

**Port of Los Angeles Community Advisory Committee
EIR/Aesthetic Mitigation Subcommittee**

July 14, 2008

U.S. Army Corps of Engineers, Los Angeles District
Regulatory Division
c/o Spencer D. MacNeil D.Env.
ATTN: CESPL-RG-2003-01029-SDM
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Subject: Berth 97-109, China Shipping Container Terminal Recirculated EIS/EIR.
ADP No. 030127-018; State Clearinghouse Number 2003061153

Dear Drs. Appy and MacNeil,

Thank you for the opportunity to comment on the Recirculated Draft Environmental Impact Statement/Environmental Impact Report (DEIS/DEIR) for the Berth 97-109, China Shipping Container Terminal Improvement Project under consideration by the City of Los Angeles Harbor Department. and the United States Army Corps of Engineers (SCH#2003111044; ADP#030508-138). These comments are submitted by the Port Community Advisory Committee (PCAC) EIR/Aesthetic Mitigation Subcommittee.

The China Shipping Subcommittee, part predecessor to the EIR/Aesthetic Mitigation Subcommittee, submitted comments on the Notice of Preparation as originally circulated in 2003 and has been active in formulating mitigation programs for anticipated impacts from the proposed project. As such, the Subcommittee has sought to work as a partner in the environmental review for the China Shipping project and desires to continue to do so.

As directed by the Harbor Commission, the PCAC's mission includes:

.. assess the impacts of Port Developments on the Harbor area communities and to recommend suitable mitigation measures to the Board for such impacts...

...To review all past, present and future environmental documents in an open public process to ensure that all laws—particularly those related to environmental protection—have been obeyed, all city procedures followed, and all adverse impacts upon the communities mitigated.

Based on the Commission's directives, the Department and the PCAC have worked to establish an "EIR Template" that provides a standardized approach to environmental review of projects. Comments on the China Shipping Container Terminal Improvement Project EIS/EIR are provided using the framework of the EIR Template recommendations provided by the Subcommittee/Working Group in the POLA Net document of January 2004 and subsequently.

Our EIR Template recommendations focus on priority areas:

Air Quality [No Net Increase]
Traffic
Off-Port Impacts [Light, Aesthetics, Noise, Land Use]
Environmental Justice
Project Description and Analysis

The Project

The Draft EIR/EIS is intended to address the effects of developing and operating the China Shipping Container Terminal at Berth 97-109 at the West Basin in the Port of Los Angeles. Physical improvements include new wharf construction/ lengthening at Berths 100 and 102; addition of up to 10 shoreside A-Frame cranes, including Phase 1 cranes; expansion and development of 142 acres of terminal backlands; construction of container terminal buildings, gate facilities, and accessory structures; construction of two new bridges over the Southwest Slip Berths 97-109 to Berth 121-131; construction of road improvements in the vicinity; and dredging to match the West Basin channel depth of -53 feet.

Phase I, including installation of four A-Frame cranes, wharf improvements, one bridge, and new backlands has been completed. Operations have been permitted to commence pursuant to Amended Stipulated Judgment for litigation related to the West Basin Transportation Improvements Program EIS/EIR.

The project description included in the DEIS/EIR also includes relocation of the Catalina Express Terminal. The June 2003 Notice of Intent/Notice of Preparation (NOI/NOP) for the project did not include relocation of Catalina Express. The 2006 EIS/EIR mentioned the Catalina Express briefly and indicated that only temporary impacts would be addressed, with other impacts to be addressed in another EIR.

The current EIR includes relocation of Catalina Express in the project description, but it is not clear whether or not the project was included in the analysis of impacts. For example, Appendix E 1.1, Construction Emission Calculations, includes tables for construction emissions generated by each project component but no emissions for construction activities entailed in relocation of Catalina Express. Mitigation measures do not appear to address Catalina Express, either. While the EIS/EIR suggests use of solar power for the primary structure at Berths 97-109, there is no similar suggestion for the refurbished terminal for Catalina Express.

If it is the intent of POLA to fulfill California Environmental Quality Act (CEQA) requirements for relocation of Catalina Express with this EIS/EIR, a revised NOI/NOP should have been circulated to address it. In addition, all analyses must include impacts associated with the relocation, including but not limited to air emissions, water quality impacts, and circulation/parking, as well as appropriate mitigation measures.

EIS/EIR Assumptions

Total throughput is the most important factor in determining future impacts. The Subcommittee appreciates that additional mitigation measures to reduce air pollution emissions may be imposed if projected throughput is exceeded as provided in Mitigation Measure MM AQ-23:

MM AQ-23: Throughput Tracking. If the Project exceeds project throughput assumptions/projections anticipated through the years 2010, 2015, 2030, or 2045, staff shall evaluate the effects of this on the emissions sources (ship calls, locomotive activity, backland development, and truck calls) relative to the EIS/EIR. If it is determined that these emissions sources exceed EIS/EIR

assumptions, staff would evaluate actual air emissions for comparison with the EIS/EIR and if the criteria pollutant emissions exceed those in the EIS/EIR, then new or additional mitigations would be applied through MM AQ-22.

This is a major step forward in responding to concerns previously raised by the Subcommittee. However, we are concerned that as currently proposed review would occur at a staff level without any participation from either the general public or the Board of Harbor Commissioners, thereby short-circuiting the public disclosure function of CEQA.

Further MM AQ-22 appears to leave much of the decision making to the discretion of the tenant, including sharing costs for additional mitigation with POLA as follows:

MM AQ-22: Periodic Review of New Technology and Regulations. The Port shall require the Berth 97-109 tenant to review, in terms of feasibility, any Port-identified or other new emissions-reduction technology, and report to the Port. Such technology feasibility reviews shall take place at the time of the Port's consideration of any lease amendment or facility modification for the Berth 97-109 property. If the technology is determined by the Port to be feasible in terms of cost, technical and operational feasibility, the tenant shall work with the Port to implement such technology.

Potential technologies that may further reduce emission and/or result in cost-savings benefits for the tenant may be identified through future work on the CAAP. Over the course of the lease, the tenant and the Port shall work together to identify potential new technology. Such technology shall be studied for feasibility, in terms of cost, technical and operational feasibility.

As partial consideration for the Port agreement to issue the permit to the tenant, the tenant shall implement not less frequently than once every 7 years following the effective date of the permit, new air quality technological advancements, subject to mutual agreement on operational feasibility and cost sharing [emphasis added], which shall not be unreasonably withheld.

Would it be POLA's intent to share the cost of mitigating impacts associated with excess throughput? Would it be POLA's intent to permit impacts associated with excess throughput to remain unmitigated for as long as seven years?

In addition, other impacts related to increased throughput, such as impacts on traffic would remain unmitigated in the event that throughput estimates were exceeded. Measures similar to MM AQ-22 must be included for all potential impacts, including traffic, noise, and public services and utilities.

It is essential that full and accurate information regarding throughput capacity be included in the EIS/EIR. As noted in the Subcommittee's October 2006 letter commenting on the previously circulated China Shipping EIS/EIR :

The project description indicates that throughput would be 435,000 TEUs (twenty foot equivalents) in 2005 increasing to 1,551,000 by 2030. This throughput forms the basis for numerous analyses in the EIS/EIR including analyses of impacts on traffic, air quality, and noise.

While the EIS/EIR discusses various studies and methods for determining throughput, it is not clear how throughput was actually determined for the proposed project. The determinative factors in determining the 2030 estimate of throughput are not identified, whether land utilization, berth space utilization,

crane utilization, or some other factor.

The recirculated EIS/EIR also lacks this same information. Reference is made to additional information in Appendix I, but Appendix I merely expounds on the quality of the model and treats it as a magical black box, showing only outputs for each alternative. The EIS/EIR must also provide information regarding assumptions and inputs. For example, if capacity would be limited by land utilization, the EIS/EIR must say so and identify throughput assumed per acre; if capacity would be limited by berth space, the EIS/EIR must say so and identify throughput assumed per foot of quay; and so forth.

The EIS/EIR indicates that in 2030 cargo will be split sixty percent on the day shift and twenty percent each on the swing and hoot shifts. In addition, Table E1.2-8 indicates that only fifteen percent of cargo would be handled on weekends, which constitute 28.6 percent of the total week. As stated in the EIS/EIR

While this project assumes 24/7 operation in the future, the terminal, rail facilities, distribution centers, warehouses, and retailers are not expected to operate at full capacity during the night and hoot shifts.

Thus, the facility would not be operating at full capacity full time. Unused capacity would exist on weekends and at night. The EIS/EIR indicates that additional technological improvements would be subject to additional environmental review in the future. However, the EIS/EIR offers no means of addressing impacts of increased throughput on factors other than air quality if throughput increases simply due to increased activity at night or on weekends.

The Subcommittee has repeatedly discussed potential impacts due to increased throughput enabled by the Pier Pass program. We have been told that POLA has no jurisdiction to require any environmental review because it is a purely private venture, not subject to discretionary action by POLA. Based on this precedent, it appears likely that we will see a similar repeat here. Unless project approvals specifically limit total throughput, eventual throughput and associated impacts could exceed estimates in the EIS/EIR, and probably will.

We are also concerned about other assumptions utilized in projecting impacts of the proposed project. These include number of ship calls, type of vessel, use of rail, cargo distribution, assumed trip lengths and use of certain technologies, for example the use of cleaner locomotives by PHL. Should any of these assumptions prove inaccurate, impacts could increase

Annual Environmental Scorecard

In light of the basic goals articulated by the Commission in establishing the PCAC, the EIR Subcommittee/Working Group has recommended that an Annual Environmental Scorecard be prepared that would include reporting not only on the status of adopted mitigation measure but implementation of green terminal measures or other operational assumptions assumed to be part of the proposed project.

We request that an additional mitigation measures be adopted as follows:

If the Project exceeds project throughput assumptions/projections anticipated through the years 2010, 2015, 2030, or 2045, staff shall report back to the Board of Harbor Commissioners as to the effects of this on the air emissions, traffic, noise, and other impacts relative to the EIS/EIR. Staff shall also report back as to any project assumptions that do not come to fruition including, but not limited to, number of ship calls, type of vessel, use of rail, cargo distribution, assumed trip lengths and use and effectiveness of certain technologies. If it is determined that impacts exceed EIS/EIR assumptions, then new or additional mitigations shall be

applied by the Board of Harbor Commissioners

Environmental Baseline

Establishment of an appropriate environmental baseline is a key factor in assessing the environmental impact of a project. As stated in *County of Amador v. El Dorado County Water Agency* (76 Cal.App.4th 936):

Before the impact of a project can be assessed and mitigation measures considered, an EIR must describe the existing environment. It is only against this baseline that any significant environmental effects can be determined.

In accordance with the Amended Stipulated Judgment, the baseline for this EIS/EIR is March 2001, prior to the start of Phase I operations.

In March 2001, a portion of the project site was used for storage by Yang Ming located at Berth 121-131. Prior to the Yang Ming use, Berth 97-109 was used by the Chevron Marine Oil Terminal which left the site in the early 1990s and Todd Pacific Shipyards which vacated the site in 1998. The site was subsequently used as a construction staging area for various Port projects.

The CEQA baseline was derived by reviewing aerial photographs from 2000-2001 for container stacking on the site. Based on dwell time calculations, it was estimated that Yang Ming throughput on the site for that year was 45,135 TEUs.

The Subcommittee is concerned with this approach in that the elimination of Yang Ming backlands use of the Berth 97-109 does not guarantee that throughput at the existing Yang Ming terminal will decrease thirteen percent. In fact, if history is any guide, throughput at Berth 121-131 will continue to grow.

Will Yang Ming throughput actually drop by 45,135 TEUs per year after vacating Berth 97-109? If so, what measures will be utilized to ensure that this reduction in Yang Ming throughput is maintained? If not, use of the 45,135 TEU baseline is inappropriate and the EIS/EIR must be revised to utilize a baseline reflecting actual, verifiable changes in Yang Ming throughput associated with discontinued use of Berths 97-109.

If Yang Ming throughput is utilized to constitute the baseline for environmental analysis of the pending project, impacts identified in the environmental review process for the Yang Ming backlands use must be included in the analysis of cumulative impacts. Even if the impacts are so small as to be insignificant when the Yang Ming backlands use is viewed alone, they may contribute incrementally to a significant cumulative impact when added to the impacts of the proposed project and other future, present, and still-existing past projects. This must also include impacts associated with expansion of Yang Ming from Berth 127-131 into Berth 121-126

The Subcommittee is concerned that as the Yang Ming container terminal evolved in recent years, incremental changes in operations may have been judged to be insignificant, allowing significant environmental impacts to accumulate incrementally. We are concerned that significant, unmitigated environmental damage that was previously occurring may be seen as "normal" for the site. The Subcommittee is concerned that impacts associated with throughput levels attributed to Yang Ming's "baseline" backlands use may remain unidentified and unmitigated.

It is imperative that POLA break the cycle whereby activities at various Berths gradually exceed activity levels anticipated in previous environmental studies, creating impacts not anticipated or mitigated followed by the increased, unmitigated activity levels being used as a baseline for

future environmental investigations for new operations which themselves exceed estimates in environmental analyses, creating *more* unanticipated and unmitigated impacts which are then used for an even further increased baseline. The subcommittee notes that this ongoing death spiral of unanticipated, unmitigated growth and increasing baselines has contributed to the significant backlog of unmitigated environmental impacts sustained by communities around the Port.

Selection of an inflated baseline established by including activities not previously subject to CEQA review seems to the Subcommittee to repeat one of the major flaws of the previous China Shipping EIS/EIR and others. Use of an inflated baseline causes potential project impacts to be understated, inconsistent with the directive established by the Harbor Commission that all projects be evaluated according to the requirements of environmental law and that all adverse impacts upon the communities of San Pedro and Wilmington be mitigated.

QUESTIONS

1. When was the Yang Ming use established on the site?
2. What environmental documentation was prepared for approval of Yang Ming use of Berth 97-109?
3. As Yang Ming expanded and modified its operations in recent years, what approvals and environmental documents were required by POLA?
4. What mitigation measures were required in order to reduce the significance of impacts associated with Yang Ming operations? Were these included in the baseline calculation?
5. What was Yang Ming throughput prior to occupation of Berth 97-109 backlands?
6. Will Yang Ming or successor tenants at Berth 121-131 be permitted to increase throughput per acre from backlands at Berth 121-131? How will this be monitored?

Project Operations

The Subcommittee is pleased that the project description in the recirculated EIS/EIR includes more detail regarding project operations, though information regarding weekend activities remains buried in the air quality analyses.

The Subcommittee has numerous questions regarding operations assumptions. Specifically:

1. What would be the capacity of the facility operating at full capacity every day, all day, including weekends and hoot shifts?
2. Do "optimal" and maximum capacity differ? If so, how?
3. Was calculated maximum capacity limited by berth/wharf space? If so, what is the specific number of containers assumed per given berth length?
4. Was calculated maximum capacity limited by backlands? If so, what is the specific number of containers assumed per acre?
5. How would capacity increase if additional storage became available on or off or port lands?
6. What infrastructure limitations, specifically, were determined to limit ultimate throughput capacity at Berth 97-109?
7. What is the largest vessel that can be accommodated by the ten cranes?
8. Will larger cranes be needed in the future to handle larger vessels? Will additional environmental documentation be prepared?
9. Impact analysis is also based on certain assumptions regarding use of rail and truck traffic. How will this be monitored?
10. The EIS/EIR states that 83.1 percent of cargo will be transported from Berths 97-109 by truck and that 15 percent of cargo (231,250 TEUs) will utilize on-dock rail at Yang Ming, for a total of approximately 98 percent of cargo. Table 2-1 indicates that 16.9 percent of cargo will utilize on-dock rail. What will happen to the other two percent of cargo? With

- what impacts? Will they be handled by other on-dock rail?
11. If China Shipping utilizes a greater portion of Yang Ming on-dock rail, will truck trips from Yang Ming increase? With what impact?
 12. The EIS/EIR estimates that fifty percent of cargo will be local deliveries, with an average trip length of 20 miles. However, the attached Port and Modal Elasticity Study prepared for the Southern California Association of Governments (SCAG) by Dr. Robert C. Leachman indicates that purchasing power in all of California and Nevada would account for less than half that. Thus, the proportion of local deliveries and assumed truck trip lengths must be re-examined.
 13. If assumptions are not born out what additional analyses and mitigation measures will be pursued?
 14. What is the height of the proposed/completed bridges?
 15. On average, how many containers would be stored at Berth 206-209? What would be the maximum?
 16. Will *all* operational assumptions and mitigation measures be specified in project leases?

Air Quality

The Harbor Commission had previously committed to the policy of “No Net Increase” in air pollution. This has later been superseded by an even greater commitment to not only maintaining, but improving air quality around the Port. Addressing the public health impacts associated with diesel air pollution and other toxic contaminants is PCAC’s highest priority.

We are pleased that, as detailed in the /Subcommittee/Working Group’s EIR Template, a spreadsheet listing of potential No Net Increase measures and applicability to the proposed project has been included in the EIS/EIR. In addition the EIR Template recommends the following concerning the EIS/EIR:

The EIR should evaluate the POLA project and cumulative share of regional air quality impacts and identify comprehensive measures that mitigate the POLA share of impacts to regional Air Quality.

As stated on Page 3.2-17 of the DEIS/EIR:

Section 176[c] of the CAA states that *a federal agency cannot support an activity unless the agency determines that the activity will conform to the most recent USEPA-approved SIP.* [italics ours] This means that projects using federal funds or requiring federal approval must not: [1] cause or contribute to any new violation of NAAQS standards; [2] increase the frequency or severity of any existing violation; or [3] delay the timely attainment of any standard, interim emission reduction, or other milestone.

The DEIS/EIR notes that this rule may be changed by the USEPA but states this hasn’t happened. The document further states

Based on the current General Conformity rule and attainment status of the South Coast Air Basin a federal action would conform to the SIP if its annual emissions remain below *100 ton of CO or PM2.5, 70 tons of PM10 or 10 tons of NOx or VOC.* [italics ours]

If we understand this section correctly, it appears that the proposed project would be in gross violation of the General Conformity Rule described on page 3.2-17 for several pollutants in the years 2005, 2015 and out years. The project is not in conformity with this rule for the pollutants NOx, VOC, and Carbon Monoxide (CO).

Table 3.2-28. Average Daily Emissions With Mitigation-Proposed Project (page 3.2-84), presents average daily emissions in pounds per day for "Project Minus NEPA baseline" for 2005, 2015 and out years. We can convert average pounds per day to tons per year by multiplying by 365 days/year and dividing by 2000lbs./ton.

In 2015, for example, this gives us:

- 1 NO_x of 592 tons/year (about 60 times the above standard!)
- 2 CO of 295 tons per year (about 3 times the above standard)
- 3 VOC of 48 tons/year (about 5 times the above standard)

Other years follow the same pattern. PM₁₀ and PM_{2.5} appear to be below the standards and no standard was quoted for SO_x.

We are very concerned that this appears to violate conditions (2) and (3) above. How can any federal agency including USACE allow this? (Incidentally, we note that if any of the traffic improvements connect to any federal highway(s), the Federal Highway Administration should be involved.) Can the BOHC trump federal regulations in approving this "due to overriding (or other) considerations"? Can they say it's O.K. to ignore this Federal rule?

We are gravely alarmed that the Port again proposes a project with the statement that the air quality impacts are "considered significant, adverse, and unavoidable" after the proposed mitigation measures have been applied. We remind the Port and the Corps of Engineers that the affected area remains a Federal non-attainment area for Air Quality and that the proposed Project as currently defined could only be implemented through application of Overriding Considerations.

We recommend that the Port require the mitigation efforts for the Project as defined in the CAAP and if projected emissions still create residual significant air quality impacts after full application of all feasible mitigation measures, 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. We believe that the Port and the Corps of Engineers have the capability and the responsibility to require the application of currently available mitigations such that the impacts to air quality can be reduced to a level that will not require application of Overriding Considerations.

Our specific comments and questions on the Draft EIS/EIR are:

1. The Appendix includes projected emissions from power plants due to increased electricity consumption from the AMP program and from on-site reefer plugs, but it is not clear where this is represented in emissions totals, for example in Table 3.2-28. Has it been included?
2. Would the proposed project increase the need for operation of peaker plants which are subject to less stringent controls? Is this reflected in the maximum daily emissions?
3. Will the assumptions regarding rail use, yard equipment, and other factors be incorporated into project leases? If not, how does POLA propose to address deviations from these assumptions that may result in increased impacts?
4. Why is the proportion of cargo to be transported by rail anticipated to decrease from 2005 to 2030?
5. Will vehicles waiting at railroad grade crossings create any carbon monoxide hot spots? As noted in the attached *Los Angeles Times* article dated June 10, 2008, vehicles may be forced to wait as long as twenty eight minutes. The analysis must not be artificially constrained to just the area within 0.25 miles of the site. Project specific as well as cumulative impacts must be examined.



6. Will vehicles waiting at terminal gates or loading areas within terminals create any carbon monoxide hot spots?
7. It would be helpful if the location of air monitoring stations were mapped.
8. In addition to sensitive receptors near Berth 97-109, the EIS/EIR must identify and address sensitive receptors near truck and rail routes.
9. The EIS/EIR assumes that 20 minutes of accumulated on-terminal idling, and 30 minutes of accumulated off-terminal idling per round trip, with half that assumed for each one way trip. This appears low, especially for future, more congested conditions. The source cited for these idling figures is the 2007 Starcrest study. However, the study refers back to staff. What was the original source of Starcrest's data? Does empirical data exist?
10. How will MM AQ-22 (minimizing idling) be monitored and enforced? What is the current violation rate at container terminals port wide?
11. Does the off-port idling time include idling at offloading locations away from the Port?
12. The fifteen minute idling time per trip end appears to be extremely low. What is the current average idling time off terminal at gates? The subcommittee would be interested to know what routes the trucks followed in order to achieve only fifteen minutes idling at gates, traffic signals, rail crossings, stop signs and congestion within a twenty mile trip from the Port so that committee members might achieve the same efficient journeys.
13. What is the date of projections provided to SCAQMD for developing the RTP and the SIP? Have projections since been revised? Does POLA appear on target to remain within those projections or does it appear that projections may be exceeded?
14. Do any emissions generated outside the 50 mile SCAQMD limit enter the basin? Under what circumstances?
15. What was the basis for the assumed shipping fleet mix in 2030?
16. Lines of ships have been observed queuing for the Port of Los Angeles/Port of Long Beach as far south as Huntington Beach. Is the 4.1 hour queuing time realistic? Is this reflective of overall portwide queuing rates?
17. AQMD also publishes significance thresholds for lead. This should be included in the threshold tables along with sulfate concentrations and the annual arithmetic averages and mean for PM 10.
18. The EIS/EIR indicates that 50 percent of cargo would be deposited at local destinations, with an average trip length of twenty miles. Various goods movement studies, including that prepared by CARB estimate that fifty to seventy percent of cargo leaves the 6,600 square mile air basin. Thus, the average twenty mile trip length is highly suspect. The EIS/EIR indicates that the edge of the air basin is approximately ninety miles from the project site. Thus, in order to maintain an average trip length of twenty miles, for each TEU transported by truck to the outer portions of the basin, four TEUs would be transported no more than 2.5 miles from Berths 97-109. This is not reasonable. Air quality analyses must be revised to reflect a realistic trips length.
19. Data is provided in the EIS/EIR regarding transport of empty containers by rail. What proportion of round trips by trucks was assumed to carry cargo both to and from the facility? In light of the well-publicized imbalance of imports to exports, realistic assumptions regarding non-productive trip ends must be utilized.
20. Do calculations of truck emissions account for cold starts? This is a critical component of vehicle emissions, constituting a significant portion of vehicle emissions for short trips, and must be included in emissions analyses.
21. Has PHL commenced using locomotives meeting Tier 2 standards? If not, when will that occur? What emissions would result if Tier 2 locomotives are not utilized?
22. Will the *all* of the various mitigation measures identified be incorporated into the lease?
23. The effects of air pollution on agriculture have been ignored in this and previous Port environmental documents. Our committee has learned that air pollution including ozone adversely affects crop yields. It is reasonable to assume that although the effects of this individual project do not rise to the level of significance, they would contribute to cumulative effects that are significant to inland agriculture. This should be evaluated in the EIS/EIR. It is an off-port impact.

Air Quality Health Risk

The Air Quality health risk assessment (HRA) is based on a comparison of Yang Ming to the proposed project. The DEIR must also analyze the health risk based on a comparison of the proposed project to a vacant site, on an individual and cumulative basis. This must include premature mortality as well as other health problems. The Subcommittee requests that the previously submitted document prepared by the Environmental Subcommittee/Air Quality Group of PCAC, "Health Effects of Diesel Exhaust Air Pollution", dated August 28, 2003, and its references be incorporated by reference into the EIR

The Southern California Children's Health Study, a large epidemiological investigation of the long-term effects of air pollutant exposure on respiratory disease within a population of more than 5,600 California school children, and numerous other studies have found that air pollution has significant impacts on child health. The HRA should give special consideration to the health of children residing and attending school in the area. We note that more recent studies by CARB significantly increase estimates of the health effects of pollution (attached).

The EIS/EIR must address additional deaths due to chronic diseases other than cancer. The California Air Resources Board has recently attributed 3,700 annual premature deaths to the goods movement industry, for which the ports are the "engine" as we are told in the EIS/EIR. The proposed project covers a 40 year period, during which time 148,000 Californians will die prematurely due to air pollution generated from the goods movement industry using the most recent CARB statistics. Considering the magnitude of this project and its substantial TEU throughput, clearly many of these deaths will be attributed to this project. This finding must be fully and candidly evaluated.

The Subcommittee has the following specific comments:

1. The EIS/EIR indicates that POLA has adopted the LA CEQA thresholds. When were these thresholds adopted by the Board of Harbor Commissioners? What substantial scientific evidence was provided for selection of these thresholds?
2. How would inclusion of the roadway segments deleted due to their small contribution increase anticipated hazard? How much would cancer risk increase? Doesn't exclusion of these smaller project-related sources run counter to the concept of cumulative impact? Have any other small, incremental impacts been deleted from identification of total impact in the EIS/EIR?
3. Risk assessments for school children should address increased vulnerability of children as opposed to adult workers.
4. Risk of miscarriage and birth defects should also be addressed.
5. Mortality is stated in deaths per million. How many individual deaths does that mean? Why is this acceptable?
6. At the time the Notice of Preparation for this EIR was circulated, the Port of Los Angeles was committed to a "No Net Increase" policy for air emissions. This was superseded by the Clean Air Action Plan. We have been told that current policies and programs are an improvement over the "No Net Increase Policy". Under the current policy, as described in the DEIR, an Incremental Cancer Risk for Residential Receptors up to 10 in 1million is considered acceptable. How is *any* increase in cancer risk or other health problems, better than "no net increase" for anyone except shareholders in terminal operations? Dr. Jean Ospital, Chief Health Officer for SCAQMD has told PCAC that *non-cancer health effects are in aggregate at least ten times greater than cancer effects*. How, then, can *any* increase in cancer cases or other health hazards be permitted?

Traffic / Transportation

After air quality and public health concerns, addressing traffic impacts from port operations is the Subcommittee's second environmental priority. Based on the Port's draft baseline study on traffic / transportation, the EIR Template contains the following specific recommendations:

- A. The Draft EIR must evaluate POLA project and cumulative share of local and regional traffic congestion impacts and identify comprehensive mitigation measures; the EIR must evaluate the individual and cumulative impact on the I-710, I-110 and intersections identified in the Draft Traffic Baseline Study.
- B. The EIR must identify specific mitigation measures to ensure project and cumulative POLA truck traffic does not adversely impact local neighborhood streets.

Specific, quantitative comments and questions on the Draft EIS/EIR:

1. The analysis must address nuisance traffic on local streets which are not designated truck routes, particularly in Wilmington.
2. The EIS/EIR indicates that "all" downstream intersections are grade separated. This is clearly not the case, as illustrated by the attached *Los Angeles Times* article (June 10, 2008).
3. Were trips generated by the projects listed in Table 3.6-2 included in estimates of future background traffic, or are increases in future background traffic above existing conditions due to cumulative growth elsewhere?
4. Generally, existing peak hour traffic provides a worst case situation for intersection analyses. However, if project peaks and baseline peaks do not coincide, another time period may reflect worst case. It may not be the peak hour for either background or existing traffic, for example if ninety percent of project traffic coincides with a time just off peak hour. Does existing peak hour traffic reflect the highest combination of baseline plus project traffic?
5. What assumptions were made in calculating peak hour traffic?
6. The EIS/EIR says that "in future years, on-dock rail usage will increase" (p.3.6-24), yet it also estimates on-dock rail usage as 19.5 percent of throughput in 2005, but only 17.1 percent in 2030 (p. 3.6-23). This must be reconciled.
7. Will the traffic improvements listed as mitigation measures on Page 3.6-32 be fully funded by China Shipping? If not, they must be considered as improvements to the future background condition, which would result in a conclusion of significant impacts on traffic due to the proposed project at several locations, including Alameda Street and Anaheim Street, Navy Way and Seaside Avenue, and Fries Avenue and Harry Bridges Boulevard.
8. If the proposed roadway improvements are indeed mitigation measures specifically for the China Shipping project, the EIS/EIR must address impacts associated with these improvements in accordance with CEQA Guidelines Section 15126.4(a)(1)(D).
9. According to the EIS/EIR, the stacking analysis assumes a 28 car train. Is that correct? How many containers per train car were assumed?
10. Would vehicles stacking at grade crossings have the potential to back up onto cross streets? How would that affect ICUs?
11. How might delay at grade crossing affect emergency response?
12. How will the Port ensure implementation of the standard construction period traffic control measures which were assumed to eliminate all construction traffic impacts in the EIS/EIR?
13. The Subcommittee is concerned that cumulative impacts of port uses remain unmitigated and will continue to remain unmitigated unless remedied by the California taxpayers at large. How will improvements required for the goods movement industry and not funded by the statewide bond be financed?

Based on the EIR Template, the Subcommittee/Working Group makes the following recommendations with respect to community impacts.

- A. The EIR must consider the adjacent communities of San Pedro and Wilmington as the study area when evaluating direct and indirect impacts, both project specific and cumulative, on light, aesthetics, noise, land use and public services.
- B. The EIR must specifically evaluate the project and cumulative adverse impacts of port industrial operations on community land uses such as container storage facilities and scrap-metal yards and provide mitigation measures to off-set these impacts.
- C. The EIR must show how Community Plan and Port Master Plan provisions for creation of landscaped buffer areas will be created between port industrial operations and the adjacent community.

Aesthetics

The Subcommittee is encouraged that the EIS/EIR includes aesthetic mitigation programs to mitigate identified impacts on views of the Vincent Thomas Bridge. However, we are concerned that the EIS/EIR grudgingly admits to view impacts only from Channel Street and the Main Channel, whereas visual simulations in the EIS/EIR itself clearly show significant impacts on views from other locations. For example, the currently largely open skyline seen from Knoll Hill will be blocked by cranes and stacks of containers. The little remaining view of the Vincent Thomas Bridge as seen from the Harbor Freeway (I-110) will be lost.

We note that where impacts are downplayed due to the currently degraded nature of views, views have been degraded by other port activities. The China Shipping project would contribute to cumulative impacts from other past and present projects.

We are concerned that the restrictive standard for determination of impacts will set a precedent for evaluation of impacts for other, future projects which will also contribute to cumulative impacts. We are also concerned that declaring impacts to be insignificant when the community finds the same impacts to be significant and adverse reduces the possibility that any such impacts will ever be mitigated.

The EIS/EIR contemplates increased night time use of the China Shipping facility. One might, therefore anticipate increased lighting at night. While fixed lighting can be somewhat shielded, as noted in the EIS/EIR, it is not clear how lighting associated with the cranes will be controlled. Simply because the lighting is not intense enough to blind nearby drivers does not mean that no aesthetic impact would occur. In addition, it is not clear if the lighting "guidelines" identified in the EIS/EIR will be mandatory or optional.

We also have the following questions and concerns.

1. What are the dates of the various photographs of existing views?
2. The DEIR should include site views from locations where recreational boaters will view the site and from the City Rancho Palos Verdes.
3. The DEIR must address loss of views of open water, both due to fill and massive vessels. This must be addressed on a project specific and cumulative basis.
4. The photos of existing views include unmitigated, cumulative impacts from past and present container projects in the Port. Some members of the Subcommittee recall a time not that long ago when the Harbor Freeway offered clear views of the Vincent Thomas Bridge. This is often the first view of the port area for foreign and out-of-state visitors coming from LAX and as such is highly significant. In order to fully