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Air Quality Management District**
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Board of Harbor Commissioners
Port of Los Angeles
425 South Palos Verdes Street
San Pedro, CA 90731

Members, Board of Harbor Commissioners

**Final Environmental Impact Statement/Environmental Impact Report:
Berth 136 – 147 (TraPac) Container Terminal Project**

The SCAQMD staff previously submitted written comments on the Draft Environmental Impact Statement/Environmental Impact Report for the TraPac project. We appreciate the effort port staff made to meet with us to discuss our comments, and we acknowledge the changes made to the Final EIS/EIR in response to our comments and those made by others. We also acknowledge that the EIR proposes a wide range of significant air pollution control measures including a clean truck program, shore power and vessel speed reduction. Although implementation of the control measures in the EIR will ultimately reduce emissions, the SCAQMD staff remains concerned that emissions and health risk in the area will remain at unacceptable levels due largely to emissions from the two ports, and the EIR does not fully utilize all opportunities to control emissions. This letter addresses four key areas in which the EIR does not implement all feasible mitigation measures. We urge the Commission to strengthen the control measures as described below.

1. The proposed schedule to implement low sulfur fuels for main and auxiliary engines is longer than necessary and is inconsistent with adopted air quality plans.

Marine vessels burn the dirtiest of all fuels in the largest of all engines, and do so upwind of the most polluted area of the country and 16 million residents. The EIR proposes to phase in .2% lower sulfur fuel between 2009 and 2015, with 50% of vessel calls using such fuels by 2012 (based on TraPac's parent controlling vessels making 50% of calls).

This schedule must be accelerated. Waiting seven years for all ships at TraPac to use lower sulfur fuel, as proposed in the EIR, will allow over 640 vessel calls using dirty fuels just between 2011 and 2015, and over 1,300 calls between 2008 and 2015. The State Implementation Plan (SIP) approved by SCAQMD and CARB assumes that .1% sulfur fuel will be used in all main and auxiliary engines by 2010. Cutting fuel sulfur content is one of the most important measures in the region's air quality plan in terms of health benefits. AQMD staff estimates that the marine

vessel control measures in the SIP will prevent hundreds of premature deaths regionwide each year, largely due to reductions in particulates through use of lower sulfur fuels.

The low sulfur fuel schedule can be accelerated. Maersk is using lower sulfur fuel now. The United States government – certainly not a leader when it comes to adopting ship emission controls – has proposed to the International Maritime Organization that all ships in polluted areas use .1% sulfur fuel, or have equivalent controls, *by 2011*. The World Shipping Council, which represents carriers transporting over 90% of containerized cargo, supports that U.S. position. Just last week, EPA issued an advanced notice of proposed rulemaking based on the U.S. proposal to IMO.

We therefore ask why does the proposed TraPac lease allow four years more than a proposal by the U.S. government which is supported by industry? Port staff's primary reason for the proposed schedule is *not* based on time needed to supply low sulfur fuels or to retrofit ships. Rather, the reason is "largely to accommodate financial considerations." (Response to SCAQMD comment, p. 2-75). The EIR notes that TraPac lost third-party invitees due in part to expected environmental requirements. We understand that the invitees went to the Port of Long Beach.

The question for the Harbor Commission is how to respond to such concerns about competitive disadvantage. The *wrong* response is to delay air quality requirements. This will only lead every other terminal operator to demand the same concession. The proper response is for both ports to expeditiously require low sulfur fuels *as broadly as possible*. That is why we urge the ports to (1) state and implement a policy of requiring in each lease that low sulfur fuels be expeditiously implemented – we have recommended within six months, and (2) move quickly to adopt a port-wide tariff requiring low sulfur fuels. The Commission sets the policy for this port, and that policy should simply be that no ship burning dirty fuels comes here. Stating that requirement in each and every lease will also spur support for a tariff.

A final point regarding the compliance schedule in the EIR: There is particularly little justification for allowing MOL (the parent of TraPac) until 2012 to use low sulfur fuels in all its ships. MOL has substantial resources. Moreover, we understand that Maersk began implementing its program within weeks after making the go decision, and it now has utilized .2% sulfur fuels in well over 70 vessels. If the Commission concludes that it must allow temporary exceptions based on time needed to retrofit specific ships, write the lease that way. We previously provided proposed lease language tailored to accomplish this.

2. The EIR proposes no enforceable provision requiring new vessels to be built with advanced emission controls, and there is no enforceable provision allowing the port to impose such requirements during the 30 year term of this lease.

We are on the verge of losing a never-to-return opportunity. An enormous number of ships are now on order for construction. Once those vessels are built and in the water, the economic and technical challenges to retrofit advanced controls such as Selective Catalytic Reduction will grow dramatically. The State Implementation Plan approved by SCAQMD and CARB assumes that vessels will meet fleet average emission reductions through a combination of advanced controls for new vessel builds and retrofits of existing vessels. Those emission reductions include a 30% reduction of NOx and particulates by 2014, and a 70% reduction of NOx and 50% reduction of particulates by 2023. Such reductions are feasible and needed to ensure consistency

with the adopted air quality plans to meet federal attainment deadlines. Such requirements could also provide short-term benefits as vessel operators ramp up to fully comply. These emission reductions should be required by the TraPac lease.

3. The EIR does not require all locomotives coming onto port property to be equipped with diesel particulate filters or equivalent by 2014, as set forth in the CAAP.

DPFs can feasibly be applied to locomotives serving the San Pedro Bay Ports between 2012 and 2014, as specified in the CAAP. Application of DPFs to locomotives is occurring now in Europe. Rather than using the port's authority as a landlord to require such controls, the EIR relies on seeking an MOU with the Class 1 railroads. The prospects for success of this effort are speculative at best.

4. The EIR does not propose sufficient on-dock rail capacity to handle all containers to be directly shipped out of this region, thereby increasing pressure to approve new and expanded railyards closer to impacted residential neighborhoods.

The CAAP committed the port to evaluate alternatives that might increase on-dock capacity such as shipping containers out of the region unsorted by destination and altering land use arrangements within the ports. We have yet to see a quantitative analysis explaining why these or other alternative operating scenarios could not expand available on-dock capacity.

In closing, the TraPac project is in many respects the most important matter to be considered by the port since adoption of the Clean Air Action Plan. The CAAP in large part relies on marine terminal lease conditions to implement control measures. In such lease provisions the port has unique authorities to control pollution -- authorities that are not shared by regulatory agencies. In addition, this is the first of many major terminal projects that will come before the Commission. Your actions here will set expectations on the part of other terminal operators.

We are confident that the Commission will continue to show the leadership embodied in its adoption of the Clean Air Action Plan. AQMD commits to continue to assist in any way we can to ensure your efforts are successful.

Thank you for the opportunity to comment on this important project. If you have any questions, please call me or Peter Greenwald at (909) 396-2100.

Sincerely,



Barry R. Wallerstein, D.Env.
Executive Officer