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Date: January 16, 2007

To: Honorable Mayor and Members of the City Council

From: Councilmember Bonnie Lowenthal, First District *BL*
Councilmember Tonia Reyes Uranga, Seventh District *TR*

Subject: **AGENDA ITEM: Motion to Intervene in PMSA v. California Air Resources Board**

The City of Long Beach 2010 Strategic Plan calls for the coordination with other jurisdictions in the air basin to establish air quality plans and implementation programs, particularly with regards to interstate and international commerce (aircraft, ships, trains and diesel trucks) to improve air quality (Goal E4). The Port of Long Beach took a significant step towards achieving this goal when it adopted the San Pedro Bay Ports Clean Air Action Plan (CAAP) and supported the adoption of a California Air Resources Board (CARB) rule to require container and cruise ships to use low-sulfur fuels in their auxiliary engines within 24 nautical miles of the California coastline. The projected 75% reduction in particulate matter (PM), 80% reduction in SO_x, and 6% reduction in NO_x emissions are the most significant control measures, within the Air Quality Management District's Draft 2007 Air Quality Management Plan, to obtain compliance with Federal Clean Air standards for ozone and PM_{2.5}.

The Pacific Merchant Shipping Association (PMSA) is challenging the CARB rule in US District Court (PMSA v. Witherspoon) on several grounds: preemption by the Clean Air Act, preemption by the Submerged Lands Act, preemption by the Ports and Waterways Safety Act, and preemption based on the Commerce Clause of the U.S. Constitution. If plaintiffs were to prevail in this lawsuit, not only would CARB's existing and planned marine vessel regulations be invalidated and depending on the scope of the decision the Ports of LB/LA CAAP measures could be jeopardized.

I am requesting the City Council's support for authorizing the City Attorney to file a motion to intervene in PMSA v. Witherspoon (Case No. 2:06-CV-02791-DFL-KJM). It is important for Long Beach to participate in this case giving the efforts at the Port of Long Beach and throughout the region to clean the air that we breathe.

Recommendation: **Request City Attorney to file a motion in US District Court to intervene in PMSA v. Witherspoon.**

Port of Long Beach

News Details

Port Welcomes New State Rule on Cleaner Ship Fuel

Ocean vessels to burn low-sulfur fuel starting in January



Port of Long Beach officials praised a new state rule on cleaner-burning ship fuel, which took effect January 1, 2007.

The new regulation, adopted by the California Air Resources Board in 2005, requires large ocean-going vessels, including container and cruise ships, to use low-sulfur fuels in their auxiliary engines within 24 nautical miles of the California coastline. The regulation will reduce emissions of harmful diesel particulate matter (PM), smog-forming nitrogen oxides (NOx) and sulfur oxide (SOx).

"This is a significant step forward for cleaner air," said Harbor Commission President James C. Hankla. "To achieve greater emissions reductions we count on our state partners, such as CARB, to set and enforce standards. We applaud CARB for taking this crucial step."

The new regulation will address emissions from ships operating near shore and at berth. Auxiliary engines are used to provide electricity for ship operations such as lighting, cooling and other on-board functions.

The new cleaner-fuel regulation is an important interim step while the Port of Long Beach implements shore-side electricity for ships at berth as well as its own, more stringent low-sulfur fuel requirements, Hankla noted. Under the San Pedro Bay Ports Clean Air Action Plan, a comprehensive strategy to reduce air pollution from all port-related sources, the Ports of Long Beach and Los Angeles have committed to provide shoreside electrical power, enabling ships to shut down their auxiliary engines entirely.

According to CARB, the regulations will bring about immediate emissions reductions from ships' auxiliary engines. About 75 percent of ocean-going vessels now use a dirtier grade of diesel fuel in their auxiliary engines. From those ships' auxiliary engines, the new regulations will result in a 75 percent reduction in PM, 80 percent reduction in SOx, and 6 percent reduction in NOx, according to CARB.

Under the new regulations, ships must use fuels with sulfur content at or below 0.5 percent. By January 1, 2010, the maximum allowable sulfur content will be 0.1 percent. Vessel operators must maintain meticulous records and will be subject to state fines for non-compliance.

The full text of the regulation, and an advisory summarizing the regulation, are available through CARB's web site by clicking on the following links:

[CARB Regulation](#)

[CARB Advisory](#)

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