



VIA E-MAIL

Honorable Mayor Garcia and Council Members
 City of Long Beach
 333 W. Ocean Boulevard
 Long Beach, CA 90802

**Re: Reply to Mitsubishi Cement Corporation's Terminal Modernization Project
 Opposition Brief and Port of Long Beach Reports, Agenda Item 5-0633**

Dear Mayor Garcia and Members of the City Council:

On behalf of East Yard Communities for Environmental Justice and Coalition for a Safe Environment ("Environmental Justice Groups"), we respectfully request that the City Council consider this short reply letter in opposition to the 68 pages of materials filed by counsel for Mitsubishi Cement Company ("Mitsubishi") on Friday, July 10, 2015 (hereinafter "Mitsubishi Brief") and the many attachments and other materials filed by the Port of Long Beach on that same date (hereinafter "Port of Long Beach Report"). Importantly, the large amount of new information has components that are misleading. Some of this new material was not considered by the Board of Harbor Commissioners in making its determination. In addition, this post-Harbor Commission justification cannot alleviate the serious California Environmental Quality Act ("CEQA") violations within the Final Environmental Impact Report ("Final EIR"). Given the late date of the filing of the Mitsubishi Brief and the Port of Long Beach Report (49 days after the initial appeal was filed), we do not intend to exhaustively address all of the information in their filings in this letter. Rather, we seek to highlight some of the particularly salient and misleading points raised in these documents.

I. The Mitsubishi Brief Highlights the Inadequacy of the 3 Mile Truck Impact Assumption.

As articulated in the Appeal filed by Environmental Justice Groups, the Final EIR underreports the impacts associated with this terminal development by dramatically underestimating the truck impacts from this project. A key assumption that infects much of the analysis is the focus on the truck impacts only within 3 miles of the facility, despite acknowledgments that impacts of this project in fact extend far beyond this artificial 3 mile assumption.

Mitsubishi Cement supplies Portland cement and cement products to customers across the southwestern United States by way of its cement import terminal here at the Port of Long Beach and its manufacturing plant in Lucerne Valley, California.

Mitsubishi Brief, at 3. Mitsubishi and the Board of Harbor Commissioners seek to marginalize the impact of this assumption, but the narrow scope of this assumption, in comparison to the

scope of actual truck emission impacts on the ground, is arbitrary and prejudicial. In pertinent part, the project's Air Quality Analysis assumes the following:

The analysis of emissions from proposed truck trips focused on roadway systems within roughly three miles of the Project terminal, rather than an entire trip distance between the terminal and facilities up to 30 miles away.

See Final EIR, Appendix A, at A-2-2. Noticeably, neither the Mitsubishi Brief nor the Port of Long Beach Report address this key point in their recent filings in this case. Overall, the Final EIR provides no real justification for ignoring up to 90% of the truck trip from the emissions analysis for the more than one hundred thousand truck trips associated with this expansion project. The trucks servicing the region do not become zero emissions once they reach this imaginary 3 mile barrier. The trucks spew real emissions into neighborhoods in Long Beach and beyond. This unduly narrow scope of impacts alone justifies remanding this Final EIR to the Port of Long Beach for a revised study.

II. Mitsubishi's Response Raises New Issues.

For the first time in the environmental review process, it has been disclosed that Mitsubishi obtained a 66% cold ironing rate in 2006 because it intentionally decided not to cold iron three ships that could otherwise have been cold ironed. Mitsubishi Brief, at 7 n.5. This failure to cold iron three ships occurred because the company needed to engage in emissions testing of uncontrolled ships. This is an important fact, because the mitigation measure for shore-side power was established based on this 66% rate. *See* Final EIR, at 3.2-19. As Mitsubishi concedes, "[t]he most effective emission control for ships at berth is to use shore power." Mitsubishi Brief, at 1.

This information demonstrates that increased cold ironing at 80% is feasible. Yet we have found no disclosure of this fact in the CEQA review process prior to Friday. Though Mitsubishi argues a 100% rate is not feasible, it has no arguments that an 80% rate is infeasible. At a minimum, Mitsubishi should be required to achieve and 80% rate. If the remaining 20% of at dock ship emissions cannot also be met with shore-side power, it should be mitigated by Advanced Maritime Emissions Control Systems ("AMECS"). In any event, the feasibility of higher rates of cold ironing at levels exceeding 66% constitutes new information that requires recirculation of the Final EIR to the Port.

III. The Discussion of Air Quality is Exceptionally Misleading.

Mitsubishi seeks to distract the City Council from the real and serious air quality impacts associated with this project. Even with the dramatic underestimation of emissions due to the 3 mile assumption and the inflated baseline explained in the Environmental Justice Groups' appeal letter, the Nitrogen Oxide ("NOx") emissions are more than 3 times the significance threshold for the region. Final EIR, at 3.2-25. Mitsubishi argues that it has curtailed the vast majority of truck emissions, but the truck emissions identified in the Final EIR constitute emissions from 10% or less of total truck trip length occurring from this project. *See* Final EIR, Appendix A, A-2-2.

In short, the public is deeply prejudiced by the Final EIR's failure to adequately account for the full scope of real emissions resulting from this project. By failing to examine the full extent of regional emissions, the impacts of the project are greatly underreported, and the public is saddled with undisclosed and unmitigated impacts. This is precisely the outcome CEQA is designed to prevent. As we will explain in the presentation to the City Council, the air quality issues are real and serious in Long Beach, and efforts to marginalize the impacts from adding even more pollution to an already unacceptable situation must be rejected.

Given these severe deficiencies, we respectfully request that the City Council send this Final EIR back to the Board of Harbor Commission. We appreciate your consideration of this reply brief.

Sincerely,

A handwritten signature in blue ink, appearing to be 'T. Zakim', written in a cursive style.

Tamara Zakim
Adrian Martinez
Earthjustice

Counsel for East Yard Communities for Environmental Justice and Coalition for a Safe Environment