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May 8, 2013

Via Electronic Mail
Los Angeles City Council
c/o City Clerk
200 N. Spring Street, Room 395
Los Angeles, CA 90012

Re: Supplemental Letter for the Appeal filed by the South Coast Air Quality Management District of the Final Environmental Impact Report (FEIR) prepared for the Southern California International Gateway (SCIG) Project (Appeal No. 13-0295-S6)

Dear Members of the City Council:

The South Coast Air Quality Management District (SCAQMD) staff appreciates the effort by the City Council and the Port of Los Angeles to work to resolve our differences regarding the SCIG project. Unfortunately, we continue to maintain our concern that the air quality impacts of the project are underestimated; the air quality impacts of the "No Project" alternative are overestimated; and there are no mitigation measures to mitigate the project's acknowledged significant impact to NO_2 exposure, in spite of the existence of feasible and effective measures. We continue, however, to believe that a resolution can be reached and must be reached given the significant health risks associated with living next to rail yards[1]. Therefore, we ask that the City Council grant the appeal and send the approval of the FEIR and associated approvals, including the Site Preparation and Access Agreement and Permit Number 901, back to the Port of Los Angeles to allow for further discussions. If the City Council nevertheless determines to approve the FEIR, we request that the mitigation measures proposed by SCAQMD staff be included as project conditions in the Permit. These measures are set forth in Attachment A to this letter.

[1] *See*, http://www.pe.com/local-news/topics/topics-health-care-headlines/20130422-health-asthma-more-prevalent-in-children-near-rail-yard.ece

I. The Project Impacts are Underestimated

A. *The Analysis of Project Impacts Does not Take Into Account Hobart*

CEQA obligates a lead agency to analyze the whole of an action with the potential for resulting in a direct or reasonably foreseeable indirect physical change in the environment (CEQA Guidelines § 15378(a). Here, the Port has chosen to evaluate SCIG as part of a system that includes the Hobart railyard for only a limited portion of the analysis, namely the baseline and the no project alternative. Meanwhile, the Port staff chose to ignore full activity at Hobart when analyzing the impacts of the project. As a result, the project looks artificially beneficial to regional air quality, a position which is untenable and defies common sense.

Furthermore, the Hobart rail yard is one of the largest intermodal rail yards in the United States. There has been no evidence provided by BNSF or the Port to support the position that the Hobart rail yard will be underutilized as a result of the project. In fact, evidence supports that the freed up capacity at Hobart, as a result of SCIG, will be filled through transload activity. However, the FEIR fails to analyze the potential impacts associated with a greater percentage of transload activity using Hobart, with originating and destination points throughout Southern California, rather than the fixed distance to the Port. Instead, the Port claims that any such change at Hobart is unrelated to the project. Specifically, the Port claims, "future changes associated with rail and vehicular traffic outside the rail routes between the Ports and Hobart would not be caused by the proposed project and are beyond the geographic scope of the impact analysis." (SCIG Final EIR, pg. 2-18.) The Port and BNSF claim that this is because SCIG and Hobart are simply accommodating growth that is occurring irrespective of the Project.

This logic fails to take into account that the SCIG project does impact where that growth will occur and also controls the resultant pattern on the rail transportation network. Thus, even if cargo growth is unrelated to SCIG, which the SCAQMD staff finds unsupported, at minimum, it cannot be ignored that SCIG is controlling the flow of that cargo by increasing capacity near the ports and allowing for an increased capacity at Hobart. The direct and indirect impacts of that increased capacity at SCIG and Hobart must be analyzed as part of the same project. By not analyzing the impacts at Hobart, the Port fails to analyze the whole of the project and therefore underestimates project impacts, in direct violation of CEQA. (*See, Association for a Cleaner Environment v. Yosemite Community College Dist.* (2004) 116 Cal. App. 4th 629, 637-41.)

B. Onsite Locomotive Activity

The EIR analysis did not substantiate why the amount of locomotive activity will be so low at SCIG compared to other rail yards in southern California, such as Hobart. The table below shows the amount of locomotive activity in comparison to existing Hobart activity as reported in the Air Resources Board's HRA for that facility. Because Hobart is larger than SCIG, the scaled down equivalent activity for Hobart is also shown.

Rail Yard	Locomotives/year	Total Switcher Activity (hours/day)	Total Line Haul Activity (hours/day)
Hobart (2008 HRA)	13,700	83.6	117.6
Hobart scaled down to SCIG level	11,520	70.3	98.9
SCIG (EIR)	11,520	1.5	38.6

As seen in the table above, the total amount of locomotive activity at SCIG would be less than 25% of locomotive activity at Hobart. The reasons for this dramatic difference are not clear, but the end result is that SCIG project impacts as depicted in the EIR are much lower than they would be if locomotive activity approaches what happens at the existing Hobart yard.

C. Cal Cartage Disappears in the Project Alternative

In the EIR analysis, Cal Cartage activity is assumed to be reduced by approximately 80% because the majority of their land will be used by SCIG. The localized impacts of the displaced Cal Cartage activity are not analyzed in the EIR. Although there may be some uncertainty about its ultimate relocation, the impacts of this move would be considerable. Cal Cartage facilitates approximately 200,000 trucks per year, about the same as would be expected at SCIG in 2016. The role and amount of trucking activity at Cal Cartage cannot just therefore disappear from the goods movement system. Cal Cartage also represents a substantial portion of the health risk and about 50% of the baseline and No Project Alternative NO2 impact at nearby sensitive receptors such as the VA Center. Wherever this activity relocates is sure to have a substantial localized impact. This impact has not been analyzed or disclosed within the EIR and represents a meaningful deficiency in the EIR's conclusions.

II. The Impacts of the No Project Alternative are Overestimated

Several aspects of the EIR technical approach lead to confusing results and underestimation of potential impacts because of an overestimation of the No Project Alternative. SCAQMD staff has continued to evaluate the analysis in the EIR as well as responses provided by the Port. In particular, the following four factors are important, 1) Flaws in the technical analysis, 2) Amalgamation of modeling years, 3) Cal Cartage LNG trucks, 4) Onsite emissions are higher in the No Project Alternative than the Project Alternative, but concentrations are lower.

A. Flaws in Technical Analysis

SCAQMD staff has repeatedly commented about the lack of necessary information to evaluate the accuracy of the air quality analysis. This analysis is critical because it provides the information needed to determine both the determination of significance of the project, as well as whether the Project Alternative would have less air quality impacts than the No Project Alternative (a widely made claim in public). SCAQMD staff's review of the available information has found significant internal inconsistencies and errors that make us question the validity of the analysis.

We originally requested the full modeling and technical analysis in our December 15, 2005 comment letter. We did not receive this information in the Draft EIR as noted in our comment letters (February 1, 2012, comment 126-9, February 14, 2012 entire letter). In response to SCAQMD staff's comments pointing out deficiencies in the technical analysis (March 6, 2013 comment letter, comment F6-4) provided for review for the Recirculated Draft EIR, the Port responded that they provided all emission calculations and air quality modeling files (Responses to Comments on Additional Comment Letters Received on the FEIR, Comment 6-4). This statement is incorrect as described further below.

The Port surprisingly goes on to say in this response that providing these files goes beyond the requirements of CEQA. We believe that providing all supporting technical information that was used to determine the significance of impacts is in fact required under CEQA if it is requested. CEQA Guidelines 15147 provides that "highly detailed and technical data . . . shall be readily available for public examination". Further, CEQA Guidelines 15201 states that the "purpose of review of EIRs and Negative Declarations include: (a) Sharing expertise, (b) Disclosing agency analyses, (c) Checking for accuracy, (d) Detecting omissions, (e) Discovering public concerns, and (f) Soliciting counter proposals." We do not believe it is possible for an agency to disclose its analysis without making the entirety of that analysis available. It is also impossible for a reviewer to check for accuracy or detect omissions without the full analysis at their disposal.

As an example of why all of the supporting technical calculations are necessary, SCAQMD staff commented on the Recirculated Draft EIR about critical missing calculations from the Microsoft Access Databases called 'Queries' (November 14, 2012, comment R156-27). These Queries provide the necessary link between the emission calculation spreadsheets and the dispersion modeling analysis. Without these Queries, the Access Databases are just lists of numbers, without the necessary relevant context. In comment R156-27, we noted that the thousands of modeled sources were missing this critical information. In the response to comments, the Port provided a nearly one page long explanation for one specific example and ignored the other thousands of sources which all would have their own unique explanations.

As a follow up on this concern, in our March 6, 2013 letter (comment F6-12) SCAQMD staff illustrated another example where the emission calculations did not match the Access Databases used for the dispersion modeling analysis. This comment stated that the emission rate in the Access Database for cargo handling equipment at Cal Cartage is 237.7 pounds/day, but this emission rate is nowhere to be found in ANY of the emission calculation spreadsheets. For example, we expected to find the 237.7 pounds/day value in year 2035 calculations and could not find it. In response, the port stated that the emission rate should be even higher at 262.7 pounds/day to account for a peaking factor, and is based on emissions in 2014. They conclude that the information is therefore consistent. We note that this source of emissions makes up approximately one-third of the No Project impact at the VA Center.

Unfortunately, the Port is again incorrect if their own files are to be believed. The emission calculation spreadsheet provided by the Port for Cal Cartage emissions (titled '2014_Cal Cartage_Emission_Inventory_EMFAC2011.xls') shows that cargo handling equipment are 15.87

tons/year in 2014. Emission calculation sheet titled 'Summary Baseline Annual & Peak Emissions_All Years_06.26.12.xls' converts the 15.87 tons/year into 107.35 pounds/day. In SCAQMD's review, we were unable to find any other calculation spreadsheets that would show a different analysis. This value of 107.35 pounds/day is substantially lower than the value of 262.7 pounds/day that the Port claims is the correct value. In fact, this spreadsheet shows that total emissions from Cal Cartage including all onsite activity (cargo handling equipment, trucks, cars, trains, etc.) and offsite activity are only 209.01 pounds/day. Because the Queries were not provided, we cannot determine the cause of this mismatch between modeled emission rates and the rates found in the calculation sheets.

We emphasize that the example in the text above appears to be systemic. Many other sources and pollutants have similar mismatches. SCAQMD staff has determined that these inaccuracies in the analysis result in substantial overestimation of the potential benefits of the Project Alternative relative to the Baseline and No Project Alternatives. Because this benefit has been a key argument made in public regarding the reason to approve this project, it is imperative that the analysis be accurate.

B. Amalgamated Modeling Years

Another important factor is that the modeling analysis was not conducted for individual years. Instead all of the worst-year emission rates from each of the thousands of source were added together in a single amalgamated model run for each alternative. For example, the 2023 emissions from Fast Lane cargo handling equipment were modeled at the same time as the 2016 Fast Lane onsite captive truck idling emissions. The resulting model output then does not represent a real potential impact.

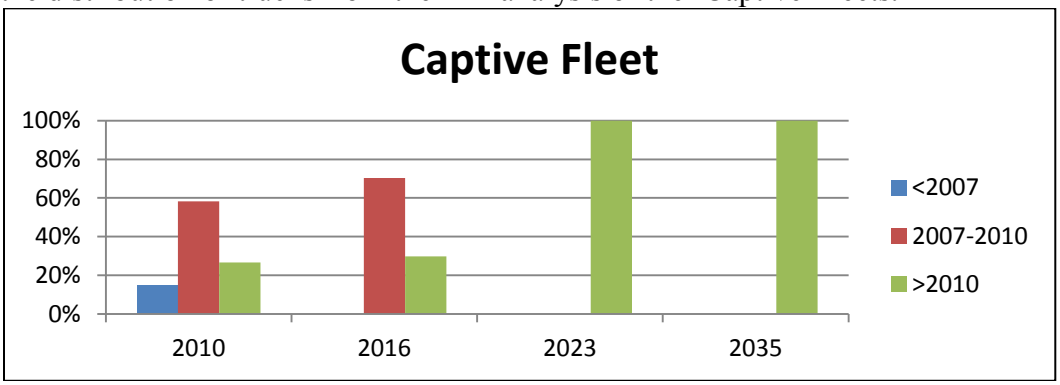
For Project Alternative analyses, this approach is sometimes used as a conservative method to ensure that worst case impacts are being evaluated. However, in this EIR the No Project Alternative also used this approach. Because of the high baseline emissions in this industrial area, this analytic approach would yield modeled concentrations that are substantially higher than would be expected in the future. Future emissions are expected to decrease because of already approved tighter federal and state emission standards. While the Project Alternative modeling would be conservative, the No Project Alternative appears to be substantially more "conservative", yielding an increment that overstates any potential project "benefits". In fact, because of this modeling approach, it is not possible to tell if the Project Alternative improves air quality in every year. It is possible that in some years the Project Alternative may have worse impacts than the No Project Alternative when considering this factor along with others mentioned in this and other letters.

C. Cal Cartage LNG Trucks

SCAQMD staff commented on the Draft EIR that the analysis did not take into account the LNG trucks operating at Cal Cartage (February 1, 2012 letter, comment 126-25). The Port's response to this comment in the Final EIR was non-responsive. The proper consideration of LNG trucks

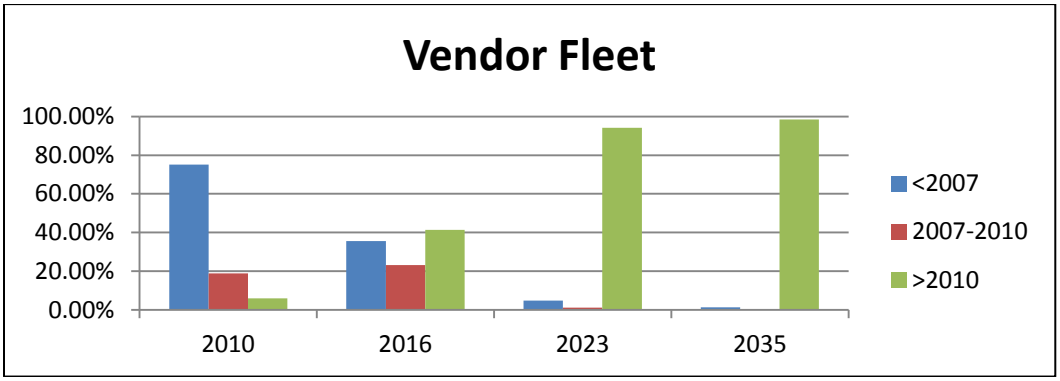
would yield significant differences in the air quality and health risk assessment analysis as illustrated below.

The emissions calculations for Cal Cartage show that approximately 600 trucks per day visit the site, of which 160 are part of their 'Captive' fleet. For the NO2 analysis, the 'Captive' fleet is assumed to be made up of a mix of 'port trucks' that are all model year 2007 or newer, consistent with requirements of the Clean Air Action Plan. LNG trucks are generally 2010-compliant and have substantially lower NOx emissions than pre-2010 diesel trucks. The bar chart below shows the distribution of trucks from the EIR analysis of the 'Captive' fleets.



As can be seen in the chart, the majority of 'Captive' and 'Vendor' trucks through 2016 are not 2010 compliant. Hence NOx emissions are substantially higher than they should be in the No Project Alternative by ignoring these LNG trucks.

Further, the ratio of the 'Captive' fleet of 160 trucks and the remaining 'Vendor' fleet of 440 trucks appears to underestimate the size of the 'Captive' fleet. SCAQMD staff confirmed with Bob Lively from Cal Cartage (5/7/2013) that they currently operate a fleet of about 310 LNG trucks. If this is the case, then LNG trucks represent a much larger fraction of the trucking operation at Cal Cartage than was assumed in the EIR. This ratio is important because for the Health Risk Assessment analysis, the 'Captive' fleet is assumed to be 100% LNG. The 'Vendor' fleet in the EIR is made up of a mix of trucks that are equal to the average fleet of trucks within the SCAQMD (see bar chart below).



As seen in the chart above, more than one third of this fleet is assumed to be older than 2007 model year until after 2016, and hence would not have a Diesel Particulate Filter. As Diesel

Particulate Matter is the primary pollutant of concern for the health risk, assuming that many LNG trucks are instead pre-2007 diesel trucks will result in a substantially higher baseline risk. Further exacerbating this problem is the assumption that all 22 yard goats that operate at Cal Cartage are diesel. SCAQMD staff confirmed with Bob Lively from Cal Cartage (5/7/2013) that they operate 17 LNG yard goats.

By artificially increasing the baseline, the incremental impact of the project would be reduced, and the determination of a less than significant health risk may be incorrect. In conclusion, the Health Risk Assessment baseline and the No Project Alternative for NO2 are substantially overestimated due to the omission of LNG trucks.

D. Onsite NOx Emissions are Higher in No Project, but Concentrations are Lower

Tables 3.2-25 and 5-3 from the EIR show that the NOx emissions from onsite operations from the No Project are 100 pounds/day in 2035. The Project emissions are 236 pounds/day in 2035. Meanwhile, the NO2 modeling analysis concludes that NO2 concentrations everywhere will be substantially lower with the project than without. It is counter-intuitive and implausible how lower emissions from the same location could yield lower concentrations. This discrepancy is not addressed in the EIR.

III. No Mitigation is Identified for the Acknowledged Significant NO2 Impact and the Mitigation Measures Identified are Unenforceable

As identified in the appeal, the Port's EIR acknowledges the project will exceed the SCAQMD's threshold concentrations for 1-hour and annual NO_2, 24-hour and annual PM_{10}, 24-hour $PM_{2.5}$, and the health-based NAAQS for 1-hour NO_2 exposure. This acknowledgment creates a legal obligation to mitigate or substantially lessen the impacts with all feasible mitigation measures or project alternatives. In spite of this acknowledged impact, however, the Findings of Fact and Statement of Overriding Considerations do not identify a single mitigation measure or alternative to reduce NO_2 impacts. To the extent the FEIR identifies mitigation measures or project conditions that could reduce other significant impacts, these measures are unenforceable.

Project Condition AQ-11 falls short of what is needed to assure deployment of zero-emission trucks. The measure merely creates a process for technology evaluation, provides for some demonstration, and authorizes—but does not mandate—the lead agency to require zero-emission trucks at some time in the future. The measure establishes no deadline for deployment, and thus provides no assurance that zero-emission trucks will ever be required. Similarly, Project Condition AQ-12, which purports to be based on San Pedro Bay Ports Clean Air Action Plan (CAAP) Measure RL-3, is inadequate because it merely outlines the measure identified in the CAAP but fails to actually require SCIG to implement the measure. These measures must be rewritten to provide certainty to decision-makers and the public that they will in fact be implemented.

IV. Feasible Mitigation Measures Exist that must be Adopted

A. Failure to Require Zero Emission Trucks Fails to Implement the Port's Own Adopted Goals

The Port of Los Angeles Strategic Plan identifies as an initiative of the plan, the goal of increasing the number of zero emission trucks in the Port drayage fleet, and targets specifically trips to and from rail yards. A purpose of this initiative is to ensure that 100% of the trucks at near dock rail yards, which includes SCIG, be zero emission, by 2020. The goal from the plan may be found on the Port's website,http://www.portoflosangeles.org/pdf/strategic_plan_2012_lowres.pdf, pg. 8.

The evidence is sufficient to establish that this measure is feasible during the early years of project implementation. The SCAQMD staff and the Port are involved in ongoing technology demonstration projects and the timeframe provided in the Strategic Plan is consistent with the consensus on the current state of technology. As the SCAQMD staff has previously identified, CALSTART prepared a report with input from a wide range of industry experts, identifying that there is no major technological barrier to the deployment of zero emission trucks. In fact, there are several options that are available using existing designs and technical knowledge. The CALSTART report may be accessed here: http://www.metro.net/projects_studies/zero_emission/images/CALSTART_I-710_TCO_Report.pdf, pg. 2.

It is true that PC AQ-11 creates a process that could allow for the future deployment of zero emission drayage trucks, but it certainly does not ensure that they will actually be deployed by 2020-or any other timeframe. The measures identified by the Port, namely MM AQ-9, MM AQ-10 and PC AQ-11, which they claim will implement zero emission technologies in the future, actually constitutes a deferral of mitigation without the saving grace of providing a benchmark by which to measure performance. (*City of Maywood v. Los Angeles Unified School Dist. (2012)* 208 Cal.App.4th 362, 409-11 ["[F]or [the] kinds of impacts for which mitigation is known to be feasible, but where practical considerations prohibit devising such measures early in the planning process … , the agency can commit itself to eventually devising measures that will satisfy specific performance criteria articulated at the time of project approval."]) Here, without requiring actual deployment of zero emission technologies by a given date, or a backstop provision, there are no specific performance criteria by which to measure performance. This is in direct contravention of CEQA's fundamental principle to ensure the enforceability of all feasible mitigation measures prior to project approval.

B. BNSF is Able to Commit to Earlier Phase-In of Cleaner Locomotives

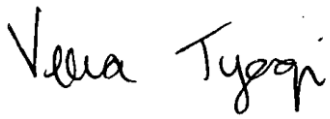
Rather than adopt an enforceable mitigation measure that would require BNSF to implement a phase-in of Tier 4 locomotives, the Port instead adopted a project condition, PC AQ-12, that simply describes the measure in the CAAP, from which it is derived. The classification as a project condition and not a mitigation measure is an important distinction because it is an acknowledgment by the Port that the measure is not designed to ensure actual mitigation of any

impacts stemming from the project. This is wholly inadequate to comply with the requirement under CEQA to adopt enforceable mitigation measures to reduce project impacts.

The Port admits that the EPA's emission standards for locomotives will require locomotive manufacturers to manufacture and sell Tier 4 locomotives by 2015. The concept of assuming compliance with applicable laws is commonplace under CEQA. (*Oakland Heritage Alliance v. City of Oakland* (2011) 195 Cal.App.4th 884, 906.) This in and of itself is adequate to demonstrate that the introduction of Tier 4 locomotives starting in the 2015 timeframe is technologically feasible. The EIR does not present any evidence, let alone substantial evidence, to support an argument that Tier 4 locomotives will not be commercially available by 2015.

The Port then proceeds to claim that requiring Tier 4 locomotives to be directed to the SCIG facility would be logistically and/or legally infeasible. This claim is also without support. As the SCAQMD has repeatedly identified -but has failed to receive an adequate response from the Port- BNSF has previously directed cleaner locomotives to the South Coast Air Basin. Specifically, in 1998, BNSF, along with Union Pacific Railroad, entered into an agreement (1998 Agreement) with the California Air Resources Board, which required accelerated introduction of cleaner Tier 2 locomotives into the South Coast Air Basin. Similarly, there was no regulatory requirement requiring the phase-in of Tier 2 locomotives, but BNSF nevertheless agreed to operate locomotive fleets that met an average Tier 2 emissions standard by 2010 within this region. Details of the 1998 Agreement, and its effectiveness at phasing in Tier 2 locomotives, specifically, can be found on the ARB website: http://www.arb.ca.gov/railyard/1998agree/1998agree.htm. Therefore, contrary to the Port's argument, cleaner locomotives can logistically and legally be directed to the area. The Port has glossed over this precedent and fails to explain why a similar requirement cannot be incorporated as an enforceable mitigation measure with the approval of this project.

Sincerely,



Veera Tyagi
Senior Deputy District Counsel

Attachment
VT:IM

SCAQMD Staff Proposed Edits to the SCIG Mitigation Measures and Project Conditions

The following are SCAQMD staff proposed edits to the mitigation measures and project conditions approved on March 7, 2013, as stated in the Mitigation Monitoring and Reporting Plan transmitted to the Los Angeles Board of Harbor Commissioners on March 21, 2013.

SCAQMD staff is available to discuss amendments to these edits in order to seek to resolve concerns by BNSF, the Port or the City.

The purpose of SCAQMD's edits to the following measure are to address significant PM and NO2 impacts as identified in the EIR.

MM AQ-8. ~~Low-~~Zero-Emission Drayage and Yard Trucks.

Zero Emission Drayage Trucks

~~This proposed measure~~This mitigation measure ~~would~~ require~~s~~ all drayage trucks calling on the SCIG facility to be zero tailpipe emission trucks ("zero-emission" trucks) commencing in 2020.~~meet an emission reduction in diesel particulate matter emissions (DPM) of 95% by mass relative to the federal 2007 on-road heavy-duty diesel engine emission standard ("low-emission" trucks) emission trucks is as follows: 10 percent in 2016; 12 percent in 2017; 15 percent in 2018; 20 percent in 2019; 25 percent in 2020; 35 percent in 2021; 50 percent in 2022; 75 percent in 2023; 80 percent in 2024; 85% in 2025; and 90 percent in 2026 and beyond.~~

This measure requires that, commencing upon initial operation of the project, all drayage trucks calling on the SCIG facility other than zero-emission trucks shall meet an emission reduction in diesel particulate matter emissions (DPM) of 95% by mass relative to the federal 2007 on-road heavy-duty diesel engine emission standard ("low-emission" trucks) and shall meet the NOx 2010 on-road heavy-duty diesel emission standard.

BNSF ~~will be required to~~shall specify in their drayage contracts that all drayage trucks calling on the SCIG facility shall use dedicated truck routes and GPS devices and shall meet the requirements specified above and will incorporate the fleet mix into the operations by the end of the specified years through the term of the lease. BNSF ~~will be required to~~shall install Radio-Frequency Identification (RFID) readers to control access at the gate to the SCIG facility. Truck logs and throughput volume ~~will~~ shall be provided to the LAHD Environmental Management Division for tracking and reporting.

Zero-Emission Yard Trucks

Commencing upon initial operation of the project and beyond, all yard trucks operated at the SCIG facility shall have zero tail-pipe emissions.

~~In the event that throughput volume at the SCIG facility increases beyond the levels that were analyzed for any specific future year, the LAHD will determine if the phase-in schedule must be accelerated beyond that described above.~~

The purpose of the following measure is to remedy and/or prevent exceedance of ambient air quality standards for nitrogen dioxide.

MM AQ-11: Prevention of NO2 Exceedance (New).

Timing: During project operation.

Implementation:

The biannual tenant compliance report shall evaluate, using a methodology approved by the Harbor Commission and SCAQMD in a public meeting, the effectiveness of implementing current and planned future mitigation measures and project conditions in preventing or remedying any exceedance of the state and national ambient air quality standards for NO2.

- If the evaluation concludes that there will be an exceedance of the NO2 standard(s), BNSF shall implement measures to prevent or remedy the SCIG project's contribution to the exceedance. Such measures may include, but are not limited to, the following:
    - measures to reduce NOx emissions from activities associated with the SCIG project, and/or
    - measures to reduce NOx emissions from activities not associated with the SCIG project, but which contribute to the exceedance.

  The latter measures may include funding by BNSF for emission reduction projects at facilities or locations other than SCIG which contribute to the exceedance(s).

The purpose of SCAQMD's edits to the following measure are to address significant PM and NO2 impacts as identified in the EIR.

PC AQ-11. Zero Emission Technologies Demonstration Program.

This project condition ~~would~~ requires BNSF to work with the Port of Los Angeles to advance zero emission technologies, consistent with the Port's 2012-2017 Strategic Plan objective for the advancement of technology and sustainability, and the following provisions.

~~that~~ BNSF shall~~, as follows~~:

- Provide match funding to the Clean Air Action Plan Technology Advancement Program (TAP) zero emissions programs in an amount equal to that provided by the Port of Los Angeles up to a maximum of $3 million for purposes of zero emission drayage truck, cargo handling equipment, and proof-of-concept rail technologies demonstration.

~~· Implement an expeditious phase-in of zero emission drayage trucks and other zero emission technologies into the specification for vehicles serving SCIG operations following a determination of technical and commercial feasibility made by the Ports of Los Angeles and Long Beach Boards of Harbor Commissions consistent with criteria developed by the TAP Advisory Committee (TAP-AC) in consultation with the project applicant and approved by the Ports of Los Angeles and Long Beach Boards of Harbor Commissions. In making any finding of technical and commercial feasibility, the Ports shall determine that such equipment or technology:~~

~~· is commercially practicable;~~

~~· has been successfully tested in similar conditions;~~

~~· has been operationally proven in similar revenue service; and~~

~~· is available in sufficient quantities to meet any such requirement~~

~~The phase-in shall:~~

~~· Occur at a rate recommended by the TAP-AC consistent with the feasibility criteria;~~

~~· Be approved by the Ports of Los Angeles and Long Beach Board of Harbor Commissions consistent with the feasibility criteria; and~~

~~· Lead to the requirement that only zero emission drayage trucks would operate at the SCIG facility.~~

~~**Long-term goal**: All drayage trucks operating at the SCIG facility shall be 100% zero-emissions by the end of 2020.~~

- Participate in a zero emissions technologies industry stakeholder group that would assist in the development of technical and commercial design criteria for ~~for determination of feasibility of~~ zero emission equipment, and advise and support demonstrations of zero emission drayage truck, cargo handling equipment, and proof of concept rail technologies in port-related operations as coordinated and directed by staff of the two ports through the TAP.

- Such demonstrations shall be performed using an appropriate railyard identified by the TAP until such time that SCIG is built, and thereafter BNSF shall allow zero emission technologies tested under the TAP zero emissions program to operate using the SCIG facility once it is constructed. BNSF shall allow TAP representatives access into portions of the SCIG facility where the zero emission equipment is being tested for the purpose of test evaluation, all subject to reasonable notice, compliance with the BNSF safety and operational rules, and without interference with facility operation.

~~- Criteria for evaluation of the results of all demonstrations shall be developed by the TAP AC in consultation with the project applicant regarding any equipment to be serving the SCIG facility and submitted for approval to the Ports of Los Angeles and Long Beach Board of Harbor Commissions. Such criteria shall include, but not be limited to: technical practicability, commercial reasonableness, operationally proven, and commercial availability. Evaluation of the results of demonstration testing shall be performed by the TAP in conjunction with the applicant. Recommendations regarding the technical and commercial feasibility of these vehicles shall be presented by the TAP to the Ports of Los Angeles and Long Beach Board of Harbor Commissions for approval.~~

~~**Near-term goal**~~**Action Plan:** The TAP will develop an action plan by 2014 that outlines key strategies, steps and action schedules for the advancement of zero emission ~~drayage trucks~~technologies~~, including all criteria for evaluation of technical, commercial and operational feasibility, and identification of an appropriate railyard to support zero emission drayage truck demonstration projects starting in 2015~~.

~~**Near-term and long-term goal:** Starting in 2015, the TAP shall conduct periodic evaluations of zero emission truck demonstrations on a reoccurring basis at least every two years until such time that the Ports of Los Angeles and Long Beach Board of Harbor Commissioners determine that the vehicles are technically and commercially feasible. The results of the regular evaluations shall be documented, including the analysis and conclusions as verified by the TAP, and shall be presented to the Ports of Los Angeles and Long Beach Board of Harbor Commissioners.~~

The purpose of SCAQMD's edits to the following measure are to address significant PM and NO2 impacts as identified in the EIR.

PC AQ-12. San Pedro Bay Ports CAAP Measure RL-3

This project condition requires line-haul locomotives entering SCIG to comply with USEPA Tier 4 standards according to the following schedule: By 2020, at least 95% of line-haul locomotives entering SCIG shall be Tier 4.

~~1.~~ CAAP measure RL-3 establishes the goal that the Class 1 locomotive fleet associated with new and redeveloped near- dock rail yards use 15-minute idle restrictors, use ULSD or alternative fuels, ~~and~~ meet a minimum performance requirement of an emissions equivalent of at least 50 percent Tier 4 line-haul locomotives and 40% Tier 3 line-haul locomotives when operating on port properties by 2023, with a goal for 95% of Class 1 line-haul locomotives entering the ports to meet Tier 4 standards by 2020. In March of 2008, USEPA finalized a regulation which established a 2015 date for introduction of Tier 4 locomotives. There is no regulatory mechanism in place that would mandate the early production or sale of Tier 4 locomotives prior to 2015. Additionally there is no requirement to turn fleets over to Tier 4, when it becomes available.

-Implementation of the RL-3 goal for the locomotives calling at SCIG while on port properties would be based on the commercial availability of ~~operationally proven~~ Tier 4 locomotives in 2015 and any adjustment in that date will require equivalent adjustment in the goal achievement date. For example, if commercial availability of Tier 4 locomotives is delayed by USEPA beyond 2015 for one year, the 2020 deadline in the above schedule shall be delayed by one year. ~~The RL-3 emissions goal for locomotives calling on SCIG while on port properties may also be achieved by BNSF's reduction in air emissions anywhere in the South Coast Air Basin equivalent to the RL-3 goal for locomotives calling at SCIG while on port properties through any other alternative means.~~

RL-3 further establishes the goal that, by the end of 2015, all Class 1 switcher locomotives operating on port property will meet USEPA Tier 4 non-road standards. This project condition requires that, by the end of 2015, all switcher locomotives operating at SCIG shall meet USEPA Tier 4 non-road standards.

In September 2009, CARB adopted its "Staff Recommendations to Provide Further Locomotive and Rail yard Emission Reductions" (CARB, 2009d) which identified several high priority strategies for reducing emissions from locomotive operations in California, including providing support for the ports "to accelerate the turnover of cleaner Tier 4 line-haul locomotives serving port properties as expeditiously as possible following their introduction in 2015, with the goal of 95 percent Tier 4 line-haul locomotives serving the ports by 2020." Thus, with the assistance of the ports' regulatory agency partners and in concert with CARB's stated goals, measure RL3 will support the achievement of accelerating the natural turnover of the line-haul locomotive fleet.

This project condition was not quantified for mass emissions, air pollutant concentration or health risk benefit.