

HONORABLE MAYOR AND CITY COUNCIL  
July 14, 2015  
Harbor Department Appeal Hearing

## **Attachment 9**

**Detailed Response of Harbor  
Department to State Ground for Appeal  
By Coalition for a Safe  
Environment, et al.**

## **ATTACHMENT 9**

### **HARBOR DEPARTMENT'S RESPONSE TO APPEAL SUBMITTED BY COALITION FOR A SAFE ENVIRONMENT, ET AL.**

This document contains the detailed response of the Long Beach Harbor Department ("Port") to the appeal of the environmental determinations made by the Long Beach Board of Harbor Commissioners ("Board") pursuant to the California Environmental Quality Act ("CEQA") in connection with approving the project and certifying the Final Environmental Impact Report ("Final EIR") for the MCC Cement Facility Modification Project ("Project") in the Port of Long Beach. The appeal was filed jointly by Coalition for a Safe Environment, California Kids IAQ, Community Dreams, California Safe Schools, Society for Positive Action, Del Amo Action Committee, Action Now, Apostolic Faith Center, and California Communities Against Toxics ("Appellants"). For the reasons set forth below, each of the grounds for appeal should be rejected.

#### **Appellants' History of Public Participation.**

The Port agrees that Appellants, with the exception of California Communities Against Toxics, participated in the public process related to the Project. Because California Communities Against Toxics did not participate in any of the proceedings before the Board, in accordance with California Public Resources Code Section 21177(a) and Long Beach Municipal Code Section 21.21.507A, California Communities Against Toxics failed to exhaust its administrative remedies and is not a valid appellant in the proceedings before the City Council.

Each of the Appellants' specific allegation headings is set forth verbatim below and addressed in the order presented by Appellants.

#### **Ground # 1 Board of Harbor Commissioners Failure to Allow Public Rebuttal Clarification of Their Comments to MCC Attorney Comments**

MCC is the applicant on the Project and for that reason was permitted to provide a short rebuttal during the May 11, 2015 hearing on the Project. In addition, members of the public, including Appellants, were given the opportunity, and did in fact, address the Board during the hearing. Appellants also submitted an additional comment letter, dated May 8, 2015 that was delivered to the Board by Appellants on the day of the hearing. Thus, Appellants had ample opportunity to state any issues they had with the Project or the Final EIR. More importantly, this issue has no relevance to whether the certification of the Final EIR was correct under CEQA.

#### **Ground # 2 Board of Harbor Commissioners Failure To Perform Due Diligence on Dockside Catalytic Control System ("DoCCS") Patent Rights Challenge**

This patent issue has no relevance to whether the certification of the Final EIR was correct under CEQA. MCC currently owns the DoCCS which is located at its facility in the Port. There is no legal requirement that MCC itself hold the patents to the DoCCS in order to be able to use it.

More importantly, MCC applied to the Port to modify its existing facility and operation to incorporate the DoCCS. If MCC is precluded from utilizing the DoCCS -- by a patent issue or

for any other reason -- then the proposed project would not proceed, there would be no modification to the facility, and MCC would remain subject to having to cold iron 100% of the ships delivering cement to its facility. Use of the DoCCS is not a mitigation measure. It is an essential component of the Project. Without it, there simply is no project. Therefore, this is not a situation where there is any obligation on the part of the Port to research whether the applicant has the legal right to propose the modifications to its facility that were approved by the Board of Harbor Commissioners. It is up to MCC to obtain whatever rights are necessary to carry out the modifications.

**Ground # 3 Board of Harbor Commissioners Failure To Exercise Its Discretion And Caution To Delay Vote Until The DoCCS Patent Ownership & Other Allegations Could Be Validated**

See response to Ground # 2.

**Ground # 4 Board of Harbor Commissioners Failure To Exercise Its Discretion And Due Diligence to Validate That The AMECS Technology Was A Superior, More Comprehensive & Efficient Ship Exhaust Toxic Air Emissions Capture Technology**

The AMECS is not a feasible technology that can be utilized at the MCC facility at this point in time. As explained further in response to Ground # 9, a mitigation measure was added to the Project relating to AMECS emission testing that requires MCC to participate in the demonstration testing of the AMECS if the timing of the AMECS demonstration lines up with MCC's Project modifications.

**Ground # 5 Board of Harbor Commissioners Failure To Exercise Its Discretion And Due Diligence to Validate That The South Coast Air Quality Management District ("SCAQMD") Cannot Issue A Permit To The POLB or MCC Because They Do Not Own The Patent or Licensing Rights**

See response to Ground # 2. In addition, if SCAQMD does not issue a permit modification to MCC for the DoCCS usage, the Project will not proceed, and MCC will remain subject to the requirement of 100% cold ironing.

**Ground # 6 The Port of Long Beach Managing Director of Environmental Planning Intentionally Misrepresented The Facts Regarding The Status Of The AMECS Technology**

Rick Cameron, the Port's Managing Director of Planning and Environmental Affairs, did not misrepresent the status of the AMECS testing. See responses to Grounds # 7 and # 9, below as well as the transcript of the May 11, 2015 Harbor Commission meeting at which the Final EIR was certified, included as Attachment 5 to the council letter. Nor did Mr. Cameron make any false statements regarding the DoCCS. The Port's evaluation of both DoCCS and AMECS are fully described in the Final EIR. As required by CEQA, the Final EIR evaluated MCC's proposed use of DoCCS and then considered whether there were any feasible mitigation measures or alternatives. Moreover, to the extent that this ground includes claims that DoCCS is not feasible, then as stated above, the facility modification would not proceed, since the use of

the DoCCS is at the core of what MCC has proposed. Without a validly issued SCAQMD permits to construct and operate the DoCCS, MCC would remain subject to the requirement of 100% cold ironing.

**Ground # 7 The Port of Long Beach Managing Director of Environmental Planning Misrepresented That AMECS Has To Be Certified By CARB, When There Is No Such CEQA Legal Requirement**

Mr. Cameron did not misrepresent any facts related to CARB certification of the AMECS technology. Rather, during the May 11 Board hearing, Mr. Cameron described ACTI's current efforts to obtain CARB approval. ACTI is developing AMECS as a technology for use by multiple shipping lines/vessel types at many different types of terminals. ACTI's current efforts are focused on obtaining approval from CARB to be an allowable alternative to shore power for use on *container* ships under the CARB Shore Power Regulation. ACTI submitted test data that is currently under review but has not yet obtained CARB approval. Application and testing of the current configuration of the barge-based AMECS for use on *non-container* vessels has not yet been conducted or reviewed by CARB. Through a demonstration that will be funded by the Port, ACTI plans to conduct testing on other vessel types and get approval from CARB for the level of emission reductions that can be achieved in these applications so it can market use of the system more broadly.

In contrast, MCC will be using the DoCCS only for the ships that call at its terminal. SCAQMD must issue a permit to construct for the DoCCS and will impose its own source testing and verification requirements for this particular use. This approval is very narrow, applying only to the MCC facility.

**Ground # 8 The Port of Long Beach Managing Director of Environmental Planning Failed to Disclose That The DoCCS Proposed Use Of A Bonnet or Hood Technology Was Proven To Be Inferior By AMECS As Compared To The New AMECS Direct-Connect Exhaust Capture Technology**

See response to Ground # 9.

**Ground # 9 The Port of Long Beach Intentionally Failed To Include AMECS As A Reasonable Alternative In The Final EIR**

It is important to first clarify that DoCCS is not an alternative as Appellants assert but an essential component of the Project proposed by MCC. Serving as lead agency under CEQA, the Port was required to evaluate the Project proposed by MCC (which included DoCCS) and then to consider alternatives to that Project that can feasibly attain most of the basic Project objectives and lessen or avoid any of the significant effects of the Project. CEQA Guidelines Section 15126.6(a).

One of the key words is "feasibly." Even if the AMECS technology could be considered as an alternative or a mitigation measure, it is not currently feasible. There exists only a single prototype that recently was tested for use with container vessels and is expected to undergo emissions testing for non-container vessels through a demonstration with SCAQMD that is

funded by the Port. As explained in more detail below, although AMECS eventually may become a feasible, commercial and available technology, it is not one now.

By order of the SCAQMD Hearing Board, described on page 1-4 of the Final EIR, MCC was required to identify and commit to an emissions control system nine years ago. The order required MCC to report to the SCAQMD by December 15, 2005, regarding its plan for achieving compliance with the cold ironing provision in its permit. Given the technological and practical limitations on cold ironing a fleet of ships that MCC did not own and that were not dedicated to the facility, SCAQMD staff and the Hearing Board accepted MCC's proposal to cold iron to the extent feasible, and to add a device to control the ship emissions when cold ironing was not feasible. In successive hearings, MCC was required to release a request for proposals by May 31, 2006; to receive bids by July 15, 2006; to contract for the control device no later than October 31, 2006; and to submit applications for SCAQMD permits by December 15, 2006.

The system that ACTI had designed at that time had a footprint larger than MCC's site could accommodate. Even assuming that expansion of the terminal area (and the corresponding lease) could have taken place sooner, there was insufficient space for placement of the AMECS as it was designed in 2005-2006. According to publicly available documents from that time period, the footprint of the AMECS "would occupy an area of approximately 140 feet X 20 feet" (see p. 1-7 of the Southeast Basin Vessel Emission Control Project Negative Declaration for the Metropolitan Stevedore demonstration project.)<sup>1</sup>

As the Final EIR shows in Figures 1.4-1 and 1.5-1, the MCC terminal is space-limited. The AMECS unit, as designed in 2005-2006 would not safely fit on the property. As shown in Figure 2 attached to the responses to comments (Final EIR, page 10-78), whether oriented parallel or perpendicular to the dock, it would have obstructed either the unloaders or the truck traffic pattern and fire access. Installed parallel to the dock, the AMECS would interfere with unloading the number 5 ship hold. Installed perpendicular to the dock, it would directly block truck circulation because, after exiting the silos, the trucks are already making the minimum safe turning radius requiring the least amount of cross traffic on the facility.

Additionally, the AMECS technology at that time contained a cloud chamber scrubber which used a caustic solution mixed with water. Both fresh and spent cloud chamber solution would require onsite management, either in tanks or by delivery and removal trucks adjacent to the unit, all of which required additional space in addition to the footprint of the unit. That additional space would have interfered with normal facility operations.

The DoCCS, in comparison, was designed with these space constraints in mind. It is approximately 26 feet by 56 feet, and it is tire-mounted so it can be readily moved. Accordingly, the DoCCS was selected by MCC over the AMECS because it better suited the needs of the Project, including the site constraints.

More recently, the AMECS has been modified to a barge-based application that does not result in the type of terminal space constraints described above. However, there currently is only one AMECS unit—a prototype—that recently underwent demonstration and emissions testing on

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<sup>1</sup> <http://www.polb.com/civica/filebank/blobdload.asp?BlobID=3785>

container vessels. ACTI has not yet commercialized the AMECS and is not expected to do so until the technology has been approved by CARB. On February 10, 2014, the Board approved an agreement with SCAQMD to demonstrate the AMECS's performance and conduct emissions testing on various vessel types, including dry bulk vessels. That demonstration project has not started. Therefore, the AMECS effectiveness on dry bulk vessels has yet to be demonstrated and determined. Under the SCAQMD agreement, ACTI is required to conduct demonstration and emissions testing of the AMECS on ships of varying types including dry bulk, liquid bulk, tankers, car carriers, general cargo and container vessels for a certain number of hours. The demonstrations and emissions testing may take up to 6 months after the test plan is approved by CARB. It is not known at this time when the test plan will be approved and when emissions testing will commence. Because the AMECS has not yet undergone the required CARB demonstration and testing for dry bulk vessels, and until it becomes available as a commercialized system, the AMECS cannot be considered feasible for use on the Project.

DoCCS, however, is a technology that is available now to help reduce at-berth emissions. Although it does not achieve the same emission reductions as shore power, it is the best option currently available to maximize emissions reductions from dry bulk vessels that cannot use shore power 100% of the time at the berth. In those instances when shore power cannot be used, the DoCCS will be required to capture as much NO<sub>x</sub> as possible. In addition, MCC will be required to test the diesel particulate filter as an "add on" to the DoCCS to determine whether such a filter can further reduce at berth particulate matter emissions. See Mitigation Measure AQ-3. There are no other feasible control measures currently available.

Nonetheless, the Port imposed two additional mitigation measures in the Final EIR that are relevant to this ground for appeal. First, after completion of terminal modifications, MCC will be required to participate in the AMECS demonstration program provided that such demonstration is still ongoing. Thus, although it is not feasible to replace the DoCCS with the AMECS technology for the Project, it might be possible to test the AMECS technology on a dry bulk vessel at the MCC facility if the timing of the AMECS testing and MCC facility operations overlap. The measure is as follows:

**Mitigation Measure AQ-5: Participation in AMECS Emission Testing.** After construction of the Project has been completed and operations have resumed at the MCC facility, MCC shall use its best effort to participate in the SCAQMD's AMECS demonstration project at the Port of Long Beach (Port). MCC's participation specifically pertains to Task 10 Durability Testing as described in Exhibit A to the contract between the City of Long Beach and the SCAQMD, approved by the Port of Long Beach Board of Harbor Commissioners on February 10, 2014 (the "AMECS Demonstration Testing"), if at such time, AMECS technology is undergoing Task 10 Durability Testing at the Port.

If MCC participates in the testing of a vessel pursuant to the AMECS Demonstration Testing, the costs of testing will be borne as indicated in the contract, and no testing costs shall be borne by MCC (with the exception of in-kind staff time associated with coordinating the logistics of the testing). Additionally, if MCC participates in the AMECS Demonstration Testing, such vessel hoteling hours shall be exempt from the requirements of Project Environmental Control (EC AQ-2) – Shore to Ship Power/Cold

Ironing, which requires OGVs that call at the MCC facility to use shore-to-ship power (cold-ironing) no less than 66 percent of the time (on an annual average) while at berth.

In addition, the Port has imposed a new measure that would require periodic review of new technologies such as AMECS to reduce emissions. This measure in the Final EIR was further modified by the Board to specify that the Port would undertake an independent review of the new technologies and would determine which technologies are feasible. The modified measure is as follows:

**Mitigation Measure AQ-6: Periodic Technology Review.** To promote new emissions control technologies, MCC shall perform an investigation and submit a report to the POLB Chief Executive, every 5 years following the effective date of the new lease on any POLB-identified or other new emissions-reduction technologies that may reduce emissions at the MCC facility, including the feasibility of zero emissions and near-zero emissions technologies for cement delivery trucks and cement handling equipment (e.g. payloader). The Port will conduct a similar, independent investigation, simultaneously, and will present new, emissions-reduction technologies to MCC. If the Periodic Technology Review demonstrates the new technology will be effective in reducing emissions and is determined by the Port to be feasible, including but not limited to from a financial, technical, legal and operational perspective, MCC shall work with the Port to implement such technology.

**Ground # 10 The Port of Long Beach Intentionally Failed To Include AMECS As A Reasonable Alternative 4 In The Final EIR Table 4.3.1 Which Would Result In A Significant & Unavoidable Impact [Being Reduced] To A Less Than Significant Impact**

First, for the reasons set forth in response to Ground #9, AMECS is not currently a feasible technology that could be imposed as a mitigation measure or analyzed as a project alternative.

Second, Appellants are incorrect to the extent they assert AMECS would reduce an impact identified as significant in the Final EIR to less than significant. Even if the air quality analysis in the Final EIR assumed installation of the AMECS at the highest emissions performance alleged in comments on the Draft EIR, it would not change the significance conclusions of the Final EIR. With respect to the mass emissions thresholds, the estimated emissions from the Project with mitigation are significant only for annual average daily NO<sub>x</sub>; emissions of VOC, CO, SO<sub>x</sub>, PM<sub>10</sub> and PM<sub>2.5</sub> all are less than significant and so would require no further mitigation under CEQA. See Final EIR Table 3.2-11. With respect to NO<sub>x</sub>, only the ship emissions during hotelling (“Ships – Hotelling Aux Sources”) would be affected by switching from the DoCCS to the AMECS. As shown on Table 3.2-11, this is 14.6 pounds per day out of a total of 618.6 pounds per day for the Project with mitigation. Thus, only a small portion of the Project’s emissions would be avoided by assuming the AMECS in lieu of the DoCCS, and the project would remain significant for annual average daily NO<sub>x</sub> mass emissions.

With respect to ambient air quality, use of the AMECS would not affect the ambient air quality analysis for two reasons. First, the 1-hour ambient NO<sub>x</sub> analysis, which was determined to be significant, was based on ship arrival at the dock with assist tugs (Final EIR Appendix A-2,

Section 3.1 item 2 on page A-2-2). This step occurs before the at-berth emissions control technology can be employed so, as with the DoCCS, the AMECS would not be employed and no change to the 1-hour ambient air quality analysis would occur. Second, the PM emissions, which were determined to be significant, showed the main source contributors to be the onsite on-road truck dust (road dust) and truck loading emissions. These sources would not be controlled by either the DoCCS or the AMECS. Therefore, use of the AMECS would have a minimal effect on reducing these emissions.

**Ground # 11 The Port of Long Beach Managing Director of Environmental Planning Failed to Adequately Disclose That DoCCS Only Captures NO<sub>x</sub> Emissions From Auxiliary Engines And Not The Ship Boilers**

Both the Draft EIR and the Final EIR fully disclosed how the DoCCS functions. Notwithstanding Appellants' assertions to the contrary, no relevant information was withheld from the Board at the May 11 hearing at which the Final EIR was certified. Port staff, Appellants and members of the public all had the opportunity to provide information and comments to the Board before it made its decision to certify the Final EIR.

See also response to Ground # 9 for the reasons AMECS is not currently feasible.

**Ground # 12 The Port of Long Beach And Final EIR Failed To Disclose That DoCCS Does Not Have A California Air Resources Board Approved Test Protocol Or A South Coast Air Quality Management District Approved Test Protocol Nor Have They Submitted A Test Protocol For Approval**

See response to Ground # 2. Because the DoCCS was evaluated as a component of the Project, the Project can proceed only if MCC receives all required SCAQMD permits and approvals for the DoCCS. The SCAQMD will make any necessary decisions regarding test protocols.

In addition, as a condition of its SCAQMD permit to construct the DoCCS, MCC will be required to submit a source test plan to SCAQMD for review and approval, perform a source test for certain parameters (e.g., NO<sub>x</sub>, CO, CO<sub>2</sub>, O<sub>2</sub>, ammonia, PM<sub>10</sub> and SO<sub>2</sub>) and submit the source test report to SCAQMD.

**Ground # 13 The Port of Long Beach And Final EIR Failed To Disclose That DoCCS Does Not Have A Continuous Emissions Monitoring System (CEMS) As Compared To AMECS**

Appellants' statement that the DOCCS does not have a continuous emissions monitoring system ("CEMS") is incorrect. MCC has applied to the SCAQMD for a permit to construct the DoCCS. As part of the permit conditions, SCAQMD will require that a CEMS be installed on the DoCCS and operated to measure the ship's exhaust stack concentration at both the inlet and the outlet of the air pollution control system.

**Ground # 14 The Port of Long Beach Claims DoCCS Is A Project Component And Not Mitigation When, In Fact, Its Purpose Meets All Of The CEQA Definitions of Mitigation Elements And Should Be Classified As Mitigation**

The DoCCS is a specific component of the Project proposed by MCC. By order of the SCAQMD Hearing Board, described on page 1-4 of the Final EIR, MCC was required to identify and commit to an emissions control system nine years ago. The order required MCC to report to SCAQMD by December 15, 2005, regarding its plan for achieving compliance with the cold ironing provision in its permit. SCAQMD staff and the Hearing Board accepted MCC's proposal to cold iron to the extent feasible, and to add a device to control the ship emissions when cold ironing was not feasible. In successive hearings, MCC was required to release a request for proposals by May 31, 2006; to receive bids by July 15, 2006; to contract for the control device no later than October 31, 2006; and to submit applications for SCAQMD permits by December 15, 2006. MCC did so, and the control device is the DoCCS. For this reason, MCC's application to the Port is for specific modifications to the existing facility, including the installation of the DoCCS. It is an essential component of the Project so that MCC can obtain a modification of its SCAQMD operating permit for ship unloading.

**Ground # 15 The Port of Long Beach And Final EIR Failed To Disclose That DoCCS Does Not And Will Not In The Future Comply With The California Airborne Toxic Control Measure for Auxiliary Diesel Engines Operated on Ocean-Going Vessels At-Berth In A California Port Regulation Which Is Currently Under Revision To Include Bulk Loading Ships**

Under the current regulations, dry bulk vessels are not subject to the CARB At-Berth Regulation referenced by Appellants. Therefore, requirements under the CARB At-Berth Regulation, such as achieving equivalent emission reductions, do not pertain to dry bulk vessel operations associated with the Project. However, CARB has indicated, through its recently released Sustainable Freight Pathways to Zero and Near-Zero Emissions Discussion Draft, that it is considering modifications to the at-berth regulation to include requirements for at-berth emission controls from additional vessel types; however, it is not known at this time how a future revised regulation, not yet proposed, might apply to MCC's operations and the DoCCS system.

**Ground # 16 The Port of Long Beach And Final EIR Failed To Disclose That Only On-Site And Immediate Vicinity Truck Emissions And Traffic Congestion Impacts Were Assessed And Not The 166,400 Truck Trips Leaving The Facility To Travel To Off-Site Destinations**

Appellants are incorrect to the extent they assert the traffic and air quality analyses failed to account for all of the trips related to the Project.

Appellants' statement that the traffic analysis considered only the impacts within three miles of the Project is incorrect. As explained below, the scope of the traffic analysis was designed to evaluate all intersections and roads that could be significantly impacted by traffic from the Project. The Project-related traffic distribution is based on a review of previous MCC customers, the location of known ready mix plants in the region, the potential market area for cement, and probable travel routes of these customers to/from the MCC facility.

As the distribution of Project-related traffic on the regional roadway network extends outward from the Project site, the number of Project trips at any particular intersection or road or freeway segment decreases as traffic disperses through the region. Once the analysis expands outward to

locations where it uncovers no significant impacts, there is no need to continue the detailed analysis. Although in this particular case that point may be approximately three miles from the Project site, that scope was not selected arbitrarily.

Likewise, the analytical methods and significance thresholds used in the traffic study were not selected arbitrarily. The traffic study applied City of Long Beach traffic study policies to local streets and the 2010 Congestion Management Program for Los Angeles County (Metro 2010) (“CMP”) for freeway and regional arterial facilities.

The geographic scope of the traffic study and selection of specific locations for analysis were based on the location of the Project site in the context of the surrounding local and regional roadway systems and the potential for Project traffic to create significant impacts. The intersections chosen for analysis are all-way stop controlled and are not freeway ramp terminals. None showed any significant effects from the Project.

Although the annual Project trips are estimated to be 166,400, the net new peak hour truck trips are 38 (or 76 passenger car equivalents). This number, which is the standard unit of measure for traffic impacts in CEQA documents, is relatively small compared to existing traffic already on regional streets and highways. When these peak hour trips are added to the trips already on the regional roadway network, the traffic study shows that the new trips do not trigger any significant impacts. See Final EIR at page 3.6-12.

An analysis of the nearest CMP arterial monitoring locations at Pacific Coast Highway & Santa Fe Avenue and Pacific Coast Highway & Alameda Street showed that the number of Project trips during the highest peak hour would be below the threshold of 50 trips and would not require further analysis at CMP arterial locations. As a consequence, no further analysis was required per the 2010 CMP. In addition, three CMP freeway monitoring locations nearest to the project site were also studied. These included I-710 between Pacific Coast Highway and Willow Street, I-710 between I-405 and south of Del Amo Boulevard, and I-110 between Wilmington Avenue and south of C Street. Project traffic at these three locations also did not meet CMP threshold of 150 trips per direction for analysis; therefore, no further analysis was required.

As mentioned above, beyond the locations examined in detail in the traffic study, Project related trips will disperse over the wider regional area resulting in even fewer trips at any particular intersection or roadway or freeway segment beyond those analyzed in the Project traffic study, with the result that Project traffic impacts will be even lower at these more distant locations. Because the locations analyzed in detail showed no significant impacts from the Project, any analysis of other locations farther from the Project site would show even less impact.

For the cumulative analysis, the results of the traffic study also showed no impacts at any study location. For the reasons set forth above, analysis of additional, more distant locations similarly would have found no significant impact.

The air quality analysis, including the health risk assessment (“HRA”) evaluated all Project impacts to residents that live adjacent to I-710, the most direct route taken to and from the Project terminal by Project cement trucks to deliver cement to concrete batch plants in the Los Angeles region. Appendix A-2 Figure A-2.2a in the Final EIR identifies the extent of the domain used in the project HRA. This domain extended out several miles from the Project

terminal and roadways travelled by Project trucks. Project-related ambient air pollutants at the edges of this domain were at very low concentrations, indicating this domain is fully adequate to evaluate the health effects of the Project. In addition, Appendix A-2, Table A.1.2-45 (On-Road Truck Operational Data-POLB MCC Project Scenarios) shows that the air quality analysis estimated mass emissions from Project cement truck operations using a round trip distance of 60 miles, contrary to Appellants' assertion.

**Ground # 17 The Port of Long Beach And Final EIR Failed To Disclose That Little Or No Research Was Conducted To Determine If There Were Zero Or Near Zero Emission Trucks Available For The MCC Project.**

Both the Draft EIR and the Final EIR provided current up-to-date information about zero and near-zero emission trucks, an issue to which the Port has devoted considerable research and financial support. While zero-emissions technologies are promising, there are currently no zero emission technologies readily available in the marketplace to replace the types of cement delivery trucks at the MCC facility.

Before zero emission trucks can be deployed in port operations, several factors must be considered including issues related to charging/fueling and maintenance. In addition, operational capability, durability, loss of power potential, and safety need to be monitored through testing before a large capital investment can be made in a new truck fleet. A June 2011 report prepared for the ports of Long Beach and Los Angeles examined the state of current zero-emission technologies and outlined a reasonable, programmatic approach to commercialization, through demonstration and evaluation (TIAX, 2011). The report concluded that a two-phase demonstration to commercialization is needed, with a small-scale demonstration of one to three units to examine basic technical performance. A second phase would include a broader, larger scale performance demonstration to assess how the technologies' feasibility fits into existing operations on a multi-unit basis. Further, because the development and testing of many of these technologies are still in the early stages, the timeline for commercial viability is speculative. As such, phase-in of zero emission trucks is not feasible at this time. In contrast, the phase-in of cleaner diesel-fuel heavy-duty trucks under the Port's Clean Trucks Program was possible because trucks meeting the 2007 EPA on-road heavy-duty engine emission standards were known to be readily available by 2012.

The ports of Long Beach and Los Angeles Technology Advancement Program (TAP) works along with other interested parties and the air regulatory agencies (U.S. Environmental Protection Agency, California Air Resources Board, and South Coast Air Quality Management District) to partner with technology providers to fund the demonstration of emissions reduction technologies in port operations. In July 2011, the two Ports' Harbor Commissions met jointly to consider the staff report entitled "Roadmap for Moving Forward with Zero Emission Technologies at the Ports of Long Beach and Los Angeles." (Zero Emissions Roadmap Report) and directed staff to expand the TAP guidelines to consider and potentially fund early stage zero-emission technology projects. An expansion of the guidelines facilitates the opportunity for promising, early stage zero emission technologies to potentially participate in the TAP since the TAP previously focused on near-term technologies ready for commercial deployment following an in-use demonstration in port applications.

Several small-scale zero emission and near zero emission truck demonstration projects have been conducted as part of the TAP. In 2013, under the TAP, International Rectifier developed a prototype plug-in hybrid electric vehicle (PHEV) from a conventional diesel-fueled Class 8 drayage truck. The PHEV will be deployed into drayage operations to evaluate the vehicle's performance and durability under various payloads and scenarios. To support the demonstration, International Rectifier has developed duty-cycle simulator software with a display unit to guide the driver through pre-loaded duty cycles representing various driving states, such as transient and creep modes. The duty-cycle simulator will be used to establish the baseline performance of the conventional diesel-fueled truck to compare and evaluate the PHEV's performance. In-service demonstration is expected to start in the fourth quarter of 2015.

The TAP is also engaged in the development and demonstration of an all-electric battery drive system for Class 8 trucks applications. Transportation Power, Inc. (TransPower), with additional funding provided by the U.S. Department of Energy and California Energy Commission, developed an advanced electric propulsion system, ElecTruck™ designed to meet or exceed diesel truck performance standards while producing zero emissions. Under the Port's TAP, TransPower is currently working to integrate the ElecTruck™, drive system into at least seven Navistar ProStar® trucks by Fall 2015 and work with drayage truck operators to demonstrate and evaluate the performance of the all-electric trucks in Port drayage operations over a 12-month demonstration period.

As part of the TransPower project, Total Transportation Services, Inc. (TTSI), a drayage truck operator, conducted a test of an initial prototype all-electric vehicle in 2011-2012, which successfully hauled a loaded container weighing 52,000 pounds over the Gerald Desmond Bridge and Vincent Thomas Bridge. In addition, one year of operational and performance testing of a second "pilot" truck in actual drayage operations was conducted in the Los Angeles area from late 2013 through November 2014. This testing information helped identify areas where the electric drive system required improvements to enhance system reliability and has been used to develop an updated drive system that will undergo additional testing.

Also through the TAP, POLA and POLB provided funding towards the demonstration and testing of a hydrogen fuel cell powered Class 8 truck by Vision Industries. The *Tyrano*, is powered by a lithium-ion battery that is charged on-board by a hydrogen fuel cell generator. The truck was demonstrated in mid-2012 and achieved a range of 200 drayage miles on a single tank of hydrogen. However, on October 20, 2014, the LA Business Journal reported that Vision Industries Corporation, which did business as Vision Motor Corps., filed for bankruptcy despite receiving millions in grant money from local, state, and federal agencies. The article stated that the largest impediment to marketability of the company's product was the difficulty in getting the hydrogen fuel that powers the trucks.

Additionally, there are three new TAP projects that have received management approval and will be brought to the Board for approval in the near future. These projects include TransPower Electric Drayage Infrastructure and Improvement (EDII) which involves the building of battery charging infrastructure and improving batteries and engines; the Department of Energy/SCAQMD Zero Emission Cargo Transport project which focuses on battery-electric trucks with fuel cell range extenders and the U.S. Hybrid On-Board Charger for Zero Emission Cargo Transport project to develop an on-board charging system for electric trucks.

Notwithstanding these efforts, there are still no zero emission cement trucks proven and available for use at the MCC facility. Although there are several testing programs underway, it remains entirely uncertain when or if such trucks will become available. Appellants provided no information to suggest otherwise. Nevertheless, Mitigation Measure AQ-6 (Periodic Technology Review) will require periodic review of new technologies as they develop.

**Ground # 18 The Port of Long Beach And Final EIR Failed To Disclose That CFASE Et Al Recommended That The POLB And MCC Could Sponsor And Finance A Zero Emissions Truck Demonstration And Pilot Project As Mitigation**

See response to Ground # 17. As explained in that response, the Port currently helps fund several projects aimed at developing zero and near-zero emission trucks suitable for port usage. In addition, Mitigation Measure AQ-6 requires periodic reviews of new technologies, including zero or near-zero emission cement delivery trucks that could be used at the facility.

**Ground # 19 The Port of Long Beach And Final EIR Failed To Disclose If It Will Comply With The SCAQMD Rule 1157. PM10 Emission Reductions From Aggregate And Related Operations**

MCC will need to comply with any and all applicable laws and regulations. However, SCAQMD Rule 1157 does not apply to the Project because it does not involve an “aggregate operation” as that term is defined in Rule 1157.

**Ground # 20 The Port of Long Beach And Final EIR Failed To Disclose That The MMC Project Does Not Comply With The Green Port Policy to Protect The community From Harmful Environmental Impacts, To Promote Sustainability And Other Elements**

The Project’s compliance with the Green Port Policy was assessed in the Final EIR. In addition, after certification of the Final EIR and approval of the Project, the Board adopted a motion directing staff that any lease negotiations with MCC regarding the Pier F Terminal should adhere to the Green Port Policy and include the use of the best available technology.

**Ground # 21 The Port of Long Beach’s Proposal to Include AMECS As Part Of The Periodic Technology Review And Lease Agreement Is Unacceptable Because The POLB Did Not Comply With The Tesoro Agreement For Tesoro To Sponsor And Finance An AMECS Demonstration Project Which Never Occurred**

As part of the Tesoro Refining and Marketing (“Tesoro”) lease of the Pier B terminal located at 820 Carrack Avenue in the Harbor District, the Port included a requirement that Tesoro identify an at-berth emissions reduction system technology and complete a demonstration of the selected technology on its liquid bulk vessels. Tesoro elected to work with ACTI to test the AMECS technology. Although that demonstration has not yet moved forward, the Port is still coordinating with Tesoro on implementing it in the future.

Although Appellants object to Mitigation Measures AQ-5 (Participation in AMECS Emission Testing) and AQ-6 (Periodic Technology Review), the Port believes these measures are important and will contribute to the development of new lower emission technologies.

**Ground # 22 The Port of Long Beach And Final EIR Failed To Disclose That Little Or No Research Was Conducted To Determine If There Were Zero Or Near Zero Emission Top Front End Payloaders Available For The MMC Project**

In Section 10 of the Final EIR at page 10-73, in response to a comment on the Draft EIR, the Final EIR explains that the Port researched the availability of compatible electric payloaders and found none that would meet the operations needs of the facility.

The payloaders are used in the final stages of unloading the cement in dry bulk vessels. When the majority of cement has been pneumatically removed from the ship holds, the cleanout phase of unloading commences, using a labor crew equipped with pole-mounted blades (similar to a squeegee) and the payloaders. The crew uses the pole-mounted blades to collect the cement lodged on the sides of the hold and to maneuver the material to a location where the payloaders can manage it. The payloaders, which are front end loaders equipped with a blade instead of a bucket, are used to centralize residual cement in the hold such that the nozzle of the pneumatic unloader can effectively transfer the cement to storage. This equipment is classified as off-road construction equipment.

The Appellants state, but provide no evidence, that they have found electric front end payloaders that are available commercially for this application at the MCC facility. Research during the project design and to respond to comments on the Draft EIR has not identified any such equipment that would meet the operational needs of the facility. A John Deere hybrid was suggested by a Draft EIR commenter, and the Port investigated its availability. However, information available on the John Deere product line shows that only the Model 644K is published as Tier 4-certified. The Model 644K's physical size and horsepower are larger than that used or needed at the MCC Cement Terminal. The payloaders historically used at the terminal are 125 horsepower, and mitigation identified in the Final EIR will require in the future that the payloaders will be Tier 4 equipment. As such, using a larger Tier 4 engine will result in greater emissions than using the smaller payloaders needed for the Project. Additionally, the larger wheelbase of the Model 644k would limit the maneuverability of the payloaders in the ship holds. Therefore, while a hybrid is available, no emissions benefit and, most likely, an emissions increase would occur by using the John Deere hybrid.

As noted in the Final EIR, the Port has added a mitigation measure (AQ-6) that will require periodic technology review in connection with each 5-year update of the lease terms. Review of the feasibility of available zero-emissions payloaders is specifically required during such reviews.

**Ground # 23 The Port of Long Beach And Final EIR Failed To Disclose To The BOHC That The Final EIR Violates CEQA Cumulative Impact Assessment Requirements On Environmental Justice Communities, Sensitive Receptors and Protected Classes And/Or Federal, State And City Policies And Laws On Environmental Justice And Title VI**

All environmental effects of the Project, including traffic, noise, air, socioeconomic and cumulative impacts were fully evaluated and disclosed in the Draft EIR and the Final EIR. The scopes of these analyses were broad enough to disclose all potential impacts of the Project. In particular, the comprehensive list of cumulative projects includes all projects likely to affect the communities affected by the MCC Project.

For the reasons set forth in detail in the Final EIR at pages 10-75 to 10-76, CEQA does not require a separate environmental justice section in an EIR. Even though a separate environmental justice section is not required, the Final EIR examines all potential impacts of the Project on the communities surrounding the Port, including sensitive receptors. Project traffic, air, noise and greenhouse gas impacts were fully disclosed and mitigated to the extent feasible. Appellants have provided no specific facts to the contrary.

**Ground # 24 The Port of Long Beach And Final EIR Failed To Disclose To The BOHC That The Final EIR Does Not Comply With the CEQA Requirement For Assessment Of Direct Or Primary Effects, Indirect Or Secondary Effects and Cumulative Effects**

The Final EIR included a comprehensive review of the direct effects of the Project, as well as the reasonably foreseeable indirect and cumulative impacts of the Project. Each chapter included a specific analysis of the cumulative impacts for each resource area (e.g., air, traffic, noise, etc.) studied in the Final EIR. All truck trips associated with the Project were included in these analyses. The cumulative analyses considered all projects in the vicinity of the Project that might also affect the area impacted by the Project. (See Final EIR Chapter 2.) This scope of analysis is precisely what CEQA requires. See also response to Ground # 23.

**Ground # 25 The Port of Long Beach And Final EIR Proposed POLB Greenhouse Gas Reduction Grant Program Fails To Include Mitigation For Long Term Impacts From Its Proposed Long Term Lease**

Regarding Appellants' assertion that a contribution to the POLB Greenhouse Gas Emission Reduction Grant Program based on one year of GHG emissions is inadequate, it should be noted that the funds collected through the GHG Emissions Reduction Grant Program are used for projects and programs that produce on-going reductions in GHG emissions and not just one time annual benefits. Once installed, grant funded projects, such as solar panels, urban forests, native gardens, electric vehicles, LED lights, etc., achieve continuous and ongoing GHG emission reductions every year that they remain in place. Thus, a contribution based on one year of emissions has an on-going emission reduction effect. Further, the amount of the contribution is based upon GHG emissions from the Project during a future peak year. Therefore, the funds are

collected and utilized to produce benefits in advance of when the Project will emit its maximum level of GHG emissions.

The Harbor Community Benefit Foundation that Appellants mentioned is a program set up by the Port of Los Angeles to mitigate impacts from its projects. The Port of Long Beach has established its own very successful Community Mitigation Grant Programs, which include the GHG program to which MCC will contribute and an advisory committee with representatives from the Long Beach community appointed by the Mayor of Long Beach.

**Ground # 26 The Port of Long Beach And Final EIR Fail To Disclose That Fugitive Cement Dust Emissions That Do Not Land On The Existing Terminal Area Is Not Identified, Assessed And Mitigated**

Specifically, Appellants allege that the Final EIR did not evaluate the potential that (1) the project would contaminate the ocean and negatively impact marine biology with more than 50 percent of the fugitive cement dust emissions emitted by the Project, and (2) Project fugitive cement dust emissions would increase the amount of silt build-up on the ocean floor and therefore would increase the cost of future dredging at the Port. These allegations fail to take into account that the fate and resting place of cement dust generated by the Project in part would be determined by the wind direction. Final EIR Appendix A-2 Figure A-2-4 (Wind Rose of POLB Gull Park Monitoring Station) shows that winds in the area of the Project terminal blow from the south-southeast to southwest direction 47 percent of the time on an annual basis. Winds blowing from this sector would deposit fugitive cement emissions from Project operations onto the Pier F terminal areas and not the ocean. Other wind directions also would contribute to wind transport that would deposit fugitive cement emissions from Project operations onto the Pier F terminal areas more than 50 percent of the time. Review of Final EIR Tables 3.2-3 and 3.2-9 also show that the total amount of average daily cement dust generated from the Project terminal (vessel unloading and truck loading sources) is lower for the Project versus the CEQA baseline scenario. These lower Project cement dust emissions would result in lower impacts to the ocean and marine biology compared to baseline terminal operations.

Final EIR Table 3.2-9 shows that Project terminal operations (vessel unloading and truck loading sources) would generate a maximum of 16 pounds per annual average day. As these emissions emanate from the Project terminal, their atmospheric concentrations would decrease quickly downwind to the point that substantially less than 50 percent of this mass would deposit onto the ocean surface. With the addition of wave action, tides, and ocean currents, it is expected that only nominal amounts of cement from the Project would deposit onto ocean bottoms that would require dredging in the future. This nominal amount of material would be unnoticeable to a future dredging project and therefore would not increase the cost of future dredging at the Port.

**Ground # 27 POLB And MCC Could Sponsor And Finance A Potential Ship Hatch Fugitive Dust Shroud Or Bonnet Demonstration Project As Mitigation**

The cement handling process line from ship to truck at the MCC facility is entirely closed off from the atmosphere, other than at the (1) opening of the ship hold where the vessel unloader accesses the cement cargo, (2) bag houses venting from cement storage areas, and (3) the small joint between the truck loader and truck opening. The entire process is regulated by the

SCAQMD and is covered by various SCAQMD operating permits. (See listing of permits in the Final EIR at page 10-48.)

MCC's pneumatic (vacuum) unloading device is, itself, the best available emissions control technology for the process of unloading cement. The use of a pneumatic unloader allows for removal of the cement from the ship's holds in a top down fashion, which reduces sloughing and thus greatly reduces the dust generated during unloading. The vacuum's negative air draft into the ship's hold works as an additional emissions control to further reduce dust. In addition, the electric unloader is equipped with a particulate bag filter to control the emissions from the cement transfer process. The cement is transferred from the ship through sealed piping, and goes into a warehouse that also is equipped with a baghouse for particulate control. Once the majority of the cement (80 percent or greater) has been removed from the ship's holds, a payloader is used to gather the remaining cement into a centralized point in the hold such that the pneumatic unloader can vacuum the remaining material from the hold.

Historically, the MCC terminal has complied with SCAQMD Rule 403 (Fugitive Dust) with techniques such as the use of a vacuum sweeper to control onsite road dust. Operations under the Project would continue this approach in the future.

Moreover, there are already measures in place (vacuuming the site, and the ability to vacuum the cement trucks if necessary) to ensure that the trucks do not track fugitive dust off-site. The cement is loaded into trucks through small hatches using an emission-controlled nozzle. Very little cement dust results from loading the trucks. If any cement does get on the exterior of the trucks, which is infrequent in the usual course of operations, there is an industrial vacuum at the truck hatch closing station.

The steps described above are already taken by MCC to reduce fugitive dust emissions from facility operations. The MCC facility uses the best and cleanest technology currently available for cement unloading operations to ensure that particulate emissions will be reduced to the extent feasible.

Regarding development of a new technology for ship hatch emissions, it is important to note that it is not possible to completely enclose the holds during unloading. The hatches to the ship holds are large and fold upwards. On-board cranes need to be able to maneuver them in order to open them. Any type of "shroud" that could enclose each of the holds – if it could even be engineered – would be accompanied by its own significant set of problems, including safety concerns, space constraints, and exorbitant cost far exceeding the benefit of marginal emissions reductions that might result. Neither the applicant nor the Port is aware of any type of apparatus in use or in development. Nor have the Appellants identified any such apparatus.

**Ground # 28 The Port Of Long Beach Failed To Disclose To The Board Of Harbor Commissioners And The Final EIR Failed To Properly Discuss Its Reference To Table 3, "Source Tests For ACTI AMECS" Is Vastly Misleading.**

The referenced table – "Table 3 – Source Tests for ACTI AMECS" is from ACTI itself and is set forth below. Specifically, as noted on the table, it is from the recent "Advanced Cleanup Technologies, Inc. Final Report Demonstration of AMECS on an Ocean-Going Vessel While

Berthed, January 23, 2013, Table 3.” This ACTI Final Report includes a summary of two source tests performed during the demonstration project (at 885 and 1,174 hours of operation, respectively). This information was included in the Final EIR at page 10-65.

The table is not misleading. The first source test was performed on a bulk cargo vessel from March 22-23, 2013, and the second source test was performed on a container ship on October 18-19, 2013. The table shows that there is some variability in test results and reduction efficiency of the equipment between source tests and vessel types. These two tests were conducted with the wharf mounted system and not the current barge-based configuration that is undergoing testing.

**Table 3. - Source Tests for ACTI AMECS**

Pollutant	SCAQMD Test Method	First Source Test (885 hours)	Second Source Test (1,174 hours)
NOx	100.1	96%	99% <sup>(1)</sup>
Sox	6.1	71% <sup>(2)</sup>	98.5%
PM10	5.2	70% <sup>(3)</sup>	97.9%
HC	25.3	70%	99.5%
CO <sup>(4)</sup>	100	-170%	-150%

(1) Actual outlet values measured were below 20% of analyzer range, so 20% was reported.

(2) Actual outlet values measured were below 20% of analyzer range, so 20% was reported.

(3) Excludes anomalous Run 3; see TRC test report and adjustment for isokinetic sampling error.

(4) An increase in CO was measured. The reason for the CO was not determined, but is thought to be a tuning issue with the heat exchanger burner. The burner will be repaired before further use.

Source: Advanced Cleanup Technologies, Inc., Final Report Demonstration of AMECs on an Ocean-Going Vessel While Berthed, January 23, 2013, Table 3.

Between the two source tests, adjustments were made to the AMECS system to improve and optimize emission reduction efficiency. As stated in the report, the emission reductions from the second source test were higher than shown for the first source test because new flow measurement sections were installed after the first source test. System adjustments and optimization efforts conducted by ACTI to improve the system is typical for the technology development process, especially in the prototype phase.

#### **Ground # 29 The Port of Long Beach And Final EIR Failed To Disclose That A Health Impact Assessment Is A More Accurate And Comprehensive Assessment Of Public Health Than A Health Risk Assessment**

A health impact assessment (“HIA”) and a health risk assessment (“HRA”) are two entirely different methods for evaluating health issues. The HRA is the standard, long-recognized method for evaluating the health risks of a project under CEQA because it better focuses on the impacts of a particular project, while the HIA typically evaluates broader community health issues unrelated to a particular project. Since the results of the HRA conclude that the Project would produce less than significant health impacts, CEQA requires no health risk mitigation for this Project.

Although the HRA is appropriate for CEQA analysis, the Port is actively following the development of HIA methodologies with the USEPA. The Port provided comments to the USEPA on the draft scoping document for HIA (<http://www.epa.gov/region9/nepa/PortsHIA>).

At this time, the USEPA has not finalized its proposed methodology for conducting such an assessment, nor has it released guidelines to the public. Based on current HIA methodologies, the Port believes that a HIA may be better designed for regional planning rather than project-specific analyses under CEQA.

**Ground # 30 The Port of Long Beach And Final EIR Failed To Disclose That The Project And Proposed Mitigation Will Not Comply With California Health And Safety Code Sections 39000-39002**

The referenced code sections do not relate to CEQA. The sections are the preliminary sections of legislation that defines the various air basins in California and outlines the responsibility for regulating various aspects of air quality. The sections have no application to the Final EIR that was certified by the Board.

**Ground # 31 The Port of Long Beach And Final EIR Failed To Disclose That They Conducted Little To No Research On Available Whale Mitigation For Potential Ship Whale Strikes**

Impacts from the Project associated with the potential for ship strikes of whales are addressed in Section 3.5 of the Final EIR. The Final EIR noted that data strongly suggest that ships going slower than 14 knots are less likely to collide with large whales, and vessel speed restrictions in the range of 10-13 knots could reduce the risk of ship strikes and facilitate whale avoidance. The Port promotes a Green Flag Vessel Speed Reduction Program (“VSRP”) of 12 knots or slower within 40 nm of Point Fermin, and tracks compliance with that speed reduction target within two distance categories: 20 nm and 40 nm. While the VSRP was implemented to reduce air emissions, it also has the potential to reduce the risk of serious injury to whales from accidental collision with maritime vessels using the Port.

Although the Project would result in only a small increase in vessel traffic, the incremental contribution of the Project’s operations to the incidence of migrating whale strikes is considered potentially cumulatively significant and unavoidable. The Final EIR acknowledges that the potential for serious injury to whales is reduced by the Port’s VSRP, which is included as an environmental control measure (EC BIO-1); however, other than the required vessel speed reduction, there is no feasible mitigation to fully eliminate the risk of whale strikes outside the Port. The Appellants mention their internet research but do not provide evidence or specific suggestions of new technologies that could prevent whale strikes in connection with the Project.

**Ground # 32 The Port of Long Beach And Final EIR Failed To Disclose What Is The Safe Ship And Ship Traffic Congestion Capacity Of The Long Beach Harbor And Outer Harbor**

Impacts from the Project to vessel transportation, including the potential for the Project to increase risks of vessel collisions and other accidents, are addressed in Section 3.7 of the Final EIR. This assessment focuses on the potential risks to public safety, and concludes that impacts from additional vessels associated with the Project would be less than significant. Therefore, no mitigation is required. The Final EIR points out the total number of projected ship calls at the Project as well as the resulting total ship movements within the Port. No additional information regarding harbor capacity is required.

**Ground # 33 The Port of Long Beach And Final EIR Failed To Disclose What Will Be The Sanctions, Penalties & Monitoring Method To Determine If 66% Of Vessels Are Complying With Cold Ironing And Mitigation Plan Has Been Established**

As stated in the Final EIR (Section 3.2, at page 3.2-19) and in the Mitigation, Monitoring, and Reporting Program, MCC will be required to submit annual reports to the Port demonstrating compliance with the Environmental Control Measure AQ-2 which sets a cold ironing minimum of 66%. The new lease agreement between the Port and MCC will include this requirement, and MCC will be held to the requirement by the lease terms. Should MCC fail to comply, it would be in breach of the lease and would be subject to the consequences of such breach, including lease termination. Pursuant to CEQA Guideline 15126.4(a)(2), imposition of requirements such as this through contractual agreements is appropriate.

**Ground # 34 The Port of Long Beach And Final EIR Failed To Disclose The Origin Or Sources Of The Imported Concrete Which Can Contain Toxic Chemicals, Substances, Heavy Metals & Natural Occurring Radiation**

The Final EIR in Section 3.9 contains a thorough discussion of potential hazards and hazardous material, and includes an analysis of cement. The Final EIR explains that Portland cement is not considered hazardous under various state and federal regulatory programs. Nonetheless, in the discussion of Impact HAZ 1.2, the Final EIR discusses the potential hazards associated with the handling of cement, and outlines the various procedures and regulations that are followed to prevent any significant impacts. The discussion fully satisfies CEQA's disclosure requirements. The speculative discussion suggested by Appellants is not required.