

U.S. Army Corps of Engineers  
Los Angeles District, c/o Dr. Spencer D. MacNeil  
ATTN: CESPL-RG-2004-00917-SDM  
P.O. Box 532711  
Los Angeles, CA 90053-2325

Dr. Ralph G. Appy, Director Environmental Management Division  
425 S. Palos Verdes Street  
San Pedro, CA 90731  
Subject: Comments Submittal for the Draft Supplemental EIR/Subsequent EIS for Pier  
400, Berth 408 Project

Dear Dr. Appy and Dr. MacNeil:

We appreciate the opportunity to submit comments regarding the Subject Project Environmental impacts and hereby state our request that the Project be revised to implement the key elements of the Clean Air Action Plan (CAAP) as originally drafted and as described in the GENERAL and SPECIFIC COMMENTS listed below. We also state our acknowledgement and support of key mitigation measures also noted below.

#### GENERAL COMMENTS

We note that the Coastal San Pedro Neighborhood Council (CSPNC) is the public body elected to represent stakeholders of the City of Los Angeles who live, work and own property in the area where the Supertanker Project is sited. CSPNC stakeholders are those residents and people most directly affected by the project. The project benefits will be distributed throughout the city, region and state. But the vast majority of negative impacts will be felt and have their greatest effects here. CSPNC stakeholders, more than others, will breathe dirtier air, swim in less clean water, suffer more noise pollution, drive on more congested streets and see more negative impacts on their recreational space, health, night skies and to their well-being than any other people in the City of Los Angeles or the State of California.

When earlier iterations of this project were publicized in previous years, we reviewed them and said we could not support the project without certain revisions; Chief among these was that the project cause no increase in air pollution on or off site. Clearly, that stipulation has not been met nor is there any intention to do so.

In addition, we sought relocation of the supertanker berth to the east side of Pier 400, community input on a mitigation plan to limit light pollution, a comprehensive community evacuation plan funded by the developer, a permanent public air quality monitoring station in our neighborhood, a community mitigation fund to offset pollution impacts, and a community health care fund to offset externalized health costs. None of these things have been done nor are they part of the proposal.

Regardless, we proceeded in the past few weeks, in good faith, to review the DEIR/DEIS. It is possible that the PORT may proceed with the Project after a determination that air quality, water, recreation, biological, view, light, or other impacts are “considered significant, adverse, and unavoidable” after the proposed mitigation measures have been applied. We oppose the PORT proceeding if such a determination is made.

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 consideration of “overriding importance” (reference Socioeconomic Impact) or through “Overriding Considerations (if necessary)” (reference Executive Summary and Introduction).

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 has 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.

## SPECIFIC COMMENTS

1. Measure MM AQ-14, Low Sulfur Fuel Use in Main Engines, Auxiliary Engines and Boilers, requires revision to schedule full implementation based on current availability of LSF and as was originally committed in the CAAP for Main and Auxiliary engines. The SEIR/SEIS currently stated phase-in of LSF (maximum sulfur content of 0.2 percent) for in-bound Ocean Going Vessels of 20% in Year 4, 50% in Year 5, and 90% in Year 7 violates the CAAP commitment to implement 100% LSF compliance in terminal leases as they are renewed or modified. The SEIR/SEIS requires revision to impose 100% LSF implementation on start of operations for both in-bound and out-bound ships.

We noted that the CAAP included implementation of Measures OGV3, applicable to Auxiliary Engines, and OGV4, applicable to Main Engines, which required that, on lease renewal or revision, all ocean going vessels utilizing the leased facilities must burn < 0.2% S MGO within the current Vessel Speed Reduction program boundary of 20 nm, subsequently expanded to the 40 nm boundary. The schedule in the Draft SEIR/SEIS as proposed will never require all OGV to comply with the critically important CAAP OGV Measure.

We also noted that the recently published Fuel Availability Study, conducted by Tetrattech for the Port of LA (POLA), established that regional LSF supply is sufficient such that the fuel would be available for Pier 400 ships in bunkering locations on inbound routes or that the inbound ships' routes can simply be planned in advance to ensure access to LSF prior to arriving at the San Pedro Bay ports. We recognize and appreciate that the Draft EIR/EIS includes 100% LSF compliance for Hoteling and Outbound ships and extended the boundary zone to 40NM.

2. Measure MM-A Q15, Alternative Marine Power (AMP), requires revision to schedule full implementation based on currently available technology. The Draft SEIR/SEIS currently stated phase-in of AMP of 4% in Year 2, 10% in Year 3, 15% in Year 5, 40% in Year 10, and 70% in Year 16 violates the Port's commitments to Air Quality and to Public Health and requires revision to implement AMP at 100% on project start. As technology advances may include potential for methods other than AMP to reduce emissions at dock, such as bonnet applications, we suggest that AMP implementation may be reduced as other methods such as bonneting result in proven reduced emissions that would achieve the reductions possible through 100% AMP.

3. We request that the Project Description requirements applicable to boiler operations specifically require use of .2% LSF within the 40 nautical mile boundary zone. We recognize and appreciate that the current Project description includes use of distillate Marine Diesel Oil/Marine Gas Oil (MDO/MGO) at .5% LSF for boiler operations while close to Port. Please note that use of .5% LSF MDO/MGO achieves minimal emission reduction compared to .2% LSF and that the .2% LSF should be considered the minimum threshold of all fuel use within the 40 nm boundary zone, as consistent with the CAAP.

4. Measure MM AQ-16, Slide Valves requires revision to state the specific rate of implementation and to ensure compliance with the CAAP. The AQ-16 as currently worded, "Ships calling at Berth 408 shall be equipped with slide valves or a slide valve equivalent . . . to the maximum extent possible," provides the Port opportunity to demonstrate commitment to Slide Valves and the CAAP. The CAAP Measure OGV5 stated that Slide Valve Technology 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.

5. Measure MM-AQ-21, Throughput Tracking, indicates the Port's recognition of the potential for exceeding throughput as planned in the Draft SEIR/SEIS yet requires revision to impose review of actual throughput through a defined process and on a more frequent basis than as currently stated. The current MM-AQ-21 defines no specific requirement for how the reviews will be performed and further definition for the Measure is required to ensure compliance. The Throughput reviews are required on no less than a five-year basis rather than in the currently stated cycle of "through the years 2015, 2025, or 2040."

6. The lease term stated in the DEIR/DEIS requires adjustment to reduce the term or to include re-opener clauses to allow for evaluation at 10-year intervals to ensure application of best available technologies and mitigation measures.

7. The DEIR/DEIS requires revision to incorporate the mitigations required in the recent TraPac EIR/EIS Memorandum of Understanding established through Settlement with the Appellants to the TraPac EIR/EIS.

8. The DEIR/DEIS requires revision to fully assess biologic impacts from both oil spills and from invasive species arriving on vessel hulls and in bilge water, which it admits would occur and result in substantial impact on native species. These are not adequately mitigated.

9. The DEIR/DEIS requires revision as it omits an adequate assessment of noise impacts during operations. This revision must assess what are likely to be very significant impacts and offer mitigation, particularly in the residential areas that already are significantly impacted by noise from POLA operations. As these operational noise impacts are not identified at all, these impacts are not adequately mitigated.

10. The DEIR/DEIS requires revision to fully assess cumulative significant noise impacts to residents and recreational areas that would occur during construction. These currently are not adequately mitigated.

11. The DEIR/DEIS requires revision to fully assess significant unmitigated impacts to recreation that will occur during the two-and-one-half-year construction. These currently are not adequately mitigated.

12. The DEIR/DEIS requires revision to fully assess water quality impacts from both oil spills and from invasive species arriving on vessel hulls and in bilge water. These are not adequately mitigated.

13. The DEIR/DEIS requires revision to fully assess visual impacts. The document relies on a baseline created by the existence of PIER 400. But the Pier 400 EIR said "loss of views of open water" would be mitigated by tree and vegetation planting on Pier 400, which has not been done. The Pier 400 EIR did not adequately assess visual impacts.

14. The DEIR/DEIS requires revision to adequately assess light spillage and loss of nighttime sky views in the residential and public recreation areas west of the project. There has been a dramatic change in night sky since the construction of Pier 400, which was not adequately discussed in the Pier 400 EIR. Further light intrusion on the night sky of Point Fermin would compound this serious error and is unacceptable. The current document also fails to adequately assess light pollution and its impacts because it accepts as a baseline the existing impacts from intrusive and poorly designed lighting at Pier 400. Using this as a baseline is unacceptable. The baseline results from a previous and continuing injury, the failure by POLA to adequately identify and mitigate light spillage from Pier 400 in the 1992 EIR/EIS.

15. The DEIR/DEIS requires revision because it fails to adequately analyze alternatives to the current project. Items 8 through 14 (above) discuss a variety of unmitigated impacts. These impacts would be mitigated, eliminated or reduced if the so-called Face E Project alternative, which calls for building the supertanker berthing on the East face of Pier 400, were adequately assessed. Currently, that alternative is dismissed, largely for reasons of navigation. This is asserted without supporting information.

16. The DEIR/DEIS requires revision because it fails to adequately analyze the Face E Project alternative. Items 8 through 14 (above) discuss a variety of unmitigated impacts. These impacts would be mitigated, eliminated or reduced by the Face E alternative. In evaluating Face E, the document does not consider either: having tankers enter through the Long Beach gate with a dredged channel to Pier 400 or altering the width of the breakwater at the mouth of Angels Gate to reduce or eliminate the navigational issues.

17. The DEIR/DEIS requires revision to include the installation of AMP as part of and a requirement of the Project. The current DEIR/DEIS specifically excludes AMP from the Project, stating AMP will be built "as soon as tankers become available that could utilize AMP."

In conclusion, we note that the DEIR/DEIS process has been flawed and may not comply with federal and state law. There has been a demonstrable inadequacy of process by both the POLA and the Army Corps of Engineers, and a lack of commitment by both agencies to openness and public dialogue.

We cite below a few examples and ask both agencies to agree to extend the comment period on the DEIR/DEIS by 90 days and immediately propose remedies for the other process errors now, so they may be undertaken and accomplished for this Project during the extended comment period; and to publicly commit to incorporate such improvements in the EIR/EIS process for all future projects.

- A flawed public hearing process, in which the single public hearing was held on the same evening as a hearing into another controversial land-use project in San Pedro. The competing hearing, convened by another agency of the City of Los Angeles, drew approximately 500-700 people, including many CSPNC stakeholders who otherwise would have testified on the Pier 400/Supertanker proposal;
- The refusal by the POLA to continue funding of Port Community Advisory Committee consultants to assist unpaid community representatives, including CSPNC members, in understanding the 4200-page DEIR/DEIS. The complex document, by contrast, was prepared using tens of thousands of work hours from trained Port staff and expert consultants;
- The refusal by POLA and Corps to extend the comment period for this document, which took two years to draft;
- The timing of the release of the document so that the bulk of comment period takes place during the summer months;
- The refusal by POLA of direct requests from community and PCAC members to print and distribute additional printed copies of the DEIR/DEIS.

We look forward to your rectifying the above cited deficiencies of content and process. We ask that the release of the Final EIR/EIS incorporate our recommendations.

June Burlingame Smith  
President  
*Coastal San Pedro Neighborhood Council*