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August 11, 2025

Sent Via E-Mail:

Lisa Wunder,
Acting Director of Environmental Management
City of Los Angeles Harbor Department
425 S. Palos Verdes Street
San Pedro, CA 90731
lwunder@portla.org; ceqacomments@portla.org

Re: Draft Revised Supplemental Environmental Impact Report (RSEIR) for the Berth 97-109 China Shipping Container Terminal Revised Project (Revised Project) (SCH No.: 2003061153)

Dear Ms. Wunder,

The South Coast Air Quality Management District ("South Coast AQMD") appreciates the opportunity to comment on the Draft RSEIR for the China Shipping Terminal. As the Port is aware, the RSEIR is necessary to comply with the Peremptory Writ of Mandate issued by the San Diego Superior Court to redress "profound violation[s] of CEQA" and ensure the China Shipping Terminal project complies with CEQA.[1] The Peremptory Writ commanded the Port to, at a minimum, revise the emissions impact analysis and re-evaluate certain air quality mitigation measures. The stated purpose of the Draft RSEIR is to comply with the Peremptory Writ and redress the CEQA violations.

Unfortunately, the Draft RSEIR contains significant flaws and technical deficiencies in the Air Quality and Health Risk Analyses; is inconsistent with existing planning documents including the South Coast AQMD's Air Quality Management Plan, the Community Emissions Reduction Plan for the Wilmington, Carson, and West Long Beach AB 617 Community, and the Port's own Clean Air Action Plan; fails to evaluate and implement all feasible mitigation for the significant impacts of the project; and proposes to have certification of the RSEIR without including any binding instrument to implement and enforce even the minimal new mitigation evaluated and considered feasible.

[1] The California Environmental Quality Act (CEQA) is comprised of Public Resources Code Section 21000 et seq. and CEQA Guidelines which are codified at Title 14 California Code of Regulations, Section 15000 et seq.

The South Coast AQMD includes detailed comments on each of these issues, and encourages the Port to revise and recirculate the Draft RSEIR to ensure that the Revised Project fully complies with CEQA. Recirculation is necessary here to ensure that all legal deficiencies are corrected and will conserve time and resources to prevent the need for further motion practice. South Coast AQMD staff stand ready to work with the Port to discuss any air quality questions that arise.

Please feel free to contact me to discuss these comments at kroberts@aqmd.gov or you may contact South Coast AQMD's CEQA staff, Program Supervisor Sam Wang, at swang1@aqmd.gov should you wish to discuss.

Sincerely,

Kathryn Roberts
Principal Deputy District Counsel
Office of the General Counsel

CC:
Michael Krause, South Coast AQMD
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South Coast AQMD Staff Comments

Summary of Revised Project Information in the Draft RSEIR

Based on the Draft RSEIR, the Lead Agency (the "Port"): 1) evaluates potential impacts of the continued operation of the Revised Project under new and/or modified mitigation measures; 2) discloses the operational impacts of the Berth 97-109 China Shipping Container Terminal (Terminal) during past years between 2008 to 2023; 3) discloses the operational impacts during future years under the mitigation and lease measures imposed in the 2008 Draft Environmental Impact Report/Environemtnal Impact Statement (EIR/EIS); and 4) examines any additional available, feasible, and enforceable mitigation measures.[2,3] The Draft RSEIR includes an air quality analysis which assumes full implementation of mitigation measures beginning in 2026 and continuing through the end of the lease term in 2045.[4] The Revised Project is comprised of a net increase in the Revised Projected cargo throughput of 119,000 twenty-foot equivalent units (TEUs) from the 1,551,000 TEUs in the 2008 Draft EIR/EIS to 1,670,000 TEUs estimated for years 2036-2045 in the Draft RSEIR.[5] The Revised Project is bounded by the Berth 121-131 container terminal to the north, West Basin, Main Channel, and Pier A to the east, the World Cruise Center and State Route 47 to the south, and Pacific Avenue, Front Street, and the community of San Pedro to the west.[6] The Revised Project is spans approximately 142 acres for oceangoing vessels and a container yard, operated by West Basin Container Terminal LLC (WBCT) under a lease agreement (Permit No. 999).[7] Based on the review of aerial photographs, the nearest sensitive receptors (e.g., residential uses) are located within 1,000 feet of the Revised Project site.

Part I - Technical Deficiencies in Air Quality and Health Risk Analyses:

Inconsistent Methodology in Air Quality Impact Analysis and Health Risk Assessment

Section 3.1.4.1 of the Draft RSEIR describes the methodology for evaluating operational air quality impacts from criteria air pollutants. The approach involves subtracting estimated operational emissions from the 2008 Actual Baseline emissions inventory and then comparing the change to the South Coast AQMD air quality significance thresholds for operational emissions. To assess the significance of the potential air quality impacts, the 2008 (the baseline year) is compared to the period of non-compliance from 2008-2023 and the future years from 2026, 2036, and 2045.[8]

In the same section, the Draft RSEIR outlines the health risk assessment (HRA) methodology relied upon for assessing the health risk impacts. The HRA evaluates cancer risk by comparing modeled risk levels against two baseline scenarios and determining significance relative to the South Coast AQMD's cancer risk threshold of 10 in one million. The two baseline scenarios[9] are defined as follows:

[2] Draft RSEIR. p. 2-1.
[3] *Ibid*. p. 2-2.
[4] *Ibid*.
[5] *Ibid*. Table 2-2. p. 2-6.
[6] *Ibid*. p. 2-3.
[7] *Ibid*.
[8] *Ibid*. p. 3.1-27.
[9] *Ibid*. p. 3.1-28.

- Static Baseline (2008 Actual Baseline): Assumes constant activity levels and emission factors reflective of 2008 operations by incorporating mitigation measures identified in the 2008 Draft EIR/EIS, and holding the activity levels constant with 25-, 30-, and 70-year exposures.

- Floating Future Baseline: Applies 2008 activity levels but updates the emission factors to reflect future projected conditions by incorporating the effects of existing air quality regulations across the same exposure periods starting from 2008.

In its comment letter relative to the Draft SEIR dated September 29, 2017,[10] South Coast AQMD raised prior concerns that the methodologies for evaluating criteria pollutant emissions and health risk impacts were not consistently applied in the air quality analysis. These concerns appear to have not been addressed because the criteria pollutant analysis in the Draft RSEIR once again applies an inconsistent methodology by relying on a fixed historical baseline while the HRA relies on both a static and a future-adjusted baseline.

This inconsistency allows the Port to selectively apply baselines in a way that could obscure the true magnitude of operational impacts. CEQA requires that environmental analyses be based on a stable, accurate, and consistent description of the existing environmental setting (CEQA Guidelines, §15125(a)) and prohibits selective baseline choices that bias the results (*Communities for a Better Environment v. South Coast AQMD* (2010) 48 Cal.4th 310, 322–323). Applying inconsistent baseline methodologies for different components of the analysis undermines the validity of the environmental review and impedes a meaningful comparison of impacts.

To ensure analytical consistency, transparency, and regulatory defensibility in CEQA, the Port should adopt a consistent methodological framework that incorporates a future-adjusted baseline to account for the effect of future effective regulations on both criteria pollutant emissions and health risk and apply it uniformly to both the air quality analysis and the HRA in the Final RSEIR.

Additional Clarification Regarding the Projected Vessel Calls

Table 2-2 of Chapter 2 in the Draft RSEIR presents projected container throughput, measured in TEUs, for the years 2026 through 2045. According to the current Draft RSEIR projections, the throughput reflects an increase from 1,551,000 TEUs as estimated in the 2008 Draft EIR/EIS to 1,670,000 TEUs in 2045. However, the Draft RSEIR projects a decrease in the number of annual vessel calls from 234 in the 2008 Draft EIR/EIS to 153 in 2045.[11]

By projecting an increase in cargo throughput alongside a decrease in vessel calls the Draft RSEIR suggests, but does not explicitly state, that a potential shift toward the use of larger vessels with higher cargo capacity may occur. However, the Draft RSEIR does not provide an explanation as to whether vessel size is the primary driver of the reduced call frequency. Moreover, the Draft RSEIR does not quantify the increase in vessel capacity in terms of emissions relative to historical or previously projected values.

[10] South Coast AQMD September 29, 2017 comment letter available at https://www.aqmd.gov/docs/default-source/ceqa/comment-letters/2017/dseir-chinashipping-092917.pdf
[11] *Ibid*. p. 2-6.

To enhance transparency and ensure an accurate estimation of operational emissions, particularly from ocean-going vessels (OGVs), the Port should include the following additional information in the Final RSEIR: 1) a quantitative comparison of vessel sizes (e.g., average TEUs per vessel); 2) a clarification of vessel assumptions regarding fleet mix, fuel type(s) to be used, International Maritime Organization (IMO) nitrogen oxides (NOx) tier levels, and class; and 3) a discussion of how these changes influence overall emissions and air quality impacts.

Truck Idling Duration and Emissions Modeling

According to the air quality emissions file provided by the Port for on-site truck operations, CS_Onsite_Truck_emissions_idling_Diesel_NL,[12] the average truck idling durations per trip were calculated for three specific locations: in-gate, out-gate, and within the terminal (excluding gate areas) for the years 2008, 2012, 2014, 2018–2023, 2026, 2036, and 2045. Staff notes that the shortest idling durations were assumed to occur at the out-gate location with six minutes in 2008, two minutes during the non-compliance period from 2012 to 2023, and six minutes for the Revised Project years 2026, 2036, and 2045. These assumptions appear to be unrealistic and may not accurately represent real-world operational conditions at a facility of the Revised Project's scale and complexity, especially in consideration of the strict vehicle speed restrictions (e.g., 10 miles per hour) when transiting within the property.

As shown in Table 2-2 of the Draft RSEIR, the Revised Project's annual truck activity is anticipated to increase from 1,508,000 truck trips per year (truck trips/year) in the 2008 Draft EIR/EIS to 1,784,214 truck trips/year for the 2026–2045 analysis period.[13] With an increased throughput, longer idling durations are reasonably expected due to traffic congestion associated with on-site queuing, security screening, staging, loading, and unloading processes, particularly during peak operating hours or in areas with limited circulation capacity. Underestimating idling activities may lead to underestimated diesel particulate matter (DPM) emissions, and consequently, underrepresented localized health risk impacts in the air quality assessment (HRA).

Although the California Air Resources Board (CARB) limits diesel truck idling to five minutes as set forth in the Airborne Toxic Control Measure (ATCM), this regulation provides exemptions for trucks equipped with engines that meet the optional low- NOx idle emission standard, typically applicable to model year 2008 and newer trucks. These vehicles, often referred to as "clean idle" certified, are permitted to idle longer than five minutes when situated more than 100 feet from sensitive land uses such as homes and schools.[14] Furthermore, CARB's EMFAC2021 Volume III Technical Document (Table 4.4.2-5) indicates that heavy-duty trucks may idle for up to five hours at a single location under certain conditions.[15]

Accurate characterization of idling activity is essential to fully assess a Revised Project's potential health risk impacts, particularly for nearby sensitive receptors. Therefore, to ensure the HRA provides a conservative and health-protective estimate of potential exposure, the Port should

[12] Provided spreadsheet labeled as CS_Onsite_Truck_emissions_idling_Diesel_NL.
[13] *Ibid*. Table 2-2. p. 2-6.
[14] CARB. Airborne Toxic Control Measure to Limit Diesel-Fueled Commercial Motor Vehicle Idling available at https://ww2.arb.ca.gov/our-work/programs/atcm-to-limit-vehicle-idling
[15] CARB. EMFAC2021 Volume III Technical Document. Page 161. Table 4.4.2-5 available at EMFAC2021 Volume III Technical Document

either: 1) revise the operational emissions modeling in the Final RSEIR to assume a minimum of 30 minutes of idling per truck per day at each location, unless site-specific data or operational constraints justify a shorter duration; or 2) provide empirical evidence, such as facility-specific queuing and processing time studies, vehicle circulation modeling, or comparable industry data, to substantiate the idling duration assumption as representative of expected operations of the Revised Project.

Issues in Air Dispersion Modeling Parameters

1. Locomotive Release Height

In Table B2-1: AERMOD Source Parameters[16] of Appendix B2, the dispersion modeling distinguishes between locomotive emissions occurring during daytime and nighttime operations. However, the release heights assigned to nighttime locomotive sources are notably higher than those assigned to daytime operations. For example, 5.6 meters (m) for Offsite-Day versus 14.6 m for Offsite-Night, and 6.64 m for Onsite-Day versus 13.56 m for Onsite-Night. The Draft RSEIR references the CARB's 2004 Roseville Rail Yard Study[17] to support this approach, noting its use of different release heights to reflect diurnal variability in locomotive operations. However, that study utilized the Industrial Source Complex Short Term Version 3 (ISCST3) dispersion model, which lacked the capability to account for time-of-day variations in meteorological conditions. As of December 9, 2006, U.S. EPA promulgated AERMOD as a replacement for ISCST3 as the recommended dispersion model. Unlike ISCST3, AERMOD inherently incorporates time-of-day meteorology when processing hourly data. Artificially inflating nighttime release heights in AERMOD could overestimate plume rise and dispersion, and in turn, underestimate the near-field concentrations and health risks.

To ensure that the HRA is accurate, the Port should revise the source parameter inputs to apply consistent and representative release heights, rerun the dispersion modeling as needed, and evaluate whether additional mitigation measures are warranted to address any previously underestimated health risks.

2. Release Height

According to footnote "a" in Table B2-1, the analysis in Draft RSEIR reflects adjusted release heights for volume, area, and line sources to values higher than the actual exhaust release heights. However, Appendix B2 does not provide a clear justification or methodology to support these adjustments. To ensure transparency and technical accuracy in the air dispersion modeling and associated HRA, the Port should provide supporting documentation and evidence demonstrating that the applied release heights appropriately represent effective plume characteristics for these source types and include them in the Final RSEIR.

3. Initial Vertical Dimension

For the locomotive sources, a divisor of 2.15 was applied to the release height to calculate the initial vertical dimension, rather than the standard divisor of 4.3 typically used for elevated sources not located on or adjacent to buildings. As noted in footnote "b" of Table B2-1, other emission sources appear to have been classified as elevated sources, while locomotive emissions were treated as surface-based sources. However, according to Table 3-3 of the AERMOD User's

[16] Appendix B2. Table B2-1. p. B2-5.
[17] CARB's 2004 Roseville Rail Yard Study available at https://ww2.arb.ca.gov/sites/default/files/2021-02/rrstudy1014043.pdf

Guide,[18] a surface-based source is generally characterized by an effective release height of approximately zero meters. Given that locomotive exhaust is typically emitted several meters above ground level and is not associated with building wake effects, it would be more appropriate to classify these emissions as originating from an elevated source not on or adjacent to a building. Under this classification, the initial vertical dimension should be calculated by dividing the release height by 4.3, rather than 2.15.

By using a larger initial vertical dimension as relied upon in the Draft RSEIR, the modeling approach likely overestimates vertical dispersion and underestimates near-field concentrations of DPM, potentially resulting in an underestimation of localized health risks. Therefore, the Port should revise the HRA to reflect a more appropriate source characterization for locomotive emissions and evaluate the need for additional mitigation measures to address the potentially underestimated health risk impacts in the Final RSEIR.

Outdated AERMET and Meteorological Data Used in AERMOD Modeling

Appendix B-2 of the Draft RSEIR indicates that AERMOD version 24142 and 2012 to 2016 Wilmington Community station meteorological data processed by AERMET version 16216 were used for the HRA modeling. However, South Coast AQMD released a newer, approved version of AERMOD-ready MET data files (Version 11) in October 2023.[19] The updated dataset was developed using the U.S. EPA's AERMET processor Version 22112, along with pre-processors AERMINUTE Version 15272 and AERSURFACE Version 20060.[20] The U.S. EPA's current preferred and recommended meteorological data preprocessor for the AERMOD , as of the latest release, is AERMET version 24142, released in November 2024.[21]

Use of outdated meteorological data and model versions is inconsistent with the U.S. EPA's Guideline on Air Quality Models (40 CFR Part 51, Appendix W)[22] and may result in inaccurate or non-conservative health risk estimates. To ensure accuracy and consistency with federal modeling guidelines, the Port should re-run the dispersion modeling using the more recent meteorological data processed by the most recent U.S. EPA-recommended versions of AERMET (version 24142), revise the health risk results accordingly, and include the updated results in the Final RSEIR.

Potential Underestimation of Cancer Risk Calculations

In Appendix B3, the Draft RSEIR evaluates residential cancer risk based on a 30-year exposure duration. The methodology assumes the exposed individual is in the third trimester at the start of the exposure period, and is divided into three age-specific sub-periods: third trimester to <2 years, 2 to <16 years, and 16 to <30 years.[23] However, the technical file provided by the Port, labeled as

[18] User's Guide for the AMS/EPA Regulatory Model (AERMOD) available at https://gaftp.epa.gov/aqmg/SCRAM/models/preferred/aermod/aermod_userguide.pdf
[19] South Coast AQMD AERMOD-Ready MET Data Files available at https://www.aqmd.gov/assets/aermet/AERMET_files_And_HRA_Tool.html
[20] South Coast AQMD Data for AERMOD available at https://www.aqmd.gov/home/air-quality/meteorological-data/data-for-aermod
[21] U.S. EPA Air Quality Dispersion Modeling - Preferred and Recommended Models available at https://www.epa.gov/scram/meteorological-processors-and-accessory-programs
[22] Code of Federal Regulations. Title 40. Part 51. Appendix W available at https://www.ecfr.gov/current/title-40/chapter-I/subchapter-C/part-51/appendix-Appendix%20W%20to%20Part%2051
[23] Appendix B3. p. B3-24.

Results_HRA, indicates that the third trimester exposure window was excluded from the cancer risk assessment, despite continued emissions of toxic air contaminants (TAC), including DPM, during this time. This omission of a sensitive receptor age group may have resulted in an underestimation of the lifetime cancer risk associated with the Revised Project. Early-life exposures, especially during the third trimester, are associated with heightened susceptibility to carcinogenic effects of air toxics. Considering that the maximum cancer risk was reported as 46.9 in one million,[24] the exclusion of third-trimester exposures during the operational phase represents a material gap in the HRA.

To ensure a comprehensive and health-protective evaluation, the Port should revise the cancer risk assessment to incorporate TAC and DPM exposure beginning in the third trimester through 30 years of age. The updated analysis should be included in the Final RSEIR to reflect a complete characterization of residential cancer risk under the Revised Project's operational emissions.

Additional Explanation on Cancer Risk Results

Appendix B3 presents the revised incremental cancer risk estimates associated with the Revised Project and concludes that the cancer risk for residential receptors is less than significant. As shown in Table B3-7,[25] the maximum individual cancer risk (MICR) for the residential receptor is reported as 46.9 in one million. When subtracting from the Static Baseline and the Floating Future Baseline scenarios, the incremental cancer risks are calculated to be less than zero and 0.2 in one million, respectively.

In contrast, the 2018 Recirculated Draft Supplemental EIR[26] reported a substantially higher MICR of 140.7 in one million for the same type of receptor. The corresponding incremental cancer risks, subtracting the Static Baseline and Floating Future Baseline scenarios, were less than zero and 25.4 in one million, respectively.

Although both documents claim to utilize the same HRA methodology, there is no clear explanation in the Draft RSEIR for the substantial reduction in cancer risk from 140.7 to 46.9 in one million at the residential receptor. Additionally, it is unclear why the incremental cancer risk, previously identified as significant for residential receptors, is less than the significance threshold for the Revised Project, despite the application of mostly the same mitigation measures (MMs), with the exception of MM-AQ-9 and MM-AQ-10.

In addition, the 2008 Draft EIR/EIS evaluated the incremental cancer risk at residential receptors and concluded that the impact would be significant, even with the application of MMs AQ-9 and AQ-10.[27] The current Draft RSEIR continues to apply the same air quality MMs, MM-AQ-9 and MM-AQ-10, as well as the other measures identified in the 2008 Draft EIR/EIS. However, the analysis presented in the current Draft RSEIR concludes that the incremental cancer risk at residential receptors associated with the Revised Project would be less than significant despite the lack of additional mitigation measures.

[24] Appendix B3. p. B3-29.
[25] Appendix B3. p. B3-29.
[26] 2018 Recirculated Draft SEIR available at https://kentico.portoflosangeles.org/getmedia/c40f0a25-5248-45f0-a0a6-8c2954f88359/Appendix_B3_HRA_CS_Draft RSEIR
[27] 2008 Draft EIR/EIS. Appendix E3. p. 42 available at https://kentico.portoflosangeles.org/getmedia/f2dbaed9-601d-4d29-9202-341c52b522de/AppendixE3_Health_Risk_Assessment

To ensure transparency and consistency in the evaluation of health risks, the Port should provide a detailed justification in the Final RSEIR, including clarification of any changes in modeling assumptions, input parameters (e.g., emission rates, receptor locations, activity profiles), or project characteristics that may have led to the revised findings. Where appropriate, additional revisions or technical appendices should be included to support the determination that cancer risk impacts are now considered less than significant.

Part II - Failure to Demonstrate Consistency with the South Coast AQMD Air Quality Management Plans (AQMPs) and Community Emission Reduction Plan (CERP) in Wilmington, Carson, West Long Beach (WCWLB):

Inconsistency With South Coast Air Quality Management Plans

In its November 30, 2018 comment letter, South Coast AQMD recommended that the project analyzed in the 2018 Recirculated Draft Supplemental EIR should be fully evaluated in the Air Quality section for consistency with the applicable Air Quality Management Plan (AQMP), as the 2016 AQMP did not specifically account for the project as presented at that time.[28] In response, the Port disagreed, asserting that the Port regularly provides cargo throughput forecasts to the Southern California Association of Governments (SCAG) for incorporation into regional growth projections used in AQMP development. The Port contends that the emissions associated with future growth at the Port are therefore reflected in the 2016 AQMP's attainment demonstration.[29]

In Chapter 3 of the Draft RSEIR, the Port's earlier position is reiterated by asserting that the Revised Project is also consistent with the 2022 AQMP,[30] relying primarily on a qualitative assessment.[31] The Draft RSEIR references Port-wide projects, cargo forecasts, and mobile source control measures related to marine ports included in the 2022 AQMP, and on that basis, concludes that the Revised Project is consistent with the 2022 AQMP. However, unusual year-to-year variations, such as the record-high volume of containers that arrived at the San Pedro Bay Ports in 2021, are not reflected in the 2022 AQMP growth forecast or emissions inventory. While generally the inclusion of Port-wide cargo forecasts in regional emissions projections can support the AQMP development process, such forecasts alone do not constitute a project-specific consistency analysis. Listing applicable control measures or referencing regional emission projections without identifying how the Revised Project will implement those measures, or contribute to attainment through enforceable actions, as included in Draft RSEIR, does not demonstrate consistency with the 2022 AQMP. Moreover, the Draft RSEIR does not provide a clear identification or analysis of the specific emission reduction measures the tenant(s) will be responsible for implementing to ensure the Revised Project achieves its fair share of emissions reductions to attain National Ambient Air Quality Standards (NAAQS). Consequently, the consistency discussion in the Draft

[28] South Coast AQMD November 30, 2018 comment letter available at https://www.aqmd.gov/docs/default-source/ceqa/comment-letters/2018/LAC181002-11.pdf.
[29] Lead Agency's response to South Coast AQMD comment letter available at https://kentico.portoflosangeles.org/getmedia/9449271d-0c22-4f6a-8283-5fc02f135ae2/02_CS_Response-to-Comments_FSEIR
[30] South Coast AQMD, 2022 Air Quality Management Plan, 3.1-71, (2022), available at: https://www.aqmd.gov/docs/default-source/clean-air-plans/air-quality-management-plans/2022-air-quality-management-plan/final-2022-aqmp/final-2022-aqmp.pdf?sfvrsn=edcebd61_16.
[31] *Ibid*. p. 3.1-41.

RSEIR is largely conclusory and lacks substantial evidence, which is contrary to the CEQA requirements for a complete and reasoned analysis.

A complete consistency analysis should include both qualitative and quantitative components. The quantitative analysis should address the Revised Project's significant and unavoidable air quality impacts, specifically volatile organic compounds (VOC), carbon monoxide (CO), NOx, nitrogen dioxide (NO2), and PM10, as identified in the Section 3.1.6.1 of the Draft RSEIR, where these emissions or concentrations are found to exceed South Coast AQMD's CEQA thresholds for significance.[32] Given the projected emissions have increases between the Final EIR (FEIR) and Revised Project shown in Table 3.1-10, *Summary of Emission Impacts for Revised Project and FEIR Mitigated Scenario* in the Draft RSEIR[33], the analysis should clearly explain how the Revised Project that independently results in new violations of federal air quality standards can be deemed consistent with the applicable AQMPs, which are specifically designed to demonstrate attainment of ambient air quality standards especially for ozone and PM. On the other hand, the qualitative assessment should go beyond listing regional forecasts and control measures and also evaluate whether the project aligns with the 2022 AQMP's health-based goals, policy direction, and long-term emission reduction strategies. A qualitative discussion grounded in the AQMP's overall policy framework, including its trajectory and trend toward attainment, and approach calling adoption of zero-emission (ZE) technology wherever feasible, is necessary to determine whether the project is advancing or impeding progress toward clean air objectives.

In addition, the strategies in the 2022 AQMP include all feasible control measures that seek emission reductions from stationary, mobile, and indirect sources, to attain the NAAQS and California Ambient Air Quality Standards (CAAQS), as required by the Federal and State Clean Air Act. Since NOx is a precursor to form ozone, South Coast AQMD committed in the 2022 AQMP to reduce approximately 60 tons per day of NOx by 2037[34] as a means to achieve attainment with the ozone NAAQS. The 2022 AQMP includes 30 control measures for stationary sources and 18 for mobile and facility-based mobile sources, outlining strategies to reduce NOx emissions from all feasible sources within the South Coast Air Basin. These control measures will be translated into rules and regulations through a public process. All emission sources, including those at seaports, must achieve their fair share of reductions to attain the NAAQS.

At the local level, growth projections from local general plans adopted by cities located within the South Coast AQMD jurisdiction are periodically provided to SCAG, the agency that develops regional growth forecasts, and the forecasts included in the 2020 Regional Transportation Plan (RTP) were then relied upon to project emissions to future years included in the 2022 AQMP. Development occurring at the local level, that is consistent with the growth projections in the General Plans for counties and cities in South Coast AQMD's jurisdiction and confirmed by SCAG for the inclusion in their respected RTP, is considered to be consistent with the 2022 AQMP. Yet, the forecast reflects the average growth of the overall industry and commerce sector, and a more detailed analysis is warranted to ensure consistency if a specific sector experiences faster growth than others. The Port is located in the South Coast Air Basin, so the applicable recent air quality plan is primarily the 2022 AQMP for ozone, and the various other Plans for attaining the PM2.5 and PM10 standards in the South Coast Air Basin such as:

[32] *Ibid*. p. 3.1-86.
[33] *Ibid*. p. 3.1-55.
[34] *Ibid*. p. 4-36.

- South Coast Air Basin Attainment Plan for the 2012 Annual PM2.5 Standard, adopted June 2024;
- 2021 PM2.5 Redesignation Request and Maintenance Plan for the 2006 and 1997 24-hour PM2.5 Standards for South Coast Air Basin, adopted November 2021;
- South Coast PM2.5 Plan for 2006 PM2.5 Standard, adopted October 2020; and
- South Coast PM10 Maintenance Plan for 1987 PM10 Standard; adopted June 2021.

Since emissions from the South Coast Air Basin migrate eastbound due to weather patterns, and this migration contributes to the attainment status of the Coachella Valley, the following plans to demonstrate attainment with the ozone and PM10 NAAQS for the Coachella Valley are also indirectly applicable to the proposed project.

- Coachella Valley Attainment Plan for the 2008 8-Hour Ozone Standard, adopted October 2024;
- Coachella Valley Contingency Measure SIP Revision for the 2008 8-Hour Ozone Standard, adopted March 2024;
- Request to Reclassify Coachella Valley for the 2008 8-Hour Ozone Standard and the Updated Motor Vehicle Emissions Budgets, adopted November 2022;
- Coachella Valley Extreme Area Plan for 1997 Ozone Standard, adopted December 2020; and;
- Coachella Valley PM10 Plans.

The Draft RSEIR's consistency analysis, which relies on Port-wide cargo projections and a general list of control measures, is inadequate because it does not provide the level of detail or analysis necessary to substantiate the conclusion that the Revised Project is consistent with the 2022 AQMP and the other cited Plans. Therefore, the Port should revise the AQMP consistency analysis to include a more robust and evidence-based evaluation in the Final RSEIR.

Inconsistency with Community Emission Reductions Plan (CERP) for the Designated Assembly Bill 617 (AB 617) Wilmington, Carson, West Long Beach (WCWLB) Community

The Revised Project area includes the Assembly Bill 617 (AB 617) - designated Wilmington, Carson, West Long Beach (WCWLB) community, which is heavily impacted by air pollution generated from other existing sources such as ports, refineries, the oil and gas industry, heavy-duty diesel trucks, warehouses, and railroad activities. As part of the AB 617 process, South Coast AQMD is required to work with a Community Steering Committee (CSC) to develop a Community Emission Reductions Plan (CERP) that identifies air quality priorities and related actions to reduce air pollution in the community. The South Coast AQMD Governing Board adopted the WCWLB CERP on September 6, 2019[35] and CARB approved this CERP in 2020. The WCWLB community's 2018 designation makes it among the first of South Coast AQMD's AB 617 communities ("Year 1" communities) and highlights the disproportionality of the air pollution burden the community experiences stemming from various large-scale emission sources from

[35] South Coast AQMD. September 2019. Assembly Bill 617 Wilmington, West Long Beach, Carson Community Emissions Reduction Plan available at https://www.aqmd.gov/docs/default-source/ab-617-ab-134/steeringcommittees/wilmington/cerp/final-cerp-wcwlb.pdf

within, including refineries, oil wells, heavy-duty trucks, railyards, and ports. The WCWLB CSC identified the ports as an air quality priority in the CERP.

The CERP includes goals for each air quality priority and details a set of objectives to help address each goal. Each objective incorporates at least one of the following six strategies: regulation, air monitoring, incentives, collaboration, outreach, and enforcement. The Ports air quality priority in the WCWLB CERP includes three goals, one of which includes reducing emissions from ships and harbor craft, and another from cargo handling equipment and drayage trucks.

Given longstanding concerns over air quality and environmental justice in the WCWLB community, the China Shipping Terminal Improvements Project (Berths 97–109), as outlined in the Draft RSEIR, raises several concerns regarding consistency with the CERP. These concerns are detailed below:

1. Lack of Alignment with WCWLB CERP Goals

The China Shipping project proposes modifications that include continued berthing of large container ships and expanded cargo throughput without sufficient enforceable commitments to mitigate associated emissions. These expansions could worsen air quality in a community already burdened by cumulative impacts, contradicting the emission reduction goals identified in the WCWLB CERP. The 2024 CERP Annual Progress Report (APR) shows that significant progress will have been made to meet the emission-reduction targets in the WCWLB CERP for NOx and DPM for targets years 2025 and 2030 mostly due to CARB's At-Berth and Commercial Harbor Craft Regulations as well as their Heavy-Duty Low-NOx Emission Standard and Airborne Toxic Control Measure for trucks and transport refrigeration units (TRUs), respectively. As shown in the 2024 APR, NOx emission reductions will have met 160% and 71% of their 5- and 10-year targets, respectively. Further, DPM emission reductions will have met 243% and 193% of their respective 5- and 10-year targets. The Draft RSEIR must therefore explain how the Revised Project will align with, and not undermine, the CERP's established community objectives and implementation progress.

2. Insufficient Zero-Emission (ZE) Commitments

Although the Revised Project discusses transition timelines for ZE cargo handling equipment and drayage trucks, these commitments are not guaranteed or enforceable. The WCWLB CERP emphasizes accelerating the deployment of ZE technologies as a core community priority. The Port is strongly urged to include binding requirements and clear deadlines for the Revised Project's full transition to ZE operations, including ships at-berth, cargo handling equipment, and trucks. Specifically, the Port should revise the Draft RSEIR to include the following revisions to MM-AQ-17:

- Require that all yard tractors be electric within five years of a feasibility determination, with periodic reassessments if 100% deployment is initially deemed infeasible.
- Require periodic assessments on the feasibility of higher-tonnage electric forklifts (e.g., 18-ton forklifts), and a timeline for full adoption once commercially available.
- Require periodic assessments and phased adoption of electric top picks as the technology becomes feasible.
- Require the replacement of all rubber-tired gantry cranes (RTGs) at the CS Terminal with electric versions as soon as technically and economically feasible.

3. Reducing Ship Emissions by Enforcing Shore Power Utilization

The Draft RSEIR assumes high shore power utilization of Alternative Marine Power (AMP) but lacks sufficient enforcement mechanisms or contingency plans for non-compliance. Given the WCWLB CERP's specific objective to reduce emissions from ships and harbor craft, the Revised Project must commit to 100% shore power usage at berth or equivalent emissions capture systems, with strict penalties for non-compliance. This is especially important to ensure consistency with CEQA mitigation requirements and the Port's own Clean Air Action Plan (CAAP). Additional technical and legal concerns regarding AMP enforcement and outdated exceptions are addressed later in the MM-AQ-9 Alternative Marine Power section of this letter.

4. Community Health and Cumulative Impacts

The cumulative health risks and air quality burdens outlined in the Draft RSEIR remain understated for the Revised Project. The WCWLB CERP is built on the principle that AB 617 communities face multiple environmental injustices. While using MATES (Multiple Air Toxics Exposure Study) as a guideline can provide a valuable regional baseline for cancer risk and toxic air contaminants, MATES data may not be enough on its own to satisfy cumulative impact analysis for an AB 617 community like WCWLB. MATES is regionally averaged and the community-specific exposure data could lack other factors such as the lived experience that AB 617 CERPs are designed to capture. The Port should revise the Draft RSEIR to provide a more robust cumulative impact analysis (e.g., MATES data with local air monitoring data), particularly for residents in West Long Beach and Wilmington who live directly adjacent to the terminal and bear the brunt of emissions from maritime activity. Further, since the increased cancer risk is greater than significance threshold for occupational receptors at the CS Terminal, the Port is also recommended to revise the HRA to account for the application of the recommended revisions to MM-AQ-17 for the scenario of the aggressive adoption of electric drayage trucks and cargo-handling equipment.

Part III - Inadequate Mitigation Measures and Failure to Adopt Updated, Enforceable Protections:

Air Quality and Greenhouse Gas Mitigation Measures and Revised Project Design Features for Consideration

1. Implementation and Enforcement of all Mitigation

The Port must include a binding instrument, such as a lease amendment, that implements and makes enforceable the mitigation measures included in the RSEIR as part of the final certification and approval of the Revised Project. The 2019 SEIR was set aside in large part because the Port failed to adopt a lease amendment to implement and enforce the very mitigation measures the 2019 SEIR proposed. During litigation, the Port defended this approach by arguing that the lease amendment would be subject to a separate, future action by the Board of Harbor Commissioners. (See Minute Order, June 27, 2022, *Natural Resources Defense Council, et al. v. City of Los Angeles, et. al.* (SDSC Case No. 37-2021-00023385-CU-TT-CTL), at 5 [hereinafter "Ruling"].) That argument was roundly rejected by the trial court and affirmed by the appellate court. (*Id.*; see also *Natural Resources Defense Council, Inc. v. City of Los Angeles* (2023) 98 Cal.App.5th 1176, 1235, *rev. denied (Apr. 24, 2024)* ["the Port's decision to exclude from the Revised Project's

approvals any binding instrument, such as an amendment to the Lease, that would permit the Port to enforce the mitigation included in the 2019 SEIR effectively undermined the validity of the entire 2019 SEIR"] [hereinafter "Opinion"].) Yet, despite this history, the Port seems to be repeating the same process and suggesting that if the new mitigation is approved, "the Board of Harbor Commissioners will consider amending Permit No. 999 for operations at Berths 97-109 accordingly." (Section 2.2.2; see also Section 3.1.4.4 [noting that a lease amendment would be done "after certification of the RSEIR"].). CEQA unequivocally requires feasible mitigation measures to be enforceable. (CEQA Guidelines, 14 Cal. Code Regs. § 15126.4, subd. (a)(2); Pub. Resources Code, § 21081.6, subd. (b).) As the Court of Appeal noted, the Port has no discretion as to *whether* it will comply with CEQA. (Opinion, 98 Cal.App.5th at 1236.) Neither does the Port have any discretion as to *when* it may implement feasible mitigation measures. (Ruling, at 12, *quoting POET, LLC v. State Air Resources Bd.* (2013) 218 Cal.App.4th 681, 740 ["mitigation 'cannot be deferred past the start of the project activity that causes the adverse environmental impact.'"].) Once it has determined to approve a project and determined what mitigation is feasible, those measures are required by CEQA. And they must be approved as a part of the approval of the Revised Project, not delayed to some unknown future time.[36] As part of certification of the RSEIR, the Port must include a lease amendment or other binding legal instrument to ensure implementation and enforcement of all applicable mitigation measures.

2. Consideration of Mitigation of Significant Impacts

The Peremptory Writ of Mandate ("Writ") required the Port to prepare a supplement and/or revision to the 2019 SEIR analysis, which re-evaluates and/or revises "at a minimum" the Emissions Impact Analysis, MM-AQ-9, Alternative Marine Power ("AMP"), and LM GHG-1, GHG Credit Fund. (Writ, ¶ 2.) Given the significant impacts as analyzed, the Port erred in limiting its analysis to only consider mitigation from alternative marine power and greenhouse gas offsets. This is particularly true given that for many aspects of the project, the prior CEQA document determined that some mitigation was technologically infeasible, but many years have passed since that analysis and technology advancements (such as the commercial deployment of electric drayage trucks) warrant further evaluation as feasible means of reducing the Revised Project's significant impacts. CEQA requires adoption of all feasible mitigation, and the Port has an affirmative obligation to ensure that no additional mitigation is feasible before approving a project with significant adverse impacts. (See *Covington v. Great Basin Unified Air Pollution Control Dist.* (2019) 43 Cal.App.5th 867, 880 [noting the "relevant finding" for certifying a CEQA document despite significant environmental effects "is that no additional feasible mitigation measures were available"].) The Port should fully evaluate all potential mitigation, including re-assessing any mitigation that was previously determined technologically infeasible more than half a decade ago.

[36] Throughout the Air Quality analysis, the Port "assumes" that the new mitigation will take effect in 2026, as that is "the earliest" that the Board could adopt a lease amendment "after certification of this RSEIR." (Section 3.1.4.4.) However, it was this same flawed assumption that "undermined the validity of the entire 2019 SEIR" (Opinion, at 70; see also Ruling, at 5 [finding the "critical assumption underlying the SEIR's environmental analysis" of a lease amendment immediately following SEIR certification "completely baseless."].) The Port's failure to include a lease amendment as part of the approval of the Revised Project risks rendering the new analysis similarly unlawful.

MM-AQ-9 – Alternative Marine Power

As proposed, MM-AQ-9 is ambiguous and the Port erred in failing to evaluate ways to strengthen the measure. At a minimum, MM-AQ-9 should incorporate the definitions from the Court's May 2, 2025 Order Enforcing the Writ ("May 2025 Order"). Specifically, the term "China Shipping ships" is ambiguous, but should include all vessels owned, operated, or chartered by the tenant, China Shipping, including any of its subsidiaries or parent corporations. MM-AQ-9 should also incorporate the definitions from the May 2025 Order, Exhibit B, for the terms "hoteling," "vessel-side equipment failure," and "terminal side equipment failure."

The Port should remove exception 1 from MM-AQ-9. As stated in Section 2.4.2, the Terminal has only two berths for vessels, both of which are AMP-capable. Exception 1 would excuse AMP usage for vessels when an AMP-capable berth is unavailable due to use by another AMP-capable vessel. The Port does not explain how (or where at the Terminal) an AMP-capable vessel could hotel without access to an AMP-capable berth. Because the Terminal only has AMP-capable berths, there should not be any reason to retain an exception that would only apply to a Terminal that has both AMP-capable and non-AMP-capable berths.

MM-AQ-9 should be strengthened by adding an enforcement mechanism for non-compliance. For example, compliance with MM-AQ-10, Vessel Speed Reduction, is enforced through a tariff which imposes escalating penalties for non-compliance. The Port should adopt a similar approach to ensure full compliance with MM-AQ-9. The Port should also ensure the reporting requirements are sufficient such that MM-AQ-9 is fully enforceable by the Port.

MM-GHG-2 – GHG Reduction Offsets

The Revised Project includes significant impacts from greenhouse gas (GHG) emissions, and cites container ships, cargo handling equipment, locomotives, and drayage trucks as among the major sources contributing to GHG emissions in the Revised Project. (Section 3.2.4.1.). However, the Draft RSEIR fails to consider or analyze any onsite direct mitigation of GHGs and proposes only an offset-based mitigation measure.[37] The Port should preference direct onsite mitigation for GHGs and require offsets only after a conclusion that additional significant GHG emissions cannot be mitigated through onsite measures.

The Port should evaluate options to obtain onsite GHG mitigation through mitigation of drayage truck emissions. For example, the Port could evaluate incentive measures to advance the Port's own CAAP goals to increase ZE drayage trucks. The Port retains an existing lease measure which offers priority access for near-zero or ZE vehicles.[38] The Port should evaluate expanding this program to include priority scheduling and reserved time slots for ZE trucks.

The Port should evaluate options to mitigate GHG emissions through further cargo handling equipment mitigation. The Port's 2017 update to the CAAP incorporated commitments from the Mayors of Los Angeles and Long Beach to achieve ZE cargo handling equipment by 2030.

[37] While the Port suggests that first priority for offsets is the "local area" this is neither specific nor a mandatory limit and thus fails to be an adequate substitute for directly mitigating the emissions from the Revised Project itself. (Section 3.2.)
[38] The Port does not quantify the emission benefits of this measure, but credited this measure for reducing emissions in the 2019 SEIR. This measure was only implemented following litigation.

(Section 3.1.3.5.) Consistent with that commitment, the Port should evaluate a phase-in schedule to achieve ZE equipment at the Terminal by 2030. Such a measure could mitigate more than 13,000 metric tons of carbon dioxide equivalents (CO_2e) in analysis year 2036 alone. (Section 3.2, Table 3.2-2.). Notably, the Port declined to analyze any modification of MM-AQ-15 and MM-AQ-17.[39] However, only a small portion of this equipment will ever be ZE under the current mitigation. The Port cannot claim it is consistent with its own CAAP commitment to have 100% ZE cargo handling equipment by 2030 where the Port's own analysis projects cargo handling equipment alone to exceed the GHG significance threshold in 2036, six years after the Port's commitment is to be met. (Section 3.2, Table 3.2.-2.) The Port's current mitigation measures do not continue any further phase-in of cleaner equipment beyond 2025, but the Revised Project continues until 2045. At a minimum, the Port could obtain GHG reductions by requiring future phase in of ZE cargo handling equipment for equipment of later model years. Doing so would not only mitigate GHGs, but would also allow the RSEIR to be consistent with the Port's own CAAP.

Conclusion and Request for Recirculation of the Draft RSEIR

Based on the technical deficiencies, analytical inconsistencies, and lack of enforceable mitigation identified throughout this comment letter, the Draft RSEIR for the Berth 97-109 China Shipping Container Terminal Revised Project fails to meet the substantive and procedural requirements of CEQA. In particular:

- The Revised Project would result in significant and unavoidable air quality and greenhouse gas emissions impacts;
- The HRA likely underestimates cancer risk due to inconsistent and unsubstantiated modeling assumptions and input parameters;
- The Draft RSEIR fails to adequately demonstrate consistency with the 2022 AQMP and other Plans mentioned earlier in this letter; and
- The Port has not adopted feasible, enforceable mitigation measures to reduce or avoid these impacts, as required under CEQA.

CEQA Guidelines Section 15088.5(a)(3) and (a)(4) require recirculation when "*A feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the environmental impacts of the project, but the project's proponents decline to adopt it*" and when the Draft RSEIR is "*so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded*." Therefore, South Coast AQMD strongly urges the CEQA Lead Agency, City of Los Angeles Harbor Department ("Port") to revise and recirculate the Draft RSEIR. This is particularly warranted because key mitigation measures, such as those governing AMP use and ZE equipment deployment, remain vague, unenforceable, or inadequately analyzed for feasibility. Furthermore, significant changes to the cancer risk results have not been clearly explained or justified, and outdated dispersion modeling inputs further call the analysis into question.

[39] Both mitigation measures MM-AQ-15 and MM-AQ-17 as proposed contain deadlines for a phase-in of lower-emitting equipment that are all in the past. At a minimum, the Port must clarify, and provide substantial evidence for, that these deadlines have all already been achieved, or propose and fully analyze the impacts of a revised future schedule for the phase-in of cleaner equipment.

CEQA Guidelines Section 15088.5(b) further clarifies that recirculation is required when new mitigation measures are added after public review of the Draft EIR and these measures are proposed to reduce newly identified significant effects. The Port appears to be considering the adoption of additional mitigation to respond to recent legal rulings and stakeholder concerns. In such cases, CEQA mandates recirculation to allow meaningful public review and input on those new measures prior to final certification of the document.

In accordance with Public Resources Code Section 21092.5(a) and CEQA Guidelines Sections 15088 and 15088.5, the Lead Agency shall evaluate comments from public agencies on the environmental issues and prepare a written response at least 10 days prior to certifying the Final RSEIR. As such, South Coast AQMD requests that the Lead Agency provide written responses to all comments contained herein at least 10 days prior to certification of the Final RSEIR, and further, that the document be recirculated to the public and reviewing agencies before approval of the Revised Project. In addition, as provided by CEQA Guidelines Section 15088(c), if the Lead Agency's position is at variance with recommendations provided in this comment letter, detailed reasons supported by substantial evidence in the record to explain why specific comments and suggestions are not accepted must be provided.

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LAC250701-01
Control Number