction activities do not cause water quality criteria to be exceeded. No revisions to the Final EIS/EIR are required.

CBD-85. The comment incorrectly interprets the following statement in the Draft EIS/EIR Section 3.3.2.3 (Impact WQ-1.3) by eliminating the underlined text identified below.

> "The amount of vessel traffic in the East Basin would nearly double compared to baseline conditions, representing a 3.4 percent increase in total vessel traffic in the harbor as a result of the proposed Project."

The comment suggests that the Draft EIS/EIR fails to discuss potential impacts related to a decrease in DO associated with turbidity from increased vessel traffic. The increase in Project-related vessel traffic of one additional vessel every two days would not result in a substantial increase in turbidity and associated decrease in dissolved oxygen due to the short transit time within the harbor and the slow speeds. A very small area of the harbor would be affected during passage of each vessel, and turbulence caused by the vessel would mix the

water so that dissolved oxygen would not be reduced to below regulatory standards. No revisions to the Final EIS/EIR are required.

CBD-86. The comment states that dredging activities would affect the tidal prism of Long Beach Harbor. Although the tidal prism would be reduced slightly, the Project would not affect salinity of harbor waters. The harbor is an open embayment of the Pacific Ocean with open connections to ocean waters, and salinity within the harbor is essentially the same as in the ocean. Therefore, minor changes in tidal prism would not affect salinity. Any increase in sea level as a result of global warming would increase the tidal prism and but would not change the salinity due to the open ocean connection. No revisions to the EIS/EIR are required.

CBD-87. The comment suggests that the analysis of spill effects on water quality is skewed because only spills associated with container terminals were used. However, because the Project is a container terminal, it is appropriate to focus the impact analysis on container-related spills. No boat maintenance or fuel dock facilities are part of the Project, and consequently, spills associated with those facilities are not analyzed in the Draft EIS/EIR. Based on storm drain sampling described in Draft EIS/EIR Section 3.3.1 and in response to comment CBD-82, runoff of pollutants from onshore activities, including any accidental spills that could have occurred, have not resulted in exceedance of water quality standards. In addition, all tenants will be required to comply with pollution control measures in the City of Long Beach Municipal Stormwater Permit. Discharge of ballast water from large commercial vessels is regulated to minimize the introduction of non-native species, and most container vessels using the Project facilities would be unloading cargo and, thus, not discharging ballast water as described in Impact BIO-5.3 of the Draft EIR/EIR. This would minimize the potential for discharge of oil-contaminated ballast water in the harbor. Furthermore, discharge of contaminated ballast water is prohibited within the harbor. Therefore, no revisions to the Final EIS/EIR are required.

CBD-88. The comment suggests that the Draft EIS/EIR provides an inadequate analysis of impacts on special status birds and marine mammals. However, construction activities have been ongoing in the harbor for many years, and the abundance of special status birds have shown no apparent decline related to such activities. The Project is in an area unlikely to be used by foraging California least terns and is not characterized by foraging habitat typically used by these terns. Therefore, the impact of the Project on least terns is less than significant. California brown pelicans can be found throughout the harbor, but only 17 were observed in the Project area out of approximately 11,000 observed in the entire harbor from February 2000 through January 2001 (MEC Analytical Systems, Inc. 2002). Thus, this species does not rely heavily on the Project area for foraging or resting, and few, if any, individuals would be displaced due to Project construction. The same is true for California sea lions and harbor seals because few have been observed in the Project area during year-long surveys. The deep water slips to be filled as part of the Project do not provide important habitat for any special status species or marine mammals. For these reasons, and as explained in more detail in Section 3.4.2.3 of the Draft EIS/EIR, the impacts on special status species and marine mammals will be less than significant. No revisions to the Final EIS/EIR are required.

CBD-89. This comment incorrectly asserts that the Draft EIS/EIR inadequately analyzes the Project's cumulative impacts to biota and habitats. The Draft EIS/EIR uses the best information currently available regarding past, present and reasonably foreseeable future projects to conclude that the impacts will be less than significant. In particular, based on baseline surveys of biota in the harbor over the past several decades (MBC 1984; MEC 1988; MEC Analytical Systems, Inc. 2002), the abundance and diversity of marine organisms in the harbor have not declined while a number of projects (e.g., Pier 300 and Pier 400) that are much larger than the Project have been implemented. These and other projects have occurred at various times in the past with some overlapping in time but not in space. The future projects used in the cumulative analysis would be at numerous locations, some of which are away from harbor waters. Most would not overlap in time, but a few could. However, no detailed construction schedules are available for the future projects because they are not well advanced in the planning process. Thus, the overlap of specific activities

such as pile driving or dredging cannot be estimated. Construction activities on land would not have substantial cumulative impacts on marine biota considering the current regulatory control of such projects that limits runoff to harbor waters and the dispersed locations of the projects. In-water construction would occur during a small proportion of the future cumulative projects, and the locations generally would be widely separated. The duration of in-water work is relatively short, particularly for specific activities such a pile driving and at specific locations (e.g., fill placement). No changes to the Final EIS/EIR are required.

CBD-90. The comment suggests that the Draft EIS/EIR dredging assessment fails to quantify the impacts of resuspended contaminants on fish mortality rates. As described In Draft EIS/EIR Section 3.3.2.3 (Impact WQ-1.1), substantial resuspension of contaminated sediments as a result of dredging does not occur. Also, elutriate tests (mixing Slip 3 sediments with uncontaminated water and then testing the water for released contaminants) have shown no elevation of contaminants above water quality objectives for protection of marine life (Weston Solutions 2006b). Most contaminants are adsorbed to sediment particles and do not release to the water due to low solubility in water. The suspended sediments then settle back to the bottom and do not expose fish in the water column to contaminants. Therefore, no increase in fish mortality would occur from resuspended sediments. In addition, as noted in response to comment CBD-2 the Project is not in an area with heavy inputs of sediment that would require maintenance dredging because no major land runoff (e.g., river) that could carry heavy sediment loads enters this area. As a consequence, maintenance dredging is conducted very rarely and only on an as-needed basis. Moreover, any necessary maintenance dredging is performed pursuant to a separate permit that requires its own environmental review. No revisions to the Final EIS/EIR are required.

CBD-91. The socioeconomic analysis was prepared in accordance with requirements under NEPA and CEQA. Assumptions are necessary for any forecast or analysis, and the assumptions made for the socioeconomic analysis for this EIS/EIR are commensurate with the level of detail that is known at this time about employment effects of the proposed Project and its alternatives, where jobs would be generated, and where employees and their families would live.

Draft EIS/EIR Section 3.12 has been revised to clarify the distinction between the five-county Los Angeles region and the Gateway Cities subregion, and why each region is appropriate for the metrics applied to it. The input-output model used to estimate direct and indirect employment impacts is specific to the five-county Los Angeles region; therefore, POLB used the five-county region as the comparison area for assessing the significance of employment effects. POLB used the Gateway Cities subregion, which is a subset of the five-county Los Angeles region, to assess the significance of effects on population and housing. As noted in the Draft EIS/EIR, the analysis of population impacts assumes that due to the proximity of the Gateway Cities subregion to the Port, incoming population associated with the direct port industry employment as well as a portion of the population associated with the direct export manufacturer and import wholesaler employment would take up residence in the Gateway Cities subregion.

Final EIS/EIR Section 3.12 has been revised to clarify that not all standards address the entire five-county region.

CBD-92. The allocation of Project-related inmigrants to cities within the Gateway Cities subregion follows a standard gravity modeling approach where, in this context, the relative attractiveness of a given subregion city to inmigrants is directly related to that city's amenities, including shopping, the variety of public services and facilities, and accessibility to places of work. City population is oftentimes used as a surrogate measure for the concentration and variety of amenities. Distance or trip time is the typical measure of work-place accessibility. The great majority of Project-related Port industry jobs are located in the Gateway Cities subregion. These jobs are connected with warehouse, transloading, trucking and other related logistics activities as well as marine terminal operations at the Project site. Historically, they have been found to be scattered throughout the Gateway Cities subregion.

Thus, for this analysis, it was assumed that each city within the subregion was equally accessible to Port industry jobs created by the Project. Therefore, the only factor in allocating inmigrants to the subregion's cities was city size. Consequently, each city within the Gateway Cities subregion was allocated a share of the inmigrating population equal to its share of the Gateway Cities' total population; larger cities received more inmigrating people, while smaller cities received less. In this case, the resulting allocations did not result in inmigrant populations exceeding significance thresholds of 0.5 percent of the baseline populations that would have triggered more detailed, case-study impact analyses.

CBD-93. The approach used in the Draft EIS/EIR allocates Project-induced inmigrating populations to a relatively small subarea of the economic region. Specifically, the Gateway Cities subregion represents only 11 percent of the total population within SCAG's five-County region. Moreover, the Draft EIS/EIR makes assumptions about the number of Project-related inmigrants and where they reside that substantially overstates the Project's population-related impacts in the Gateway Cities subregion. Specifically, for this analysis it is assumed that all Project-induced, direct Port industry jobs are filled by workers who migrate to the Gateway Cities subregion. This overstates Project impacts on public facilities and housing in the five-County region and subregion because: (1) not all Project jobs would be filled by inmigrants to the region ; and (2) not all Project jobs filled by inmigrants to the region will choose to live in the subregion.

The assumption that all Project-induced, direct Port industry workers would be inmigrants overstates population impacts to the extent that some Port industry occupations are low-skilled, low-paying and not likely to attract inmigrants from outside the region. Based on the Bureau of Labor Statistics National Employment Matrix (December 2007), which contains detailed tables of occupations by industrial sector, and the Port's Input-Output model runs, which calculate sector-specific port industry jobs, it is estimated that over 40 percent of Project jobs would be filled by relatively low-skilled workers. These occupations include service workers (Occupation Code 31-3900), assemblers and fabricators (51-2000), truck drivers (53-3030) and laborers and material movers (53-7000). Evidence that many of these new Port industry jobs are not filled by inmigrants is revealed in past Census data. Customized cross-tabulations from the 2000 Decennial Census's 1-Percent Public Use Microdata Sample Files prepared for a geographic area approximating the Gateway Cities subregion (consisting of Public Use MicroSample Areas 6305, 6307 and 6406-10), show that for the period 1995-2000, only six percent of the Water Transportation Services workers (a reasonable sector-surrogate for all Port industry workers) living in the Gateway Cities subregion had moved there from someplace outside the subregion. During this same period, container traffic in San Pedro Bay increased 76 percent. These data would suggest that new port industry jobs are filled, in part, by workers already residing in the Gateway Cities subregion.

The assumption that all Project-induced, direct Port industry workers who do inmigrate would choose to locate in the Gateway Cities subregion overstates population impacts to the extent that some inmigrants would choose to live elsewhere in the five-county region. Such appears to be the case based on the spatial distribution of International Longshore and Warehouse Union (ILWU) worker's places of residence. June, 2005 zip code data for over 8,000 members show that over 30 percent lived outside the Gateway Cities subregion, largely in cities and unincorporated areas west of the 110 Freeway, and in Orange County. Given that ILWU jobs are located in San Pedro Bay and that other Project-induced port industry sectors, such as truck drivers and warehouse operators, would be located throughout the Gateway Cities subregion, it is likely that an even higher percentage of these new jobs would be filled by workers living outside the subregion in areas such as North Los Angeles County and in Western San Bernardino and Riverside Counties.

CBD-94. The EIS/EIR addresses growth-inducing effects as required under NEPA (40 CFR 1508.8[b]) and CEQA (CEQA Guidelines Section 15126.2) that require an EIS/EIR to examine the potential of a project to significantly or adversely affect the environment as a result of direct or indirect effects. As stated in Draft EIS/EIR Section 5.3, the Project would not have a growth-inducing impact on surrounding areas. Although the Project would lead to development of an

area currently underutilized and increase the volume of containers moving through Middle Harbor, this would not stimulate significant economic or population growth, remove obstacles to population growth, or necessitate the construction of new community facilities that would lead to additional growth in the surrounding area. Final EIS/EIR Section 5.3.2.2 has been revised to clarify that the Project would generate 2,961 jobs.

CBD-95. The comment is inaccurate in stating that the Project would have growth-inducing impacts during Project construction. Given the relatively large regional construction industry and the dearth of construction projects in the current economy, it is likely that the labor force from within the region would be sufficient to support Project construction activities without an influx of new workers and that relocation within the region would be minimal. Consequently, the Project would not be expected to stimulate substantial population growth that would lead to additional growth in the surrounding area (refer to Draft EIS/EIR Section 5.3.2). As the construction labor force in the region would be sufficient to complete the construction activities without workers migrating to the region, the Project would not stimulate substantial growth associated with labor needs and expenditures. Overall, the Project would not generate significant growth-inducing impacts. No revisions to the Final EIS/EIR are required.

CBD-96. The comment suggests that the Draft EIS/EIR growth-inducing analysis failed to consider the substantial economic activity that is indirectly induced by Port operations at offsite ancillary facilities. Although Port operations do create business opportunities in surrounding communities, it is not possible to determine what opportunities might be created by the Project. As the commenter notes, there are a large number of ancillary facilities that already serve the Port. These facilities may be sufficient to serve the Project. If current facilities are not sufficient, then as new facilities are proposed, the environmental impacts of such facilities will be evaluated in the applicable permitting processes. Any effort to evaluate such impacts in the Draft EIS/EIR would be entirely speculative because there is not enough information about such possible facilities to allow environmental analysis. The Draft EIS/EIR evaluates the project specific and cumulative impacts of the proposed Project on traffic, air quality, noise and other environmental resource areas at the Port as well as in the surrounding communities. It also assesses whether the project will induce growth. As explained in Section 5.3.2 of the Draft EIS/EIR, the Project is not growth inducing.

CBD-97. The comment is inaccurate in stating that the proposed Project would result in growth-inducement due to increased housing demands associated with Port workers. The Project would not significantly affect the economy of the region in ways that would generate significant growth-inducing impacts. Because of the existing sizable local and regional labor pool, it is not likely that the Project would cause a significant influx of workers who would move to the Inland Empire in order to work at the Project. Therefore, due to the minimal number of employees and the existing supply of workers in the local community, any increase in population and housing as a result of construction of the proposed Project would be less than significant. Please see responses to comments CBD-91, CBD-92 and CBD-93. No revisions to the Final EIS/EIR are required.

CBD-98. This comment suggests that the Draft EIS/EIR fails to address numerous environmental issues associated with increased population required to support Project construction and operations. 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. Moreover, as explained in response to comments CBD-91 through CBD-94, the Project would have less than significant impacts on regional population. Therefore, no revisions to the Final EIS/EIR are required.

CBD-99. The comment incorrectly suggests that the Draft EIS/EIR failed to examine a reasonable range of alternatives to the proposed Project. The four alternatives that were carried forward for detailed analysis in the Draft EIS/EIR provided a reasonable range of alternatives that fulfilled basic Project objectives while potentially reducing significant environmental impacts.

In addition to the proposed Project, the alternatives included Alternative 2 (315-Acre Alternative), which reduced the size of the Project, Alternative 3 (Landside Improvements Alternative), which did not involve any in-water activities, and Alternative 4 (No Project Alternative), which did not involve construction of any kind. Six other alternatives were evaluated but not carried forward for detailed analysis because they did not meet the Project objectives or were infeasible. Refer to Section 1.6.2 of the Draft EIS/EIR for additional details. In addition, although hundreds of comments on the Draft EIS/EIR were submitted to the Port and the USACE, only one additional alternative was suggested in all the comments. Please see response to comment USEPA(A)-3 and the response thereto for the reasons the suggested alternative was not analyzed in detail. As required by NEPA and CEQA , the Draft EIS/EIR considered a reasonable range of alternatives that met the basic Project objects while potentially minimizing or avoiding significant impacts.

The comment does not consider the Port's fundamental duty to accommodate and promote commerce. The 1911 grant of the tidelands to the City of Long Beach was for the purpose of constructing improvements "necessary or convenient for the promotion and accommodation of commerce and navigation….." Stats. Of 1911, p. 1305. The California Legislature has subsequently declared its intent for existing ports, including the POLB, to modernize and construct the necessary facilities in order to avoid the necessity of creating new ports (PRC § 30702(b)). The Legislature has recognized the California ports as one of the state's primary economic resources and declared that they are "an essential element of the national maritime industry." (PRC § 30702(a)).

CBD-100. The comment suggests that the proposed GHG mitigation measures fail to address the Project's largest source of GHG emissions and recommends that a new alternative be evaluated in the Final EIS/EIR that includes Maglev and other zero emissions container mover systems. With regard to the comment about including additional alternative analysis, ten alternatives were considered for analysis in the Draft EIS/EIR. Of those, the four alternatives determined to best meet the Project objectives were carried forward for detailed analysis in the Draft EIS/EIR. The Project alternatives studied in the Draft EIS/EIR represent a reasonable range of alternatives that are sufficient to permit informed decision making and public participation.

The Port is now in the process of developing a CC/GHG Plan. This plan, which will be comprehensive in nature, will examine GHG impacts for all activities within the Harbor District and will identify strategies for reducing the overall carbon footprint of those activities. Similar to the CAAP, the Port's GHG/CC Plan will identify strategies for activities under direct Port control and those that are the controlled by third parties, such as tenants. This Plan will outline the overall approach for mitigating potential project-specific and/or cumulative GHG impacts of projects through the modernization and/or upgrading of marine terminals and other facilities in the Long Beach Harbor District. One element of the Port's CC/GHG Plan is the Greenhouse Gas Emission Reduction Program Guidelines (Guidelines). The Guidelines describe a procedure for the evaluation and prioritization of GHG emission reduction projects and practices that the Port may fund consistent with the Port's overall CC/GHG reduction goals. Please see response to comment DOJ-5 for additional details.

Please see response to comment DOJ-5 for additional information regarding mitigation measures that specifically minimize the Project's GHG emissions and contributions to global climate change.

Please see response to comment SCAQMD-27 for discussion regarding the feasibility of Maglev technology. Using an on-dock Maglev system 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. Although one such technology is being constructed in Italy, the testing and construction of such a technology in the Port would require a minimum of five years according to vendors, due to environmental/permit approvals, design, and construction.

Preliminary cost estimates for construction of these technologies range from $180 to $264 million per mile.[23] The estimated annual operation and maintenance costs range from $7.5 to $10.5 million.[24] To be viable, the system must be financially feasible. In addition, such a system must be able to connect to mainline railroad via the Alameda Corridor in order to maximize its potential environmental benefits.

Development of a Maglev train rail network related to regional goods movement infrastructure is outside the scope of the proposed Project. 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 various technologies, financing mechanisms, and a demonstration project between a marine terminal and a near-dock rail facility. In the event the Port's demonstration project determines that a zero- or near-zero emission transport technology is operationally and financially feasible, the Port will investigate expanding the system to involve other terminals, possibly including the Middle Harbor container terminal. However, at this point, it is not financially or operationally feasible to include this type of technology as a mitigation measure for the project.

In conclusion, the Port has thoroughly disclosed potential GHG emissions associated with the Project and it has expended considerable effort to identify all feasible Project-specific measures to mitigate proposed GHG emissions. It would be economically infeasible and outside of the tenant's control to implement any additional measures beyond those described above. The Port will continue to pursue additional GHG mitigation measures under the CC/GHG Plan. This will result in additional reductions in GHG emissions beyond those that would be achieved through the direct project mitigation measures described above.

CBD-101. Environmental justice evaluations of significant hourly NO_2 (construction and operation) and annual NO_2 (operations), focusing on the peak operations emissions year, 2010, were reconfirmed based on the most recently available NO_2 background data, analysis of Census data (both block group data and block data), zoning information, high-resolution satellite photos, and on-the-ground verification. The year 2010 is the time period when the proposed Project would generate the highest amount of operational emissions (i.e., associated with ship docking and hoteling, terminal equipment, on-road trucks, and trains) within and adjacent to the Middle Harbor container terminal. These emissions would in turn produce the highest ambient levels of pollutants in the Port and onshore regions compared to any other Project year. As the modeling shows, the reason why the operational emissions would be higher in 2010 than subsequent years is that additional air quality mitigation measures and offset reductions will be implemented after 2010.

In the areas containing significant hourly and annual NO_2 impacts from Project operations (Impact AQ-4), land uses and the underlying zoning are predominantly industrial, commercial, or public facilities/infrastructure, with a small area of residential uses (0.5 acres out of 845 total land acres, for annual NO_2, and zero acres for hourly NO_2). Based on analysis of aerial photos, zoning maps and associated field verifications, only one residence is located in the area of significant hourly NO_2 ambient concentrations and three to four residences are located in the area of significant annual NO_2 concentrations. The one residence in the significant impact area for hourly NO_2 is in an area that is zoned for heavy industrial use (City of Los Angeles 2008) and surrounded by industrial uses, including a container storage area. The three to four residences in the significant impact area for annual NO_2 are at the outer edge of a residential neighborhood (i.e., not a significant concentration of residential units). However, these residences would not be affected in the latter years of the project

23 Alternative Goods Movement Technology Analysis, I-710 Initial Feasibility Study prepared by URS Corporation for Los Angeles County Transportation Authority, January 6, 2008.

24 Ibid.

Based on the reconfirmation of NO_2 data using updated background concentrations, proposed Project construction would not create a disproportionate offsite hourly impact for environmental justice (Impact AQ-2).

Thus, while there are a high percentage of low-income communities of color in residential areas closest to the Port, modeling evaluations have shown that areas of significant air quality impacts related to Impacts AQ-2 and AQ-4 are almost entirely within industrial areas, both within the Port and outside of the Port boundaries.

As noted by the air quality analyses in Section 3.2 and related appendices (Appendix A), despite increases in cargo throughput, operational emissions would decrease following the 2010 peak year, as additional air quality mitigation measures and offset reductions are implemented, and the impacts identified in 2010 would no longer occur. For example, an analysis was conducted for 2030, which included emissions reductions related to **Mitigation Measure AQ-11** (OGV slide valves) and the newly adopted IMO NO_X standards which will result in significant reductions in NOx emissions. Consistent with this reduction, the SCAQMD assumes in the 2007 AQMP that there will be an OGV fleet-wide NOx reduction of 30 percent and 70 percent in 2014 and 2023, respectively, compared to the 2007 fleet. Based on these considerations, a conservative reduction of 35 percent is assumed for assessing one-hour NO_2 impacts in 2030, which showed no significant environmental justice impacts. The same conclusions were found for 2020. Thus, with these considerations post-peak years such as 2020 and 2030 also would be characterized by no significant environmental justice impacts.

In summary, the conclusions in the Draft EIS/EIR that impacts related to Impact AQ-2 and Impact AQ-4 would not represent disproportionately high and adverse effects on minority and/or low-income populations are unchanged, and the referenced statement that the highest offsite concentrations of hourly and annual NO_2 levels would be within predominately industrial areas is correct. The analysis reconfirmed that there would be no disproportionate effects to minority or low-income populations and therefore, no significant environmental justice impacts. These conclusions are also consistent with predicted reductions in Project NO_2 levels as compared to baseline conditions (Section 3.2 of the Draft EIS/EIR and Final EIS/EIR), including reductions in significant areas of NO_2 concentrations predominantly within port complex boundaries typified by industrial, commercial, or public facilities/infrastructure.

CBD-102. Conclusions in the Draft EIS/EIR regarding disproportionate effects from odor are distinct from conclusions related to other air quality effects. This is because the principle source of odor from the Project would be derived from diesel particulate material while NO2 is associated with gas phases and not detectable to the human olfactory system until concentrations are reached that are three to 10 times higher than predicted by the AQ analysis. As an example of this difference, given that the distance between proposed Project emission sources within the terminal and the nearest residents is 0.4 miles, this distance would be far enough to allow for adequate dispersion of these emissions to below objectionable odor levels, while NO2, although not detectable as an odor, would extend at significant levels beyond this distance (see response to comment CBD 101). However, even with this greater distance additional modeling, aerial photo analysis, zoning information and on-the ground checking reconfirmed that five or fewer residences would be affected, in total, by significant hourly and annual NO2 emissions levels, but only in the initial years of the Project. No residential concentrations would be affected and, as indicated in the Draft EIS/EIR, there would be no disproportionate effects from these emissions to environmental justice populations from construction or operations.

CBD-103. 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 or mitigate 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.

The comment correctly notes that recirculation is required only when "significant new information" is added to an EIR after public review and comment on the draft EIR but before certification. (PRC§ 21092.1) Not all new information added to an EIR is "significant." According to the CEQA Guidelines, new information added to an EIR is significant only if "… the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such effect (including a feasible project alternative) that the project's proponents have declined to implement." (14 C.C.R. § 15088.5). Examples of significant new information include: (1) a new significant impact of the project or from a new mitigation measure proposed to be implemented; (2) a substantial increase in the severity of an environmental impact for which no mitigation measures are added which reduce the impact to a level of insignificance; or (3) a feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the environmental impacts of the project, but the project proponent declines to adopt it. Based on these standards, there is no reason to recirculate the Draft EIS/EIR. Although some new information has been added to the Final EIS/EIR in response to comments, none of the information is significant. No new impacts have been identified, the severity of the impacts identified in the Draft EIS/EIR are not substantially increased over what is described in the document, and no feasible alternatives or mitigation measures were identified which would clearly lessen the environmental impacts of the Project. For these reasons, the commenter incorrectly asserts that recirculation is required.

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COALITION FOR
CLEAN
& SAFE
PORTS

June 11, 2008

Richard D. Cameron
Director of Environmental Planning
Port of Long Beach,
925 Harbor Plaza
P.O. Box 570
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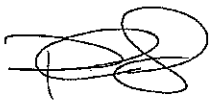
Fax No: (562) 901-1728
E-mail: cameron@polb.com

Dear Mr. Cameron:

On behalf of the Coalition for Clean and Safe Ports, I write to request an extension of the public comment period for the Draft Environmental Impact Statement/Draft Environmental Impact Report and Application Summary Report for the Middle Harbor Redevelopment Project. Given the magnitude of this $750 million project and environmental documentation consisting of thousands of pages, it is appropriate to add 30 additional days to the public comment period. It is our understanding that this modest addition of time will not impede your process. This project will indelibly impact the harbor area, and it is important that the public be provided adequate time to review the proposed document. CCSP-1

Please feel free to contact me at (310) 890-3661 if you have any further questions.

Sincerely,



Patricia Castellanos
Chair, Coalition for Clean and Safe Ports
Program Director, Los Angeles Alliance for a New Economy

On Behalf Of Steering Committee of the Coalition for Clean and Safe Ports:

Adrian Martinez
Project Attorney
Natural Resources Defense Council

Angelo Logan
Executive Director
East Yard Communities for Environmental Justice

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Coalition for Clean & Safe Ports, June 11, 2008

CCSP-1. The comment requested an extension of the public comment period for the Draft EIS/EIR. In order to ensure adequate public involvement, the Port extended the public comment period an additional four weeks to August 8, 2008.

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C.E.H.A.J.
coalition for environmental
health and justice

August 7, 2008

Richard D. Cameron,
Director of Environmental Planning
Port of Long Beach,
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Long Beach, California 90802
Fax No: (562) 901-1728
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Subject: Middle Harbor Redevelopment Project Draft Environmental Impact Statement (DEIS)/Draft Environmental Impact Report (DEIR) and Application Summary Report Berths (DEIS/DEIR)

Dear Mr. Cameron:

On behalf of the Coalition for Environmental Health and Justice (CEHAJ, a 710 Coalition), we write to express great concern over the Middle Harbor Redevelopment Project. CEHJ-1

The Port of Long Beach and Army Corps of Engineers have taken an unduly narrow look at the impacts of this project. The Environmental Impact Report/Statement does not reflect the immense impacts from vastly increasing the number of trucks coming into and out of this facility each day.

Many of these trucks will travel along the I-710 to reach their ultimate destination. Moreover, the project does not adequately analyze its growth inducing impacts by potentially forcing the expansion of the I-710 and the addition of near-dock rail capacity. CEHJ-2

These deficiencies must be cured in subsequent versions of the document.

The Review of this project should at minimum, include the 710 freeway from the port complex north to the 60 freeway.

Please feel free to contact David Barragan <cehajcoordinator@yahoo.com> if you have any questions.

Sincerely,

David Barragan
Coordinator
Coalition for Environmental Health and Justice

Candice Kim
Coalition for Clean Air

Jennifer Ganata
Communities for a Better Environment

Marisol Barajas
Community Partners Council

Angelo Logan
East Yard Communities for Environmental Justice

Elina Green
Long Beach Alliance for Children with Asthma

Tim Grabiel
Natural Resources Defense Council

Kathy Kattar
Physicians for Social Responsibility, Los Angeles

Coalition for Environmental Health and Justice, August 7, 2008

CEHJ-1. Thank you for participating in the Draft EIS/EIR public review process. We appreciate your time and effort. 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. Please refer to Draft EIS/EIR Section 3.5 for the Project's effects on regional transportation corridors.

CEHJ-2. Commenter states that the Draft EIS/EIR does not consider the growth inducing effect forcing the expansion of the I-710 and the addition of near-dock rail capacity. Commenter also states that the analysis should, at a minimum, include the I-710 corridor extending from the Port to SR 60.

The Draft EIS/EIR does analyze the impacts of the Project on the I-710 (Draft EIS/EIR Section 3.5.2.3). The I-710 Corridor Project EIR/EIS is being prepared by the Los Angeles County Metropolitan Transportation Authority (Metro) in coordination with Caltrans. The most recent geometric design concepts presented to the Long Beach City Council I-710 Oversight Committee on January 27, 2009, indicate that no additional lanes will be required to accommodate future growth on the southern most part of the I-710.[25]

The impacts of the addition of near-dock rail capacity were also analyzed as a known future project that was included in Table 2.1-1 Related and Cumulative Projects (items 10 and 23). However, the Intermodal Container Transfer Facility (ICTF) and Southern California Intermodal Gateway (SCIG) are not approved projects; therefore, the Draft EIS/EIR assumed a worst case scenario. The vehicular trips associated with the 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. As discussed in response to comment CC-3, Project impacts on I-710 north of the study area would not exceed the significance thresholds.

25 To obtain the meeting minutes, contact the Long Beach City Clerk Department at (562) 570-6101 or send an email to cityclerk@longbeach.gov.

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Coalition For A Safe Environment

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wilmingtoncoalition @ prodigy.net 310-834-1128

June 11, 2008

Port of Long Beach
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Re: Middle Harbor Redevelopment Project Draft Environmental Impact Report (DEIR), Draft Environmental Impact Statement (DEIS) & Application Summary Report SCH No. 2004091010

Su: DEIR/DEIS CEQA Document Deficiencies Public Comment

The Coalition For A Safe Environment (CFASE) wishes to request the Port of Long Beach Board of Harbor Commissioners, City of Long Beach and U.S. Army Corp of Engineers " deny approval " of the Draft Environmental Impact Report (DEIR)/Draft Environmental Impact Statement (DEIS) for non-compliance and in violation of CEQA, NEPA, including but not limited to: the Federal Clean Air Act, Clean Water Act, Executive Order 12898, Council on Environmental Quality (CEQ) *Guidance for Environmental Justice Under NEPA* (CEQ, 1997), U.S. Civil Rights Act, the California Health and Safety Code. CSE (A)-1

We find the proposed Middle Harbor Redevelopment Project DEIR/DEIS to be unacceptable because it fails to justify its purpose, needs and objective and fails to eliminate where feasible all negative impacts, fails to mitigate negative impacts to less than significant and fails to include all reasonable and available feasible mitigation measures.

1. CFASE requests as mitigation for the past, current and long term negative environmental, public health, public safety, socio-economic impacts of the Middle Harbor Redevelopment Project and other terminals the Port of Long Beach establish a Port Community Advisory Committee CSE (A)-2

2. The DEIR/DEIS states that one of the project purposes is to increase container terminal efficiency to accommodate a portion of the predicted future containerized cargo throughput. CSE (A)-3

CSE (A)-3

CFASE during the past public comment periods has recommended that the Port build as its primary container and cargo goods movement transportation system an all Electric Rail Transportation Systems or a Magnetic Levitation (MagLev) Rail Transportation System both which produce zero-emissions.

Our research has further confirmed that MagLev Technology is feasible and the least environmentally and public health impacting technology. The Port has failed to provide an assessment of why this mitigation is not feasible.

Toxic air polluting diesel fuel locomotive trains can be replaced with a 100% clean operating Electric MagLev System and achieve a non-significant impact. This will significantly reduce public health risks and public health impacts.

EMMI Logistics Solutions and American MagLev Technology have designed a state-of-the-art goods movement transportation system that can transport up to 8,000 containers a day and more than 3 times the speed of a traditional diesel locomotives.

The increased velocity and through-put would therefore not require the construction of additional backlands, since the traditional long queue times would be eliminated.

This high speed transportation logistics system would decrease the need for 1,000's of additional diesel air polluting trucks trips a day to carry cargo since higher volumes could be transported by the Maglev System. The current 2005 baseline of 6,528 truck trips will increase to 10,112 which is a 35% increase in truck traffic, congestion and public health impacts which is unacceptable.

EMMI has further proposed to the Board of Harbor Commissioners and Port of Long Beach to build at their expense a MagLev System demonstration project from the Port of Long Beach to the Union Pacific ICTF facility in less than three years. This would eliminate significant air pollution in West Long Beach where residents, public schools and a veterans homeless & rehabilitation center border the Terminal Island Freeway 103.

We request that the Port of Long Beach replace the on-dock and near-dock diesel air polluting locomotive rail systems the Middle Harbor Redevelopment Project proposes to use with an on-dock MagLev Transportation Clean Technology.

CSE (A)-4

3. CFASE during the past public comment periods has recommended that the Port of Long Beach finance the conversion of the Alameda Corridor to an all Electric Train Rail System or MagLev Rail System. The Alameda Corridor current two railroad companies Union Pacific and BNSF railroad both use diesel fuel air polluting locomotive engines which can never achieve zero emissions like a MagLev System.

   The Middle Harbor Redevelopment Project will be using the Alameda Corridor and by converting the Alameda Corridor to a MagLev System the Port of Long Beach can achieve a non-significant impact. The Port has failed to provide an assessment of why this mitigation is not feasible.

   We request once again that the Port of Long Beach finance the conversation of the Alameda Corridor diesel fuel air polluting locomotive rail system Middle Harbor Redevelopment Project proposes to use with a zero emissions American MagLev Transportation Technology. This will significantly reduce public health risks and public health impacts.

CSE (A)-5

4. The DEIR/DEIS states that toxic air emissions and green house gases would remain significant and unavoidable, which is unacceptable. CFASE, other organizations and

individuals have requested and recommended mitigation that we believe can significantly reduce negative environmental, public health, public safety, environmental justice and socio-economic exposure and impacts. CSE (A)-5

5. CFASE has requested in past public comments that the Port of Long Beach mandate that all Port Terminals and the Middle Harbor Redevelopment Project maximize the use the Alameda Corridor in lieu of diesel air polluting trucks. CSE (A)-6

   CFASE requests that the Port of Long Beach conduct a Middle Harbor Redevelopment Project Study to determine the amount of containers that must be delivered by truck due to their local delivery requirements vs those which must travel long distance and out of state. The percentage of those that must travel long distance will be the mandatory Alameda Corridor use percentage requirement.

   Refusal of Middle Harbor Redevelopment Project to increase the use of the Alameda Corridor is grounds for not approving expansion and this DEIR/DEIS

6. The DEIR/DEIS does not mandate that all Middle Harbor Redevelopment Project container ships must use the Port of Long Beach electric shore-power system. CSE (A)-7

   CFASE requests that the Port of Long Beach mandate that all of the Middle Harbor Redevelopment Project shipping fleet use the shore-power system. This will significantly reduce public health risks and public health impacts. The Port has failed to provide an assessment of why this mitigation request is not feasible.

   CFASE requests that the Port of Long Beach purchase, rent or lease the Advanced Cleanup Technologies – Advanced Marine Emissions Control System (AMECS) System for use at the Middle Harbor Redevelopment Project for all ships that have not been retrofitted to use the electric-shore power system.

   CFASE requests that the Port of Long Beach purchase an AMEC's barge system which can meet ships outside the breaker and dock alongside to capture all emissions. The use of this system will be mandatory for ships that must wait outside the breaker.

7. CFASE has requested in past public comments that the Port of Long Beach sponsor a West Long Beach and East Wilmington Port Harbor Community Public Health Survey to validate its Health Risk Assessment conclusions. The Port of Long Beach criterion of 10 in one million cancer risk is unacceptable and is unvalidated. The 10 in one million cancer risk is an arbitrary adopted criteria that is not based on any scientific or medical study of the Port of Long Beach impacted communities and residents. CSE (A)-8

   The Port of Long Beach has failed to conduct any local public health assessment of West Long Beach and East Wilmington residents and sensitive receptors in order to establish a Public Health Baseline. The Port of Long Beach and the USACOE has no idea of the number of West Long Beach and East Wilmington residents currently afflicted with a respiratory disease, cardio-pulmonary disease or disability caused by its current and past unmitigated business operations.

   CFASE requests that the Port of Long Beach sponsor a university comprehensive West Long Beach and East Wilmington Port Harbor Community Public Health Survey to validate its Health Risk Assessment conclusions and the Port of Long Beach adopted cancer risk. We recommend that the Port contract with UCLA and USC medical research centers.

CSE (A)-9

8. CFASE has requested in past public comments that the Port of Long Beach include public health care mitigation by establishing a Public Health Care Mitigation Trust Fund to fund local community clinics in West Long Beach and Wilmington and the Los Angeles County Harbor General Hospital. The Port has failed to provide an assessment of why this mitigation is not feasible.

   CFASE further requests that funds be used to provide air purification and sound proofing systems in local public schools, child care centers, public libraries, public recreational facilities convalescent care facilities, senior citizen housing & centers and resident's homes.

   CFASE requests that the Port of Long Beach establish a Public Health Care Mitigation Trust Fund and charge a public health care mitigation tariff of $2.50 per Middle Harbor Redevelopment Project container for the determined current baseline and $5.00 per container over the current baseline.

CSE (A)-10

9. CFASE has requested in past public comments that the Port of Long Beach include Wetlands Restoration Projects in San Pedro Bay as Biological Mitigation. The Ports use of off-port property Bolsa Chica Mitigation Credits is unacceptable. CFASE and the Sierra Club Harbor Vision Task Force have identified potential Wetlands Restoration Project sites in Long Beach, Wilmington and San Pedro.

   CFASE requests that the Port of Long Beach owned property in Pier A West which is approximately 80 acres and physically located in Wilmington in the Port of Los Angeles Consolidate Slip area be designated a Wetlands & Biological Habitat Restoration Mitigation Project. This project could also be a joint venture project with the Port of Los Angeles which has also stated its desire to locate and fund Wetlands Restoration Projects. The Port of Los Angeles could also contribute an additional 25 acres approximately which are currently adjacent to the Port of Long Beach property.

   The Port of Los Angles would also be willing to purchase the Port of Long Beach property for a Wetlands Restoration Project.

   CFASE requests that the Port of Long Beach establish a Wetlands Restoration Mitigation Trust Fund based on $1.00 per Middle Harbor Redevelopment Project Container Tariff and adopt the Coalition For A Safe Environment's and the Sierra Club's Harbor Vision Task Force Wetlands Restoration Project Sites recommendations.

CSE (A)-11

10. CFASE requests that the Port of Long Beach include the establishment of a Marine Fish Hatchery to restore the fish population that the Port of Long Beach has destroyed in San Pedro Bay. The Ports DEIR/DEIS fish inventory is unacceptable because it is based after the natural fish population has been decimated.

    CFASE believes that the establishment of a Marine Fish Hatchery could replenish the decreasing fish population. Various types of native fish could be raised and released into San Pedro Bay. CFASE supports the restoration of reefs and seaweed beds in the outer harbor, however, CFASE does not support the sinking of ships and dumping of junk to create new habitats. New habitats should be created as close to the original natural materials that used to exist.

    CFASE requests that the Port of Long Beach establish fish hatcheries, reefs and seaweed beds in San Pedro Bay as Biological Mitigation.

CSE (A)-12

11. The DEIR/DEIS fails to address and mitigate the past, current and future long term traffic permanent impacts on public highway, freeways, streets and bridges. The Port

obfuscates its responsibilities and impacts by stating that it falls under the jurisdiction of CalTrans and further claims it does not own, control or maintain any highway impacted segment. CSE (A)-12

This is irresponsible when the fact is that all freeways, highways, streets and bridges exist for the general public benefit and paid by the public funds and are not private commercial business industry truck routes. Port trucks destroy local, regional and statewide transportation infrastructure due to their weight, size and quantity. Port trucks further endanger public safety and lives due to increasing truck accidents.

CFASE requests that the Port of Long Beach establish an Off-Port Property Transportation Infrastructure Mitigation Trust Fund based on $10.00 per Middle Harbor Redevelopment Project Container Tariff. Funds would be donated to CalTrans, Los County, City of Long Beach and City of Los Angeles Transportation Departments and for Civil, Police, Fire Departments emergency response.

12. CFASE requests that the Port of Long Beach decontaminate and sanitize containers before allowing its Middle Harbor Redevelopment Project tenant to place them in container storage yards in Long Beach, Wilmington and other port communities. CSE (A)-13

    CFASE has stated that Port of Long Beach ships and containers as carriers of the West Nile Virus, various insects, bacteria, fungus, toxic and hazardous materials.

    CFASE has stated that Port of Long Beach containers are painted with lead and other toxic chemicals which deteriorate in container storage yards in Long Beach, Wilmington and other port communities. The lead paint peels, pulverize and are blown into residents homes, yards and public parks.

    CFASE requests that the Port of Long Beach decontaminate and sanitize containers before they are placed into off-port property container storage yards.

13. CFASE would like to have the newly signed lease with two tenants made public to verify that all environmental measures have been incorporated, under what terms & conditions and schedule. CSE (A)-14

Coalition For A Safe Environment Mission Statement is - To protect, promote, preserve and restore our Mother Earth's delicate ecology, environment, natural resources and wildlife. To attain Environmental Justice in international trade marine ports, goods movement transportation corridors, petroleum and energy industry communities.

The Coalition For A Safe Environment reserves the right to submit additional public comments.

Respectfully Submitted,

Jesse N. Marquez

Jesse N. Marquez
Executive Director

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Jesse N. Marquez, Coalition for a Safe Environment, June 11, 2008

CSE(A)-1. This comment incorrectly suggests that the Draft EIS/EIR fails to comply with NEPA and CEQA. 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. Despite the application of all feasible mitigation measures, significant unavoidable adverse project-level and cumulative impacts would occur. These impacts have been identified in the Draft EIS/EIR, and the decision-makers will consider them as part of their deliberations to approve or disapprove the Project. Consistent with CEQ Regulations and CEQA Guidelines Section 15124(b), the Draft EIS/EIR includes a discussion of the Project purpose and need and objectives that is used to explain the underlying reasons why USACE and the Port are proposing the Project. As stated in Draft EIS/EIR Sections1.3.2 and 1.3.3, the overall purpose of the proposed Project is to increase and optimize the container cargo-handling efficiency and capacity of the Port at Middle Harbor in order to accommodate a share of foreseeable increases in containerized cargo while implementing environmental controls necessary to reduce pollution and conserve energy.

CSE(A)-2. The Port has developed two programs to mitigate cumulative air quality and noise impacts from Port operations, including the Middle Harbor Redevelopment Project: the Schools and Related Sites Program and the Healthcare and Seniors' Facilities Program. The programs: (1) establish eligibility criteria for potential applicants based on facility type and proximity to the SPBP; (2) provide metrics that will be used to assess a proposed project's air quality and noise impact mitigation potential based on established regulatory mitigation programs, recent scientific information on air quality and noise impacts, and the proven effectiveness of proposed education/outreach programs; and (3) explain how the Port Board of Harbor Commissioners will choose among eligible proposals and approve funding. Please see response to comment USEPA(B)-8 for additional details.

The Port has provided the opportunity for affected communities, individuals, organizations, and groups to participate in the EIS/EIR process by providing public notifications about preparation and availability of the EIS/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. A separate advisory committee is not necessary.

CSE(A)-3. Regarding the feasibility of Maglev technology, please see response to comment SCAQMD-27. Using an on-dock Maglev system is both physically impractical and financially infeasible. There are no zero emissions technologies to move containers currently in practical operation, so it is unknown whether these technology systems can feasibly transport containers. Although one such technology is being constructed in Italy, the testing and construction of such a technology in the Port would require a minimum of five years according to vendors due to environmental/permit approvals, design, and construction. Preliminary cost estimates for construction of these technologies range from $180 to $264 million per mile.[26] The estimated annual operation and maintenance costs range from $7.5 to $10.5 million.[27] To be viable, the system must be financially feasible. In addition, such system must be able to connect to mainline railroad via the Alameda Corridor in order to maximize its potential environmental benefits.

26 Alternative Goods Movement Technology Analysis, I-710 Initial Feasibility Study prepared by URS Corporation for Los Angeles County Transportation Authority, January 6, 2008.

27 Ibid.

Development of a Maglev train rail network related to regional goods movement infrastructure is outside the scope of the proposed Project. 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 various technologies, financing mechanisms, and a demonstration project between a marine terminal and a near-dock rail facility. In the event the Port's demonstration project determines that a zero- or near-zero emission transport technology is operationally and financially feasible, the Port will investigate expanding the system to involve other terminals, possibly including the Middle Harbor container terminal. However, at this point, it is not financially or operationally feasible to include this type of technology as a mitigation measure for the project.

CSE(A)-4. Please see responses to comments SCAQMD-27 and CSE(A)-3. Electrifying the Alameda Corridor has been studied fully and is not being pursued for several reasons, including operational feasibility during loading/unloading of trains and environmental and fiscal impacts of constructing a new power plant that could supply a sufficient source of power.

According to ACTA staff, the Corridor was designed with overhead clearances to install an electric catenary in case a decision was made to electrify rail systems in southern California. SCAG conducted a study on electrifying the southern California rail system in the 1990s, however, and concluded it was prohibitively expensive to do so; and thus infeasible at that time. Electrifying the region's rail system is still being evaluated to address air quality attainment objectives[28]. The cost to electrify rail in southern California was estimated to be in excess of $6 billion,[29] and thus it would still be infeasible. In any event, new federal EPA standards for Tier 3 and 4 locomotives and Electric Container Movement System (ECMS) studies seem to be shifting federal air quality improvement emphasis away from electrification to cleaner locomotive engines.

Electrifying the Corridor alone does not make practical or environmental sense for two reasons. First, the yards at the ports cannot be electrified because overhead lines would interfere with the loading of containers onto trains. Therefore a handoff would be required from non-electric locomotives to electric ones both at the Port and offsite at transfer points. At the Corridor's north end, idling diesel locomotives would have to wait at some LA/Commerce location for the handoff from the electric locomotives to non-electric locomotives, further increasing emissions at these already impacted locations. Thus, the operation would not only be inefficient, but much of the emissions saved along the Corridor would be transferred to the ends of the Corridor.

The Alameda Corridor Use and Operating Agreement specifically prohibits the Ports from unilaterally mandating rail electrification. Furthermore, in accordance with the Alameda Corridor Agreement:

> 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. (Alameda Corridor Use and Operating Agreement, dated October 12, 1998, ¶ 2.2(c), p. 15.)

In any event, new federal EPA standards for Tier 3 and 4 locomotives and studies on alternative technology container mover systems, i.e. "Maglev" or "linear motor," seem to be shifting federal air quality improvement emphasis away from electrification. The preferred

28 http://www.scag.ca.gov/goodsmove/pdf/2007/workshop/GMCM080207_FreightRail.pdf
29 Ibid, Slide #12.

alternative to electrification or Maglev is to replace locomotives with new, cleaner-burning locomotives that meet the EPA's Tier 3 and Tier 4 locomotives.

Please see responses to comments SCAQMD-27, CBD-20, CBD-71, CSE(A)-3, and CSE(B)-3 for additional information about electrifying the rail corridors.

CSE(A)-5. USACE and the Port share the concerns expressed regarding adverse health effects in the Port area. It is the Port's/USACE's goal to apply mitigation to the source of emissions in order to reduce health effects from the Project and therefore reduce its long-term health effects. The Final EIS/EIR incorporates all feasible mitigation measures (i.e., **Mitigation Measures AQ-1 through AQ-29**) that would reduce toxic air pollution and GHG emissions from proposed construction and operational emission sources 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). Additionally, please see response to comment CSE(A)-9 regarding new Final EIS/EIR **Mitigation Measure AQ-29**, which would further mitigate Project cumulative air quality impacts.

CSE(A)-6. Please see responses to comments SCAQMD-7 and CBD-20. All Project intermodal cargo would be transported by train through the Alameda Corridor. Non-intermodal cargo that "must travel long distance" cannot be transported by rail if there are no rail facilities in proximity to the destination of the cargo or it does not make economic sense. However, as part of their transportation planning efforts, the ports are evaluating whether shuttle or satellite railyardrailyardss located outside of the Los Angeles Basin can be used to effectively replace these "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. Therefore, conducting the requested Middle Harbor Redevelopment Project Study would not provide the information that could be used to increase the Project use of the Alameda Corridor.

CSE(A)-7. Regarding the inability of all OGV to use the proposed shore-power system during the first few Project years, please see response to comment SCAQMD-17.

It would be economically infeasible to install systems like the Advanced Maritime Emissions Control Systems (AMECS) for a few years of use, as by 2015, all Project OGV would cold-iron. Regarding the construction schedule to install the Project cold-ironing systems, please see response to comment CBD-23. Only ships that have retrofitted to use the electric-shore power system by 2015 will be permitted to call at the Project terminal. Therefore, it is not necessary to use an AMECS system for ships calling at the terminal. Additionally, Project OGV would rarely wait outside the breakwater, use of the AMECS in this area would be economically infeasible.

CSE(A)-8. The comment requests that the Port sponsor a community health public survey to validate the HRA. The Project HRA uses methods approved by the OEHHA, ARB, and the SCAQMD. The comment objects to the 10 in a million cancer risk threshold. The 10 in a million cancer risk threshold is consistent with the guidelines of OEHHA, ARB, and SCAQMD. The precision of the results of the HRA is appropriate for NEPA/CEQA purposes. In addition, using such a survey to validate an HRA is not practical, as the HRA has certain very long exposure assumptions for residential areas. Therefore, it is deemed inappropriate to perform the request Health Survey in order to validate the HRA.

CSE(A)-9. Please see response to comment CBD-26. The comment requests that the Port establish a Public Health Care Mitigation Trust Fund. The Port has developed two programs in an effort to mitigate potential cumulative air quality and noise impacts of Port projects: (1) *Schools and Related Sites Program -- Guidelines for the Port of Long Beach Grant Programs* and (2) *Healthcare and Seniors' Facility Program-- Guidelines for the Port of Long Beach Grant Program*. These programs are specifically aimed at sensitive populations (i.e., school-age

children, senior citizens, and persons with specific respiratory illnesses), which have been identified by state and local air agencies as particularly sensitive to air pollutants. The Schools and Related Sites Program focuses on school age children and identifies schools, preschools and daycare centers as eligible applicants for the funding opportunities of the program. The Healthcare and Seniors' Facility Program is focused on specific prevention, education, and outreach programs, as well as direct mitigation projects, for schools, hospitals, healthcare facilities, retirement homes, senior centers, and convalescent homes that help sensitive receptors such as children, senior citizens, and people with respiratory illnesses in areas near the Port.

The eligibility criteria for these programs have been developed to take into account that cumulative air quality and noise impacts are a function of distance from the Port area and the related goods movement transportation routes, including the I-710 and SR-47. The most recent SCAQMD MATES III, the ARB Diesel Particulate Matter Exposure Assessment Study for the POLB and POLA Study and recent modeling work completed in connection with the development of the CAAP Baywide health standard, have shown that areas downwind (north and east) of the Port are most heavily impacted by pollution from Port and related goods movement activities. For this reason, the guidelines in the two Port programs give preference to facilities closer to the Port because the sensitive receptors at these facilities would likely be exposed to greater cumulative air and noise impacts.

The implementation guidelines for the two programs (1) establish eligibility criteria for potential applicants based on the facility type and proximity to the Port; (2) provide metrics that will be used to assess a proposed project's air quality, noise and/or health mitigation potential; and (3) explain how the Port Board of Harbor Commissioners will choose among eligible proposals and approve funding. Therefore, to implement the above programs and further reduce cumulative air quality impacts from the Project, the Final EIS/EIR includes new **Mitigation Measure AQ-29**. Please see response to comment CSB-2.

CSE(A)-10. The comment suggests that the Port include wetland restoration projects in San Pedro Bay as biological mitigation. The proposed Project would not result in impacts that require mitigation for removal of wetlands, and POLB has habitat credits in the existing Bolsa Chica mitigation bank that would totally mitigate the fill in Middle Harbor (Draft EIS/EIR, Section 3.4.2.3, Table 3.4-4). Consistent with CEQA Guidelines Section 15370(e), mitigation includes compensating for an impact by replacing or providing substitute resources or environments. Thus, offsite replacement is permissible as mitigation within an established program such as the Bolsa Chica wetland restoration program. POLB has considered opportunities for habitat mitigation in the harbor area and found no viable opportunities in Wilmington for projects that would replace habitat under existing mitigation requirements. Pier A West is presently undergoing remediation and will likely be used by the Port in the future for container operations. Since implementation of the CWA, POLB has accounted for habitat loss and provided onsite or offsite compensatory mitigation for permanent loss of marine habitat in coordination with federal and state resource agencies. In accordance with the CCA, POLB has been designated an essential element of the national maritime industry (PRC Section 30701), and POLB is responsible for modernizing and constructing necessary facilities to accommodate the demands of foreign and domestic waterborne commerce and other traditional and water dependent facilities in order to preclude the necessity for developing new ports elsewhere in the state. As a result, POLB gives priority for development of shoreline for maritime purposes as opposed to habitat creation. No revisions to the Final EIS/EIR are required. The Port continues to look for opportunities to restore wetlands and is currently working on a potential wetland restoration project (i.e., Colorado Lagoon) with the City of Long Beach.

CSE(A)-11. The comment requests that the Port establish a marine 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 EIS/EIR. The Draft EIS/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 EIS/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. For these reasons, the suggested mitigation is not necessary, and no revisions to the Final EIS/EIR are required.

CSE (A)-12. Commenter requests that the Port establish an off-port property transportation infrastructure mitigation trust fund. The comment expresses concern regarding wear and tear of the freeways caused by trucks. However, 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 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.

CSE(A)-13. The comment requests that the Port decontaminate and sanitize containers before they are placed at offsite container storage yards. 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. 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 other 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 Draft EIS/EIR because it is not possible to determine what impacts might occur.

The comment implies that containers may be hazardous, although any shipment of hazardous materials must comply with strict packaging and transportation requirements, as described in Draft EIS/EIR Section 3.10.1.3. Due to the strict regulatory guidelines regarding the packaging and transportation of hazardous materials, the potential for such materials to contaminate the containers is considered minimal. Moreover, existing federal, state, and local environmental and land use laws regulate and control the safe operation and storage of containers, as well as all other aspects of the goods movement industry to insure environmental protection. It should also be noted that no offsite container storage facilities would be constructed as part of the proposed Project.

CSE(A)-14. The comment requests public review of Port leases to ensure applicable environmental provisions are included in all lease agreements. All new leases and lease renewals are reviewed and approved by the Board of Harbor Commissioners. The public is invited to address the Board of Harbor Commissioners on any particular agenda item, including leases. If the Board of Harbor Commissioners certifies the Final EIS/EIR, it will also be required to adopt a MMRP. The MMRP will ensure compliance with all of the identified mitigation measures by making the measures part of the Project lease. The MMRP will include monitoring and enforcement mechanisms to ensure timely implementation of all mitigation measures. The Port and Project terminal operator would comply with the MMRP for the life of the lease.

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Coalition For A Safe Environment

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August 6, 2008

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Re: Middle Harbor Redevelopment Project
Draft Environmental Impact Report (DEIR)/
Draft Environmental Impact Statement (DEIS) &
Application Summary Report
Berths 97-109 China Shipping Container Terminal
Corps File Number 2003-01029-SDM
SCH No. 2004091010
ADP No. 030127-018

Su: Request To Deny Approval of Middle Harbor Redevelopment Project
Certification of the Draft EIR/EIS

The Coalition For A Safe Environment (CFASE) wishes to request the Port of Long Beach Board of Harbor Commissioners (POLB BOHC), City of Long Beach (COLB) and U.S. Army Corp of Engineers (USACOE) deny approval of the Middle Harbor Redevelopment Project proposal application, USACOE permit and certification of the Draft Environmental Impact Report (DEIR)/Draft Environmental Impact Statement (DEIS) for non-compliance and in violation of CEQA, NEPA, including but not limited to: the Federal Clean Air Act, Clean Water Act, Executive Order 12898, Council on Environmental Quality (CEQ) *Guidance for Environmental Justice Under NEPA* (CEQ, 1997), AB 32 Global Warming Act, Resource, Conservation & Recovery Act (RCRA), U.S. Civil Rights Act, the California Health and Safety Code. CSE (B)-1

The Coalition For A Safe Environment is an Environmental Justice Community based non-profit organization with members in Long Beach and 25 cities in California.

CSE (B)-1 We find the proposed Middle Harbor Redevelopment Project DEIR/DEIS to be unacceptable because it fails to meet evaluation factors approval criteria, fails to adequately justify its purpose, fails to eliminate where feasible all negative impacts, fails to mitigate negative impacts where feasible to less than significant and fails to include all reasonable and available feasible mitigation measures.

The following information and outlined points, concerns, references, examples, issues, recommendations and requests describe the inadequacies of the DEIR/DEIS:

CSE (B)-2

1. The DEIR/DEIS states that the Middle Harbor Redevelopment Project and all Alternatives will have a disproportionate high and significant impacts on environmental justice, minority and low income populations is unacceptable, immoral and illegal.

   The Ports and USACOE's conclusions that these impacts are unavoidable, that all potential mitigation measures were assessed and all feasible mitigation measures adopted is a lie and in violation of CEQA, NEPA, Executive Order 12898, Civil Rights Act, and other legal statues.

   In our review of the DEIR/DEIS many assumptions, decisions, data, information, explanations and conclusions contained in the DEIR/DEIS failed to include complete and accurate information as described in this public comment letter which means that the disproportionate high and significant impacts on environmental justice, minority and low income populations are in fact worse than documented and therefore were not considered, properly assessed and mitigated.

CSE (B)-3

In our review of significant impacts there are numerous mitigation measures that could have been incorporated but were not. A brief summary includes:

a. A zero emissions American MagLev Technology, Inc. MagLev Train could be built on-dock, adjacent to the new Middle Harbor Terminal shipside docks and connected to the Union Pacific ICTF. The company has already volunteered to build the test facility at their own expense.
b. A zero emissions American MagLev Technology, Inc. MagLev Train could be built on-dock, adjacent to the new Middle Harbor Terminal shipside docks and connected directly to the Alameda Corridor which can be converted to a MagLev Train. The Alameda Corridor is already designed to be retrofitted for Electric Trains or MagLev Trains.
c. The Port of Long Beach could build a new supporting on-port property Intermodal Facility at Pier B at the Toyota Logistics Services Terminal. The Port could build a new 4-5 story import car parking structure which would open up sufficient land for a new zero emissions electric MagLev Train Intermodal Facility and therefore not require the expansion of the Union Pacific Railroad ICTF Terminal or BNSF Railroad Southern California International Gateway (SCIG) Terminal.
d. The Port could purchase and incorporate a new IT Container Tracking Software/Hardware Technology to reduce identification, assignment, staging and cue time. The Port could require tenants to use a bar code, transmitter, GPS or other technologies to quickly identify and transport containers and cargo to destination.
e. The Port could purchase and incorporate Advanced Cleanup Technologies, Inc. – Advanced Maritime Emissions Control Systems (AMEC's) at all terminals so ships that are not retrofitted for electric shore-power can be connected.

f. The Port could purchase and incorporate Advanced Cleanup Technologies, Inc. – Advanced Locomotive Emissions Control Systems (ALEC's) at all terminals where there is no electric or MagLev Train. CSE (B)-3
g. The Port could purchase and incorporate a Vycon Electric Regen System on all terminal RTG Cranes.
h. The Port could purchase and incorporate a Balqon Corporation fleet of Electric Trucks for local delivery drayage.
i. The Port could purchase and incorporate Clean Air Logix - Witmar Dual Multi Voltage Cold Ironing System at all terminals now and until electric shore-power is available..
j. Construction could be spaced over more time to reduce compounded significant air quality and traffic impacts.
k. Port could finance the installation of Air Purification & Sound Prevention Systems in public schools, senior care facilities and sensitive receptor homes.
l. Port could fund comprehensive Public Health Surveys every five years to validate that the incorporated air quality mitigation measures are in fact improving public health.
m. Port could donate funds to local community health clinics and hospitals to provide local resident medical care.
n. Port could designate and donate the 80+ acres of Pier A land it owns in Wilmington for Wetlands Restoration.
o. Port could stop or limit construction on high smog alert days.
p. Port could provide financial grants to environmental justice and public health organizations to provide public education to help minimize public health impacts from air pollution, traffic congestion etc..
q. The Port could have included the preparation of a Public Emergency Notification System, Evacuation Plan & Long Term Care Program.
r. The Port could incorporate renewable and sustainable Solar and Wind Energy Technology.

The Zone of Impact (ZOI), environmental justice, minority populations and low income populations project area of influence one mile area of influence is an arbitrary decision and was not based on any study or assessment of actual CEQA/NEPA evaluation criteria such as environmental, public health, land use, traffic impacts of environmental justice, minority and low income communities. We recommend as a minimum a 5 mile radius. CSE (B)-4

The DEIR/DEIS must include all environmental justice, minority populations and low income populations which are currently and will be impacted by the construction, expansion and operation of the Middle Harbor Redevelopment Project. This includes all truck, train and worker traffic routes that are and will be used from start-to-final destination. Therefore the Zone of Impact in the DEIR/DEIS failed to include accurate population information and impacted communities information.

The Port ignored the composition of affected areas, the disproportionate high & adverse human health and environment effects, cumulative impacts, relevant public health data in its decision making and requests for further medical and scientific research. The Port made a conscious decision to move forward business as usual. A violation of the Council on Environmental Quality: Environmental Justice-Guidance under NEPA. CSE (B)-5

Environmental justice, minority and low income populations are not the sacrificial lambs for the monetary greed and political power of the Port of Long Beach, the City of Long Beach, the State of California, the Federal Government, their corrupt or incompetent management, staffs, consultants, commissioners and their fellow international trade industry racketeers.

CSE (B)-5

Ports are allowed to operate in the public's best interest and not exclusively for private business profit making industries. Ports are not allowed to participate in premeditated murder, cause public health problems, cause personal injury, cause physical harm, cause loss of income, cause loss of quality of life, cause loss or damage to real or personal property or incur a potential safety impact.

CSE (B)-6

2. The DEIR/DEIS states the project will have significant and unavoidable impacts and when considered in their entirety will have significant and numerous cumulative impacts.

Significant negative impacts and numerous cumulative impacts which can be mitigated are prohibited by law. They are contrary to the public's best interests, will cause disproportional impacts on environmental justice, minority and low income communities and are a legitimate basis for denial of project approval, a permit and DEIR/DEIS certification.

The DEIR/DEIS additionally fails to comply with the Title VI Civil Rights Act in protecting designated groups.

The cumulative impact assessment failed to include all impacted environmental justice, minority and low income populations in its Zone of Impact, failed to include all public traffic impacts, failed to include all air pollution impacts and failed to include current public health and premature death statistics. As a result, the DEIR/DEIS 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.

The DEIR/DEIS Cumulative Impact Assessment is incomplete and fails to include numerous other local and non-local construction and operation projects. Locally the assessment fails to include expansion construction projects in Wilmington such a: L.A. Harbor College, ConocoPhillips Oil Refinery, Tesoro Shell Oil Refinery, Valero Oil Refinery, new Elementary/Middle School and Carson such as: BP/ARCO Oil Refinery, BP/ARCO Hydrogen Power Plant, a new Elementary & High School and a new Retail Shopping Mall.

CFASE requests that the Port conduct a more comprehensive Cumulative Impact Assessment that does not leave out other significant projects toxic and hazardous air emissions and traffic impacts. We request that a regional community resident and organization taskforce be created to make recommendations.

CSE (B)-7

3. The DEIR/DEIS fails to justify that there is a need to expand the current Middle Harbor Redevelopment Project and the benefits of the project out way the reasonable foreseeable detriments. The DEIR/DEIS briefly mentions port growth, discusses employment and employment data, but provides no economic study or assessment that proves that the Port is experiencing significant growth, will create employment or that there is a national or state crisis justifying the need for the expansion of this terminal and endangering the public to negative significant environmental, traffic, public health and public safety impacts.

The Port of Long Beach provided no current information that any of the current Pier C, D and F tenant terminal operators are experiencing substantial growth or has contracts that validate future significant growth or forecasts mentioned in the DEIR/DEIS. Most

information provided was for both the Port of Los Angeles and the Port of Long Beach. We would like to see current and separate Port of Long Beach information, studies and data. CSE (B)-7

It is a fact that the Port of Long Beach percentage of growth in 2007 was the lowest in the past 20 years and a review of 2008 TEU 1st and 2nd quarter container data shows that it is lower than in 2007. A review of 2008 bulk cargo 1st and 2nd quarter data shows that it is lower than in 2007. Based on current information there is no need for terminal expansion, only port facility modernization and cargo handling efficiency.

Discussion and information of cargo capacity and backland capacity failed to discuss and consider and include the following:

a. Increased capacity throughput, transportation and delivery if a new IT real time container and cargo ID Tracking Program System was purchased and implemented.
b. Increased capacity throughput, transportation and delivery if containers and cargo were dropped directly from ship to train, instead of being relocated and staged several times.
c. Increased capacity throughput, transportation and delivery if there was no required intermodal transfer.
d. Increased capacity throughput, transportation and delivery if a new high speed Electric MagLev Train was used and it was not necessary to wait for a train of 300 cars to be assembled. A MagLev Train System can send one TEU or multiple TEU's at a time.

We request a new study be completed to include these recommendations, assumptions and increased capacity outputs.

The DEIR/DEIS failed to provide any information or study that proves that City of Long Beach, Wilmington, Carson and San Pedro residents who will be the most negatively impacted by the Middle Harbor Redevelopment Project will be the primary employment and economic benefactors of this project.

4. NEPA Project Purpose & Need: CSE (B)-8

The DEIR/DEIS states that one of the project purposes is to increase and optimize the cargo handling efficiency. The definition of efficiency includes the ability to accomplish a job or task in the minimum expenditure of time, effort, cost and energy.

a. The proposed new Pier F Intermodal Railyard while on-dock is not adjacent to the ships where they are docked, where containers and cargo can be immediately dropped from ship to rail car, containers and cargo must be picked-up, staged, sorted and later transported to the rail for intermediate or final destination. This is not efficient does not decrease time, effort, cost or energy.
b. There is no new efficient technology being used to unload containers and cargo.
c. There is no new efficient technology being used to transport containers and cargo.
d. There is no new efficient technology being used to identify containers and cargo for sorting and transport to their intermediate or final destination.
e. The information provided shows that only three large container ships can be docked at one time, which appears to be less dock able ships than the existing terminals.

CSE (B)-8

The DEIR/DEIS states that one of the project purposes is to increase and optimize the infrastructure capacity of the Port:

a. The proposed project infrastructure uses the same outdated design and layout of all existing terminals at the Port.
b. The proposed project infrastructure does not use modern and efficient adjacent shore-side container and cargo drop-to-rail technology.
c. The proposed project infrastructure does not use the best unloading technology. The most efficient infrastructure design would be to unload ships from both sides at one time. This would require a U-Shape or Horse-Shoe dock slip design. They could also be slightly angles to provide minimum a land foot print, maximum usage and rapid access. We estimate that 4-5 large capacity container ships could dock at one time using this configuration. There are companies that have proposed this design concept which have been ignored.

The DEIR/DEIS states that one of the project purposes is to increase and optimize the improving marine terminal operations efficiency:

a. No IT Container Tracking Software/Hardware Technology is proposed to reduce identification, sorting, staging, cue and delivery time. Port could require tenants to use a bar code, transmitter, GPS or other technologies to quickly identify, sort, minimize cue time and transport containers and cargo to destination.
b. No project infrastructure proposal to use modern and efficient adjacent shore-side container and cargo drop-to-rail transportation system technology.
c. No proposal to incorporate the American MagLev Technology, Inc. MagLev Train for on-dock container and cargo transportation to the Union Pacific ICTF Terminal or Alameda Corridor. EMMI Logistics Solutions and American MagLev Technology have designed a state-of-the-art goods movement transportation system that can transport up to 8,000 containers a day and more than 3-4 times the speed of a traditional diesel locomotives. This technology does not require having to accumulate 250-300 train cars before it can travel to its destinations.
d. No proposal design to incorporate a U-Shape or Horse-Shoe dock slip design.

The DEIR/DEIS states that one of the project purposes is to the upgrading utility infrastructure to support the implementation of controls necessary to reduce pollution:

a. The upgrading of utility infrastructure failed to include alternative Renewable Energy Sources such as Solar Energy and Wind Energy as mitigation.
b. There are numerous Solar Energy companies who offer this technology.
c. There are also two new Wind Energy companies we recommend. We recommend the Mariah Power Windspire and Quiet Revolution, LTD. Vertical Wind Turbine technology designs. They do not use traditional propeller blade technologies. The Windspire is a straight-bladed Darrieus rotor design that is extremely safe for birds and the Quiterevolution QR helical twisted design can have a wire-like air flow through cage placed around it.

The DEIR/DEIS states that one of the project purposes is to conserve energy.

a. Although the project will incorporate a LEED certified building with a solar roof it will still require additional electric power which is being provided by public utilities which are paid for by the public who are the majority ratepayers. The Port needs to utilize its vast open space to incorporate Solar Panel Array Networks and new Vertical Axis

Wind Turbines which can be built on roof tops, canopies and poles. The Port of Los Angeles has announced plans to build a 10MW Solar Energy Facility at its facilities. CSE (B)-8

b. Solar Energy Panels can also be built along the MagLev Train Rail Network to supplement electricity needs.
c. Vertical Axis Wind Turbines can be built along the port perimeters, offshore water breaker, building roof tops, canopies and poles. They do not use propeller blade technologies. We recommend the Mariah Power Windspire and Quiet Revolution, LTD. Vertical Wind Turbine designs.

5. CEQA Project Objectives: CSE (B)-9

The DEIR/DEIS states that one of the project objectives is to modernize existing primary port facilities which is not entirely being achieved as stated in #4.

The DEIR/DEIS states that one of the project purposes is to implement the Green Port Policy which is not being achieved: CSE (B)-10

a. The Green Port Policy includes to protect the community from harmful environmental impacts of Port operations. The DEIR/DEIS fails to identify, assess, prevent and mitigate all harmful environmental impacts of the Port as described in these public comments. The DEIS/DEIS fails to protect environmental justice, minority and low income populations as described in these public comments.
b. The Green Port Policy includes to promote sustainability. The DEIR/DEIS fails to incorporate reasonable and available technologies and polices that would assure promotion and support of sustainability as described in these public comments.
c. The Green Port Policy includes to employ the best available technology to avoid or reduce environmental impacts. The DEIR/DEIS fails to include the numerous available and new technologies that can eliminate, prevent, reduce and assure no to near zero environmental impacts.
d. The Green Port Policy includes to engage and educate the community. The Port has failed to disclose all the public health impacts of the Ports business operations. The Port has failed to disclose that it can provide financial support for public health care and numerous other mitigation measures. The Port has failed to disclose that it can create a Port Community Advisory Council made up of residents and non-profit organizations such as the one the Port of Los Angeles has had in existence since 2003.
e. We recommend the establishment of a Port of Long Beach Community Advisory Committee composed of Long Beach residents. homeowner associations, non-profit environmental justice, environmental, community, public health advocacy and academic organizations.

CFASE request that the DEIR/DEIS include that the Port of Long Beach Community Advisory Council be designated as a third party overseer of all Port of Long Beach mitigation.

The DEIR/DEIS states that one of the project purposes is to provide efficient terminal traffic flow which is not being achieved as stated in #4. CSE (B)-11

The DEIR/DEIS states that one of the project purposes is to provide for efficient cargo handling operations which is not being achieved as stated in #4.

6. The DEIR failed to include a Current Public Health Status Baseline Study. CSE (B)-12

CSE (B)-12

a. There has been no comprehensive assessment and determination of all the public health impacts that are currently occurring and have in the past on-port and off-port Port of Long Beach impacted communities adjacent to and near the Port of Long Beach. There has been no review and cataloguing of the various types of cancers, respiratory problems, learning disabilities, physical disabilities, short and long term disability impacts of public exposure to various toxic and hazardous airborne chemicals and substances. There has been no assessment of the number of local resident-public premature deaths caused by the Port of Long Beach business operations.

b. There has been no comprehensive door-to-door Public Health Survey conducted in the Port of Long Beach and Transportation Corridor communities that are adjacent too and near the Port of Long Beach to determine how many people are afflicted with what diseases or illnesses. The DEIR fails to disclose all public health impacts of the current and proposed Port of Long Beach Middle Harbor Redevelopment Project construction and business operations expansion on local residents, children, business workers and visitors.

CSE (B)-13

7. CFASE has requests that the Port of Long Beach include public health care mitigation by establishing a Public Health Care Mitigation Trust Fund to fund local community clinics and hospitals in Long Beach, Wilmington, Carson and along train and truck transportation corridors. The Port has failed to provide an assessment of why this mitigation is not feasible.

The Port has failed to provide any medical financial assistance to the impacted families who have identified themselves at previous Port of Long Beach public hearings and meetings. The Port has failed to assess the extent of the public health problems and premature deaths it has caused. The Port has failed to provide any financial assistance to impacted families who have had family members die due to the Ports business operations.

CFASE and the public have requested that the Port of Long Beach establish a Public Health Care Mitigation Trust Fund which can provide financial assistance for immediate, short term and long term such as:

a. Public health care & treatment.
b. Financial assistance to pay for health care at local clinics & county hospitals.
c. Financial assistance to pay for health insurance.
d. Financial assistance to pay for medical equipment.
e. Financial assistance to pay for medical supplies.
f. Financial assistance to pay for medical prescriptions.
g. Financial assistance for funeral expenses.
h. Financial assistance for short & long term convalescent care.
i. Financial assistance for rehabilitation.
j. Financial assistance for job retraining.
k. Financial assistance for lost income.
l. Financial assistance for special learning disability assistance.

CFASE requests that the Port of Long Beach establish a Public Health Care Mitigation Trust Fund and charge a Public Health Care Mitigation Tariff of $10.00 per Middle Harbor Redevelopment Project TEU for the DEIR/DEIS current baseline, $15.00 per TEU over the DEIR/DEIS baseline to mitigate future growth and $100.00 per ton bulk cargo. CSE (B)-13

8. The DEIR failed to include an accurate Sensitive Receptor Zone of Impact Study. The Grid layout that was included in the DEIR and used in the Health Risk Assessment was arbitrary and discretionary. It was not based on a current Public Health Status Baseline Study or Port of Long Beach Wind Pattern Aerosol Dispersion Meteorological Study which would have disclosed the actual range, distance and concentration of toxic air pollutants and their actual and possible public health impacts. CSE (B)-14

   One example would be the California Air Resources Board - Wilmington Air Tracer Study conducted by the Desert Research Institute. The study established 70 community test site locations at various distances and a non-toxic gas was released to determine its dispersion pattern, distance and concentration.

9. The DEIR failed to include a West Long Beach and Wilmington Harbor community perimeter Port of Long Beach Wind Pattern Aerosol Dispersion Meteorological Study. This type of study would accurately record and define the air pollution dispersion and volume concentration of air pollutants throughout the Greater Port of Long Beach Harbor impacted communities. The information in the DEIR is not accurate and does not provide full disclosure of the air pollution dispersion and concentration of exposure to local communities and unique residential areas.

   We request that a permanent Air Monitoring Sites Network be established at all major sensitive receptor locations. CSE (B)-15

10. The DEIR Health Risk Assessment is not complete and accurate because it did not include: CSE (B)-16

    a. A review and cataloguing of the various types of cancers, respiratory problems, learning disabilities, physical disabilities, short and long term disability impacts of public exposure to various toxic and hazardous airborne chemicals and substances caused by the Port of Long Beach, the distribution and delivery of its containers and cargo.
    b. A review of premature deaths attributed to the Port of Long Beach business operations, the distribution and delivery of its containers and cargo.
    c. A comprehensive door-to-door Public Health Survey.
    d. An accurate Sensitive Receptor Impact Zone Study.
    e. Wind Pattern Aerosol Dispersion Meteorological Study. CSE (B)-17

11. The DEIR/DEIS failed to include as mitigation the Port of Long Beach mandate that the Middle Harbor Terminal tenants maximize the use the Alameda Corridor in lieu of diesel fuel air polluting trains and trucks. CSE (B)-18

    Data in the DEIR/DEIS discloses that 68.4% of containers will be delivered by diesel fuel polluting trucks not trains. This is unacceptable when it is a fact that approximately 60% of containers are leaving California for out-of-state delivery. There is inadequate mitigation to address the significant impacts of the new terminals trucks on local Harbor

CSE (B)-18 communities, transportation corridor communities, distribution centers and no proposed mitigation for regional and statewide impacts.

There is also a conflict of data. Table 1.6-4 data conflicts with data in the text. The text states that approximately 2,523,200 TEU's will move by truck which leaves 796,800 leaving by train. In the table, if you multiply the average daily truck trips of 10,112 by 365 days you get 3,690,880, which is 1,167,680 more truck trips which are not being mitigated.

CFASE requests that the Port of Long Beach conduct a Middle Harbor Redevelopment Project Study to determine the amount of containers and cargo that must be delivered by truck due to their local delivery requirements vs those which must travel long distance and out of state. The percentage of those that must travel long distance will be the mandatory Alameda Corridor use percentage requirement.

CSE (B)-19 12. The DEIR/DEIS provides general information on new Terminal Security such as the Radiation Portal Monitors (RPM) but does not state if 100% of all containers and cargo will be inspected. We request that 100% be inspected.

The DEIR/DEIS fails to disclose if there are any off-port property inspection facilities that will be used. We want full disclosure, including facility location.

There is no mention or description of the proposed quantity of security personnel for this facility.

There is no mention or description of the proposed security monitoring and surveillance system or any studies to determine and quantify the terminal security needs.

The DEIR/DEIS fails to mention, address, assess and mitigate the off-port property public security needs. What are the potential public impacts from a major port terrorist attack, major natural disaster such as tsunami or earthquake etc.. What is the Public Emergency Notification, Evacuation & Care Plan. All security will be focused on protecting the Port and its assets, not the Port Harbor residents and public.

There have been several recent breeches in San Pedro Bay Ports security system. How was a truck with a container with the word Anthrax able to get past the gate and how was a disgruntled off-duty truck driver able to get past security and it was the longshoreman dockworkers that tackled the driver and restrained him until Port security got there.

CSE (B)-20 Why is it that the Port authorities do not know how many and which fisherman at the Ports are allowed to have explosives for fishing.

CSE (B)-21 13. The DEIR/DEIS states that new environmental Green Port Policies and conditions are being included in new leases, but fails to disclose a copy of the terms and conditions. The public has a right to know if the T & C's are adequate, comply with the San Pedro Bay Clean Air Action Plan, are being implemented as soon as possible or include the Best Available Technologies and the Best Available Pollution Control Technologies. Mandatory maximum use of the Alameda Corridor for container shipment is also an important issue. We request that these concerns be addressed, included and mitigated.

CSE (B)-22 14. The Port of Long Beach proposes a Vessel Speed Reduction Program CAAP Measure requirement of 12 knots within 40 nm of Point Fermin. We request that it be within

100nm of Pt. Fermin for maximum reduction of air pollution, environmental and public health impacts to California Coastline, residents and Port communities. CSE (B)-22

We additionally request this mitigation to prevent vessel strikes of whales and other sea mammals.

15. The DEIR/DEIS Clean Vessel Fuels CAAP Measure proposes the use of 0.2 percent or lower sulfur MGO fuel. We request that it be 0.1 percent or lower sulfur MGO fuel since this fuel is readily available now. CSE (B)-23

16. The DEIR/DEIS discusses Water Resources Protection but fails to address, assess and mitigate atmospheric aerial deposition at the Port of Long Beach. This would include ship, train, truck and cargo handling equipment diesel fuel PM and other contaminates such as toxic truck brake dust. CSE (B)-24

These temporary, permanent and long term impacts will have significant toxic and hazardous chemicals and substances atmospheric aerial deposition impacts on water quality which includes ocean water, neighboring lakes, rivers, fresh water reservoirs and underwater aquifers.

Mitigation can include the design and construction of several Ocean Water Purification and Decontamination Systems.

17. The DEIR/DEIS acknowledges that this Middle Harbor Redevelopment Project will cause a significant increase in rail lines usage but fails to mitigate the locomotive engines diesel toxic emissions, traffic congestion and noise impacts. CSE (B)-25

The DEIR/DEIS fails to acknowledge, assess and mitigate train rail traffic, air emissions and noise at all transportation corridors, rail yards, distribution centers that China Shipping Lines will use. As a minimum these include the Wilmington Watson Rail Yard, Alameda Corridor, Carson ICTF Terminal, UP Vernon rail yard and BNSF East LA rail yard and Riverside and San Bernadino County Distribution Centers.

CFASE requests that the Port of Long Beach, Union Pacific and Burlington Northern Santa Fe purchase the Advanced Cleanup Technologies, Inc. – Advanced Locomotive Emissions Control System (ALECS) System for use at all Port of Long Beach Terminals on-dock, near dock rail locations and off-port property rail yard facilities that the Middle Harbor Redevelopment Project intends to use. CSE (B)-26

The increased noise may not exceed the state or federal standards, however, there will be a public nuisance and increased public health problems from non-stop continuous noise from train braking, connecting cars, turning corners, train whistles at stop, engine startup, transmission changing, changing speeds and no large silence periods from train noise. Due to the Port adopted Pier Pass Program trains are running 24/7 and Middle Harbor Redevelopment Project will increase train rail usage. In addition, when trains block public street intersections and access to Port terminals, truck drivers begin to honk their horns. CSE (B)-27

The DEIR/DEIS failed to research other public street intersections that will be impacted by increased Middle Harbor Redevelopment Project rail traffic such as near the CSE (B)-28

CSE (B)-28 intersection of Anaheim Street and Alameda. Wilmington residents must wait for the train to pass in order to travel east on Anaheim to go to Long Beach.

CSE (B)-29 18. The DEIR/DEIS states the Middle Harbor Redevelopment Project will use rail facilities such as the Union Pacific (UP) Carson ICTF intermodal facility, the Burlington Northern Santa Fe (BNSF) Hobart Yard facility in Vernon and the UP East Los Angeles Rail Yard facility but fails to mitigate the significant negative environmental, traffic, public health and public safety impacts in those bordering cities and communities.

CSE (B)-30 The Port of Long Beach and USACOE has held no public hearings in those cities and communities, has provided no public notification and has solicited no public comment. City officials in those cities did not receive any official notification.

The ICTF facility impacts not only the City of Long Beach residents but also borders the neighboring Environmental Justice community of Wilmington in the City of Los Angeles, Compton and the City of Carson.

The UP East LA and BNSF Vernon facilities also impact the bordering cities of Commerce, Bell, Maywood and Bell Gardens.

CSE (B)-31 19. The DEIR/DEIS, Port of Long Beach and its business tenants have deprived 1,000's of Harbor residents and children the right to live a normal and healthy life. The Port contributes and causes a significant amount of toxic air, land and water pollution which is known to cause cancer and numerous other temporary and permanent public health problems and disabilities.

The Port failed to notify Harbor residents, dock workers and the public of the life and health threatening nature of its business activities. The Port failed to provide to the public governmental agency, medical and scientific public health study information that it knew existed that could assist the public in preventing & minimizing health impacts, seeking health care and assist the public in participating in the Port public hearing and meeting process where they could make public comments on the negative impacts of the ports business activities on public health and request mitigation.

CSE (B)-32 CFASE requests that the Port of Long Beach sponsor and finance a comprehensive Long Beach, Wilmington, Carson and San Pedro Port Harbor Community Public Health Survey, an Epidemiology Study and a Morbidity Study to validate its Health Risk Assessment conclusions and to establish a public health baseline. We request that the Port contract with UCLA and USC for these studies.

CFASE further requests that the Port conduct the same public health studies in all communities and cities that border all transportation corridors, rail yards, distribution centers that the Middle Harbor tenants will use.

CSE (B)-33 20. The DEIR/DEIS fails to require that the Port of Long Beach include Wetlands Restoration Projects in Long Beach and San Pedro Bay as Biological Mitigation. The Ports use of off-port property such as Bolsa Chica Mitigation Credits is unacceptable. CFASE and the Sierra Club Harbor Vision Task Force have identified in the past numerous potential Wetlands Restoration Project sites in San Pedro Bay.

CFASE requests that a special taskforce of San Pedro Bay residents and community organization make recommendations. CSE (B)-33

CFASE requests that the Port of Long Beach establish a Wetlands Restoration Mitigation Trust Fund based on $1.00 per Middle Harbor Redevelopment Project TEU Tariff and adopt the Coalition For A Safe Environment's and the Sierra Club's Harbor Vision Task Force San Pedro Bay submitted and identified recommendations.

21. CFASE has requests that the Port of Long Beach include the establishment of a Marine Fish Hatchery to restore the fish population that the Port has destroyed in San Pedro Bay. The Ports fish inventory is unacceptable because it is based after the natural fish population has been decimated. CSE (B)-34

CFASE believes that the establishment of a Marine Fish Hatchery could replenish the decreasing fish population. Various types of native fish could be raised and released into San Pedro Bay. CFASE supports the restoration of reefs and seaweed beds in the outer harbor, however, CFASE does support the sinking of ships and dumping of junk to create new habitats. New habitats should created as close to the original natural materials that used to exist.

CFASE requests that the Port of Long Beach establish fish hatcheries, reefs and seaweed beds in San Pedro Bay as Biological Mitigation. CFASE requests that the Port of Long Beach establish a Marine Biological Restoration Mitigation Trust Fund based on $1.00 per Middle Harbor Redevelopment Project TEU Tariff.

22. The DEIR/DEIS fails to address all Aesthetic impacts and feasible mitigation. The Port has failed to acknowledge and mitigate all off-port property transportation corridors, rail yard facilities, container storage yards, truck/chassis staging areas, distribution centers and dredged material storage/drying areas aesthetic community impacts. CSE (B)-35

The Port failed to conduct a comprehensive assessment of off-port property nexus impacts and mitigation that is not limited to land areas bordering the Port.

We request that the Port establish a taskforce with community residents and organizations to identify aesthetic impacts and appropriate mitigation

23. The DEIR/DEIS fails to comply with the California AB32 Global Warming Act to decrease and prevent the generation of CO2 and other Port generated or caused Green House Gases. The DEIR/DEIS does not require all BACT's, Comprehensive Inspection & Preventive Maintenance Programs, Zero and Near Zero Emissions Technologies CSE (B)-36

As an example there are also fugitive HFC's emissions from diesel trucks and refrigerated containers (reefers). Diesel truck and reefer air conditioning units have a high seal failure rate, which gets worse over time. They are being refilled numerous times during the year. The Port did not accurately estimate the amount of HFC's being leaked into the atmosphere.

Thousands of containers are in storage yards which are not evacuated and a result tens--of-thousands are leaking every day. Not only is this a global warming concern, but a resident public health concern due to the fact children and residents are breathing these toxic HFC's.

CSE (B)-37

24. The DEIR/DEIS fails to consider the Cumulative Impact of all ship vessels traveling to and entering the Port of Long Beach and San Pedro Bay and their impact on migrating whales and other sea mammals.

The DEIR/DIES fails to mitigate these negative impacts. CFASE recommends as appropriate mitigation to change the current ship routes and distances along California's and Baja California's coast. Ships do not need to have an aesthetically pleasing coastline view. Prohibit ships from traveling along the coast if not necessary and traveling no closer than 50 nautical miles when necessary. Reduce ship speed to 10nm when within 50 nautical miles of the coast and space the number of ships that enter to allow time for whale and mammal passage.

CSE (B)-38

25. The DEIR/DEIS fails to address the impacts of Container Storage Facilities located off-port property. The Port of Long Beach has failed to adopt state-of-the art storage technologies which can automatically stack, identify, store, retrieve and transport containers which would eliminate the need for off-port property container storage yards in Wilmington and throughout the Harbor area. The Port has failed to establish empty container return policies and requirements in its tenant lease agreements that would eliminate storage of containers off-port property. The Port has failed to adopt a plan to eliminate off-port property storage of empty containers which have been stored for numerous years that will never go back.

The DEIR/DEIS fails to address the impacts of Container Storage Facilities located off-port property. The Port of Long Beach has failed to adopt state-of-the art storage technologies which can automatically stack, identify, store, retrieve and transport containers which would eliminate the need for off-port property container storage yards in Wilmington and throughout the Harbor area. The Port has failed to establish empty container return policies and requirements in its tenant lease agreements that would eliminate storage of containers off-port property. The Port has failed to adopt a plan to eliminate off-port property storage of empty containers which have been stored for numerous years that will never go back.

CSE (B)-39

The Port has failed to adopt policies and requirements that would require the sanitation and decontamination of containers that are placed into storage yards. Workers and the public are exposed to the West Nile virus, other insect infestation, bacteria, fungus, toxic paint and coating due to deteriorating paint, toxic and hazardous chemicals that were stored in containers etc..

Container storage yards are also havens for rats, possums, raccoons, homeless and drug dealers. They also are trash magnets and have created truck routes in residential areas. The additional truck traffic destroys locals streets, street signs, curves as trucks run-over them, damage bridges other transportation infrastructure and has increased traffic accidents.

The Port has not conducted a comprehensive assessment of these impacts on the Long Beach, Wilmington and Harbor communities.

26. The DEIR/DEIS fails to identify and address the impacts of any Off-Port Property Container Inspection Facilities. These facilities can cause new unapproved Port truck routs to be established through the community and non-industrial traditional streets to get to the facilities that never existed. This.can create new truck traffic, increased traffic accidents, truck breakdowns, endangers the public from potential hazardous materials spills, fires and explosions. CSE (B)-40

An example is the Port of Los Angeles. There was a recent bomb detection threat which required the evacuation of the company, all neighboring industrial park business facilities and the local corner market. Carson and Wilmington residents and workers lives were in danger. People lost income, could not get to work, residents could not get to their homes. Carson sheriffs, Los Angeles police, Port police, bomb squad, FBI, fire departments and others were on-sight.

To by-pass the public hearing process, public disclosure and its legal responsibilities it secretly subcontracted these services to a private company. The City of Carson licensing, permitting and zoning departments were not aware of these activities when the issued any license or permit. There was no public hearing or public disclosure.

The Port has not conducted a comprehensive assessment of these impacts on the Long Beach, Wilmington and Harbor communities.

27. The DEIR/DEIS does not address Truck & Chassis Storing & Staging Areas Impacts. The Port and its tenants have allowed numerous Truck & Chassis Storing & Staging Areas to be established by private business owners and subcontractors in Long Beach and off-port property which can border residential areas. These facilities cause traffic congestions problems, community blight, contaminate the land and adjacent properties, release toxic and hazardous air emissions, they destroy sidewalks, destroy and modify sidewalks to make driveways, illegally double park, conduct unauthorized business activities and cause a public safety hazard. CSE (B)-41

The Port of Long Beach currently own numerous acres of land off-port property which are being used for off-port property activities for truck & chassis storage and staging areas. The Port also leases these properties to companies so that they can deny and avoid any mitigation and liability.

The Port has not conducted a comprehensive assessment of these impacts on the Long Beach, Wilmington and Harbor communities.

28. The DEIR/DEIS fails to address and mitigate numerous truck issue impacts. The Port and its tenants have allowed numerous unacceptable conditions to occur without mitigation: CSE (B)-42

a. Increasing truck traffic congestion on public freeways, highways, streets and bridges.
b. Increasing truck traffic accidents.

CSE (B)-42

c. Increasing public car insurance rates due to truck accidents.
d. Increasing public health care costs due to truck caused accidents.
e. Increasing truck breakdowns on freeways, highways, streets.
f. Increasing truck breakdowns on public bridges.
g. Increasing truck traffic running of street lights.
h. Increasing truck blockage of drivers views.
i. Increasing truck traffic running over sidewalks & curves while making turns.
j. Increasing truck traffic damage to freeways, highways, streets, bridges.
k. Increasing truck traffic failing to stop for residents crossing the streets.
l. Increasing illegal truck driver dumping of tires, truck parts, oil, fluids and trash.
m. Increasing illegal truck traffic through residential areas.
n. Increasing illegal truck driver usage of containers to transport personal items.
o. Increasing illegal truck parking on city streets, residential areas & public parks.
p. Increasing public costs to maintain, repair & replace transportation infrastructure.
q. Increasing truck transportation of toxic and hazardous chemicals, substances & materials.
r. Increasing truck transportation of public health hazards such as the West Nile Virus, bacteria, fungus, molds and other non-native species.
s. Failure to sanitize and decontaminate trucks & containers.
t. Truck honking at all hours of the night while stopped at train intersections.
u. Truck revving their engines.

The Port has not conducted a comprehensive assessment of these impacts on the Long Beach, Wilmington, San Pedro and other Harbor communities.

We request that the Port Traffic Management Plan be included in the DEIR/DEIS for public review and participation. The City of Long Beach and current emergency response providers have failed to develop past adequate Traffic Management Plans and Emergency Public Notification, Evacuation and Care Plans because there was no public participation or approval.

CSE (B)-43

29. The DEIR/DEIS fails to address the increase in other noise categories from on-port property and off-port property business operations due to increased Port & Homeland Security, these include:

a. Ship horns during the day & at all hours of the night.
b. Police Helicopters flying during the day & at all hours of the night.
c. Port Tour Helicopters flying during the day.
d. Media News Helicopters flying during the day& at all hours of the night.
e. Film Crew Helicopters flying during the day& at all hours of the night.
f. Port, City, State & Federal Police/FBI/CIA etc. Sirens during the day & at all hours of the night.
g. Fire Department Vehicle Sirens during the day and at all hours of the night.
h. Containers being accidently dropped during the day & all hours of the night.

Long Beach, Wilmington and San Pedro residents have no cessation of noise, it is continual 24hrs. a day and 7 days a week.

The proposal to publish notices in the Press Telegram is not adequate. We request that notices be published in all newspaper within 20 miles of the port. We request that in addition to a classified notice the port place full page adds discussing the construction schedule and any other significant construction or operation activity. CSE (B)-43

30. The DEIR/DEIS fails to acknowledge, address and mitigate the fact that there is no adequate Port Public Emergency & Disaster Notification, Response or Long Term Care System. The Port has created no emergency funds pool, contracted no third party support services, contracted no relocation areas, contracted no food or water services etc. CSE (B)-44

    The Port has put every Harbor resident and Harbor Community in extreme danger from its business operations. All planning that has been conducted has been to protect "Port Assets" not Harbor resident's lives and livelihoods. If there is a Port catastrophe"

    a. There are inadequate Port and City Police to protect and assist the public.
    b. There are inadequate Fire Department Personnel & Equipment to provide assistance.
    c. There are inadequate medical & hospital services & beds available.
    d. There is no relocation place for displaced families to go to.
    e. There are no emergency food & water resources for displaced families.

31. The DEIS/DEIS fails to disclose and require that the Port of Long Beach could conduct a Port of Long Beach Air Tracer Study to validate used dispersion modeling and public impacts. A Wilmington Air Tracer Study conducted for the California Air Resources Board (CARB) Desert Research Institute did not collaborate the toxic and hazardous air emissions dispersion models and data that were contained in Port of Los Angeles DEIR's/DEIS's. The CARB Study in fact showed a wider and farther dispersion than what the Port was claiming and mitigating. CSE (B)-45

32. The DEIS/DEIR describes the mitigation measures for Fugitive Dust but fails to mention that Boat owners and Boat Live-ins at Consolidated Slip which houses several boat marinas are exposed to fugitive dust. They have also complained about chemical odors, having headaches, feeling nausea, dizzy and breaking out in skin rashes. CSE (B)-46

    We ask the Port to clearly identify where it will store and dry dredged materials.

    We request that the Port conduct an assessment and interview any Consolidate Slip marina residents and boat owners or other location residents and businesses to determine any impacts to them.

33. Middle Harbor Redevelopment Project DEIR/DEIS failed to disclose and include all train container and cargo routes public, environmental justice, minority populations and low income populations impacts leaving the Port of Long Beach to their final destination: CSE (B)-47

    a. The route to the Union Pacific ICTF as a minimum.
    b. The route to the Alameda Corridor to the Union Pacific Vernon Rail Yard and the BNSF East Los Angles Rail Yard as a minimum.
    c. The rout to the Wilmington Watson Rail Yard.
    d. The route through Carson and Torrance.
    e. Regionally

CSE (B)-48

34. Middle Harbor Redevelopment Project DEIR/DEIS failed to disclose and include all truck container and cargo routes public, environmental justice, minority populations and low income populations impacts leaving the Port of Long Beach to their final destination:

a. Long Beach I-710 Freeway
b. Los Angeles Harbor I-110 Freeway
c. Terminal Island 103 Freeway
d. San Diego I-405 Freeway
e. Riverside I-91 Freeway
f. Etc.

CSE (B)-49

35. Middle Harbor Redevelopment Project DEIR/DEIS failed to disclose and include all worker vehicle public, environmental justice, minority populations and low income populations impacts traveling to the Port of Long Beach and leaving to their point of origin:

a. Long Beach I-710 Freeway
b. Los Angeles Harbor I-110 Freeway
c. Terminal Island 103 Freeway
d. San Diego I-405 Freeway
e. Riverside I-91 Freeway
f. Etc.

CSE (B)-50

36. Middle Harbor Redevelopment Project DEIR/DEIS failed to disclose and include all truck, container and cargo routes public, environmental justice, minority populations and low income populations impacts leaving the Port of Long Beach to their multiple destinations such as:

a. Off-port property container storage yards.
b. Off-port property chassis assembly & storage yards
c. Off-port property container & cargo inspection facilities
d. Off-port property container & cargo fumigation facilities
e. Off-port property truck staging, parking & storage areas

CSE (B)-51

37. The General Geology and Stratigraphy section discusses earthquakes, seismicity, tsunamis, seiches etc. but all conclusions state that there is little to be concerned with, which is contrary to major researches who are for example predicting a major earthquake above the DEIR/DEIS's study parameters. There is no reference to the recent USC earthquake study that a major offshore earthquake could cause a trillion dollars damage to the San Pedro Bay Ports. Not even addressing with what about the local Harbor residents.

CSE (B)-52

In the tsunami section it discusses possible 5' waves and 12' waves but fails to discuss the difference in impact if the 5' wave is traveling at 5mph or 100mph. A fast moving small wave can crash a ship into a dock or into a nearby fuel tanker ship very easily. It provides little information if a big one was to happen. The Port would be unprepared to deal with natural disaster.

CSE (B)-53

The DEIR/DEIS discusses the oil production facilities and the VOC's, SVOC's toxic and hazardous chemicals but does not provide any assessment for fires and explosions. These could cause horrific impacts on the Ports cargo, infrastructure and dock workers.

CFASE has no confidence in the assessment, conclusions and recommendations made by the consulting companies hired by the Port of Long Beach. We request more comprehensive studies that disclose more worst case assessment scenario information and to include cascading and domino effect impacts. CSE (B)-53

Coalition For A Safe Environment Mission Statement is - To protect, promote, preserve and restore our Mother Earth's delicate ecology, environment, natural resources and wildlife. To attain Environmental Justice in international trade marine ports, goods movement transportation corridors, petroleum and energy industry communities.

Respectfully Submitted,

Jesse N. Marquez

Jesse N. Marquez
Executive Director

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Jesse N. Marquez, Coalition for a Safe Environment, August 6, 2008

CSE(B)-1. Please see response to comment CSE(A)-1. The Draft EIS/EIR has appropriately evaluated the Project's purpose and need/objectives and environmental effects, and has identified mitigation measures and reasonable alternatives to avoid significant environmental impacts as required by NEPA and CEQA. Despite the application of all feasible mitigation measures, significant unavoidable adverse project-level and cumulative impacts would occur. These impacts have been identified in the Draft EIS/EIR, and the decision-makers will consider them as part of deliberations to approve or disapprove the Project.

CSE(B)-2. The environmental justice analysis included in Draft EIS/EIR Section 3.15 meets all applicable requirements of NEPA, CEQA, and other statutes and regulations. To the extent that other comments in this letter provide specific comments on portions of the analysis, those are addressed below; for example, individual mitigation measures are addressed under response to comment CSE(B)-3, and the environmental justice zone of impact is discussed under response to comment CSE(B)-4.

CSE(B)-3. Final EIS/EIR **Mitigation Measures AQ-1 through AQ-29** represent all feasible means to reduce criteria pollutant and GHG emissions from proposed construction and operational sources. Regarding the feasibility to implement electric or Maglev train systems at the expanded Pier F intermodal railyard or Alameda Corridor network, please see responses to comments CSE(A)-3, CSE(A)-4, and SCAQMD-27. With regard to the comment that American Maglev Company has volunteered to build the test facility, American Maglev submitted an unsolicited proposal to the POLB and POLA in early 2008. While the proposer claimed it would to build this facility at its own expense, it also asked the ports to grant it the use of land for the train alignment connecting Pier A and ICTF. A preliminary review by Port staff on the alignment proposed by American Maglev revealed that a significant number of parcels are not owned by the Port. The unsolicited proposal neglected to assess the cost of land acquisition, permitting process, and potential environmental impact on sensitive uses along its proposed alignment. The financial plan included in the unsolicited proposal had not been fully audited by any financial institutions.

The Port is exploring various 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 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 railyardrailyardss.

It is infeasible and impractical to build a permanent parking structure on Pier B, which is not part of the proposed Project, for housing a Maglev facility in connection with the proposed ICTF by UP or SCIG by BNSF. The cost per parking space for a parking structure ranges from $20,000 to $25,000. Constructing a four or five-story parking structure on Pier B would add significant cost to the current tenant (Toyota) that may yield no financial benefit. If a permanent parking structure is constructed, it could significantly constrain the future use on this terminal. The proposed ICTF by UP and SCIG by BNSF are independent of the proposed Middle Harbor Redevelopment Project. 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 proposed Project is approved. The Port may not go beyond the scope of the impacts created by the proposed Project in formulating mitigation measures.

Draft EIS/EIR **Mitigation Measure AQ-10** includes a requirement to implement a container tracking system as requested in this comment. The Port is encouraging efforts to minimize truck trips and associated on-terminal idling through programs like the PierPass and virtual container yards.

Please see responses to comments CSE(A)-7 and CBD-23 for discussion regarding the use of the AMECS and Clean Air Logix - Witmar Dual Multi-Voltage Cold Ironing System on OGV 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 hoteling emissions.

The use of the Advanced Locomotive Emissions Control System (ALECS) on locomotives in the expanded Pier F intermodal railyard would only be applicable to locomotives that remain stationary for extend periods of time, as the ALECS is designed to control exhausts from locomotive that are stationary in a railyard. Locomotives would only use the expanded Pier F intermodal 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. In addition, all PHL locomotives have 15-minute idle-limiting devices, which would further preclude the need for such a technology.

Regarding incorporation of a Vycon Electric Regen system on RTG cranes, Final EIS/EIR **Mitigation Measure AQ-7a** would replace all diesel-powered RTGs with electrified 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.

Regarding the request to use electric drayage trucks and their infeasibility, please see response to comment SCAQMD-20.

Regarding an extension of Project construction over a longer time period to reduce the daily intensity of significant air quality and traffic, this measure is infeasible, as performance of an efficient construction process requires many of these activities to occur either simultaneously or immediately after each other. As a result, extending the construction schedule would be logistically and economically infeasible.

Regarding the request for the Port to fund (1) the installation of air purification systems, (2) local community health clinics and hospitals, (3) public health surveys every five years, and (4) grants to environmental justice and public health organizations, please see response to comment CSE(A)-9.

Final EIS/EIR **Mitigation Measure 2a** has been augmented to require Project construction to curtail on days predicted by the SCAQMD to experience Stage 1 ozone episodes.

Regarding the request to incorporate renewable and sustainable solar and wind energy technology, please see response to comment DOJ-5. The Final EIS/EIR includes new mitigation measures that would expand on proposed solar energy production and GHG off-sets, including (1) **Mitigation Measure AQ-17a**, Solar Carports and (2) **Mitigation Measure AQ-24**, Mitigation for Indirect GHG Emissions.

Additionally, the Port is now in the process of developing a CC/GHG Plan. This plan, which will be comprehensive in nature, will examine GHG impacts for all activities within the Harbor District and will identify strategies for reducing the overall carbon footprint of those activities. To further reduce proposed Project GHG emissions, the Port would provide funding to implement additional GHG mitigation measures, which are consistent with the recently adopted Guidelines, through implementation of the CC/GHG Plan. The Final EIS/EIR has adopted these strategies as new **Mitigation Measures AQ-28**, Greenhouse Gas Emission Reduction Program Guidelines. This new measure should result in additional reductions in GHG emissions beyond those that would be achieved through the direct project mitigation measures described above.

CSE(B)-4. The environmental setting and area of influence described in Draft EIS/EIR Section 3.15.1.2 extends beyond the one-mile vicinity of the Port to include I-710 up to SR-91 (more than five miles from the Project site) and the rail line up to, but not including, the Alameda Corridor. Minority and low-income population data are also provided for the City of Long Beach and Los Angeles County. The environmental justice analysis in Section 3.15.2 evaluates potential impacts where they are located and is not limited to a one-mile radius. No revisions to the Final EIS/EIR are required.

CSE(B)-5. Please see response to comment CSE(B)-2. The environmental justice analysis included in Draft EIS/EIR Section 3.15 meets all requirements of applicable statutes and regulations. The Draft EIS/EIR complies with NEPA and CEQA by disclosing and evaluating disproportional impacts on the environmental justice community. Despite the application of all feasible mitigation measures, significant unavoidable adverse Project-level and cumulative impacts would occur. These impacts have been identified in the Draft EIS/EIR, and the decision-makers will have to consider them as part of their deliberations to approve or disapprove the Project.

CSE(B)-6. The comment states that a comprehensive cumulative impact analysis should be completed for the Project. The Draft EIS/EIR incorporates cumulative analyses for all environmental issue areas that would potentially be impacted by the proposed Project, as required under NEPA (40 C.F.R. 1508.7 and 40 C.F.R. 1508.25(a)(2)) and the CEQA Guidelines (Section 15130). The cumulative analysis approach used in the Draft EIS/EIR used one of two methodologies: the "list" methodology or the "projection" methodology. Consistent with CEQA Guidelines Section 15130(b), most of the resource areas were analyzed using a list of existing or reasonably foreseeable projects that would be constructed in the Project region, including the SPBP harbor districts, and areas south of Willow Street/Sepulveda Boulevard, between I-110 on the west and Long Beach Boulevard on the east. In addition, several reasonably foreseeable public agency projects within counties that may be affected by Port-industry operations were also used to assess the proposed Project's contribution to regional cumulative impacts. The Air Quality and Health Risk (Section 3.2), Ground Transportation (Section 3.5), and Noise (Section 3.8) cumulative impact analyses use a projection or a combined list and projection approach that is based on annual regional growth and development rates. This approach uses a summary of projections contained in adopted plans that encompass the regional conditions contributing to a project's cumulative region of influence (CEQA Guidelines Section 15130[b][1]). Regional projects have been integrated into this cumulative analysis through incorporation into regional plan (i.e., SIP, AQMP, and RTP) projections that are used to formulate annual regional growth rates.

The comment suggests that the Draft EIS/EIR cumulative impact analysis is inadequate as it fails to include several construction expansion projects in Wilmington (e.g., L.A. Harbor College, ConocoPhillips Oil Refinery, Tesoro Shell Oil Refinery, Valero Oil Refinery, and a new elementary/middle school) and in Carson (e.g., BP/ARCO Oil Refinery, BP/ARCO Hydrogen Power Plant, a new elementary and high school, and a new retail shopping mall). Insufficient data is included in this comment to support inclusion of the referenced educational and commercial developments in Wilmington and Carson as reasonably foreseeable projects in the Final EIS/EIR. Furthermore, a search of publicly available sources did not identify any Project-relevant information for the L.A. Harbor College and Tesoro Shell Oil Refinery projects identified in this comment. Although the projects listed in the comment were not specifically identified in Draft EIS/EIR Section 2.1.2, it is reasonable to assume that the facility upgrades and compliance projects identified in this comment were included in the projections used in the Draft EIS/EIR cumulative analysis, including the SCAB 2007 AQMP, the MATES-II (SCAQMD 2000), MATES-III studies (SCAQMD 2008b), and Regional Transportation Plan. The specific approved or pending actions identified in 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 proposed Project, and have publicly available information on the project descriptions and impact evaluations.

Because new projects are constantly being fed into 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 – PM_{10} 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 (December 2005), which defines a reasonable point in time at which to begin the cumulative analysis.

CSE(B)-7. This comment incorrectly asserts that the Draft EIS/EIR failed to show that there is a need for the Project. However, the Port's forecasts of future cargo volumes (Draft EIS/EIR Section 1.3.1.2), and analyses of the future capacity of Port terminals to accommodate those cargo volumes (Draft EIS/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 Draft EIS/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. Therefore, no revisions to the Final EIS/EIR are required.

The comment also identifies several specific factors that should be considered in the Draft EIS/EIR. Please see response to comments CSE(B)-3 and CSE(B)-8 for additional details regarding IT container tracking program technologies and direct transport of cargo from ship to train. Please see response to comment SCAQMD-26 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 NEPA and CEQA, the Draft EIS/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 EIS/EIR intended to allocate employment benefits to the residents of any particular community.

CSE(B)-8. The comment summarizes the NEPA Project purpose and need and identifies various technologies that would further enhance and optimize the cargo handling efficiency and capacity of the Port. All feasible measures that would improve cargo handling efficiencies already 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 that should be included in the Project, but for the reasons set forth below, these technologies are not necessary or feasible for this Project.

Development of a Maglev train rail network relates to regional goods movement infrastructure and is outside the scope of the proposed Project. 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 various technologies, financing mechanisms and a demonstration project between a marine terminal and a near-

dock rail facility. In the event the Port's demonstration project determines that a zero- or near-zero emission transport technology is operationally and financially feasible, the Port will investigate expanding the system to include other terminals, possibly including the Middle Harbor container terminal. However, at this point, it is not financially or operationally feasible to include this type of technology as a mitigation measure for the Project.

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.

The comment inaccurately notes that up to three vessels could be berthed at one time at the Middle Harbor container terminal. As noted in Draft EIS/EIR Section 1.6.3.1, the schedules used to estimate future berth activity/capacity predict that a maximum of four vessels could be berthed at one time.

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. Please see response to comments SCAQMD-7, CBD-20, and CBD-71.

Please see response to comment CSE(B)-3 for discussion regarding incorporating solar and wind energy technologies into the Project.

CSE(B)-9. The proposed Project is designed to be a highly efficient, modern marine terminal. Please see response to comment CSE(B)-8.

CSE(B)-10. The comment incorrectly notes that the Project would not fulfill the Project purpose to implement the Green Port Policy. The Green Port Policy serves as a guide for decision making and establishes a framework for reducing environmental impacts associated with Port operations. The policy contains specific environmental principles that govern all Port activities and has established a series of goals for each element of the policy. Several of the Green Port Policy goals, including the use of the latest technology (i.e., cold-ironing) are included as Project environmental controls and mitigation measures. All mitigation measures included in the Final EIS/EIR would be certified by the Board of Harbor Commissioners and adopted as a Project lease condition. Accordingly, the mitigation measures identified in the Final EIS/EIR will become part of the conditions of the Project terminal lease agreement. The MMRP would include monitoring and enforcement mechanisms to ensure appropriate implementation of all mitigation measures. The Port and Project terminal operator would 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 Project also supports the Green Port Policy's community engagement program through its environmental review process. The Port has provided the opportunity for affected communities, individuals, organizations, and groups to participate in the EIS/EIR public review process by providing public notifications about preparation and availability of the EIS/EIR. The Port has held public scoping meetings and public hearings to inform the public about the Project, the alternatives, and the associated impacts.

Please see response to comment CSE(B)-6 for discussion regarding establishment of a POLB Port Community Advisory Committee.

CSE(B)-11. As explained in response to comment CSE(B)-8, all feasible measures to improve the efficiency of cargo handling operations have been included in the Project. Commenter erroneously asserts that the Project's purpose of providing efficient terminal traffic flow and cargo handling is not being achieved.

This comment addresses the efficacy of the Project rather than its environmental impacts. Please refer to response to comment CSE(B)-8.

CSE(B)-12. Your comment is noted regarding a current public health status baseline study. The HRA was prepared using the methods recommended by the Cal-EPA's OEHHA and the SCAQMD. The OEHHA develops guidelines to evaluate cancer and non-cancer effects from TAC exposure for a HRA and the Toxic "Hot Spots" Program (AB 2588), based on information available from published animal and human studies. The preparation of a public health status baseline study is not part of the recommended protocol to analyze heath risks. The HRA in the Draft EIS/EIR provides adequate descriptions of Project health impacts for NEPA/CEQA purposes and complies with the existing requirements for such an analysis.

Regarding the request to conduct a Middle Harbor Redevelopment Project Study, please see response to comment CSE(A)-6.

CSE(B)-13. As described in more detail in response to comment USEPA(B)-8, the Port has developed a program to mitigate cumulative health impacts from Port operations, including the Middle Harbor Redevelopment Project. The program: (1) establishes eligibility criteria for potential applicants based on facility type and the proximity to the SPBP; (2) provides metrics that will be used to assess a proposed project's impact mitigation potential based on established regulatory mitigation programs, recent scientific information and the proven effectiveness of proposed education/outreach programs; and (3) explains how the Port Board of Harbor Commissioners will choose among eligible proposals and approve funding.

CSE(B)-14. The comment incorrectly states that the Project failed to include an accurate sensitive receptor ZOI. The Project HRA was conducted in accordance with the "*Air Quality and Risk Assessment Analysis Protocol for Proposed Projects at the POLB"* (POLB 2007b); OEHHA's "*Air Toxics Hot Spots Program Guidance Manual for Preparation of Health Risk Assessments"* (OEHHA 2003); the SCAQMD's "*Supplemental Guidelines for Preparing Risk Assessments for Toxics "Hot Spots" Information and Assessment Act (AB 2588)"* (SCAQMD 2005a); and "*Health Risk Assessment Guidance for Analyzing Cancer Risks from Mobile Source Diesel Emissions"* (SCAQMD 2003). These are the HRA protocols that are required by the cognizant regulatory agencies. The HRA evaluated individual lifetime cancer risks, cancer burden, and chronic and acute non-cancer hazard indices associated with the proposed Project and the receptor grid that was analyzed was based on the ZOI identified for the Project.

The HRA in the Draft EIS/EIR evaluated an adequate air dispersion modeling domain by taking into consideration locations of Project emission sources, adjacent sensitive receptors, regional meteorological conditions, and recent meteorological data collected within the Port's area. The intent of the domain was to (1) ensure that the analysis captured all substantial or significant impacts and (2) identified maximum impact locations due to Project emissions. Review of cancer risk isopleths figures in Appendix A-3 that identify NEPA and CEQA increments for the Project and alternatives shows that the receptor field used in the analysis captured all significant impacts (isopleths values greater than 10), and is the approach included in the regulatory agencies' (identified above) HRA protocols. Therefore, this domain was not arbitrary. By definition receptors outside of the ZOI would have lower impacts than those within the ZOI that were analyzed.

CSE(B)-15. The Port has maintained air monitoring stations at Inner and Outer Harbor locations since May 2005. This inner harbor station collects data that are representative of the community in West Long Beach. Due to its proximity to Port operations and emissions, air quality levels at this station generally would be equal to or greater than those experienced at major sensitive

receptors locations within the POLB or Wilmington. It would be economically infeasible to locate permanent monitoring stations ate all major sensitive receptor locations.

CSE(B)-16. Please see responses to comments CSE(B)-12 and CSE(B)-14. The HRA in the Draft EIS/EIR provides adequate descriptions of Project health impacts for NEPA/CEQA purposes.

CSE(B)-17. Please see response to comment CSE(B)-14. With respect to wind patterns, the North Long Beach Monitoring Station has traditionally been the station used by SCAQMD for modeling air quality impacts within the Port area. Monitoring Data from the North Long Beach Monitoring Station have not been processed for use with the AERMOD dispersion model, which is the regulatory default model currently required for use by EPA and the SCAQMD. However, over the past several years, a number of additional meteorological stations have been operating in the POLB area. These stations help to improve the characterization of meteorological conditions near the POLB. As described in the Draft EIS/EIR Appendix A-2, the most appropriate meteorological data sets were used in the modeling.

CSE(B)-18. Commenter states 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 further states that there is a discrepancy between Table 1.6-4 and the text, in that the table indicates there will be 3,690,880 truck trips per year in 2030, but trucks are estimated to carry only 2,523,200 TEUs per year (i.e., there will be 1,167,680 more truck trips than TEUs).

Commenter incorrectly states that 60 percent of the containers are destined for out-of-state delivery. In fact, only 40 to 45 percent of the containers will travel beyond the southern California region.

Commenter also incorrectly concludes that there is a discrepancy between the text and Table 1.6-4 because commenter assumes that one truck trip translates to one TEU. 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) has been revised as follows: "…to an average of approximately 10,112 trips per day in the year 2030…"; and "At maximum terminal capacity in 2030…"

Please see responses to comments SCAQMD-7 and CBD-20 for additional details.

CSE(B)-19. The comment requests inspection of all containers that are loaded and unloaded at the Middle Harbor container terminal and suggests additional information be included in the Final EIS/EIR regarding the proposed security monitoring and surveillance system. All containers go through radiation portal monitors at the terminal. In addition, the ports in cooperation with federal, state, and local stakeholders have developed a Maritime Preventative Radiological Nuclear Detection Concept of Operations (ConOps). The ConOps is intended for maritime security stakeholders in the ports to aid in the decision making processes relative to creating

and revising current regional or interagency Preventative Radiological/Nuclear Detection Plans and individual agency Standard Operating Procedures. The ConOps is a preemptive tool designed to protect the ports and their supply chains.

Draft EIS/EIR Section 3.8 includes discussion on planned responses to emergency situations such as natural disasters, national security incidents, power outages, and other large-scale disasters. In an emergency situation, the Port would use a SEMS/NIMS approach to address potential threats or events. In addition, work has recently been completed on the Port's SCCC. The SCCC provides a centralized location that facilitates security monitoring operations for the various agencies responsible for security at the Port, including the LBPD the USCG, and the Department of Homeland Security. There are approximately 1,000 LBPD Officers including 20 stationed in the Port, 500 City of Long Beach Firefighters, and approximately 40 Port Harbor Patrol Officers. The average container terminal has approximately 50 security personnel. As discussed in Draft EIS/EIR Section 3.8.1.2, the terminals have security measures in place such as controlled access, fencing, lighting, cameras, and guard patrols.

In April 2008, a container truck was stopped at the entrance gate of a marine container terminal on Pier T in the Port. The container had the words "Anthrax a gift from Osama" written on the side. Graffiti is common on containers and that in and of itself is not a security problem. However, because of the implied threat associated with this particular container, the truck was taken to an isolated part of Pier T where it was inspected by hazardous material teams. Air samples were taken along with swabs of the inside of the container. It was later determined that anthrax was not present in the container. Accordingly, the security procedures conducted by local authorities were effective.

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, and no such facilities are included as part of this Project. Furthermore, all container inspections are conducted at the terminal by Homeland Security and other responsible federal, state, and local agencies; the Port is not responsible for conducting onsite container inspections.

CSE(B)-20. The Project does not include any component that involves fishing, fishermen, or the use of explosives. Any use of explosives by fishermen is unrelated to this Project. No revisions to the Final EIS/EIR are required.

CSE(B)-21. The comment requests public review of Port leases to ensure applicable environmental provisions are included in all lease agreements. All new leases and lease renewals are reviewed and approved by the Board of Harbor Commissioners. The public is invited to address the Board of Harbor Commissioners on any particular agenda item, including leases. If the Board of Harbor Commissioners certifies the Final EIS/EIR, it will also be required to adopt an MMRP, which will ensure compliance with all of the identified mitigation measures by making the measures part of the Project lease. The MMRP will include monitoring and enforcement mechanisms to ensure timely implementation of all mitigation measures. The Port and Project terminal operator would comply with the MMRP for the life of the lease. As the Project would maximize use of the expanded Pier F intermodal railyard, project operations also would maximize use of the Alameda Corridor.

CSE(B)-22. To minimize GHG emissions from the transit of Project OGV, Final EIS/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).

CSE(B)-23. **Please** see response to comment SCAQMD-5. The comment requests the use of 0.1 percent or lower MGO fuel in Project OGV. **Mitigation Measure AQ-6** requires all Project OGV to use 0.2 percent sulfur diesel in auxiliary generators and main engines beginning in Project year 1, or 2010. The Final EIS/EIR assumes that all Project scenarios would comply with the ARB Fuel Sulfur Regulation for OGV, as proposed by the ARB on October 21, 2008,

which requires use of 0.1 percent sulfur diesel in auxiliary generators, main engines, and boilers beginning in year 2012.

CSE(B)-24. The comment implies that the Draft EIS/EIR fails to address atmospheric aerial deposition at the Port. Draft EIS/EIR Section 3.3.1.2 (Marine Water Quality) discusses existing atmospheric deposition of pollutants at the Port. Please see response to comment CBD-83 for additional details.

Implementation of Final EIS/EIR **Mitigation Measures AQ-1 through AQ-29** would reduce Project emissions of particulates compared to existing conditions. Therefore, 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.

CSE(B)-25. 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) six engines with EPA Tier 3 generator sets, and (3) all engines with devices that limit idling to 15 minutes. Additionally, as part of CAAP measure RL-1, upon successful demonstration, these locomotives will install DOCs to further reduce emissions of DPM. Implementation of the requested emission control measures to line haul locomotives that service the Pier F intermodal railyard is infeasible, since these sources are not bound by the Project terminal lease agreement. Please see response to comment SCAQMD-6 for more details regarding the Port's lack of jurisdiction over rail operations. However, on March 14, 2008, the EPA adopted Tier 3 and 4 emission standards for diesel line-haul and switcher locomotives. Conversion of the national line haul locomotive fleet to these standards will substantially reduce emissions from these sources, compared to the fleet with only Tier 2 standards. As stated in the Draft EIS/EIR, since the air quality analysis in this Draft EIS/EIR was finalized in March 2008, it was not able to simulate implementation of these updated non-road Tier 3 and 4 standards. As a result, the analysis somewhat overestimates future emissions from these sources. However, the Final EIS/EIR assumes, based on EPA assumptions for remanufacturing, that the fleet of line haul locomotives serving the Port would have the equivalent of Tier 3 standards beginning in 2025.

This EIS/EIR is not required to mitigate air quality impacts from railyards other than the expanded Pier F intermodal railyard. For a disclosure of air quality impacts and mitigations associated with these railyards in the SCAB, please see the ARB Railyard Emission Reduction Program web site at http://www.arb.ca.gov/railyard/railyard.htm.

CSE(B)-26. Please see response to comment CSE(B)-3 for discussion regarding the potential for use of the ALECS on locomotives within the expanded Pier F intermodal railyard. Mandating the use of the ALECS on railyards other than the expanded Pier F intermodal railyard is infeasible, as these facilities would operate independent of the Project terminal lease agreement and are not subject to the control of either the Port or the terminal operator. Please see response to comment SCAQMD-6 for more details regarding the Port's lack of jurisdiction over rail operations.

CSE(B)-27. The comment correctly notes that noise associated with terminal operations would increase as part of the proposed Project. As stated in Draft EIS/EIR Section 3.9.2.3, however, future increases in traffic and rail noise levels from operation of the Project would not cause significant impacts, and the Project would not substantially increase ambient noise levels at sensitive receptor locations. Please see response to comments CBD-72 through CBD-80 for additional details. Therefore, no revisions to the Final EIS/EIR are required.

CSE(B)-28. Commenter states that the Draft EIS/EIR failed to analyze other public street intersections that would be impacted by increased Project rail traffic, such as the intersection of Anaheim and Alameda.

Commenter incorrectly asserts that Wilmington residents must wait for the train to pass in order to travel east on Anaheim to go to Long Beach due to the rail traffic to the proposed Project site. Trains serving the Project site will cross Alameda Street, a north/south street, and connect with the Alameda Corridor. The Alameda Street railroad at-grade crossing is approximately 700 feet north of Henry Ford Avenue and 2,700 feet north of the intersection of Anaheim Street and Alameda Street. Alameda Street has two travel lane in each direction and carries approximately 700 passenger-cars and trucks during the p.m. peak hour, which yields an lLOS of A. Since the proposed Project is not expected to add new rail traffic to this intersection or nearby major intersections, Wilmington residents have the same options as today of using either PCH or Anaheim Street to the west side. It should be further noted that PCH is less than one mile north of Anaheim Street and overpasses the Alameda Corridor without any impediment by rail traffic. Please see response to comments CR-9 and RCTC-2.

CSE(B)-29. For a disclosure of the adequate analysis and mitigation of impacts from Project operations due to the use of near-dock rail facilities within the SCAB, please see responses to comments SCAQMD-7, CC-4, CC-8, and RCTC-7.

The Draft EIS/EIR estimated emissions from Project trains that would travel through the referenced communities, although these trains would not stop at any near-dock/off-dock railyard. The evaluation of train trips generated out of near-dock railyards due to Project cargo was not evaluated in the Project EIS/EIR, as they are deemed to be the responsibility of these facilities and not the Port.

For a disclosure of air quality impacts and mitigations associated with railyards in the SCAB, please see response to comment CSE(B)-25. 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 to near-dock railyards. Additionally, many other Project mitigation measures would directly reduce the impact of Project emissions transported to these areas 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 these communities in future years.

CSE(B)-30. This comment inaccurately asserts that the Port limited public involvement in the environmental review process. The Port has provided the opportunity for affected communities, individuals, organizations, and groups to participate in the EIS/EIR process by providing public notifications about preparation and availability of the Draft EIS/EIR. The Port also notified all respective City officials by providing public notification of Project meetings, including the cities of Vernon, Compton, and Los Angeles. In addition, approximately 125 local agencies and organizations were contacted, including service groups, community groups, local businesses and business organizations, and local health organizations. In addition, increased access to project information and increased opportunity for public involvement was provided through presentation of project information on the Port's website. 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, including the City of Long Beach. The Draft EIS/EIR is available at the Port offices and on-line. Public comment time on the Draft EIS/EIR was extended by four weeks in response to requests from the public.

CSE(B)-31. The comment suggests that the Draft EIS/EIR failed to provide adequate information about potential health risks associated with the Project. However, as part of the Draft EIS/EIR, an extensive HRA was completed, and the results of that assessment are described in detail in Section 3.2.2.3 of the Draft EIS/EIR. Section 3.2.2.3 identifies mitigation measures (**Mitigation Measures AQ-1 through AQ-19**) that would reduce emissions and related

health effects of the Project. In addition, as described in more detail in response to comment USEPA(B)-8, the Port has developed two programs to mitigate potential cumulative impacts of Port projects, including the Middle Harbor Redevelopment Project: the Schools and Related Sites Program and the Healthcare and Seniors' Facility program. The disclosure of potential health impacts and the incorporation of all feasible mitigation measures satisfies the NEPA and CEQA requirements for this Project.

Also, please see response to comments CSE(B)-30 and USEPA(B)-23.

CSE(B)-32. Please see response to comment CSE(A)-8. The Project HRA uses methods approved by the OEHHA, ARB, and the SCAQMD. The HRA protocols of those agencies do not call for the type of studies that the comment requests. The precision of the results of the HRA is adequate for NEPA/CEQA purposes.

CSE(B)-33. Please see response to comment CSE(A)-10. The proposed Project would not result in impacts that require mitigation of wetlands. As described in Section 3.4.2 of the Draft EIS/EIR, mitigation for the impacts of new fill areas at the Project site would be provided through mitigation credits in the Bolsa Chica mitigation bank. For this reason, there is no need for a wetlands taskforce. The request to adopt the Harbor Vision Task Force San Pedro Bay recommendations is noted.

CSE(B)-34. Please see response to comment CSE(A)-11. The Project would not substantially reduce fish populations in San Pedro Bay; therefore, no mitigation measures are required.

CSE(B)-35. A complete aesthetics analysis was prepared for the Project. The EIS/EIR evaluation of aesthetics/visual resources complies with applicable regulatory requirements as described in Draft EIS/EIR Section 3.16. It is important to note that neither the proposed Project nor the alternatives establish any offsite facilities. Potential aesthetic impacts associated with operations at offsite facilities (i.e., transportation corridors, railyard facilities, container storage yards, truck/chassis staging areas, distribution centers, and dredged material storage/drying areas), which are not part of the Project, are handled by existing community plans and zoning ordinances that are designed to address land use compatibility concerns. The request for a taskforce is noted, but the Port and the USACE do not believe such an organization is necessary as part of the proposed Project.

CSE(B)-36. AB 32 contains a mandate for the ARB to reduce future statewide GHG emissions. The Draft EIS/EIR took this into account in the by calculating the Project GHG emissions in a manner consistent with AB 32. In addition, the Project air quality analysis uses many of the assumptions required in AB 32 GHG emissions analyses and it also adopts many of the GHG mitigation measures proposed by the AB 32 process. Final EIS/EIR **Mitigation Measures AQ-2 through AQ-29** represent all feasible means to reduce criteria pollutant and GHG emissions from proposed construction and operational sources. Regarding the feasibility of implementing zero or near zero technologies, please see response to comment SCAQMD-27.

The analysis of Project GHG emissions in the Draft EIS/EIR assumes that all Project refrigerated containers would lose 35 percent of their refrigerants per year, regardless of location (CCAR 2008). Please see response to comment DOJ-5 regarding the infeasibility to control refrigerants from Project reefers.

CSE(B)-37. The comment suggests that the Draft EIS/EIR fails to consider the cumulative impacts of increased vessel calls on marine mammals. Draft EIS/EIR Section 3.4.3 addresses cumulative impacts of vessel traffic to marine mammals. Impacts to the blue whale are considered significant and unavoidable, and any contribution from the Project would add to that impact, so the Project would have a cumulatively considerable effect on blue whales. 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 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 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 EIS/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 EIS/EIR Section 3.6.1.2, any effort to alter these routes is infeasible due to the unacceptable liability for collisions that could result. Commenter 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 EIS/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. No revisions to the Final EIS/EIR are required.

CSE(B)-38. The comment suggests that the Draft EIS/EIR fails to address impacts associated with offsite container storage facilities. The proposed Project does not include offsite container storage facilities. The Port does not have control over land uses or the operation of facilities that exist outside its jurisdiction. The terminal operator is responsible for transporting the containers from overseas to the Middle Harbor container terminal, where either trucking firms pick up the containers or where containers are then transported to the Pier F intermodal railyard. In either case, the destination of the container becomes the responsibility of the entity that ordered the container or the trucking firm.

The comment incorrectly asserts that the Port has failed to adopt state-of-the-art container storage technologies. The proposed Project has incorporated advanced technological systems into the Project design to accommodate a maximum throughput capacity of 3,320,000 TEUs per year. These advanced state-of-the art systems include RMGs that allow more containers to be stored onsite, modern gantry cranes that are designed to generate more lifts per hour, and an expanded intermodal railyard that would increase on-dock container cargo handling efficiencies.

The comment appears to inaccurately assume the Port's responsibility associated with empty containers. The Port does not own the cargo containers; the destination of the container becomes the responsibility of the entity that ordered the container, or the trucking firm. The Port cannot efficiently regulate empty container returns which are an integral part of tenants' stevedoring and common carrier market operations. However, the Port is currently exploring options to minimize the amount of container hauling and methods to coordinate container pick-ups and drop-offs.

CSE(B)-39. The comment suggests that the Port has failed to adopt policies to require the sanitation and decontamination of containers. Please see response to comment CSE(A)-13. Once containers leave the terminal, they would be managed and controlled by other businesses and facilities in the goods movement chain that are not within the control of the Port or its tenants. The Port does not have control over land uses or the operation of facilities that exist outside its jurisdiction.

The comment implies that empty containers may be hazardous, although any shipment of hazardous materials must comply with strict packaging and transportation requirements, as described in Draft EIS/EIR Section 3.10.1.3. Due to the strict regulatory guidelines regarding the packaging and transportation of hazardous materials, the potential for such materials to contaminate the containers is considered minimal.

CSE(B)-40. The comment suggests that the Draft EIS/EIR fails to address impacts associated with offsite container inspection facilities. Neither the proposed Project or the alternatives establish any offsite facilities. 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. Truck traffic and hazards associated with offsite container inspection facility operations would have been addressed in any CEQA analysis conducted for those facilities. Furthermore, all container inspections are conducted at the terminal by Homeland Security and other responsible federal, state, and local agencies. The Port is not responsible for conducting onsite container inspections. Therefore, no revisions to the Final EIS/EIR are required.

CSE(B)-41. The comment does not specify the locations of the offsite storage and staging areas, however, the Port does not approve, fund, or control land uses outside of the Harbor District. Those land uses are the jurisdiction of the municipality/jurisdiction where they are located. Please see response to comment CSE(B)-50 for additional information.

CSE(B)-42. Commenter states that the Draft EIS/EIR fails to address and mitigate numerous truck impacts, including regional traffic congestion and accidents. Commenter requests that the Port Traffic Management Plan be included in the Draft EIS/EIR for review and comment.

Regarding truck impacts and mitigation, please see 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, and CSE(B)-18.

Commenter also asserts that the Project fails to address regional traffic congestion and accidents. The Project is only responsible for mitigating Project impacts. Regional programs have been established to address existing regional problems. Refer to 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 fill would travel to or from. This information is dependent upon the design of the Project, which would be developed by the selected 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.

CSE(B)-43. It is beyond the scope of the Draft EIS/EIR for this Project to evaluate noise impacts associated with all Port, security, emergency services, media, and Homeland Security operations that may occur in a busy Port complex. Consistent with NEPA and CEQA, the Port has evaluated noise impacts associated with the proposed project and has imposed mitigation measures to address any potentially significant impacts that might occur if the Project is approved. No revisions to the Final EIS/EIR are required.

CSE(B)-44. Please see response to comment CSE(B)-19. The comment suggests the Port has inadequate emergency response procedures to address a major Port catastrophe. As stated in Draft EIS/EIR Section 3.8.2.1, the POLB EOP addresses the planned response to emergency situations such as natural disasters, national security incidents, and other large-scale disasters that require emergency response. In the event of a major disaster, the Port would use a SEMS/NIMS emergency response approach to address potential threats or events. Furthermore, the Port and City response agencies would provide mutual aid assistance to respond to disasters affecting this area. The proposed Project would not substantially burden existing emergency response levels of service and acceptable emergency response times would be maintained (Draft EIS/EIR Section 3.8.2.3). No revisions to the Final EIS/EIR are required.

The Port has an approved RMP that includes emergency response and evacuation plans. The Port RMP incorporates issues associated with container terminals in Middle Harbor. The proposed Project is consistent with the Port's RMP as noted in Draft EIS/EIR (Impact HAZ-4).

Additionally, the proposed Project would be required to prepare a specific emergency response and evacuation plan consistent with LBMC requirements.

CSE(B)-45. Your comment is noted and will be transmitted to the Board of Harbor Commissions for their consideration. Please see responses to comments CSE(A)-8, CSE(B)-12, CSE(B)-14, and CSE(B)-32. The analysis in the Draft EIS/EIR used air quality dispersion models that have been approved by EPA, and have also been used by the ARB and SCAQMD in similar applications. Tracer studies are very difficult to design and conduct which adequately represent the release and dispersion of emissions at a specific site. For example, the referenced Wilmington Air Tracer Study used a tracer gas released at an elevated level from a power plant stack to study dispersion in the Wilmington area. This tracer study was not representative of the many small mobile sources that are the typical surface-based emission sources operating around the Port. A more appropriate analytical approach is to use approved models, which have built-in conservative factors, to help ensure that the results will be protective of public health. The level of analysis contained in the HRA is adequate for NEPA/CEQA purposes. Therefore, it is deemed unnecessary to perform the request tracer study for purposes of this Project-level EIS/EIR.

CSE(B)-46. The Consolidate Slip marina is about 1.5 miles from the nearest point of the Middle Harbor container terminal and therefore fugitive dust from Project construction essentially would not impact this distant location. The dispersion modeling analyses of Project construction (Impact AQ-2) (which includes fugitive dust) and operational impacts (Impact AQ-4) included receptor points in this marina. The results of these analyses showed nominal increases in Project emissions at this location.

Project construction only would store dredged materials within the Middle Harbor container terminal in the form of surcharge and directly atop newly created landfills. Project construction would comply with SCAQMD Rule 403, which prohibits dust from blowing beyond the Project property line. Appropriate dust control measure including extensive watering will be used during construction to ensure compliance with SCAQMD Rule 403 requirements. Additionally, Project construction activities would have to comply with SCAQMD Rule 402, nuisance rule, to ensure that they do not emit substantial odors. Therefore, no further analysis is necessary.

CSE(B)-47. 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. The EIS/EIR provides a thorough and adequate analysis of the proposed Project's ground transportation and environmental justice impacts for NEPA/CEQA purposes.

CSE(B)-48. 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. The EIS/EIR provides a thorough and adequate analysis of the proposed Project's ground transportation and environmental justice impacts for NEPA/CEQA purposes.

CSE(B)-49. Please see response to comment CSE(B)-48.

CSE(B)-50. The comment suggests that the Draft EIS/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. 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 other 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 Draft EIS/EIR because it is not possible to determine what impacts might occur. No revisions to the Final EIS/EIR are required.

CSE(B)-51. The comment inaccurately notes that the Draft EIS/EIR evaluation of earthquakes is inadequate. There is no data provided to support the conclusions identified in the comment regarding major earthquake predictions. Draft EIS/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 EIS/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 EIS/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 that has published many articles on the threat of tsunamis in southern California. Mr. Borrero's work was cited in Draft EIS/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 EIS/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. Therefore, no revisions to the Final EIS/EIR are required.

CSE(B)-52. Please see response to comment CSE(B)-51. In addition, as indicated in Draft EIS/EIR Section 3.1.1.2 (Tsunami) and Section 3.1.2.3 (Impact GEO-8), a recently developed Port Complex model predicts tsunami wave heights from a magnitude 7.6 earthquake on the Santa Catalina Fault, a maximum likely seismic scenario for generation of a tsunami or seiche in the SPBP. The model predicts tsunami wave heights of up to five feet above MSL in the Project area. Incorporating the Port MSL of +2.82 feet, the model predicts tsunami wave heights up to 7.8 feet above MLLW at the Project site. Because the Project site elevation ranges from 10 to 16 feet above MLLW, tsunami-induced flooding would not likely occur under a maximum likely seismic scenario. Therefore, no revisions to the Final EIS/EIR are required.

CSE(B)-53. The comment suggests that the Draft EIS/EIR fails to address impacts associated with fires and explosions from onsite oil production facilities. As indicated in Draft EIS/EIR Section 3.10.1, the proposed Project would involve construction activities and increased throughput during operations that would increase the potential for spills or leaks of petroleum products and hazardous substances. However, the proposed Project would not involve increased risk of fire or explosion hazards from sources such as tanker vessels, oil tanks, or refineries. Therefore, the Draft EIS/EIR does not include a risk of upset analysis and associated hazard footprint analysis, which is consistent with the provisions of the Port's RMP. Therefore, no revisions to the Final EIS/EIR are required.

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Tom Politeo
Harbor Vision Task Force
Sierra Club

June 18, 2008

To Port of Long Beach and Army Corp of Engineers

Re: Long Beach Middle Harbor DEIR/S

Honorable commissioners,

The news on new impacts of global warming is frequent. The most alarming part of this news concerns significant impacts that were not anticipated but which are attributed to climate change. For example, warming waters are now being implicated in an infectious disease which is killing off Alaskan salmon. HVTF-1

This is a serious issue, inasmuch as wild salmon populations are already being threatened by salmon farming. This year, a ban of salmon fishing was imposed to deal with declining populations, affecting the livelihood of salmon fishermen along our West Coast.

Science points to a mortal need to decrease global warming steadily and significantly, starting now—with 80% reductions by 2050. The known impacts of not doing so are serious enough. The unknown prospects and prospects for accelerated global warming only make it far more disconcerting.

Some may view global warming as a traditional environmental concern, putting nature ahead of people. However, it's the other way around. Changes in rainfall patterns have already created drought where there was none and induced flooding where it is rare. These changes will impact agriculture exactly at the time all the world's fisheries are stressed, not just by global warming, but by pollution of the marine environment and habitat destruction.Together, collapsed fisheries and crop failures will lead to misery of epic proportions.

It is the world's poorest people who will suffer first and most, where local populations live in subsistence cultures that are in tune with existing weather patterns. When there are rice, wheat and corn shortages, most Americans will be able to pay the higher prices. But most of the people around the world will struggle. Then, in turn, so will America's poor.

HVTF-2 Yes, you may think, but we're in the business of running a port and fixing the world isn't our problem. It may not be, but avoiding being a major player in the world's demise is your responsibility, like it or not, since your decisions are like a finger on the trigger.

For every additional cargo container we bring in from China, we put out a little more carbon dioxide and add squeeze the trigger a little harder. Since China is less energy efficient than the U.S., each container full of merchandise we bring here produces twice as much greenhouse gas as if those goods were made in United States.

In addition, we generate more greenhouse gas shipping goods thousands of miles across the ocean. Excess packaging further reduces shipping efficiency. Poorly made products mean more frequent replacement. A gross trade imbalance means most containers go back empty, wasting more fuel.

If we don't start now, by 2050, we'll be over a safe quota for greenhouse emissions just from moving cargo—even with the sort of meager reductions this DIER proposes.

This project must inventory 1/2 of the carbon dioxide emitted as goods travel across the ocean as part of it's impact. We need to either find a way to cut those emissions by 80 to 90%, and start phasing it in, or we ned to start retooling our economy for more local manufacturing and less transoceanic shipping. At the same time, we need to work on balancing trade and eliminating excess packaging.

It took 25 years of globalization to get here. We need to act decisively, before we are painted into a corner. Every port needs to be a team player in resolving this crisis before it overtakes our civilization and decimates our economy.

Tom Politeo
Harbor Vision Task Force
Angeles Chapter, Sierra Club
562-618-1127

Tom Politeo, Harbor Vision Task Force, L.A. Chapter, June 18, 2008

HVTF-1. The Port acknowledges that climate change is a global phenomenon and appreciates your comment.

HVTF-2. This comment asks that the Draft EIS/EIR consider GHG emissions from cargo transport and to include additional mitigation measures. As detailed in response to comment DOJ-5, the scope of the GHG analysis included in the Draft EIS/EIR was adequate. However, at the request of the Attorney General's office, GHG emissions associated with Project cargo transit along the entire transportation route including OGV Pacific Ocean transits have been included in Final EIS/EIR Section 3.2.2. Additional mitigation measures have been included in the Final EIS/EIR to further reduce Project GHG emissions.

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August 8, 2008

Richard D. Cameron,
Director of Environmental Planning, POLB
925 Harbor Plaza
Long Beach, CA 90802
Sent via E-mail: cameron@polb.com

MIDDLE HARBOR REDEVELOPMENT PROJECT
REQUEST FOR MEANINGFUL MITIGATION BEFORE EXPANSION

Dear Mr. Cameron,

On behalf of Prometheus, a community based organization, I present the following comments on the record with regard to the Draft Environmental Impact Report (EIR) for the Middle Harbor Redevelopment Project. PROM-1

Although this EIR is an improvement over previous environmental review documents produced by the Port of Long Beach (POLB), we believe it fundamentally fails to comply with the requirements of the California Environmental Quality Act (CEQA) and meet your obligations to the community within which the POLB operates. The EIR does not accurately identify or analyze the significant environmental impacts that would result from the implementation of this massive Project, and it fails to provide sufficient mitigation for the impacts it does identify. It also fails to consider alternatives that effectively protect the environment and enhance our economy.

Given the inevitable regional and acute local impacts of the proposed Project, it is especially important that the EIR contain the necessary analysis to enable decision-makers and the public to understand the significant environmental repercussions of the Project, and to compare the proposed Project to other possible alternatives for redeveloping the POLB. Instead, the EIR effectively disguises the true impacts of the Project by omitting crucial information regarding what the Project will actually do, underestimating many environmental impacts and ignoring others altogether. As a result of the EIR's inadequacies, there can be no meaningful public review of the Project, and we request the POLB to prepare and circulate a revised EIR, as required by CEQA. As a signer of the Coalition of Clean and Safe Ports' comment letter, those concerns are addressed under separate cover.

In addition to those concerns, we have grave concerns regarding the scope and implementation of the Project, the POLB's approach in promoting the Project, and the POLB current operations and the cumulative impacts which this Project will significantly increase, beyond the ability for reasonable mitigation.

First of all, the Project is being sold to the public under false pretenses. Many of the environmental improvements listed in the POLB's Middle Harbor Redevelopment Fact Sheet have already been promised to the community. The Green Flag Vessel Speed Reduction Program, use of low-sulfur fuels for ships, cleaner tugboats and other harbor craft, lower- PROM-2

PROM-2 emission locomotives, cleaner, alterative-fuel-powered cargo equipment, and the much-touted Clean Trucks Program all can and must be implemented regardless of whether Middle Harbor is significantly expanded, and were promised to the Community for years as mitigation for the POLB's unprecedented and deadly emissions. In fact, not only is the POLB's Clean Trucks Program completely independent of the Middle Harbor Project, we have serious concerns that the POLB has doomed the success of Long Beach's Clean Trucks Program by abandoning the employee protection component and breaking with the City of Los Angeles.

PROM-3 We have been waiting for the POLB to utilize the many cleaner greener goods movement practices that Europe and Japan transitioned to long ago - cold ironing, on-dock rail, low sulfur fuels, ceramic brakes, modern trucks. As the landlord, the POLB should also add renewable energy sources such as wind turbines and solar power on POLB roofs and carports. This project has turned CEQA and public policy on its head – instead of working to mitigate the damage already done, we're told the only way we will get any improvement is if we're willing to have substantial growth and all its attendant pollution, traffic, and quality of life impacts shoved down our throat. We are hear to tell you, loudly and clearly: NO! We will not tolerate any more expansions until the POLB cleans up the mess it has made for decades. Making the behemoth Middle Harbor Project incrementally better than past projects doesn't cut it. The community wants this Port to establish a record showing it can be a good neighbor before we can be ready to trust you with more expansion, *especially* expansion of this magnitude.

Sincerely,

Gabrielle Weeks
Executive Director – Prometheus
321 Obispo Avenue
Long Beach CA 90814
Gabrielle@WorkWithWeeks.com
562-252-4196

CC: Each Long Beach Harbor Commissioner
Mayor Bob Foster
Assemblymember Betty Karnette
Senator Alan Lowenthal

Gabrielle Weeks, Prometheus, August 8, 2008

PROM-1. The Draft EIS/EIR has appropriately evaluated the Project's purpose and need/objectives and environmental effects, and has identified mitigation measures and reasonable alternatives to avoid significant environmental impacts. The Port and the USACE believe that the analysis presented in the document meets the requirements of NEPA and CEQA. Please see response to comment CBD-103 for the reasons recirculation is not warranted.

PROM-2. The comment inaccurately states that all Port-wide environmental plans and policies can be implemented independent of the proposed Project. As the POLB CAAP notes on page 23, among the primary implementation methods for CAAP control measures are lease requirements and CEQA mitigation measures. Although some CAAP measures can be implemented by tariff changes or voluntary incentives, many of the emission reductions that result from implementation of the Middle Harbor Redevelopment Project occur only because the Port has the authority through new lease provisions or CEQA mitigation measures to require such reductions. As stated in Draft EIS/EIR Section 1.7.2, the Draft EIS/EIR analysis requires Project compliance with the CAAP and in some cases exceeds the emission reduction strategies stipulated in the CAAP. No revisions to the Final EIS/EIR are required.

PROM-3. The comment requests that the Port include renewable energy sources (i.e., wind turbines and solar power) on Port facilities. As stated in Draft EIS/EIR Sections 1.7.3, marine terminal buildings would be designed and constructed to LEED® standards for high-performance, sustainable buildings, which include provisions for using photovoltaic cells on roofs of facilities. Proposed **Mitigation Measures AQ-2 through AQ-29** represent all feasible means to reduce criteria pollutant and GHG emissions from proposed construction and operational sources. The Final EIS/EIR includes the following new mitigation measures that would expand on proposed solar energy production and GHG off-sets:

Mitigation Measure AQ-17a: Solar Carports. The applicant will install carport-mounted PV solar panels over the employee and visitor parking areas to the maximum extent feasible.

Mitigation Measure AQ-24: Mitigation for Indirect GHG Emissions. The terminal tenant shall be required to use green commodities, such as those available from the CCAR's Climate Action Reserve, to offset carbon emissions associated with terminal's electricity consumption subject to the limitation specified below. This measure applies to all electricity consumed at the terminal, including shore-to-ship power usage ("cold ironing"). The terminal-related carbon emissions from electricity consumption will be calculated each year based on the local utility's carbon intensity for that year as recognized by the State of California. The tenant may adjust the carbon intensity value to wholly reflect any carbon offsets provided by the electricity deliverer (i.e., point of generation or point of importation) under applicable California and/or federal cap-and-trade regulations (i.e., no double offsetting).

The future implementation cost for this measure is not known because it is potentially affected by several unknown factors. These could include: (a) the future carbon intensity of electricity delivered by the local utility; (b) the future price of green commodities (RECs and VERs); (c) the price of electricity; and (d) the effects of future cap-and-trade regulations on the (a), (b) and/or (c). The Port is limiting the potential cost of this measure. The maximum expenditure for purchased offsets required under this measure shall not exceed 15 percent of the terminal electricity costs for any given year (i.e., cost of offsets shall not exceed 15 percent of terminal electricity costs (US$ basis)).

Additionally, the Port is now in the process of developing a CC/GHG Plan. This plan, which will be comprehensive in nature, will examine GHG impacts for all activities within the Harbor District and will identify strategies for reducing the overall carbon footprint of those activities. To further reduce proposed Project GHG emissions, the Port would provide funding to implement additional GHG mitigation measures, which are consistent with the recently adopted Guidelines, through implementation of the CC/GHG Plan. The Final EIS/EIR has

adopted these strategies as new **Mitigation Measures AQ-28**, Greenhouse Gas Emission Reduction Program Guidelines. This new measure should result in additional reductions in GHG emissions beyond those that would be achieved through the mitigation measures described above.

Community Outreach and Education Program
Southern California Environmental Health Sciences Center
University of Southern California
Keck School of Medicine
1540 Alcazar Street #236
Los Angeles, CA 90033
323-442-3077

August 8, 2008

Mr. Richard D. Cameron
Director of Environmental Planning
Port of Long Beach (POLB)
925 Harbor Plaza
P.O. Box 570,
Long Beach, California 90802

cameron@polb.com

U.S. Army Corps of Engineers (USACOE)
Los Angeles District, Regulatory Division

Re: Middle Harbor Redevelopment Project
Draft Environmental Impact Report (DEIR)/
Draft Environmental Impact Statement (DEIS)

Dear Mr. Cameron and the Army Corp of Engineers:

Via email, I have submitted comments for the record on the Draft Environmental Impact Report (DEIR)/Draft Environmental Impact Statement (DEIS) for the POLB's Middle Harbor Redevelopment Project. **This letter contains additional and studies, as a supplement to the letter that you will receive via email.** Please submit this letter, the enclosed binder, and the CD for the record of the Middle Harbor Project DEIR/EIS. SCEHSC-1

The enclosed document and CD contains a series of articles, fact sheets and documents that I am also submitting to the record. The scientific abstracts and articles cover health studies that are relevant to diesel exposures from the Port of Long Beach – exposures that will be exacerbated by the construction and operation of the Middle Harbor Project. SCEHSC-2

It is important for the DEIR/EIS on the Middle Harbor Project to carefully consider studies on the health effects of air pollution, including on the following systems: neurologic, sensory, respiratory, reproductive, and cardiovascular. Therefore, studies on the health impacts of noise are included, as are studies showing that living in close proximity to busy roads and freeways is related to asthma, reduced lung function and

SCEHSC-2 other health effects. The enclosed table of contents provides a list of all materials included in the binder. The first page is a list of all sections, and the following pages are tables of contents for each section.

Thank you for your consideration of these comments and the other set of comments emailed to your attention.

Sincerely yours,

Andrea Hricko

Andrea M. Hricko, MPH
Associate Professor of Preventive Medicine
Director, Community Outreach and Education
Southern California Environmental Health Sciences Center

"Moving Forward"
Conference Resource

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Acknowledgements

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THE Impact Project Description and Contact Information for Partners

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Glossary of Goods Movement Terminology

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- San Pedro
- Central Valley
- Richmond
- San Leandro
- Riverside
- Merced
- South Prescott
- West Oakland

Southern California Environmental Health Sciences Center, August 8, 2008

SCEHSC-1. The comment is noted and appreciated. The Port will respond to all comments received during the public comment period.

SCEHSC-2. Thank you for your comment and the accompanying materials/attachments to the comments. The Port has reviewed the materials provide and will retain them for future reference. The Project HRA uses comprehensive methods recommended by the OEHHA, ARB, and SCAQMD to evaluate potential health effects from the Project. The precision of the results of the HRA is adequate for NEPA/CEQA purposes.

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