

**AGENDA OF THE REGULAR MEETING OF THE
PORT OF LOS ANGELES COMMUNITY ADVISORY COMMITTEE
TUESDAY, SEPTEMBER 18, 2007, 5:30 – 8:00P.M.
CROWNE PLAZA/LA HARBOR HOTEL
601 S. PALOS VERDES STREET
SAN PEDRO, CALIFORNIA**

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MR. JAYME WILSON, CO-CHAIRPERSON

A. CALL TO ORDER

B. OPENING STATEMENT - AN OPPORTUNITY FOR MEMBERS OF THE PUBLIC TO ADDRESS THE PORT OF LOS ANGELES COMMUNITY ADVISORY COMMITTEE (PCAC)

AS PROVIDED BY THE BROWN ACT, PERSONS IN THE AUDIENCE MAY ADDRESS THE COMMITTEE IN CONNECTION WITH ANY AGENDA ITEM OR DURING THE PUBLIC COMMENT PERIODS. THE COMMITTEE, UNDER ITS RULES, SHALL NOT ADJOURN THE MEETING UNTIL ALL MEMBERS OF THE PUBLIC WISHING TO ADDRESS THE COMMITTEE HAVE HAD THE OPPORTUNITY TO DO SO. ANYONE DESIRING TO SPEAK MUST COMPLETE A SPEAKER CARD AND SUBMIT IT TO THE PCAC SECRETARY

C. DETERMINATION OF A QUORUM BY ROLL CALL OF VOTING MEMBERS

D. APPROVAL OF MINUTES OF THE AUGUST 21, 2007 PORT OF LOS ANGELES COMMUNITY ADVISORY COMMITTEE MEETING

E. GENERAL PUBLIC COMMENTS (3 minutes per speaker)

F. REPORTS OF CO-CHAIRPERSON AND PORT OF LOS ANGELES STAFF

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G. ACTION ITEM:

1. TRAPAC EIR Comments from the Air Quality Subcommittee and the EIR / Aesthetic Mitigation Subcommittee.

PROPOSED MOTION:

The PCAC concurs that the comments from the Air Quality Subcommittee and the EIR Subcommittee be forwarded to the Port and to the U.S. Army Corp of Engineers.

H. REPORTS FROM SUBCOMMITTEES (2 minutes each)

1. Port Master Plan/Quality of Life (James Cross)
2. Air Quality Subcommittee (Richard Havenick)
3. San Pedro Coordinated Plan (June Smith)
4. Water Quality (Donna Ethington)
5. EIRs/Aesthetic Mitigation (John Miller/Frank O'Brien)
6. Wilmington Waterfront Development (Ken Melendez)

I. GENERAL PUBLIC COMMENT (3 minutes per speaker)

**J. DISCUSSION OF AGENDA ITEMS FOR TUESDAY, OCTOBER 16, 2007,
PCAC MEETING**

K. ADJOURNMENT

September 19, 2007

U.S. Army Corps of Engineers, Los Angeles District
Regulatory Division
ATTN: Dr. Spencer D. MacNeil
P.O. Box 532711
Los Angeles, CA 90053-2325

Los Angeles Harbor Department
c/o Dr. Ralph G. Appy
425 S. Palos Verdes Street
San Pedro, CA 90731

Subject: Comments Submittal for the 2007 Berth 136-147 Container EIR/EIS from the Air Quality Subcommittee of the Port Community Advisory Committee

Dear Dr. Appy and Dr. MacNeil,

We appreciate the opportunity to submit comments regarding the Subject Project Environmental impacts and hereby state our opposition to the Proposed Project due to the current unhealthful conditions in the affected community identified as a Federal non-attainment area for Air Quality, and due to the failures listed in the sections SUMMARY COMMENTS and SPECIFIC COMMENTS, below.

SUMMARY COMMENTS

1. The Mitigation Measures listed for the Proposed Project require revision to, at a minimum, ensure compliance and consistency with all applicable Measures stated in the FINAL 2006 San Pedro Bay Ports Clean Air Action Plan (CAAP) and on the schedule required in the CAAP. As noted in SPECIFIC COMMENTS, several highly crucial CAAP measures are not currently listed for implementation or are scheduled for implementation at dates that undermine the CAAP.
2. We are gravely alarmed that the Port proposed the Project with the statement that the air quality impacts are "considered significant, adverse, and unavoidable" after the proposed mitigation measures have been applied. We have higher expectations that the Port and the City of Los Angeles will demonstrate greater regard for Public Health. We recommend that the Port pursue/require mitigation efforts for the Project beyond compliance with the CAAP and if projected emissions still create residual significant air quality impacts after full application of all feasible mitigation measures, we recommend that mitigation measures be required for existing sources in closest proximity to the Project. The mitigations applicable to sources other than the Project provide the opportunity to reduce the residual emissions to below significant levels on a port-wide basis. Such actions are necessary so that air quality impacts from the Project can be reduced to a level less than significant and so that Overriding Considerations is not invoked on Air Quality.
3. The Proposed Project requires revision to include a legally binding agreement (e.g., lease re-opener clause, specifically stated plan, etc.) with the terminal operator to perform a periodic re-evaluation for the following two actions/purposes:
 - a. As the CAAP was adopted with yearly review required, we request that the Project remain consistent with the CAAP and include such periodic review as a lease requirement. Specifically, the CAAP includes the Technology Advancement Program (TAP), which will likely yield technologies or other improvements not currently identified. We recommend that the potential benefit of the TAP be reflected in the Project EIR/EIS by explicitly requiring future adoption of newly proven technologies or operational methodologies which offer improved or increased mitigation as such alternatives become available (e.g., cleaner fuels, add-on equipment, operational changes).

- b. For verification that throughput Projections stated in the Final EIR/EIS are not exceeded and, where throughput projections are exceeded, additional mitigation is required.
4. The Mitigation Measures listed for the Construction phase of the Project require revision to implement EPA standards for on-road and off-road vehicles and equipment as noted in SPECIFIC COMMENTS.
5. We request that the Baseline emissions for the No Project Alternative be adjusted to reflect the reductions that would result through CAAP implementation to provide a more accurate basis for comparison of the No Project Alternative with the Proposed Project. Currently, the incremental CEQA project impacts are inappropriately calculated in the EIR/EIS by subtracting the current operation's impacts from the increased health impacts associated with the fully-developed Proposed Project. A more accurate depiction of the Proposed Project would define the baseline condition as the No Project alternative with the application of all mitigation strategies (i.e., provide a determination as to how clean the current operation can reasonably be made) and compare the mitigated No Project Alternative to the fully-developed Proposed Project, thereby providing the maximum predicted incremental impact.
6. We request that final approval of the Proposed Project be authorized only after adoption of the San Pedro Bay Standards addressing toxic air contaminants and state/federal criteria air quality standards and after confirmation that the Proposed Project will not violate the adopted Standards. We note that the Board of Harbor Commissioners' November 2006 adoption of the CAAP included commitment to the establishment of such San Pedro Bay Standards through cooperation between the Ports and Regulatory Agencies, expected to be completed in the coming months, and that the authorization of the Proposed Project provides opportunity to demonstrate the Port's commitment to the Clean Air Action Plan and the adherence to cooperatively established Standards. Given that adoption of the standards will occur in the coming months, the Final EIR/EIS can be prepared as a parallel effort and can be modified in a timely fashion to ensure consistency.

SPECIFIC COMMENTS (applicable to referenced CAAP Section)

Executive Summary

The future year numbers for Ship Calls, TEUs, Truck and Rail Trips, as presented in Table ES-1, are based on capacity calculations for berths 136-147. These numbers require verification for correctness and the respective assumptions forming the basis of the calculations must be explicitly stated. In particular, the following issues must be addressed:

- On page 3.10-23, statement is made, "...it is expected that the gate moves would be distributed as follows: 80 percent day shift, 10 percent night shift, and 10 percent hoot shift in 2015; and 60 percent day shift, 20 percent night shift, and 20 percent hoot shift in 2038." The associated total annual throughputs presented in Table ES-1 are projected to be 1,747,500 TEUs in 2015 and 2,389,000 in 2038. In fact, if all three shifts were operated at the day shift levels, the total annual throughputs would be 4,194,000 TEUs in 2015 and 4,300,200 TEUs in 2038 (dayshift level times three), resulting in far greater numbers of ship, rail and truck trips and their respective emissions.
- Annual rail trips appear to be higher than would be calculated using the rail capacity data presented in the draft EIR. This has the effect of underestimating emissions because truck trips (and their higher per TEU emissions) would be under predicted because TEUs not shipped on rail would be shipped by truck. As actual annual TEUs, Ship Calls, Truck Trips, and Rail Trips may differ from the Final EIR/EIS projections, we recommend that the lease for the Proposed Project include a requirement for periodic measurement of actual

TEUs/Calls/Trips and where throughput projections are exceeded, additional mitigation is required.

Chapter 3.2: Air Quality

Operational Mitigation Measures

Measure MM AQ-9, Fleet Modernization for On-Road Trucks, requires revision to ensure consistency with the CAAP and the concession-approach Clean Trucks Program announced by the Port on April 12, 2007. As shown in the following table, the EIR’s currently stated phase-in of USEPA 2007 emission standards applicable to heavy-duty diesel trucks entering Berths 136-147 falls drastically short of the schedule presented in the April 12 Program announcement.

	MM AQ-9	April 12 Clean Trucks Program
Implementation Date	Cumulative Percentage of Trucks Meeting 2007 Stds	Cumulative Percentage of Trucks Meeting 2007 Stds
By January 1, 2008	15%	14%
By January 1, 2009	30%	47%
By January 1, 2010	50%	90%
By January 1, 2011	70%	99%
By January 1, 2012	90%	100%
By January 1, 2013	100%	

Furthermore, the adopting statement by the Board of Harbor Commissioners requires establishment of, "...a program that restricts the operation of trucks that do not meet the clean standards established in the Plan." The Program was further detailed in the April 12 announcement as follows:

- Ban pre-1989 trucks from port service by 1/1/08
- Ban 1989-1993 trucks from port service by 1/1/09
- Ban unretrofitted 1994-1998 trucks from port service by 1/1/10
- Ban unretrofitted 1999-2003 trucks from port service by 1/1/11
- Ban unretrofitted 2004-2006 trucks from port service by 1/1/12

Specific lease provisions should be established that incorporate the ban schedule above.

Measure MM AQ-11, Low Sulfur Fuel (LSF) in Ships, requires revision to ensure consistency with the CAAP. The EIR’s currently stated phase-in of LSF (maximum sulfur content of 0.2 percent) in Ocean Going Vessels of 10% in 2009, 20% in 2010, 50% in 2012, and 100% in 2015 fails to satisfy the CAAP milestones applicable to the same LSF measures applicable to OGVs.

The CAAP requires that the Measures OGV3, applicable to Auxiliary Engines, and OGV4, applicable to Propulsion Engines, shall be implemented through lease requirements (as new leases are established or existing leases are revised) and/or through a tariff to be implemented by third quarter 2007. Specifically, OGV3 and OGV4 require that immediately upon lease renewal, all ocean going vessels utilizing the leased facilities must burn $\leq 0.2\%$ S MGO within the current VSR program boundary of 20 nm. In the first quarter of 2008, the requirement is expanded to the 40 nm boundary. The schedule in the draft EIR would not require all OGV to comply until seven years after the date established in the CAAP and would result in a severe shortfall in the emission reductions promised in the CAAP.

Furthermore, OGV3 and 4 require the port to continue to evaluate the availability of $\leq 0.1\%$ S fuels and possibly change the requirement to the lower limit. Therefore, MM AQ-11 should be revised to require the lease to automatically adjust the sulfur limit to $\leq 0.1\%$ when the CAAP is amended to generally require $\leq 0.1\%$.

Measure MM-AQ12, Slide Valves in Ship Main Engines requires revision to ensure consistency with the CAAP. The currently stated phase-in of slide valves in the EIR/EIS applicable to Ocean Going Vessels at 15% in 2008, 25% in 2010, 50% in 2012, and 95% in 2015 fails to satisfy the CAAP milestones applicable to the same slide valve measure applicable to OGVs.

The CAAP requires that the Measure OGV5 shall be implemented through lease requirements as new leases are established or existing leases are revised. Specifically, OGV5 requires that immediately upon lease renewal, all ocean going vessels utilizing the leased facilities must employ slide valve technology. The schedule in the draft EIR would not require all OGVs to comply (a maximum of 95% of ships must comply) and the 95% level is not achieved until seven years after the date established in the CAAP, resulting in a substantial shortfall in the emission reductions promised in the CAAP. (In comparison, note that the draft EIR/EIS for China Shipping required slide valve technology on 70% of the ships serving the terminal by 2007 and 100% by 2010.)

Measures MM AQ-7 and AQ-8, Yard tractors and all other diesel-powered terminal equipment, as written on page 191 of the EIR, appear to basically comply with CAAP measure CHE-1. However, the description of the requirements for yard tractors on page 62 and 66 is silent about existing yard tractors, an apparent typographical error, and should be corrected.

Measure MM AQ-13, New Vessel Builds - Controls Technologies, must be expanded to include specific control requirements of 90% for PM, NOx and SOx and a clear description of how the measure would be enforced by the lease agreement.

Measure MM-AQ14, Clean Rail Yard Standards, while identifying possible "cleanest locomotive technologies," is vague in describing exactly how the measure will be enforced. Specific language must be included in the lease to require percent reduction requirements or numerical emission standards reflecting the referenced "cleanest" technologies and when they will be achieved.

The Project EIR/EIS currently includes no measures applicable to Harbor Craft, which represent a sizeable percentage of total Port particulate matter pollution. The EIR/EIS requires revision to include mitigation measures consistent with the Clean Air Action Plan Measure HC1 which is to be implemented through lease requirements. Specifically, lease requirements for TraPac should be established which require:

- By 2008, all harbor craft servicing TraPac shall meet the EPA Tier 2 standards for harbor craft;
- By 2011, all previously re-powered harbor craft servicing TraPac will be retrofitted with the most effective CARB verified NOx and/or PM emissions reduction technologies; and
- On availability of Tier 3 engines, within five years all harbor craft servicing TraPac will be re-powered with Tier 3 engines.

Construction Mitigation Measures

Measure MMAQ-2, Fleet modernization for On-Road Trucks, allows for 2007 model year or

1994 model year + CARB Level 3 Particulate filter on-road heavy-duty diesels. Construction emissions from on-road trucks in Phase I (2008-2015) can be substantially reduced by requiring the entire fleet of on-road trucks used for construction and/or to convey material to or from the site to meet the following hierarchy of requirements:

1. Meet the 2010 on-road emission standard for NO_x (0.2 g/bhp-hr) and for PM (0.01 g/bhp-hr); or
2. If infeasible (not commercially available) for all on-road trucks used for construction activities to meet the 2010 standard, such trucks shall use LNG (exceeding 2007 on-road standard for NO_x and PM).
3. If infeasible (not commercially available) for on-road trucks to use LNG, such trucks shall at least meet the 2007 standard of 1.2 g/bhp-hr for NO_x and 0.01 g/bhp-hr for PM.
4. Only if the above approaches are determined to be infeasible (not commercially available), use of 2003 or later model year trucks retrofitted with the highest level of CARB-verified NO_x and PM control devices is recommended.

During Phase II (2015-2025), only heavy duty trucks meeting the 2010 standards should be used since the trucks will have already been available for five years.

Measure MMAQ-3, Fleet Modernization for Construction Equipment, requiring Tier 2 on-road emission controls in Phase 1, is not as aggressive (and public-health conscientious) as possible. Emissions from construction equipment in Phase I (2008-2015) can be substantially reduced by requiring the following hierarchy of requirements:

1. Use of on-road engines that meet the 2010 emission standards for NO_x and PM.
2. If the use of on-road engines that meet the 2010 standard is infeasible (not commercially available), use of LNG (exceeding 2007 on-road standard for NO_x and PM).
3. If LNG is infeasible (not commercially available), use of on-road engines that meet the 2007 emission standards for NO_x and PM.
4. If the use of on-road engines that meet the 2007 NO_x and PM on-road standards is infeasible (not commercially available), use of off-road engines that meet the EPA Tier 3 off-road emission standard in combination with verified diesel emission controls (VDECs) that will provide the greatest reduction in NO_x and PM.
5. Only if the above approaches are determined to be infeasible (not commercially available), then the use off-road engines that meet the EPA Tier 2 standards in combination with the use of emulsified, ultra low sulfur fuel is recommended for all off-road equipment.

Technical Comments

P3.2-3, line 11 – An important component of PM is the photochemical (secondary) formation of PM in ambient air in and downwind of primary Port emissions. This downwind occurrence is unambiguously related (though not wholly attributable) to Port emissions through the release of sulfur, VOCs, PAHs, combustion exhaust, and other airborne contaminants. Control of sulfur emissions, for example, at the Port, offer dual-edged benefits in air quality, through reductions in direct sulfur dioxide emissions AND reductions in subsequent (downwind) particulate sulfate production. In that sense, ozone is NOT unique as a secondary photochemical pollutant associated with Port operations.

P 3.2-5, lines 6 through 8 – Particulate matter is bi-modal in annual mass maxima, with a slightly higher winter peak than summer. This is understood to be the result of two slightly differing phenomena. Summertime photochemistry accounts for a significant portion of the observed PM (which is produced by secondary particle formation, using the ultraviolet energy of the summer sunlight). During the winter months, low inversions and cooler weather limit

atmospheric dispersion and provide conditions conducive to gas-to-particle condensation and phase shifts, resulting in higher PM levels than those directly assignable to primary emissions alone. Therefore, describing wintertime PM as “inert” is inaccurate, misleading, and should be corrected.

P3.2-5, line 13 – Air pollutant monitoring is a means of assessing air quality, NOT a direct method of air quality improvement.

P3.2-14, Table3.2-5 – How is it that Ships are such a relatively small category contributor to total PM (25%) in this listing of 2003 emissions? In contrast, the 2001 port-wide emission inventory identified the contribution of ocean-going vessels to PM10 emissions as 55%.

P3.2-43, line 21 – Why do “unmitigated” emission calculations use 2.7% (27000 ppm) sulfur residual fuel for predictions and presentation, but much cleaner fuels (500 ppm sulfur fuel or 15 ppm sulfur fuel) for other alternative applications? Is the Port implying that ANY cleaning of sulfur from fuels is “mitigation” and that internationally, other fuel sources will remain at 2.7%? This would seem to run counter to recent international observations, SECA areas, and other activities.

P3.2-97, line 24 – The implication here seems to be that the C-R function may not be appropriate for the Port because non-California cities were primarily used in the Krewski et al study cited. If this is a substantive concern on the part of Port staff, a revised analysis, by Jerrett, using data from Southern California only, was performed and found a higher relative risk value than that determined by Krewski et al for the 63 US cities investigated. This issue was discussed in the preparation of the 2007 SCAQMD AQMP, where the decision was made to ignore the specific California value and use the national value.

P3.2-97, line 33 – This sentence is confusingly worded – how can a change in concentration be below the ambient concentration? By definition, the outdoor concentration is the ambient concentration.

Chapter 4 Cumulative Analysis:

P4-32, line 36 - The 2007 SCAQMD AQMP predicts attainment for ozone in 2023/24 (not 2020).

P4-39, line 18 (Section 4.2.2.8, Cumulative Impact AQ-7, Potential conflict with applicable AQMP) – The contribution of emissions from this project will impact the timing and ability of the AQMP to achieve needed reductions for attainment, so how can the conclusion be reached that the impact is “less than cumulatively considerable”? The proposed explanation is that the Port has provided SCAG with cargo forecasts for AQMP development, so the AQMP, by definition, accounts for Project development. This would seem to be circular reasoning, in that the ability of the AQMP to achieve attainment by any given date will be a function of the cumulative emissions and identified control strategies available to offset them, so additional emissions (from additional projects) would seem, by definition, to cumulatively affect the timely and successful implementation of the AQMP.

Appendix D3: Health Risk Assessment

pD3-4, para2 – With respect to diesel-fired external combustion boilers, how is considerations of DPM only (1 chemical) more conservative than consideration of individual TAC emissions (16 chemicals)? Given that “boiler emissions” are later determined to be responsible for almost 40% of the CEQA residential cancer risk, simplifying assignments of this exposure category should be well-documented, supported, and carefully considered.

pD3-7, para2 – The idling time assumption for line-haul locomotives assumes a value of 1 hour, compared to 1.9 hours previously used. Has this idling reduction time (contained in the CARB-Railroad MOU) actually become a part of routine operations (can the reduced idling time be currently verified for operations today)?

pD3-9, Item 2, Terminal Equipment – Increasing average hourly terminal operations by 25% to simulate peak activities seems very low, when peak activities would seemingly multiplicatively increase average operations. On what basis was the 25% assumption value selected?

pD3-9, Item 3, Trucks – If 10% ADT is assigned to each hour from 0600 to 1800m doesn't that make 120% (not to mention the additional 60% from the 5% assignment from 1800 to 0600)? What does it mean to use a value of 180% of the ADT?

pD3-9, Item 4, On-Dock rail-yard – assumption is one hour of activity, but how does this compare with current use(s) and the MOU?

P.D3-20, Table D3-5, Receptor Type – While it may be true that “Students” would “only” be exposed for 6 hours, 180 days at school, their lifetime exposure would be an additive sum of time spent at school (6 hours, presumably) AND at home (18 hours, per the simplifying assumptions used herein). The calculations used in this health risk assessment would therefore seem to systematically under-predict exposure for identified groups (students, recreational, occupational) because the calculations do not seem to account for the total 24hr period for these sub-populations.

P. D3-20, Table D3-5, Exposure Assumptions Notes, #4 – The recreational breathing rate of 3.2 m³/hr (or 3200 liters per hour, or ~53 liters per minute) does not seem especially conservative for two hours of effort; this is only five times resting ventilation rate. Aerobic exercise (such as running and cycling) can routinely involve exercise at ten times resting ventilation rates for extended periods of time.

Non-Air Quality Comments

Chapter 3.1: Aesthetics

Claim is “no significant changes”, but this seems a surprising conclusion given the three-fold expansion of the operations, the re-alignment of Harry Bridges Boulevard (and the resulting recreational area/buffer), the wharf extensions, and the crane replacements.

Chapter 3.9: Noise

Several questions are raised by the presented Noise information including the questions listed below.

1) Measurements made during 2002 are certainly of value, but were possibly made prior to the completion and current level of operations at the China Shipping Terminal. In this regard, the current noise levels may differ from those previously reported because the level of current operations is significantly greater, the area under active use is significantly larger, and the topological surface (berms, working areas, ground slope and shapes) are potentially substantively different from the physical reality during the measurements of 2002. Are more current measurements available, or can a few spot measurements be made to provide a comparison/adjustment factor to current configurations and intensity of usage?

2) The measurements provided in the Wilmington area appeared to be generally at the

terminal fence-line. Was a specific determination made that measurements back at homes and playing fields would be lower and less relevant, or that the topography was sufficiently flat and open such that noise would dissipate in a predictable manner with increasing distance? How do the noise measurement locations fit with the predominant wind trajectories for the area around the proposed terminal?

3) Comparisons are made in On-Site Operations, p.3.9-33, to 1990 measurements for container operations in the Port of Los Angeles, a period when two Evergreen vessels were being unloaded and four gantry cranes were in use. Is this a realistic and appropriate comparison for typical terminal operations noise, seventeen years later, with much more activity, and somewhat different equipment?

Control of removed landfill or sediment

The EIR/EIS requires revision to include specific plans for the control of removed landfill or sediment such that landfill disposed during construction is controlled in a manner that protects Public Health and ensures adequate coverage and handling of disposed toxic material.

We look forward to release of the Final EIR/EIS with incorporation of our recommendations as we seek mutually to benefit from improved air quality.

Richard Havenick
Chair, Air Quality Subcommittee
Port of Los Angeles Community Advisory Committee

Copies to: Dr. Geraldine Knatz, Port of Los Angeles Executive Director; Mr. Henry Hogo, Deputy Executive Officer, South Coast Air Quality Management District; Todd Sterling, California Air Resources Board; Jayme Wilson, Chair, Port Community Advisory Committee; Air Quality Subcommittee Members; Port Community Advisory Committee Members

EIR Subcommittee

Draft preliminary comments regarding systemic flaws in the Trapac EIS/EIR

The EIR Subcommittee has briefly reviewed the EIS/EIR for the Berths 136-147 [TraPac] Container Terminal Project (SCH # 2003104005) and has a number of preliminary concerns. These relate to:

- Noticing
- Lack of comprehensive planning
- Cumulative impacts
- Project segmentation
- Assumptions regarding project operations/throughput
- Community impacts
- Externalized Costs / Statement of Overriding Considerations

While the Subcommittee will continue examining the document in more detail, we felt it important that we now bring forward some of our more global concerns which permeate the fabric of the EIS/EIR.

Notice of Preparation

The Notice of Preparation for the proposed project was initially circulated in 2003. However, a “Special Notice” was then circulated in early 2006. The “Special Public Notice” was apparently designed to supplement the Notice of Intent/Notice of Preparation (NOI/NOP) previously circulated for an earlier project in October 2003. As described in 2003, the project would have occupied Berths 136-147. Project elements included 62 acres of additional backlands for a total of 238 acres or backlands, a 705 foot wharf, dredging, railroad grade separations at Neptune Avenue and Avalon Boulevard, relocation of Harry Bridges Road, and construction of a sound barrier along the relocated road. As described in the Special Notice, the project was later expanded to include Berths 136-149, placement of 1.2 million cubic yards of fill, elimination of 10 acres of water at the Northwest Slip, an increase in total backlands to 251 acres, elimination of the proposed grade separations, and ramp improvements at Harry Bridges Road/John Gibson Boulevard and the Harbor Freeway (I-110). The current project would provide 243 acres of backlands and entail 800,000 cubic yards of fill.

We remain concerned that rather than issue a revised NOI/NOP, a “Special Notice” was issued instead. Clearly the scope of the project has increased beyond that originally contemplated. The 2003 NOI/NOP clearly stated that “There would be no loss of waters of the United States.” The currently proposed project would result in the loss of ten acres of waters of the United States in addition to five acres included in the project area that will be examined in a separate environmental document. That alone would clearly demand recirculation of all required notices. The increase in backlands would be over twenty percent greater than originally proposed, with total backlands five percent greater than originally proposed. A

stated goal in the 2003 NOI/NOP was to increase cargo handling capacity. Ramping improvement at Harry Bridges and I-110 were also new elements.

Any one of these changes on its own would have generated a need for additional environmental documentation. Taken together, they demanded that a new NOI/NOP be circulated. It is clear to the Subcommittee that, regardless of what it was called, the “Special Notice” must actually serve as a recirculated NOI/NOP.

In accordance with Section 15082 of the Guidelines for Implementation of the California Environmental Quality Act (CEQA), a Notice of Preparation must include a description of the project and the probable environmental effects of the project. The “Special Notice” described the project primarily in terms of contrast to the project proposed in October 2003, leaving some elements in question. It also raised additional questions. As noted in the NOI/NOP for the Berths 136-147 project published in the Federal Register on October 27, 2003 (Volume 68, Number 207), 238 acres of backlands would have been provided. The 2006 notice referenced a project with 244 acres of backlands. Was another, third notice circulated for a project at the Berths 136 et al location for a 244-acre project more closely resembling the currently proposed project?

Lack of Comprehensive Planning

The Subcommittee continues to be concerned about the lack of comprehensive planning for both the proposed project and the Port as a whole. In accordance with Section 15125(d) of the CEQA Guidelines, an EIR must identify any inconsistencies between a proposed project and adopted planning programs. This is important in order to assure that future on- and of-port infrastructure will be adequate for future needs. However, local planning programs for the Port consist primarily of bland platitudes and are so out of date as to be nonfunctional and non-existent.

Section 65300 of the California Government Code requires all cities in California, including charter cities, to prepare a comprehensive, long-term general plan for the physical development of the city. A general plan has seven mandatory elements, though other optional elements may be added.

While all elements of the general plan have equal status, with no element taking precedence over another, the land use element is often considered the core element of the general plan. The land use element is required to designate the type and extent of various land uses and to include quantifiable standards of land use intensity (Sec. 65302(a)). Intensity standards are important in coordinating the land use element with the circulation element.

The land use element function in this case is intended to be fulfilled by the Port of Los Angeles Community Plan, last comprehensively revised in 1982. We note that the general plan is to be kept current. No specific schedule has been established for updating most elements of the general plan. However, the Governor’s Office of Planning and Research must

notify a city which has not updated its general plan in eight years that the plan may be out of date. If the plan has not been updated in ten years, the Attorney General must be notified.

In accordance with Section 65302, the land use element must be coordinated with other general plan elements addressing such factors as circulation, safety, noise, housing, and open space. The circulation element must identify major thoroughfares and other transportation infrastructure. In accordance with Government Codes Section 65302 (b), the circulation element must be correlated with the land use element. As stated in *Concerned Citizens of Calaveras County v. Board of Supervisors* (1985) 166 Cal.App.3d 90:

“Correlated” means “closely, systematically, or reciprocally related”
[Webster’s Third New International Dictionary (1981) p. 511].

Section 65302 therefore requires that the circulation element of a general plan, including its major thoroughfares, be closely, systematically, and reciprocally related to the land use element of the plan.

In its more concrete and practical application, the correlation requirement in subdivision (b) of [Government Code] §65302 is designed to insure that the circulation element will describe, discuss and set forth “standards” and “proposals” respecting any change in demands on the various roadways or transportation facilities as a result of changes in uses of land contemplated by the plan. (See *Twain Harte Homeowners Assn. v. Tuolumne County* (1982) 138 Cal.App.3d at p. 701 and *Camp v. County of Mendocino* (1981) 123 Cal.App.3d at p. 363.) The statutory correlation requirement is evidently designed in part to prohibit a general plan from calling for unlimited population growth in its land use element, without providing in its circulation element, “proposals” for how the transportation needs of the increased population will be met. . . .

We conclude the [Calaveras County] general plan cannot identify substantial problems that will emerge with its state highway system, further report that no known funding sources are available for improvements necessary to remedy the problems, and achieve statutorily mandated correlation with its land use element (which provides for substantial population increases) simply by stating that the county will solve its problems by asking other agencies of government for money. To sanction such a device would be to provide counties with an abracadabra by which all substance in §65302’s correlation requirement would be made to disappear.

Thus, if intensity of use is not defined in a manner adequate to anticipate future circulation needs, one is left with an “abracadabra” approach to meeting future transportation infrastructure needs.

All other elements of the general plan must also be consistent and coordinated (G.C. 65300.5). For example, the noise element must address sound generated along circulation corridors; the

housing element must address the need for housing generated by non-residential uses as well as regional growth; and the land use element must provide adequate sites for provision of the identified housing need.

There is currently no planning vehicle which defines intensity of use in the Port of Los Angeles Community Plan Area. This renders it extremely difficult, if not impossible, to coordinate other planning programs with Port activities. This includes other general plan elements and community plans, such as the circulation element, as well as other planning efforts such as the Air Quality Management Plan (AQMP) prepared by the South Coast Air Quality Management District (SCAQMD). As a result various agencies find themselves in a catch up situation, in which, for example, transportation infrastructure is overwhelmed and air quality standards are exceeded in the basin, despite ever more stringent controls on non-port uses.

Unfortunately, there is no abracadabra solution to the problems affecting the communities around the Port, including air pollution, traffic congestion, and blight. A comprehensive update of the Port of Los Angeles Plan is well past overdue. An update including the required statements of intensity must be prepared by the City of Los Angeles prior to the approval of any major new projects at the Port.

Without some degree of certainty as to the magnitude of future uses, it is impossible to coordinate future infrastructure with future needs. The failure of POLA to address growth in a comprehensive manner has lead directly to our current critical problems in local and regional circulation systems and harmful levels of air pollution.

The Subcommittee is aware that POLA has stated its intent to prepare a Port Master Plan. However, little progress has been made to that end. We are concerned that by the time a new Master Plan is prepared and adopted, it will be moot due to the numerous projects approved on a piecemeal basis in the preceding years. It is the position of the Subcommittee that additional projects should not be approved on a piecemeal basis, but only as part of a comprehensive plan for the entire port.

Cumulative Impacts

The Subcommittee/Working Group evaluated a sample of past EIRs and determined that there exists in the port area an unmitigated backlog of cumulative impacts, especially with regard to Air Quality, Traffic and off-port community impacts. Therefore, evaluation of cumulative impacts and development of effective mitigation measures is a particular priority for the PCAC.

As stated in Section 15355(b) of the CEQA Guidelines:

The cumulative impact from several projects is the change in the environment which results from the incremental impact of the project when added to other closely related past, present, and reasonably foreseeable probable future

projects. Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time.

Thus, if a past or present project is used as a baseline for environmental purposes, the impacts from the past or present project must be included in assessment of cumulative impacts.

The Working Group is concerned that small, incremental changes have occurred at Port facilities without environmental analysis or mitigation resulting in unmitigated impacts on the surrounding community. Unfortunately, the list of projects included for cumulative analysis purposes in the DEIR appears to include only those major projects for which formal environmental documentation has been or will be performed, even though POLA continues to process numerous ADPs without preparation of a CEQA document.

Even in those cases where environmental documentation has been processed, often no significant impact is found to occur. Analyses of cumulative impacts must include all projects, whether or not an EIR or other formal environmental documentation was prepared. The Subcommittee recognizes that where an impact is negligible, a project would not be considered to result in a significant cumulative impact. However, an impact which is less than significant may be far from negligible.

It is not enough that impacts are minimized in an individual project. Even if the impacts of individual projects have been mitigated to a level of insignificance, a significant cumulative effect may still occur.

We are concerned that leases have been structured in a manner that allows for substantial increases in activities absent any formal action by POLA which would trigger the requirement for environmental documentation. This has ranged from increased hours of operation encouraged through the Pier Pass program to increases in cruise line activity. We are disappointed that POLA has chosen to abdicate responsibility and accountability in these cases.

We note that the baseline utilized for CEQA analyses in this EIS/EIR is 2003. POLA throughput in 2003 was 7,178,940, increasing to 8,469,853.00 in 2006, an 18 percent increase. It is not clear how or if this increase was included in analyses of cumulative impacts. Failure to include the 1.3 million TEU increase between 2003 and 2006 in analyses of cumulative impacts in the EIS/EIR will increase the backlog of unmitigated impacts sustained by the community. Likewise, increases in cruise activity must be included in analyses of cumulative impacts as well.

Project Segmentation

As noted in the project description, placement of fill to create a five acre area integral to the proposed project is being examined under a different environmental document currently in process. We are concerned that analyses will minimize the full impact of the proposed project by chopping what is essentially one project into several pieces to be analyzed separately.

Project Operations

The project description indicates that throughput would reach its maximum in 2025, yet this does not appear to reflect actual maximum capacity of the built out facility. The project description indicates that throughput would be 1,747,500TEUs (twenty foot equivalents) in 2015 increasing to 2,389,000 by 2025. This throughput forms the basis for numerous analyses in the EIS/EIR including analyses of impacts on traffic, air quality, and noise. It is thus essential that the project be implemented in a way that insures that the estimate of ultimate throughput will ultimately be proven accurate.

While the Subcommittee had expressed concerns regarding the lack of information regarding project operations under the project description in environmental documents, the EIR for Berth 206-209 was a great step forward in this regard, providing such basic operational information as anticipated use of rail and work shifts right up front. The Subcommittee is disappointed that this EIS/EIR appears to be a step back. These factors are critical in assessing future impacts and should be an inherent part of the approved project to be monitored and managed so that increased impacts due to any changes may be addressed.

The project description contains no information as to how activity will be split. It is not until well into the EIS/EIR, on page 23 of Section 3.10, that one finds that cargo will be split 80 percent day shift, 10 percent night shift, and 10 percent hoot shift in 2015; and 60 percent day shift, 20 percent night shift, and 20 percent hoot shift in 2038. It is not clear if this includes any weekend shifts. It appears, however, that the EIS/EIR projects that sixty percent of the cargo will be moved during twenty five percent of the available time, i.e. a normal 40 hour work week versus the total 168 hours in a week. It would appear that the facility would not be operating at full capacity anywhere near full time. It appears that actual cargo could be in the range of 2.5 times that assumed in the EIS/EIR, or up to 6 million TEUs per year (2,389,000 TEUS X 60 % in 40 hr. X 168/40 = 6,020,280 TEUs). Even allowing down time for maintenance, it does not appear that maximum capacity would be reached with the shift split outlined in the EIS/EIR.

Does POLA intend to cap throughput at the projected 2025 level, even if demand exceeds the projected amount? POLA has repeatedly prepared environmental documents for projects with estimated throughputs that are repeatedly exceeded, leading to a backlog of unrecognized, unanalyzed and unmitigated impacts on the surrounding community. How will POLA ensure that throughput does not exceed EIS/EIR estimates? What steps will POLA take to ensure that any additional impacts are fully mitigated?

The Subcommittee has already grappled with the issue of increased cargo throughput in what had been considered the off hours. The Pier Pass program, for example, encourages greater activity in evenings and at night. While this can reduce peak hour traffic congestion, extended hours of operation also increase potential throughput and associated impacts. The increase in operations occurred without any formal BOHC action which would constitute a project under CEQA and was therefore not subject to environmental review.

It is possible and, based on past performance, highly likely that TEUs projected in the EIS/EIR would be exceeded. The EIS/EIR must examine actual maximum throughput that could physically occur absent any further action by the Board of Harbor Commissioners.

Community Impacts

The Subcommittee is concerned that Wilmington will be further cut off from the water by the proposed berm. We are insulted that the EIS/EIR analyses address visual impacts with the cavalier attitude that views in the area have always been the degraded views of what is essentially a massive, multi-story industrial park and are therefore not important.

We submit that POLA activities over the past couple of decades have led to a significant, adverse impact on views from the surrounding community, as container freight has come to dominate. Cranes have multiplied like hormone-enhanced rabbits. Cranes have also become larger and larger as have vessels. We note that while the proposed project would eliminate one crane, the new cranes would increase from 50 gauge to 100 gauge. Moderately sized, picturesque cruise ships have been replaced by floating high-rises. Cargo vessels have also dramatically increased in size, reaching Panamax and then Post Panamax proportions. Container stacking has also degraded views, both on and off port lands. This has led to a cumulative, significant, adverse impact that must not be dismissed.

In addition to the visual impacts, land use impacts in San Pedro and Wilmington from Port operations have been cumulatively significant. As the Port has expanded, Port functions have needed to expand beyond tidelands boundaries. These functions – necessary to support daily port operations – include such land uses as truck service facilities and container storage yards.

The document does not analyze the individual and cumulative impacts on off-port land use from port industrial operations. It does not provide mitigation measures to address these individual and cumulative impacts.

The document should provide a parcel-by-parcel analysis of land uses in Wilmington, indicating the parcels that directly and indirectly support port activity. Special attention should be given to port-related land uses adjacent to residential neighborhoods and sensitive receptors such as schools and playgrounds.

Appropriate mitigation measures should be developed, including a plan to relocate port-related uses to appropriate areas and creation of a comprehensive system of greenbelts and port-community buffers.

In making this analysis, the document should make specific reference to land use mitigation measures identified in the California Air Resources Board April 2005 study “Air Quality and Land Use Handbook: A Community Perspective”.

Additional Concerns

Port staff may rely on a “Statement of Overriding Considerations” in recommending this project to the Harbor Commission. If this is the case, then an analysis of project benefits – such as direct and indirect employment – will need to be balanced by an equally comprehensive analysis of project costs. These costs – to public health and to create and maintain public infrastructure – are necessary for the public and decision-makers to make an informed decision about the proposed project.

A complete analysis cannot include direct and indirect benefits (including benefits generated “off-port”), without also including direct and indirect (externalized) costs generated by port growth and port pollution.

The 2004 study “California’s Global Gateways: Trends & Issues” prepared by the Public Policy Institute of California, provides the framework methodology for the identifying and estimating goods movement costs and benefits.