

APPENDIX G

Comments on the Draft Program EIR and Responses to Comments

Letter #1

Lori Moore

From: Clayton Miller [clayton@Lewisandco.net]
Sent: Tuesday, October 23, 2012 11:52 AM
To: Steve Smith
Cc: Jeffrey Inabinet
Subject: CIAQC Comments on Draft PEIR for Draft 2012 AQMP
Attachments: CIAQC Comment Letter on 2012 AQMP PEIR - 10-23-12.pdf

Dear Mr. Smith,

Please find attached the comments prepared by the Construction Industry Air Quality Coalition (CIAQC) on the Draft Program Environmental Impact Report dated September 2012 for the Draft 2012 Air Quality Management Plan.

Please do not hesitate to contact me or Michael Lewis at mike@lewisandco.net or at the phone number below if you have any questions or any difficulty opening the attached letter.

Thank you,
Clayton Miller
Construction Industry Air Quality Coalition
(826) 858-4611 office

1-1



**CONSTRUCTION INDUSTRY
AIR QUALITY COALITION**

Coalition Members



Associated General Contractors
America-San Diego Chapter, Inc.



Building Industry Association
of Southern California



California Dump Truck Owners
Association



Engineering
Contractors Association



Engineering & General
Contractors Association



Engineering & Utility
Contractors Association



Southern California
Contractors Association

October 23, 2012

South Coast Air Quality Management District
Mr. Steve Smith (c/o CEQA)
21865 Copley Drive
Diamond Bar, CA 91765-4182

via email: ssmith@aqmd.gov

Dear Mr. Smith:

The following comments from the Construction Industry Air Quality Coalition (CIAQC) are submitted to address the South Coast Air Quality Management District's Draft Program Environmental Impact Report (PEIR) for the 2012 Air Quality Management Plan dated September, 2012.

1-2

In the Draft PEIR, Chapter 6, Alternatives, Section 6.4 Project Alternatives to the 2012 AQMP, includes four alternatives to the proposed project (2012 Air Quality Management Plan) that the Program Environmental Impact Report will discuss and compare. Section 6.4.3 describes Alternative 3 - Greater Reliance on NOx Emissions Reductions. This alternative would rely on greater NOx emission reductions from the accelerated turnover and retirement of off-road construction equipment and on-road (trucks) mobile sources to achieve the federal 24-hour PM 2.5 standard while removing BCM-01 (Further Emission Reductions form Wood Burning Devices) from the 2012 Air Quality Management Plan.

1-3

The PEIR is to provide a discussion of alternatives to the proposed project as required by CEQA. Pursuant to the CEQA guidelines, alternatives should include realistic measures to attain the basic objectives of the proposed project and avoid or substantially lessen any of the significant effects of the project, and provide means for evaluating the comparative merits of each alternative (CEQA, Guidelines, §15126.6(a)).

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CIAQC believes Alternative 3 does not meet the established criteria for analysis as required by CEQA as described on Page 1-35 of the Initial Study for the Draft PEIS that stated "The rationale for selecting alternatives rests on CEQA's requirement to present "realistic" alternatives; that is alternatives that can actually be implemented." While SCAQMD could contemplate accelerating the turnover of off-road construction vehicles and medium and heavy-duty trucks, any requirement that goes beyond those already required by the California Air Resources Board (CARB) is simply unrealistic and infeasible.

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Off-road diesel-fueled equipment 25 horse power and greater used by the construction industry in California is strictly regulated under the CARB Off-Road Regulation. Idling limitations, written idling policies, equipment

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Major Funding Provided by the Construction Industry Advancement Fund and the Fund for Construction Industry Advancement

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registration, disclosure for selling vehicles and equipment labeling requirements are already enforceable and fleet average targets established in the regulation begin in 2014. The fleet average targets effectively accelerate the turnover of older engines each year through 2023 to levels that are equal to Tier 4i (interim) or Tier 4 depending on the horsepower range for both large and medium sized fleets. For engines greater than 750 hp the final fleet average target is equivalent to an equal number of Tier 2 and Tier 4 engines (no Tier 3 standards established for this category). Small fleets, those less than 2,500 gross horsepower, are required to meet similar fleet average targets established for 2023 by 2028.

The Off-Road Regulation establishes very stringent NOx fleet average targets that will require fleet owners to sell older equipment, retire equipment, purchase new equipment or repower existing equipment with new engines (if possible) to remain in compliance. In order to achieve the fleet average targets described above, the current statewide fleet mix of equipment (engines) will need to change dramatically in the next ten years. Additionally, the economic and technological challenge the CARB regulation creates for contractors and equipment owners is further compounded by current federal policy under US EPA's Replacement Engine Regulation (40 CFR 1068.240) that prohibits the repowering of a machine with a previous tier engine unless the engine has prematurely failed. This policy increases compliance costs significantly.

According to CARB, as of September 2012, the current statewide construction fleet is comprised of approximately 27-percent Tier 0 engines, 23.3-percent Tier 1, 29-percent Tier 2, 13.6-percent Tier 3 and 6.8-percent Tier 4i (interim). These values demonstrate that the existing off-road construction fleet will experience a significant change (an estimated 80 to 85% turnover) by 2023.

The timeframe for fleets to replace and or repower equipment (if possible) is even more compressed than the Off-Road Regulation compliance dates might suggest in that Tier 4 engines become available in 2014 for those between 175 to 750 hp and 2015 for those 75 to 174 hp. These horsepower ranges encompass a large portion of construction equipment power systems. The accelerated implementation of CARB's Off-Road Regulation contemplated in Alternative 3 would require CARB to amend the regulation to require doubling the implementation rate of the regulation such that the emission reductions expected by 2021 would be realized by 2017. This is simply impossible for the construction industry.

Another important consideration is that off-road construction equipment is very expensive. A new dual-engine scrapper can cost more than one-and-a-quarter million dollars. For this reason, most contractors have historically purchased used equipment when it is needed for a specific job and the work to be performed. The equipment is then retained in the fleet after it has been paid for and becomes an integral asset to a company, giving it the ability to generate income throughout the useful life of the equipment. If a new equipment purchase is not possible because of cost, a company can rent equipment, but this results in additional costs that has to be absorbed by the contractor. Rental equipment can help satisfy a portion of the need for equipment in construction.

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but certainly not a majority of it. Further, contractors are not likely to purchase lower tiered engines, such as Tier 3 to improve fleet averages, before the final Off-Road Regulation compliance date (even if it is used and less costly than a new machine) and then turn around a couple of years later and replace it by purchasing a Tier 4 or Tier 4I to achieve final fleet average targets. That approach would simply cost too much in what is still a down economy in southern California. Alternative 3 would effectively require the construction industry to turn over most of its equipment in only 2 or 3 years time. The economic strain on a fleet would be too great.

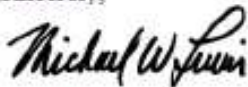
The Off-Road Regulation presents a significant change to the way companies must plan and purchase equipment. The fleet average targets are structured in such a way that older equipment in a fleet must be offset and replaced by newer, lower emitting engines to achieve the targets. The engine and equipment turnover needed to comply with the Off-Road Regulation will necessarily result in fleets with very few, if any, older lower-tiered engines that currently exist now remaining in fleets by 2023. For these reasons, CIAQC strongly maintains that it is simply unrealistic for the SCAQMD to consider a measure that accelerates the turnover of off-road construction vehicles to Tier 4 standards as Alternative 3 in the PEIR describes.

Additionally, Alternative 3 would require proposed control measure ONRD-03 to be modified to accelerate implementation of CARB's on-road truck and bus regulation, to double the compliance requirements currently in place by 2017. This requirement in addition to the accelerated turnover of construction equipment is not possible for contractors, many of which also own regulated trucks (approximately 70,000 in California).

For these reasons, CIAQC believes Alternative 3 is not a viable or realistic alternative and it should not be included in the final Draft PEIR or presented to the SCAQMD Governing Board as such.

Please do not hesitate to contact me if you have any questions or would like additional information.

Sincerely,



Michael W. Lewis,
Senior Vice-President

cc: Jeffrey Inabinet

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Responses to Comment Letter #1
Construction Industry Air Quality Coalition (CIAQC) –
Mike Lewis & Clayton Miller (10/23/2012)

- 1-1 This comment notifies the SCAQMD that a comment letter is attached to the email. No further response is necessary.
- 1-2 This comment notifies the SCAQMD that the comments contained in the letter pertain to the Draft Program EIR for the 2012 AQMP. No further response is necessary.
- 1-3 This comment briefly describes Alternative 3 – Greater Reliance on NO_x Emissions Reductions, in Chapter 6 of the Draft Program EIR. No further response is necessary.
- 1-4 This comment identifies CEQA requirements for a discussion of alternatives in CEQA Guidelines §15126.6 (a). SCAQMD staff is aware of the requirements for an alternatives discussion in an EIR and the Draft Program EIR complies with all relevant requirements for preparing an alternatives analysis.
- 1-5 This comment suggests that Alternative 3 is not feasible. As noted in Chapter 6 of the Draft Program EIR, alternatives to the 2012 AQMP were developed by modifying the criteria and VOC reduction strategies. This approach has been used in the past for previous AQMPs. With regard to why the commenter believes Alternative 3 is infeasible, see responses to comments #1-6 through #1-11.
- 1-6 This comment summarizes the requirements of CARB’s existing On-road Truck & Bus Regulation and CARB’s existing Off-road Vehicle Regulation. No further response is necessary. The comment then goes on to say that complying with these existing regulations presents significant change in the way companies must plan and purchase equipment. The comment asserts that accelerating the compliance rate for both on-road and off-road mobile sources, as proposed in Alternative 3, means that Alternative 3 is not a “viable or realistic alternative.” CEQA Guidelines §15126 (a) states, “An EIR shall describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives. An EIR need not consider every conceivable alternative to a project. Rather it must consider a reasonable range of potentially feasible alternatives that will foster informed decision making and public participation.” Further, CEQA Guidelines §15364 defines feasible as, “...capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors.” Alternative 3 is considered to be a feasible alternative for the following reasons.
- Reasonable period of time – this alternative would require modifications to an existing regulation, which could be expeditiously implemented to ensure that the additional NO_x reductions from accelerating the turnover of vehicles are realized. These amendments would result in a modest increase in the average annual turnover rate of approximately three percent when compared to the current form of the regulation (from nine percent to 12 percent), which, while challenging, is not so extreme as to render the alternative unreasonable;

- Economic – the average annual turnover rate (and the costs of complying with the regulation) would increase by approximately 33 percent for the four-year timeframe of the alternative. While the cost increase is not insignificant, it is not so extreme as to eliminate the alternative from consideration. In addition, incentive funding such as the SOON and Moyer programs is available to alleviate some of the increased costs. Although Alternative 3 would result in greater compliance costs as indicated above, no physical effects of higher compliance costs have been identified as indicated in CEQA Guidelines §15131;
- Environmental – No environmental factors are identified that would make the alternative infeasible. In fact, the Alternative 3 would help make expeditious progress attaining the one-hour ozone standard (revoked) and the eight-hour ozone standard, which are included as project objectives. Impacts from Alternative 3 have been comprehensively analyzed in Chapter 6 of the Final Program EIR;
- Legal – No legal issues identified that would prevent implementing Alternative 3, although Alternative 3 does not reduce potential environmental impacts compared to the 2012 AQMP;
- Social – Alternative 3 primarily affects the penetration of new or retrofitted compliant on-road and off-road vehicles and retirement of old vehicles. For this reason Alternative 3 is not expected to create physical impacts to existing or planned land uses or physically divide established populations in the Basin that could result in adverse social impacts to places of worship or religious practices, cause urban blight, or limit or eliminate housing, especially low cost housing; and finally
- Technological – No technological impediments are identified as compliant vehicles and/or control technologies are readily available and would be in sufficient quantity to implement the alternative.

In summary, SCAQMD staff asserts that Alternative 3 is feasible as required by the CEQA Guidelines and the alternative should be included as one of the program alternatives.

- 1-7 This comment concludes the letter by repeating the assertion that Alternative 3 is unrealistic and infeasible. See response to comment #1-6, which addresses this comment.

Letter #2

Lori Moore

From: Steve Smith
Sent: Wednesday, October 31, 2012 7:03 AM
To: Steve Smith
Subject: FW: Comments on DPEIR for the 2012 AQMP
Attachments: CSPA Comments on AQMD Draft EIR for the 2012 AQMP - Oct 23 2012.pdf; Attachment A - CSPA Comments on the DPEIR for the 2012 AQMP.pdf; Attachment B - CSPA Comments on the DPEIR for the 2012 AQMP.pdf; Attachment C - CSPA Comments on the DPEIR for the 2012 AQMP.pdf; Attachment D - CSPA Comments on the DPEIR for the 2012 AQMP.pdf

From: Joe Yost [<mailto:JYost@cspa.org>]
Sent: Tuesday, October 23, 2012 2:40 PM
To: Jeffrey Inabinet
Subject: Comments on DPEIR for the 2012 AQMP

Dear Mr. Inabinet:

The Consumer Specialty Products Association (CSPA) appreciates the opportunity to offer comments on the South Coast Air Quality Management District Draft Program Environmental Impact Report (DPEIR) for the 2012 Air Quality Management Plan. Attached, please find our comments and four attachments.

2-1

Thank you in advance for providing confirmation that the comments and four attachments were received.

Respectfully submitted,

D. Douglas Fratz
Vice President, Scientific & Technical
Affairs and Aerosol Products Division Staff
Executive



Protecting Household & Institutional Products

Member - Air Care - Consumer - Aerosol
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October 23, 2012

via e-mail

Mr. Jeff Inabinet
Office of Planning, Rule Development, and Area Sources/CEQA
South Coast Air Quality Management District
21865 Copley Drive
Diamond Bar, CA 91765-4182
jnabinet@aqmd.gov

Subject: Draft Program Environmental Impact Report: 2012 Air Quality Management Plan (AQMP)¹

Dear Mr. Inabinet:

The Consumer Specialty Products Association (CSPA)² appreciates the opportunity to offer comments on the South Coast Air Quality Management District (AQMD) Draft Program Environmental Impact Report (DPEIR) for the 2012 Air Quality Management Plan (AQMP), which was issued for comment on September 6, 2012.³ 2-2

CSPA submitted comments on the Initial Study for the Draft Program Environmental Impact Report on July 18, 2012. In addition, CSPA submitted comments on the draft 2012 AQMP on October 9, 2012. These documents are expressly incorporated herein by express reference. 2-3

In our earlier comments we expressed concerns that the 2012 AQMP should not include control measures for consumer products, and furthermore urged that AQMD remove all ozone control measures from this AQMP update, and proceed with only the PM 2.5 update. The numerous reasons supporting this include: 2-4

¹ The DPEIR for the 2012 AQMP is posted on the AQMD's website at: http://www.aqmd.gov/ceqa/documents/2012/aqmd/draftEA/2012AQMP/2012aqmp_dpeir.html.

² CSPA is a voluntary, non-profit national trade association representing approximately 240 companies engaged in the manufacture, formulation, distribution, and sale of products for household, institutional, commercial and industrial use. CSPA member companies' wide range of products includes home, lawn and garden pesticides, antimicrobial products, air care products, automotive specialty products, detergents and cleaning products, polishes and floor maintenance products, and various types of aerosol products. Through its product stewardship program Product Care[®], and scientific and business-to-business endeavors, CSPA provides its members a platform to effectively address issues regarding the health, safety, sustainability and environmental impacts of their products.

³ The DPEIR includes a project description and an analysis of potential adverse environmental impacts that could be generated by the proposed project. The AQMD explains that the 2012 AQMP identifies control measures that will be implemented to demonstrate attainment of the federal 24-hour standard for particulate matter less than 2.5 microns in diameter (PM 2.5) and provides Clean Air Act Section 182(e)(5) proposed implementation measures to make progress in attaining federal one-hour and eight-hour ozone standards.

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- EPA has proposed an one-hour ozone SIP Call⁴ that will only be finalized after EPA receives, considers, and responds to all public comments. The final SIP Call will probably not be issued until sometime next year, and the final rule could differ from the proposal. The state will then have 12 months to respond. AQMD should therefore await the final SIP Call and move carefully to assure that its updated ozone AQMP is consistent with that rule. 2-5
- We have shown in previous comments that modeling studies (*see* Attachment A) have shown the further VOC reductions for consumer products contained in the 2007 AQMP are not necessary for ozone attainment, and therefore should be removed. AQMD needs to better evaluate its ozone attainment strategies, which requires more time. 2-6
- We have shown in previous comments that new environmental multimedia modeling data show that the low vapor pressure (LVP) compounds targeted for reduction in CTS-04 do not contribute significantly to ozone production. (*See* Attachment B.) That new measure is therefore ineffective and not appropriate for inclusion in the AQMP. 2-7
- Numerous other data have also been put on the record to show that the proposed control measures and ozone attainment demonstration for the 2012 AQMP are not appropriate, and work on updating the ozone portions of the AQMP need to be deferred. (*See* Attachment C.) 2-8

We therefore appreciate that the revised Draft Program Environmental Impact Report includes assessment of “Alternative 4: PM_{2.5} Emission Reduction Strategies Only.” Unfortunately, the flawed analysis of this alternative fails to consider the critical reasons we have provided for deferral of the ozone update. The assessment instead looks at the implementation of the Clean Air Act Section 182(e)(5) ozone attainment measures in the “black box” of the 2007 AQMP, including the vague and undefined “SCLTM-03” measure on Consumer Products—the very measure that we have shown in our 2007 ozone attainment modeling study to be unnecessary. (*See* Attachment A.) CSPA is not seeking to have the 2007 control measures implemented, but rather to have AQMD take time to consider the extensive data showing that more effective and cost effective measures can be adopted for ozone attainment. 2-9

The revised Draft Program Environmental Impact Report also includes assessment of “Alternative 3: Greater Reliance on NO_x Emissions Reductions.” Unfortunately, while the general concept would seem consistent with the evidence provided by CSPA in previous comments that NO_x reductions are more effective than VOC reductions for ozone attainment, the actual scenario assessed in Alternative 3 relates only to PM_{2.5} attainment, and eliminates only a wood burning measure. CSPA believes that this general concept should also be evaluated as an alternative for the ozone AQMP, substituting accelerated NO_x reductions for low-reactivity VOC reductions. 2-10

For reasons provided in our previous comments, and further detailed below, the 2012 AQMP should only include commitments for reductions in emission sources that are necessary for attainment of the federal PM_{2.5} standard. Moreover, to the extent that any future ozone AQMP contains Clean Air Act Section 182(e)(5) proposed implementation measures, the AQMD should 2-11

⁴ 77 Fed. Reg. 58072-58076 (September 19, 2012)

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focus only on NO_x reductions for demonstrating progress in attaining federal one-hour and eight-hour ozone standards. In addition to being a PM 2.5 precursor, NO_x is also an ozone precursor. Thus, focusing on NO_x is consistent with the AQMD's efforts to continue making expeditious progress in attaining the federal one-hour and eight-hour ozone standards.

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1. The Low Reactivity of VOCs in Consumer Products Make Further Reductions Unnecessary.

The low reactivity and low ozone impact of the VOC emissions from consumer products may make it *unnecessary* to further reduce the VOC content of consumer products to attain the federal ozone standard in the South Coast Air Basin. Therefore, for reasons detailed below, the 2012 AQMP should not include "black box" emission reduction measures for consumer products.

2-12

a. There are very significant differences between the relative ozone impacts of equal amounts of VOC emissions from various sources.

Scientific studies funded by our industry strongly suggest that a mass-based inventory approach overestimates the actual impact of consumer product VOC emissions on ozone attainment in the South Coast and other areas of California. In 2002, Sierra Research, Inc. conducted a research project to create a reactivity-weighted VOC emissions inventory for the South Coast. Sierra Research used the official emissions inventory for South Coast in 2000 and the official speciated emissions profiles, as well as the official ARB estimates for "maximum incremental reactivity" (MIR) for each species of VOC emission, to create an estimate of the maximum ozone formation potential attributable to each major category of anthropogenic emissions of organic gases in the region. This type of MIR-weighted inventory provides a much more scientifically accurate assessment of the relative ozone impact of various emissions sources than any mass-based VOC emissions inventory.

2-13

The results of that MIR-weighted VOC inventory project are presented in Attachment D to these comments. The study found significant differences between the total mass emissions and the ozone formation potential of those emissions, and these differences are due solely to the differing weighted MIR for the species of VOCs that make up the specific source emission. Some emissions sources therefore have a much higher ozone formation potential than their mass emissions suggest, while other emissions categories have a much lower ozone formation potential than suggested by their mass emissions. Consumer products are among the emissions categories with below average reactivity, and therefore lower ozone impact than would be expected based on mass of emissions alone.

The MIR scale provides an estimate of the maximum amount of ozone potentially formed from a VOC emission under the tropospheric conditions where ozone is most sensitive to VOCs. The conditions in the ozone attainment run are far less sensitive to VOC emissions, but although absolute VOC reactivity will decrease significantly, the relative reactivity differences between various VOCs will remain relevant.

As shown in the data in Attachment D, VOCs from consumer products have a weighted-average MIR of 1.5, well below the average for all emissions sources. Many mobile sources of VOCs have very high reactivity, including Aircraft (6.8), Farm Equipment (5.4), Heavy Duty Diesel Urban Buses (5.5), Heavy Duty Diesel Trucks (5.5), Light Duty Diesel Trucks (5.5), Medium

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Duty Diesel Trucks (5.5), Ships and Commercial Boats (5.3) and Trains (5.5). VOC emissions from these sources cause three to five times as much ozone formation pound-per-pound as consumer product VOCs. The VOC sources with the largest potential ozone impacts in 2000 also exhibited very high reactivity profiles, including Light Duty Passenger Cars (3.7), Light Duty Trucks (3.8), and Off-Road Equipment (4.6).

The data from this study provide important evidence that very significant differences exist between the relative ozone impacts of equal amounts of VOC emissions from various sources. Generally speaking, mobile source VOC emissions create three to five times as much ozone as equal amounts of VOC emissions from most stationary and area sources, including consumer products. These significant differences in relative photochemical reactivity of various VOC sources must be taken into account in choosing and implementing effective, workable and cost-effective ozone attainment strategies.

- b. The U.S. Environmental Protection Agency's (EPA's) 2005 Interim Guidance on SIP development provides clear instructions that relative reactivity and ozone formation potential should be considered in SIPs, and that alternative fates and availability also should be considered.

EPA provided clear guidance to states in 2005 that differences in VOC reactivity should be considered in the development and implementation of SIPs. In its "Interim Guidance on Control of Volatile Organic Compounds in Ozone State Implementation Plans,"⁵ EPA "...encourages States to consider recent scientific information on the photochemical reactivity of volatile organic compounds (VOCs) in the development of State implementation plans (SIPs) designed to meet the national ambient air quality standard (NAAQS) for ozone."⁶ That guidance also states that, "By distinguishing between more reactive and less reactive VOCs, it should be possible to decrease ozone concentrations further or more efficiently than by controlling all VOCs equally."⁷ The Interim Guidance goes on to provide the specific guidance regarding factors that States should consider, including the following:

- The potential for alternative (non-atmospheric) fates and limited availability for ozone-forming photochemical reactions.
- Prioritizing control measures using reactivity metrics.
- Targeting emissions of highly reactive VOCs with control measures.
- The fate of VOC emissions and their availability for atmospheric reactions.

As we have demonstrated in previous comments, new data has shown that not only do LVPs have limited if any ability to contribute to VOC emissions and ozone formation, but many VOCs also have limited availability due to alternative environmental fates. (See Attachment B.) In regard to this important issue, the Interim Guidance, EPA instructs that:

⁵ 70 *Fed. Reg.* 54046-51 (Sept. 13, 2005).

⁶ *Id.* at 541046, col. 3.

⁷ *Id.* at 541047, col. 2

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States should also consider emerging research on the actual availability of VOCs for atmospheric reaction. In estimating VOC emissions, especially from coatings, solvents, and consumer products, it is often assumed that the entire volatile fraction is emitted and available for photochemical reaction, unless captured by specific control equipment. In some situations, however, otherwise volatile compounds may be trapped in liquid or solid phases or adhere to surfaces such that they are not actually released to the atmosphere. Once emitted into the atmosphere, VOCs may also be scavenged by rain, form particles, or deposit on surfaces. Taking this behavior into account should lead to more accurate VOC emissions inventories and photochemical modeling. It may also allow States to consider volatility thresholds or other approaches designed to reflect atmospheric availability in certain types of regulatory programs.

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CSPA urges the AQMD to follow the 2005 Interim Guidance and consider the relative reactivity and ozone impacts and atmospheric availability of various compounds to determine which, if any, VOC control measures are considered for inclusion in any revised and updated ozone AQMP.

- c. Earlier scientific studies also document the fact that the low-reactivity of VOCs used in consumer products have negligible impacts on peak ozone levels.

Earlier studies also clearly demonstrated the minimal impact of consumer product VOCs on ozone non-attainment in California. Subsequent to the statewide revision of the California SIP in 1994, CSPA and another trade association funded an air quality modeling study to determine the specific role of consumer products in ozone attainment in both South Coast and in Sacramento regions. That study, "Impact of Consumer Products on California's Air Quality"⁸ used the exact Urban Airshed Model (UAM), inventories and meteorology utilized in the attainment demonstrations for the 1994 SIP. (See Attachment C.)

The study compared UAM outputs for two scenarios in the South Coast Air Basin:

- The attainment demonstration in the SIP, which included an 85 percent reduction in the VOC emissions from consumer products, and demonstrated attainment with the one-hour ozone standard in 2010; and,
- The exact same modeling run with only a 30 percent reduction in consumer products VOC emissions (the reduction already obtained by ARB regulations adopted prior to 1994).

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The results showed that both scenarios demonstrated attainment of the one-hour ozone standard of 0.12 ppm in both South Coast and Sacramento. In both airsheds, the additional consumer product emissions, despite their very significant mass, had such small impacts on peak ozone formation that insufficient ozone was formed to cause non-attainment. This result was attributed to both the low reactivity of the consumer product emissions, and the geographic distribution of those emissions that lessened impacts on peak ozone levels. Aerosol consumer products exhibit especially low reactivity, since aerosol propellants tend to among the least reactive of all VOCs in the emissions inventory.

⁸ Sierra Research Report No. SR97-07-01 (July 1997) and addendum Report No. SR98-03-01 (March, 1998). See Attachment C.

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Unfortunately, CSPA was not able to obtain the underlying data from the AQMD to conduct a similar study using the computer model, inventories and meteorology utilized in the attainment demonstrations for the 2003 AQMP, but we believe that a similar result would have been obtained, especially considering that regulations promulgated by the ARB since 1994 provided additional reductions in consumer products VOC emissions.

The 1997 attainment remodeling study was conducted under 2010 attainment conditions that remained highly sensitive to overall VOC emissions. Therefore, the results of the study demonstrated that even under highly VOC-limited conditions where ozone formation is highly sensitive to overall VOC levels, ozone formation was *not* at all sensitive to consumer product VOC emissions. The attainment demonstration modeling for the 2007 AQMP, on the other hand, was under atmospheric conditions that are far more NO_x-limited, and far less sensitive to overall VOC emissions. We therefore had reason to expect that consumer product VOC emissions should have even less relative impact on ozone attainment in the 2023 attainment scenario.

CSPA believes that the results of these types of studies provide important information to support the development of effective ozone attainment strategies. It is important that the control measures in the SIP be focused primarily on those emissions sources (primarily NO_x) that play a significant role in ozone non-attainment in the South Coast.

The need to carefully consider the relative ozone impacts of various emission sources provides further reasons that the AQMD's commitment for future emissions reductions in the "black box" should not be allocated to consumer products. CSPA urges the AQMD to consider these data and adhere to the EPA 2005 Interim Guidance,⁹ which would result in only including commitments of for reductions in emissions sources that are actually necessary for ozone attainment in the South Coast Air Basin.

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SUMMARY AND CONCLUSIONS

CSPA appreciates the opportunity to comment on the DPEIR. We support the AQMD's goal of improving air quality in the South Coast Air Basin. However, the proposed VOC emission reduction measures for consumer products are neither necessary nor feasible. Moreover, these proposed measures would harm the consumers and businesses who rely on our products to provide a clean and healthy environment in which to live and work.

Additional reduction measures for consumer products or other low-reactivity sources are not needed for demonstrating attainment of the federal one-hour and eight-hour ozone standards. In addition, as documented in CSPA's earlier comments, reducing LVP materials in consumer products will have little or no impact in VOC emissions an ozone formation. Since the control measures impacting consumer products are *not* feasible, necessary or cost-effective, the AQMD should not include these measures in the final 2012 AQMP.

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CSPA therefore urges AQMD to defer all ozone revisions in the 2012 AQMP until next year to allow time for a final EPA SIP Call rule to be issued, and to provide time to adequately address the numerous issues raised by CSPA and others in these comments. CSPA is willing to continue

⁹ 70 Fed. Reg. 54046-51 (Sept. 13, 2005).

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working with AQMD next year to develop an appropriate, feasible and effective attainment plan for ozone for incorporation into the State Implementation Plan for Ozone.

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If you have any questions, please contact us at (202) 872-8110.

Respectfully submitted,



D. Douglas Fratz
Vice President, Scientific & Technical Affairs



Joseph T. Yost
Senior Director, Strategic Issues Advocacy



Kristin Power
Director, State Affairs – West Region

Attachments (4)

cc: Linda C. Murchison, Ph.D., Air Resources Board
Kurt Karperos, P.E., Air Resources Board
Carla D. Takemoto, Air Resources Board
CSPA Air Quality Committee and Task Forces
Laurie E. Nelson, Randlett Nelson Madden Associates

Attachment A - CSPA Comments on the DPEIR for the 2012 AQMP
Report No. SR2007-09-03



**Assessment of the Need for
Long-Term Reduction in
Consumer Product Emissions
in the South Coast Air Basin**

prepared for:

Consumer Specialty Products Association

September 12, 2007

prepared by:

Sierra Research, Inc.
1801 J Street
Sacramento, California 95811
(916) 444-6666

2-18
This entire
document is
included as
comment
#2-18

Attachment B - CSPA Comments on the DPEIR for the 2012 AQMP

Scientific Critique of South Coast Air Quality Management District Paper

“Non-Volatile, Semi-Volatile, or Volatile:

Redefining Volatile for Volatile Organic Compounds”

October 2012

ABSTRACT

A draft paper entitled “Non-Volatile, Semi-Volatile, or Volatile: Redefining Volatile for Volatile Organic Compounds” authored by Uyên- Uyên T. Võ and Michael P. Morris is subjected to a scientific critique. The paper presents ambient evaporation data for organic compounds of varying volatility that is portrayed as drawing into question the regulatory criteria and test methods used to determine what low-vapor-pressure compounds are exempted from the regulatory definition of “Volatile Organic Compound” (VOC) for various uses. The paper fails to grasp the crucial differences between the technical term “volatile” and the regulatory term “VOC”, which relates to the ability to contribute significantly to formation of ozone in tropospheric ambient air through vapor-phase photochemistry. In this critique, the scientific concepts and studies are noted that limit the ability of low-volatility organic compounds to contribute significantly to tropospheric ozone formation and refute the arguments in the draft paper.

SCIENTIFIC CRITIQUE

“Non-Volatile, Semi-Volatile, or Volatile: Redefining Volatile for Volatile Organic Compounds” authored by Uyên- Uyên T. Võ and Michael P. Morris was obtained from the authors in the form of a draft paper dated August 31, 2012, as well as a presentation dated June 21, 2012, that was presented at an Air & Waste Management Association meeting. This scientific critique was conducted by a number of chemists and environmental scientists in the consumer products industry.¹

¹ Scientists involved in developing this critique included representatives from the Consumer Specialty Products Association, Personal Care Products Council, American Chemistry Council, American Cleaning Institute, American Coatings Association, Automotive Specialty Products Alliance, National Aerosol Association, International Sanitary Supply Association, and International Fragrance Association North America.

2-19
This entire document is included as comment #2-19

Attachment C - CSPA Comments on the DPEIR for the 2012 AQMP

Report No. SR97-07-01

Impact of Consumer Products on California's Air Quality

prepared for:

**Chemical Specialties Manufacturers
Association and the
Cosmetic, Toiletry, and Fragrance
Association**

July 1997

prepared by:

Sierra Research, Inc.
1801 J Street
Sacramento, California 95814
(916) 444-6666

2-20
This entire
document
comprises
comment
#2-10 and
is available
upon
request



Responses to Comment Letter #2
Consumer Specialty Products Association (CSPA) – Joe Yost (10/23/2012)

- 2-1 This comment notifies the SCAQMD that a comment letter with three attachments is submitted. No further response is necessary.
- 2-2 This comment notifies the SCAQMD that the comments contained in the letter pertain to the Draft Program EIR for the 2012 AQMP. This comment and footnote #2 also provide background information describing the nature of the commenter’s business. Footnote #3 provides a general description of the contents of the Draft Program EIR for the 2012 AQMP. No further response is necessary.
- 2-3 This comment notifies the SCAQMD that previous comments submitted, relative to the Initial Study for the Draft Program EIR for the 2012 AQMP on July 18, 2012 [sic] and relative to the Draft Program EIR for the 2012 AQMP on October 9, 2012, should be incorporated by reference. (Note that the comment letter relative to the Initial Study for the Draft Program EIR for the 2012 AQMP was dated July 19, 2012.)
- 2-4 This comment reiterates previous comments suggesting that control measures for consumer products and ozone control measures should not be included in the 2012 AQMP. See response to comment #2-8.
- 2-5 With regard to the one-hour ozone SIP call, a requirement for the submittal of an attainment demonstration for the revoked one-hour ozone standard has been proposed by U.S. EPA, and the submittal will be due by early 2014. Since the emissions inventory and control strategy has already been developed for the 2012 AQMP, and because attaining the one-hour standard can rely on the same strategy as the federal eight-hour ozone Plan, SCAQMD staff was able to complete an attainment demonstration for the one-hour ozone standard as an Appendix to the 2012 AQMP. Moreover, no additional measures were identified. The comment expresses a preference to delay the submittal of the one-hour ozone attainment demonstration, taking the full one year time frame provided by U.S. EPA. However, SCAQMD staff believes that there is no reason to wait until the one-hour ozone attainment demonstration is due given that no new measures are being proposed and the work has been completed. Utilizing the current 2012 AQMP emissions inventory, modeling framework, and public process is the most efficient use of resources and time.
- 2-6 Reducing ozone precursor emissions, both NO_x and VOC emissions, is necessary to continue making progress in attaining the federal one-hour ozone standard (revoked) and the federal eight-hour ozone standard. The set of isopleths provided in the June 2012 STMPR meeting was based on the initial 2023 baseline inventory and preliminary modeling to illustrate the preferred path to attaining the ozone standard. Subsequent modeling sensitivity simulations that varied the VOC emissions by approximately 12 tons per day (across the board reductions) resulted in a 1.0 ppb movement in the eight-hour future design projection with lower VOC resulting in lower ozone. The current draft 2012 update to the 2007 AQMP eight-hour ozone projected 2023 future year design value placed several Basin sites within 1-2 ppb of the U.S. EPA threshold for demonstrating attainment. (U.S. EPA’s threshold was set at 84.4 ppb with rounding.) Far from being

insignificant, a 1.0 ppb change in the eight-hour ozone would jeopardize the attainment demonstration.

- 2-7 SCAQMD staff appreciates the efforts by CSPA to bring together a coalition of industry scientists to review the SCAQMD Paper “Non-Volatile, Semi-Volatile, or Volatile: Redefining Volatile for Volatile Organic Compounds,” U. Vø and M. Morris, August 2012. Implementing Control Measure CTS-04 would require reevaluating the criteria established for LVP-VOCs by relying on scientific data and, therefore, the information provided in the critique supplements the scientific data available for consideration.

Although lower volatility compounds have limited vapor-phase availability, the study cited indicates that many LVP-VOC compounds are indeed non-volatile limiting their ability to contribute to ozone formation. However, the paper also demonstrates that many compounds that qualify as LVP-VOC under the existing criteria are volatile and semi-volatile, thus, available to participate in ozone formation and indeed participating in ozone formation due to their relatively higher Maximum Incremental Reactivity values.

Current U.S. EPA, CARB and SCAQMD emissions inventory and photochemical air quality models include speciation profiles that account for total organic gases (TOGs), including reactive compounds, unreactive and exempt compounds, as well as LVP-VOC compounds. Modeling results for ozone non-attainment areas have demonstrated that even compounds with low photochemical reactivity or LVP-VOCs contribute to photochemical ozone formation and not including these compounds would compromise the ozone attainment demonstrations. SCAQMD staff recognizes that some multi-media models that incorporate partitioning concepts such as “Atmospheric Availability” or “Environmental Fate” may have been recently developed; however, current peer-reviewed ambient ozone models used by CARB and SCAQMD do not include such partitioning concepts. SCAQMD staff will continue to work with USEPA and CARB staff on ozone model improvements, especially if additional peer-reviewed environmental fate and atmospheric availability studies justify incorporation into these predictive models.

The commenter attempts to justify the LVP-VOC exemption by noting that LVP-VOC compounds are predominantly partitioned into other environmental media (soil, water, etc.). The conclusion being that these products do not go into the air but instead are biodegraded. Yet this observation is true for nearly every chemical (LVP-VOC and non-LVP-VOC). Despite this partitioning, some fraction of the chemical enters the atmosphere and contributes to ozone formation. Contrary to the assertions made by the commenter, the critique does not provide evidence that LVP-VOC compounds are any different than traditional VOC compounds with respect to environmental partitioning. In fact, of the compounds studied (LVP-VOC and non-LVP-VOC) the highest predicted partitioning ratios into air are for some LVP-VOCs (22 percent for Light Distillate). It appears that there is no correlation between partitioning to air and LVP-VOC status. Furthermore, it is of concern that the current regulatory methodology may be requiring the transition from traditional VOC compounds (such as isopropanol) to LVP-VOCs (such as Light Distillate) with similar evaporation profiles, higher MIR values and more than four times higher predicted air partitioning factors.

SCAQMD staff concurs that the current VOC emissions inventory for consumer products should be reevaluated to more accurately and precisely determine their contribution to ozone formation using the best available scientific data and methodologies, including environmental chamber studies and evaporation studies using fully formulated products. However, because consumer products represent the largest single source of VOC emissions (under current methodologies), uncertainty about the inventory because of the LVP-VOC exemption, and the current regulatory structure may be limiting the environmental benefits sought after in the current CARB regulation, SCAQMD staff believes that it is imperative that Control Measure CTS-04 be included in the 2012 AQMP. Furthermore, Control Measure CTS-04 has been revised to include the commenter's suggestions pertaining to additional studies and refined emissions inventory.

It should be noted that Attachment B, cited in this comment, does not discuss Control Measure CTS-04 in any way, but instead critiques a paper prepared by SCAQMD staff regarding defining volatile compounds. It appears that this critique is included in an attempt to further demonstrate why VOC emission reductions are not necessary to attain the ozone standards (see also response to comment #2-19).

The comment does not explain why the ozone attainment demonstration is not appropriate. However, the comment states that working on the ozone part of the 2012 AQMP should be delayed. In light of the SIP call by U.S. EPA (see response to comment #2-5), SCAQMD staff disagrees.

- 2-8 Consistent with the previous AQMP, the current analysis shows that approximately 65 percent of additional NO_x emissions reductions, beyond already adopted rules and measures, will be needed to meet the eight-hour ozone standard of 80 ppb in 2023. The percent reduction in VOC emissions to meet the eight-hour ozone standard of 80 ppb in 2023, based on the 2007 AQMP carrying capacity projections, is approximately four percent. The Basin can only demonstrate attainment of the eight-hour standard by using the CAA §182 (e)(5) provision allowing for long-term measures that anticipate the development of new technologies or improving of existing control technologies. This CAA provision requires that these long-term measures be specifically identified at least three years prior to the attainment year (2020).

With less than eight years remaining to identify these so-called “black box” emissions reductions, it is imperative to move forward with the identification and development of all feasible specific measures to achieve these reductions as soon as possible. If progress is delayed, there will be even less time to develop and implement strategies before the looming deadlines, and thus the resulting necessary measures could be more burdensome and disruptive. Delaying progress will also provide less certainty and lead time to the regulated community for planning compliance with potential new regulatory requirements. The considerable time it takes for new technologies to be developed, assessed and implemented widely, especially in the mobile source sector, also underscores the need to begin immediately. Note that while this Plan commits to the adoption of several ozone measures in the near-term, the implementation date and emissions reduction commitments are deferred until 2020 or beyond.

Recent litigation regarding U.S. EPA approvals of previous SIPs has focused on the reliance on a relatively large “black box” to demonstrate attainment and the short time frame available to develop and deploy potential new technologies. The SCAQMD believes it is important to demonstrate progress towards ozone attainment by making commitments for additional emissions reductions that reduce the size of the “black box” commitments. In U.S. EPA’s comment letter on the Draft 2012 AQMP (August 30, 2012), they state that they “fully support the SCAQMD’s inclusion in the 2012 AQMP of updates on the implementation of control measures and emission reduction commitments relied upon in the South Coast 2007 AQMP to demonstrate expeditious attainment of the 1997 eight-hour ozone NAAQS. We urge the SCAQMD to continue working closely with EPA staff to identify the specific near-term and long-term control measures that will fulfill the NO_x and VOC emission reduction commitments contained in the SIP-approved South Coast 2007 eight-hour ozone plan, and to develop appropriate methodologies for calculating the emission reductions attributed to each such measure.”

Furthermore, U.S. EPA recently proposed to require a new one-hour ozone SIP for the Basin. In order to demonstrate attainment with this revoked standard by 2022, all feasible measures must be included in the SIP. Making enforceable emissions reductions commitments based on specific measures as they are identified is the best way to demonstrate that the SCAQMD is dedicated to realizing the emission reductions necessary to achieve the eight-hour and one-hour ozone standards. Future AQMPs would need to identify further specific measures and associated emissions reductions that will allow the “black box” commitments to shrink to zero by 2020.

Finally, it should be noted that Attachment C is an evaluation of consumer products on air quality prepared in 1997, so it does not provide comments specifically on either the 2012 AQMP or the Draft Program EIR. See response to comment #2-20 regarding the specific issues raised in Attachment C.

- 2-9 The commenter states that he appreciates the fact that the Draft Program EIR included Alternative 4 – PM_{2.5} Emissions Reduction Strategy Only, but states that it is flawed because, as asserted by the commenter, it does not include consideration of deferral of the ozone update CAA §182 (e)(5) block box measures from the 2007 AQMP (in particular 2007 AQMP Control Measure SCLTM-03 – Consumer Products. With regard to continued consideration of ozone reduction strategies, SCAQMD staff disagrees that Alternative 4 is flawed because, as explained in the description of Alternative 4, preparing a PM_{2.5} only plan means that the currently adopted 2007 AQMP, which is an ozone and one-hour PM_{2.5} Plan, remains in effect. This means that 2007 AQMP Control Measure SCLTM-03 continues to be a long-term control measure that could still be promulgated as a rule or regulation. By acknowledging that the ozone portion of the 2007 AQMP would remain in effect if Alternative 4 is ultimately adopted, the analysis presents a more realistic and conservative analysis of potential environmental impacts than would be the case by artificially ignoring the currently adopted 2007 AQMP. The SCAQMD cannot remove measures from the existing approved 2007 AQMP without substituting measures that would be equally effective. With regard to the need for further VOC emission reductions, see responses to comments #2-6 through #2-8. With regard to deferral of the one-hour ozone SIP submittal, see responses to comments #2-5 and #2-8.

2-10 The comment states that Alternative 3 - Greater Reliance on NO_x Emissions Reductions, only differs from the 2012 AQMP by eliminating Control Measure BCM-01, but the concept of accelerated NO_x reductions, instead of VOC reductions should be explored further. Although Alternative 3 does not include Control Measure BCM-01, the rest of the characterization of the alternative is incorrect. Alternative 3 includes a control measure that would include incentives for NO_x emission reductions from accelerated implementation of CARB's existing truck and bus regulation. The control measure assumes that the rate of compliance with the existing requirements by 2017 would be double the compliance rate estimated by CARB, which would be approximately an additional 5,000 compliant trucks. Similarly, Alternative 3 includes a NO_x control measure that would include incentives for accelerated compliance with CARB's off-road diesel vehicle regulation. The control measure assumes that the rate of compliance with the existing regulation by 2021 would occur in 2017, which is a doubling of the compliance rate estimated by CARB. The off-road control measure would result in approximately an additional 19,344 compliant off-road vehicles. For the emission effects of Alternative 3 compared to the 2012 AQMP, see Tables 6-14 through 6-16 in the Draft and Final Program EIRs. Based on the on-road and off-road control measures described here for Alternative 3, accelerated NO_x emission reductions have been explored as requested by the comment.

2-11 With regard to the comment relative to reasons for only going forward with PM_{2.5} reduction strategies, see response to comment #2-8 which provides the reasons to include ozone measures in the 2012 AQMP as required to demonstrate attainment of the 24-hour PM_{2.5} standard. The long-term ozone precursor reduction strategies demonstrate attainment of the ozone standards at all the air quality monitoring stations throughout the Basin by 2023. Modeling analysis shows that significant NO_x emissions reductions are the main path to attaining the eight-hour ozone standards in the Basin. Therefore, the ozone strategy focuses primarily on NO_x reductions. However, VOC emissions reductions can also be effective in improving the rate of progress towards attainment of the ozone standards, especially in the western portions of the Basin. Furthermore, there is a significant health benefit to meeting the ozone standards as soon as possible in as many areas of the Basin as possible. While the current eight-hour ozone design value site is at Crestline in the San Bernardino Mountains, projections for 2023 show that the design value site will be at Glendora in the San Gabriel Valley to the west. As shown in the 2023 baseline eight-hour ozone NO_x/VOC isopleths for Glendora and other western sites presented in the attachment to Appendix V, VOC reductions will help to lower ozone concentrations in the San Gabriel Valley and Western portions of the Basin. This is true near the level of the eight-hour ozone standards, but is even more significant along the path to attainment. This is due to the higher VOC/NO_x ratios projected to occur in future years, especially in the western Basin.

Based on the above information, short-term VOC controls (through 2020) will help offset the impact of the increased VOC/NO_x ratio in the impacted areas of the Basin, such as the San Gabriel Valley, that are immediately downwind of the primary emissions source areas. As such, a nominal amount of VOC reductions are proposed in the Draft 2012 AQMP. The proposed VOC control measures in the 2012 AQMP are based on implementing all feasible control measures through the application of available technologies and best management practices, while seeking a fair share reduction from

both mobile and stationary sources. As zero and near-zero technologies are implemented for mobile sources to reduce NO_x emissions, concurrent VOC reductions from mobile sources are expected. Thus, stationary sources must continue to achieve their fair share of VOC reductions in the future. This plan proposes a modest six tons per day of VOC emissions reductions out of a total 28 to 30 tons per day of VOC reductions needed for basin-wide attainment in 2023.

- 2-12 See responses to comments #2-6 and #2-7 for a discussion of the reasons for including consumer products as an ozone control measure and discussion on MIR control values of LVP-VOCs and VOCs found in consumer products, respectively. The paper, “Non-Volatile, Semi-Volatile, or Volatile: Redefining Volatile for Volatile Organic Compounds,” U. Vø and M. Morris, August 2012, includes MIR values for the LVP-VOC samples studied. The MIR values for LVP-VOCs are comparable to traditional VOCs and widely used LVP-VOCs (benzyl alcohol, propylene glycol and ethylene glycol) have MIR values significantly higher than isopropyl alcohol and similar to 2-butoxyethanol, two traditional VOC chemicals for which the LVP-VOCs were meant to replace.
- 2-13 SCAQMD staff is concerned that reformulation of products by substituting LVP-VOCs for other solvents considered to be VOCs may not achieve the ozone reduction benefits anticipated by the Consumer Products Regulation (CPR). Further, considering the increasing use of LVP-VOCs used in formulations to comply with the CPR may offset any perceived benefits, especially since their relative evaporation rates under ambient conditions and maximum incremental reactivity (MIR) values can be much higher than ethane’s MIR value, the “bright line” used by U.S. EPA to distinguish between VOCs and negligibly reactive compounds.

The research project conducted in 2002 by Sierra Research did not include changes to the speciation of chemicals resulting from the last five amendments to the CPR, the adjustments made to MIR values over the last decade and may not have included LVP-VOCs in the inventory and speciation. However, even disregarding these factors and using the stated weighted-average MIR values cited in the comment letter, the MIR weighted inventory for consumer products still exceeds those from Passenger Vehicles, Light Duty Trucks and Medium Duty Trucks; all categories for which a host of control measures are included in the AQMP. Consumer product emissions, even when allowing for weighted-average MIR values cited by the comment, continue to be a major source of VOC emissions.

- 2-14 SCAQMD staff supports using recent scientific data and emerging research on the actual availability of VOCs for atmospheric reaction. The guidance document referenced by the commenter notes that a reactivity approach is more difficult to develop and implement than traditional mass-based approaches because reactivity-based programs carry the extra burden of characterizing and tracking the full chemical composition of VOC emissions. U.S. EPA encouraged all interested parties to continue to work through the Reactivity Research Working Group to improve the scientific foundation for reactivity-based regulatory approaches. SCAQMD staff committed to studying the effects of a reactivity-based approach by actively participating in the North American Research Strategy for Tropospheric Ozone (NARSTO) work related to reactivity. SCAQMD staff participated in the Reactivity Industry Working Group (RIWG) in 2009-2010 with leading scientists

from industry, government and public groups to identify issues surrounding reactivity-based regulatory strategies and consider multi-pollutant impacts in the hope of determining a path forward to addressing issues (Moore, B., U.S. EPA, Reactivity Summit Brief Summary, July 2009). However, despite these efforts, no resolution was reached regarding downwind impacts, toxics and particulate from secondary organic aerosols, and enforceability associated with limitations in analytical test methods capable of differentiating petroleum distillates. Lastly, the final RIWG meeting held in May 2010 resulted in U.S. EPA staff making a determination that additional review was necessary before any specific guidance or ‘toolkit’ can be made available to states and local agencies, and that this potential guidance is not designated as a high priority item for the Office of General Counsel of U.S. EPA. To date, no additional guidance has been issued by the U.S. EPA.

Factors (alternative fates and limited availability, using reactivity metrics, targeting highly reactive VOCs) cited in the 2005 U.S. EPA Guidance document referenced by the commenter, are in no way considered in the current LVP-VOC exemption in the CPR. CARB and SCAQMD staff will continue to work closely with interested stakeholders, including consumer product manufacturers, using the best scientific data to revise the LVP-VOC exemption. Moreover, given that the “black box” requires additional VOC reductions beyond those available with existing technology, SCAQMD needs to reduce VOCs from all feasible sources, even if their reactivity is low compared to high reactivity VOCs.

See response to comment #2-7 with regard to the relationship between reactivity and ozone production. For a discussion of the reasons for including consumer products as an ozone measure, see response to comment #2-6.

- 2-15 See response to comment #2-7 with regard to the relationship between reactivity and ozone production. For a discussion of the reasons for including consumer products as an ozone measure, see response to comment #2-6.
- 2-16 See responses to comments #2-6 and #2-7 regarding the necessity and feasibility of VOC reductions from consumer products.
- 2-17 See response to comment #2-5 regarding the need to adopt ozone reduction strategies in the 2012 AQMP.
- 2-18 This comment letter has the following document attached: Attachment A – Sierra Research, Inc. 2007, *Assessment of the Need for Long-term Reduction in Consumer Product Emissions in the South Coast Air Basin*, Prepared for the Consumer Specialty Products Association, September 12. The document evaluated control measures from the 2007 AQMP in an attempt to demonstrate why VOC emission reductions from consumer products are not necessary, so the information it contains is not the most current information available. This document does not specifically include comments on the 2012 AQMP, but attempts to demonstrate why VOC emission reductions are not necessary to attain the ozone standards. With regard to the need for VOC emission reductions, see responses to comments #2-6 and #2-7. In addition, there are no comments on the environmental analysis, mitigation measures, or the alternatives analysis in the Draft Program EIR for the 2012 AQMP. Therefore, no further response is necessary. Because this document does not provide comments or other information on

the 2012 AQMP or the Draft Program EIR for the 2012 AQMP, the full text of this document has not been included in Appendix G; instead, only the cover page is included. The full document comprising Attachment A to this letter, however, is available upon request.

- 2-19 This comment has the following document attached: Attachment B – *Scientific Critique of the South Coast Air Quality Management District Paper, “Non-volatile, Semi-volatile, or Volatile: Redefining Volatile for Volatile Organic Compounds*. No authors are listed for this critique, but footnote #1 on page 1 states that the scientists involved in the critique include representatives from CSPA, Personal Care Products Council, etc. This document does not comment on the 2012 AQMP, but critiques a paper prepared by SCAQMD staff regarding defining volatile compounds. It appears that this critique is included in an attempt to further demonstrate why VOC emission reductions from consumer products are not necessary to attain the ozone standards. With regard to the need for VOC emission reductions, see responses to comments #2-6 and #2-7. In addition, there are no comments specifically on the environmental analysis, mitigation measures, or the alternatives analysis in the Draft Program EIR for the 2012 AQMP. Therefore, no further response is necessary. Because this document does not provide comments or other information on the 2012 AQMP or the Draft Program EIR for the 2012 AQMP, the full text of this document has not been included in Appendix G; instead, only the cover page is included. The full document comprising Attachment B to this letter, however, is available upon request.

- 2-20 This comment letter also has the following document attached: Attachment C – Sierra Research, Inc. 1997, *Impact of Consumer Products on California’s Air Quality*, Prepared for the Chemical Specialties Manufacturers Association and the Cosmetic, Toiletry, and Fragrance Association, July 19. This document was prepared in 1997 and makes many of same points already expressed in the comment letter as indicated in the following paragraphs.

The paper concludes that VOC emissions are overestimated in the 1994 SIP. The implication is that VOC emissions from consumer products are overestimated in the current inventory. See response to comment #2-7 which indicates that consumer products represent the largest single source of VOC emissions. Response to comment #2-7 notes, however, that there is uncertainty about the VOC inventory for consumer products because of the current LVP-VOC exemption. Finally, evidence is accumulating that compared to VOC emissions from other sources, VOCs from consumer products have similar evaporation profiles, higher MIR values and more than four times higher predicted air partitioning factors.

The paper also asserts that VOC emissions from consumer products are less photochemically reactive. See response to comment #2-7.

The paper asserts that VOC emissions from consumer products have far less impact on air quality in California than VOC emissions from other sources. See response to comment #2-7.

The paper asserts that no further regulations of consumer products are necessary. See responses to comments #2-6 and #2-7 for a discussion of the reasons for regulating consumer products.

Finally, due to its size, the full text of this document has not been included in Appendix G; instead, only the cover page is included. The full document comprising Attachment C to this letter, however, is available upon request.

Letter #3

Lori Moore

From: Steve Smith
Sent: Wednesday, October 31, 2012 7:07 AM
To: Steve Smith
Subject: FW: Comments on Draft Environmental Impact Report for 2012 AQMP
Attachments: 2012-10-23 LF JWA to SCAQMD Re Draft EIR.pdf

From: Rainee Fend [<mailto:rfend@gdandb.com>]
Sent: Tuesday, October 23, 2012 4:28 PM
To: Jeffrey Inabinet
Cc: Lori Ballance; Michael Krause; shawn.nelson@hoa.ocgov.com; bob.franz@hoa.ocgov.com; amurphy@ocair.com; Loan Leblow; Wiercioch, Courtney; lserafini@ocair.com
Subject: Comments on Draft Environmental Impact Report for 2012 AQMP

Mr. Inabinet,

Please see the attached comment letter submitted on behalf of the County of Orange in its capacity as the owner and operator of John Wayne Airport, Orange County regarding the Draft Environmental Impact Report for the 2012 Air Quality Management Plan.

3-1

Please contact Ms. Ballance with any questions at (760) 431-9501.

Thank you,

Rainee L. Fend
Legal Assistant to Lori D. Ballance
760.431.9501
www.gdandb.com

G | D | B Gatzke Dillon & Ballance LLP
L A W Y E R S

NOTICE: This communication and any attached document(s) are privileged and confidential. In addition, any disclosure of this transmission does not compromise or waive the attorney-client privilege or the work product doctrine. If you have received this communication in error, please delete it and contact me at rfend@gdandb.com.



October 23, 2012

By Electronic Mail

Mr. Jeff Inabinet
(c/o Office of Planning, Rule Development, and Area Sources/CEQA)
South Coast Air Quality Management District
21865 East Copley Drive
Diamond Bar, California 91765-4182
jinabinet@aqmd.gov

Re: *Comments on Draft Environmental Impact Report for 2012 Air Quality Management Plan*

Dear Mr. Inabinet:

This letter is submitted on behalf of the County of Orange ("County") in its capacity as the owner and operator of John Wayne Airport, Orange County ("JWA"). This letter contains the County's written comments on the Draft Program Environmental Impact Report ("Draft PEIR") for the proposed 2012 Air Quality Management Plan ("2012 AQMP"), issued by the South Coast Air Quality Management District ("SCAQMD" or "District"). The County appreciates the opportunity to provide comments on the Draft PEIR.¹

3-2

Our comments on the Draft EIR are intended to serve the following principal objectives:

1. First, we appreciate the opportunity to continue to work constructively and cooperatively with the SCAQMD in evaluating and developing realistic airport emissions inventories and aviation forecasts for the proposed 2012 AQMP and analyzing the potential environmental impacts of the proposed measures. We hope that our past comments, our comments in this letter, and our continued cooperation in this process will allow us to make meaningful contributions toward resolving and addressing the difficult and complex airport regulatory issues associated with air quality in the Basin.
2. Second, we are concerned with a number of the responses that the SCAQMD provided to our July 27, 2012, comment letter on the Notice of Preparation and Initial Study ("NOP/IS") for the proposed 2012 AQMP. These responses warrant further comment and discussion at this time.

3-3

3-4

¹ The County has previously submitted comment letters on the Notice of Preparation of a Draft Program EIR, the draft 2012 AQMP and The Integra Report. Please see enclosed comment letters to Mr. Steve Smith from Ms. Lori Ballance, dated July 27, 2012, to SCAQMD from Mr. Alan Murphy, dated August 31, 2012, and to SCAQMD from Mr. Alan Murphy, dated September 28, 2012.

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Mr. Jeff Inabinet
 South Coast Air Quality Management District
 October 23, 2012
 Page 2

3. Third, there are important questions and issues which must be addressed in the EIR which have not been addressed, including the accuracy of the baseline emissions inventory, whether the lack of clarity regarding the proposed emission control measures prevents the EIR from meeting CEQA's informational disclosure standards, whether this lack of clarity renders the project description so uncertain that the impact analysis is speculative, and whether emission reductions associated with these measures can actually be quantified because their parameters are so uncertain. Without careful attention and response to these important issues, the District will be unable to provide an EIR that meets the CEQA requirements and will be unable to structure appropriate and effective air quality regulations which might affect the operations of the air carrier airports in the Basin while minimizing the environmental impacts of those regulations. 3-5
4. Fourth, and finally, we continue to have a number of concerns and questions regarding Control Measures MCS-03 and ADV-07 as well as the long term black box measures and the proposed regulation of ultrafine particles that require further comment and discussion. 3-6

GENERAL COMMENTS

EMISSION INVENTORY

The draft AQMP provides an emission inventory using 2008 as the baseline year. In our July 27, 2012, written comments to the District on the NOP/IS, JWA expressed concern regarding the accuracy of the baseline emissions inventory assumptions utilized in the CEQA analysis for the 2012 AQMP.² In order to help ensure the accuracy of the baseline emissions inventory assumptions for JWA, JWA provided the District with aircraft activity data and airport specific data for JWA for incorporation into the 2012 AQMP and requested that the baseline emissions inventory be updated and modified to incorporate this new information. In response to the County's request, the District indicated that staff "... will consider the request ... and determine the magnitude of the change from the information provided in the Draft 2012 AQMP." We want to confirm by this letter that staff will include all of the information provided by JWA to the District with respect to the aircraft activity data and airport specific data for JWA, including, but not limited to, the recent information the County provided after reviewing the Integra Environmental Consulting, Inc. Report which provides the assumptions utilized in preparing the 2012 AQMP's emissions inventories relative to the aviation sector. 3-7

We are particularly concerned with this issue because the baseline year is not only used to determine future year air quality emissions projections, but also appears to be used in the development of AQMP control measures. As we have stated in our previous comments to the

² A copy of the District's response to this letter is included in Appendix B to the Draft EIR.



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District, the District needs to be seriously concerned about both the accuracy and completeness of the existing data that it relied upon for the emission inventory. Revision is required to accurately reflect the baseline and projected future activity levels at JWA. These revisions should be presented in the 2012 AQMP and the County recommends that the Draft EIR be revised to accommodate such a discussion, as well.

3-7
Con't

DISTRICT'S LACK OF REGULATORY AUTHORITY RELATIVE TO AIRCRAFT EMISSIONS

In our July 27, 2012, written comments on the NOP/IS, we requested that the District clearly inform the public and decision makers of the District's lack of regulatory purview relative to aircraft emissions. Although the District's response to this request acknowledges that "the Clean Air Act expressly preempts state and local agencies from adopting or enforcing any standard respecting emissions of any air pollutant from any aircraft or engine thereof unless such standard is identical to a standard [adopted by EPA and FAA] applicable to aircraft ...", the District's response also indicates that "...the term standard ... does not include in-use or operational requirements [and that] whether any individual measure, which does not constitute a standard preempted under the CAA, would be preempted by any other law would need to be decided on the facts of each case."

3-8

We continue to have a fundamental disagreement with the District regarding the extent of the District's authority to regulate aircraft emissions. Specifically, we continue to believe that, to the extent the District attempts to regulate aircraft related emissions, directly or indirectly (through in-use or operational requirements), any such regulation would constitute a constitutionally impermissible local intrusion into a federally preempted field of regulation. *People of State of Cal., v. Dept. of Navy* (1977) 431 F.Supp. 1271, 1281; *Washington v. General Motors Corp.* (1972) 405 U.S. 109, 92 S.Ct. 1396, 31 L.Ed.2d 727. The District's attempted indirect regulation of airport related emissions through in-use or operational requirements would be an impermissible and unconstitutional intrusion into an area which is pervasively and exclusively controlled by federal law and federal authority. *City of Burbank v. Lockheed Air Terminal, Inc.* (1973) 411 U.S. 624, 633.

SPECIFIC COMMENTS ON FAILURE TO MEET CEQA REQUIREMENTS

PERFORMANCE STANDARDS

The Draft EIR is a program EIR that attempts to examine the environmental effects of the proposed control measures that we understand will ultimately be issued as rules or regulations and promulgated as part of a continuing regulatory program for the District. Although a program EIR may properly focus on "broad policy alternatives and program wide mitigation measures," as well as "regional influences, secondary effects, cumulative impacts, broad alternatives and other factors that apply to the program as a whole," the District should adopt performance

3-9



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standards or objectives that can then be translated into specific measures or regulations when a project specific CEQA analysis is prepared. The Draft PEIR fails to comply with this requirement.

Although the 2012 AQMP has identified a number of control measures, the EIR, in many cases, fails to discuss any performance standards for these measures. For example, proposed Control Measure MCS-03 includes as a methodology “diverting or eliminating process streams that are vented to flares, and installing redundant equipment to increase operational reliability.” (EIR, p. 4.2-4). However, the District has not provided any performance standards that it feels are appropriate – the EIR must address any performance targets that have been established so that they can be translated into specific control measures. Similarly, proposed Control Measure ADV-07 includes measures “to continue the development of cleaner aircraft engines and work with the airlines and local airport authorities to develop mechanisms to route the cleanest aircraft to serve the South Coast Air Basin.” (EIR, p. 2-28). Again, the EIR must address any performance targets that the District has established independent from the FAA’s CLEEN Program so that they also can be translated into specific control measures for the airline and airport industry.

3-9
Con’t

CEQA’S INFORMATIONAL DISCLOSURE STANDARDS

The lack of clarity regarding the proposed control measures also prevents the EIR from meeting CEQA’s informational disclosure standards and arguably renders the project description so uncertain that the impact analysis borders on speculation. As stated above, the proposed control measures must be revised to include performance standards and objectives to provide an adequate basis for the impact analysis.

3-10

EMISSION REDUCTION CREDITS

In addition, because of the uncertain parameters of the proposed control measures, the EIR should not indicate that emission reductions will be associated with these measures. Only once the parameters of each of the control measures are better defined can the analysis provide a meaningful discussion of possible emission reductions that may result from implementation of the control measures.

3-11

AREAS OF CONTROVERSY

CEQA Guidelines require an EIR to contain a discussion of the areas of controversy known to the lead agency, including issues raised by agencies and the public and issues to be resolved. Cal.Code Regs. 15123(b)(2)(3). Although the draft PEIR provides a brief discussion, this discussion is incomplete and must be revised. Specifically, this section must include those issues raised by the County in connection with its comment letters submitted on both the NOP and the

3-12



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Draft 2012 AQMP including, but not limited to, issues relating to the accurateness of the baseline data used and the cost effectiveness of the measures proposed.

3-12
Con't

SPECIFIC COMMENTS ON PROPOSED CONTROL MEASURES

CONTROL MEASURE MCS-03

With respect to Control Measure MCS-03, although we appreciate the District's response to our comment letter on the NOP/IS which acknowledges that "operational, technological and economic variables will be among the key variables to be consider[ed] ..." during the second phase of implementation, there is little, if any, discussion in the Draft PEIR regarding these constraints and how they will be taken into account when designing the measure's parameters and predicting associated emission reductions. The Draft PEIR should be revised to include a discussion relative to the fact that controlling emissions during start-up and shutdown is constrained by operational, technological and economic limitations and provide an analysis of how these limitations may impact the projected emission reductions for this Measure.

3-13

CONTROL MEASURE ADV-07

Relative to Control Measure ADV-07, as indicated in our comment letter on the Draft 2012 AQMP, we continue to be concerned about the extent to which ADV-07 is intended to impose affirmative obligations on the District or local airport authorities to regulate the aircraft fleet mix serving the South Coast Air Basin. Although we continue to have no immediate objection to the District providing support for FAA's Continuous Lower Energy, Emissions and Noise ("CLEEN") Program, JWA objects to any measure that requires local airport authorities to regulate the aircraft fleet mix serving the South Coast Air Basin on the grounds that such affirmative obligation would be incompatible with the jurisdictional authorities and powers of airport owners/operators. The Draft PEIR should be revised to provide additional information on the ultimate intent of ADV-07.

In addition to the concern addressed above, we are also concerned that the EIR fails to discuss any performance standards for this Control Measure ADV-07. As indicated on page 2-28 and 4.2-37 of the Draft PEIR, the proposed Measure includes the development of cleaner aircraft engines; however, the only performance standard provided for this Measure is based on FAA's CLEEN Program, which has as a goal the development of new aircraft engines that are up to 60 percent cleaner in NOx emissions than current aircraft engines. Is this the performance target that the District has established for this Measure and, if so, will this performance target be used to develop additional specific control measures for the airline industry? The Draft PEIR must clarify any performance targets that have been established for this Control Measure, whether this Control Measure is intended to merely provide support for the CLEEN program, and discuss

3-14



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whether any additional affirmative obligations will be imposed on the District or local airport authorities with respect to the regulation of the aircraft fleet mix serving the Basin.

3-14
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The proposed Control Measure also includes working with the airlines and local airport authorities to develop mechanisms to route the cleanest aircraft to serve the South Coast Air Basin. As we have discussed with the District on many occasions in the past, neither the District nor airport operators can ensure that only the "cleanest aircraft" operated by commercial airlines serve the Basin; such a requirement would trigger federal preemption and interstate commerce implications. In addition, we have serious doubt, particularly after adoption of the Airport Noise and Capacity Act of 1990 (49 USCA 2151, et seq.), as to whether airport proprietors generally have sufficient residual authority to act effectively as the agencies working with the District and the airlines in developing, implementing and enforcing a program that requires the cleanest aircraft to serve the Basin. At a minimum, the District should receive adequate assurances from the Federal Aviation Administration, the Department of Transportation, and any other relevant federal authorities that airport proprietors do, in fact, have sufficient regulatory authority to allow them to make meaningful implementation choices which would allow them to enforce local regulations to achieve whatever mandates are imposed on them by the District.

3-15

LONG-TERM (BLACK BOX) CONTROL MEASURES FROM THE 2007 AQMP

Table 6-2 in the Draft PEIR shows the black box measure strategies from the 2007 AQMP and also shows the proposed control measures from the 2012 AQMP that affect the same emissions sources. It is unclear from this Table and the discussion provided whether the methods of emissions control from the 2007 AQMP are still being considered for implementation. Specifically, the method of emissions control for aircraft from the 2007 AQMP is as follows: "More stringent emission standards for jet aircraft (engine standards, clean fuels, retrofit controls); Airport bubble."

It is unclear from the discussion whether the District is still considering implementation of an "airport bubble" concept in connection with the proposed 2012 AQMP control measures. The EIR must clarify whether this method of emission control is still being considered and whether this concept will be translated into specific control measures for the airport and airline industry.

3-16

We have discussed at length with the District our concern regarding the role of the airport proprietor relative to the administration of air quality emission strategies at airports in the Basin. As you know, we have expressed strong opposition to the "airport bubble" concept previously proposed by the District and will continue to oppose any measure that requires an airport to become the air quality "enforcer" for airport users.



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REGULATION OF ULTRAFINE PARTICLES

As indicated in the District's response to the County's comment letter on the NOP/IS for the 2012 AQMP, the District is continuing to include a discussion of the evaluation of ultrafine particles as a "subset of PM_{2.5}." This is neither necessary nor appropriate for the following reasons. First, while the federal Clean Air Act requires submittal of a plan by December 14, 2012 outlining how the District will achieve the National Ambient Air Quality Standards (NAAQS) for PM_{2.5} in the South Coast Air Basin, there is no such deadline for ultrafine particles which are not regulated by NAAQS. Second, by including control measures specific to ultrafine particles in connection with their status as a subset of PM_{2.5}, the District is addressing issues beyond the current regulatory framework established by the U.S. Environmental Protection Agency via the NAAQS program. Third, and finally, it is impossible to determine how the PM_{2.5} control measures may regulate ultrafine particles as a "subset of PM_{2.5}."

3-17

As indicated in our comment letter on the Draft 2012 AQMP, the County/JWA supports a bifurcated approach to 2012 AQMP which focuses on attention on NAAQS achievement; other air quality related issues relating to ultrafine particles can, and should, be addressed via a separate and subsequent process.

CONCLUSION

In closing, the County/JWA thanks the District again for this opportunity to comment on the Draft PEIR for the 2012 AQMP. We look forward to continuing to engage in an open, thorough and responsive public process on the 2012 AQMP and assisting the District with its efforts to improve air quality in the South Coast Air Basin. If you have any questions regarding the issues addressed in this letter, please do not hesitate to contact us at your convenience.

3-18

Very truly yours,

A handwritten signature in cursive script that reads "Lori D. Ballance".

Lori D. Ballance
of
Gatzke Dillon & Ballance LLP

LDB:rlf

Enclosures



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cc: Michael Krause, South Coast Air Quality Management District
Supervisor Shawn Nelson, Vice Chair, 4th District
Robert J. Franz, Interim County Executive Officer
Alan Murphy, Airport Director, John Wayne Airport
Loan Leblow, Assistant Airport Director, John Wayne Airport
Courtney Wiercioch, Deputy Director, Public Affairs, John Wayne Airport
Larry Serafini, Deputy Director, Facilities, John Wayne Airport

Responses to Comment Letter #3
Gatzke Dillon & Balance Representing Orange County – Lori Balance (10/23/2012)

- 3-1 This comment notifies the SCAQMD that a comment letter submitted on behalf of John Wayne Airport is attached. No further response is necessary.
- 3-2 This comment notifies the SCAQMD that the comment letter on the Draft Program EIR is submitted on behalf of Orange County in its capacity as the owner and operator of the John Wayne Airport is attached. No further response is necessary. The comment also provides a general statement that the comments serve a number of principal objectives. With regard to the principal objectives stated and SCAQMD staff's responses to these principal objectives, see responses to comments #3-3 through #3-6.
- 3-3 The comment requests that past comments, current comments, and continued cooperation in this process will allow the County to continue contributing to complex airport regulatory issues associated with air quality in the Basin. The SCAQMD welcomes participation in AQMP development from all stakeholders including, but not limited to, public agencies, affected industries, environmental organizations, and other interested parties. To the extent that AQMP control measures affect a specific stakeholder group, it is important that the group affected participate in crafting control measures, as well as any resulting rules or regulations. Currently, the 2012 AQMP contains Control Measure ADV-07 – Actions for the Deployment of Cleaner Aircraft Engines. This control measure describes the actions needed to develop, demonstrate, and commercialize advanced technologies, procedures, and sustainable alternative jet fuels that could be deployed in the 2020 to 2030 timeframe, so no emission reductions are associated with it as part of this AQMP process. The control measure recognizes that state and local aircraft emission regulations are preempted by the Clean Air Act, which gives that responsibility to U.S. EPA in consultation with the Federal Aviation Administration (FAA). However, emission reductions are needed from all emissions sources, including those regulated by the federal government. Therefore, it is important that the County participated in any future control measure development relative to emission reductions from aircraft to ensure the most effective and cost-effective measures are identified.
- 3-4 This comment expresses general concern regarding SCAQMD responses to comments regarding the NOP/IS for the 2012 AQMP, although the comment does not identify the specific responses of concern. The SCAQMD provided responses to all comments received relative to the NOP/IS. However, it is important to keep in mind that responses to comments made at the NOP/IS stage often result in changes that get incorporated into the Draft Program EIR. Further, at the NOP/IS stage, the environmental analysis is not complete, so detailed responses were not always possible.
- 3-5 With regard to the accuracy of the baseline emissions inventory, see response to comment #3-7.

The comment also states that, without consideration of the baseline issue identified in the first part of the comment, the Draft Program EIR is prevented from meeting CEQA's disclosure requirements and the SCAQMD would be unable to structure appropriate and effective air quality regulations affecting airports while minimizing environmental impacts of those regulations. SCAQMD staff disagrees with the assertion that the

Program EIR does not comply with CEQA's disclosure requirements. The Program EIR complies with all relevant CEQA requirements for preparing an EIR (CEQA Guidelines §§15120 through 15131) and for preparing a program CEQA document (CEQA Guidelines §15168). Regarding the comment on disclosure requirements and the project description, see response to comment #3-10.

It is also unclear what is meant by the phrase structure appropriate and effective air quality regulations. Among other requirements, one of the primary purposes of the Program EIR is to evaluate adverse environmental impacts from the control measures in the 2012 AQMP as written. Some of the control measures, especially long-term and advanced control measures, cannot at this stage identify specific control technologies anticipated to be used to comply with any future regulatory requirements or include emission reduction targets. As a result, assumptions had to be made to provide a comprehensive and conservative environmental analysis. The Program EIR describes all 2012 AQMP control measures to the extent they have been developed. Further development would occur in the future when the control measures are promulgated as rules or regulations. Control measures will be promulgated as rules, regulations, or other mechanisms in the future through an open public process. At that time, a project-specific NEPA and/or CEQA document would be prepared by the appropriate public agency based on the actual regulatory requirements.

- 3-6 This comment expresses general concerns regarding several control measures in the 2012 AQMP. See responses to comments #3-9 and #3-13 regarding a discussion of Control Measure MCS-03 and responses to comments #3-9 and #3-14 regarding a discussion of Control Measure ADV-07.
- 3-7 The 2012 AQMP baseline inventory was developed incorporating all information submitted by John Wayne Airport and SCAQMD staff will revise the Integra Report to reflect the updated information provided by the airport authority. SCAG's growth information was used to estimate the future airport activity listed in Table 3.3 of the Integra Report and is further described in their Aviation and Ground Access Appendix of the 2012 Regional Transportation Plan (http://rtpscs.scag.ca.gov/Documents/2012/final/SR/2012fRTP_Aviation.pdf).

The emission estimates for 2035 listed in Table 2.4 of the Integra Report were generated using the airport activity as estimated by SCAG's RADAM model and FAA's Emissions and Dispersion Modeling System (EDMS) airport model. For John Wayne Airport the activity was capped at the authorized limit of 10.8 MAP. The emission estimates for John Wayne Airport are not inconsistent with the expected improvement in engine technology and growth in airport activity in that increased activity resulted in increased emissions with the exception of NO_x, which has been and will continue to be the main focus of emissions improvements from aircraft engines.

The projected 2035 fleet mix was provided by SCAG and is included in their recently adopted 2012–2035 RTP/SCS. The estimates were generated by the Regional Airport Demand Allocation Model (RADAM) an approved model used by SCAG staff since 1994 to project growth in aircraft activity in the region. While SCAQMD staff recognizes that operations at the airport do not include some aircraft types today, there is nothing limiting the use of these types in the future and we believe it is appropriate to use

information that is consistent with SCAG’s 2012–2035 RTP/SCS and other growth assumptions used in the AQMP. (The one exception would be a physical characteristic that would not allow operation of an aircraft type at the airport such as the B737-900 craft referenced as too long to operate at John Wayne Airport. However the engine type is the same as the other B737 classes that would likely be used in lieu of the 900 series and we would expect the estimated emissions would be similar).

- 3-8 The comment repeats a concern that an attempt by the SCAQMD to regulate airport related emissions, even through in-use or operational requirements, would be federally preempted. As identified in NOP/IS response to comment #4-7 (see Appendix B of this Program EIR), the Clean Air Act generally preempts state and local agencies from adopting or enforcing any standard respecting emissions of any air pollutant from any aircraft or engine. [42 U.S.C. §7573.] The term “standard”, however, does not include in-use or operational requirements. [*Engine Manufacturers’ Association v. EPA*, 88 F.3d 1075 (D.C. Cir. 1996).]

In any event, Control Measure ADV-07 does not purport to seek regulation of aircraft emissions. The control measure does not take credit for emissions reductions, does not identify cost effectiveness and recognizes that the implementing agencies are the SCAQMD, U.S. FAA, U.S. EPA, and CARB (see AQMP Appendix IV-B, page IV-B-86). Rather, ADV-07 is intended to develop and demonstrate new technologies for improved efficiency and reduced emissions through the FAA initiated Continuous Lower Energy, Emissions and Noise (CLEEN) program and through other incentive-based or demonstration-based projects (see AQMP Appendix IV-B, page IV-B-86). If, through the development of these projects, it is determined that feasible regulatory action exists, the SCAQMD may elect to pursue that path after determining whether such action, while not preempted under the CAA, would be preempted by any other law.

- 3-9 The comment states that the SCAQMD should adopt performance standards or objectives that can be translated into specific measures or regulations when a project-specific CEQA analysis is prepared. It is assumed here that, since the terms performance standards and objectives refer specifically to the control measures, the comment is requesting specific emission reduction targets for each control measure, which will be addressed in the following paragraphs. However, CEQA does not require “performance standards” for control measures in an AQMP. If objectives refer to project objectives defined pursuant to CEQA Guidelines §15124, then the commenter is referred to Section 2.9 in Chapter 2 of the Program EIR, which clearly identifies the objectives of the 2012 AQMP.

While some of the control measures have performance standards or emission reduction expectations, each control measure varies in inventory, targeted pollutant, affected sources, and ability to generate emission reductions. For these reasons, a standardized objective for all measures is not possible. The primarily goal is to reduce emissions but the methods of achieving reductions can vary, for example modifying operating processes, upgrading/replacing equipment, or lowering emission rates. The goal of Control Measure MCS-03 is to establish procedures to better quantify emission impacts from start-up, shutdown and turnarounds. Secondly, an analysis will be conducted to identify improved operating procedures that minimize emissions. The target emission reductions from this control measure have not yet been determined because the analysis

that will take place during rule development has not been completed to reach that conclusion.

The advanced control technology (ADV) measures are designed to deploy the cleanest control technologies as early as possible, but many of these actions will need time to develop. Specific amount of expected reduction from future proposed requirements will be determined during the rule development phase and after control technology is deployed.

It should be noted that the development of control strategies for the 2012 AQMP and selection of emission reduction measures are based on a list of criteria. The criteria include technological feasibility, cost effectiveness, emission reduction potential, rate of emission reduction, enforceability, public acceptability and legal authority. For further discussion of the criteria, see Table 4-1 in Chapter 4 of the 2012 AQMP. For the 2012 AQMP, other goals were considered such as promoting fair share responsibility and maximizing private/public partnerships.

The comment acknowledges that the CEQA document for the 2012 AQMP is a Program EIR and a Program EIR properly focuses on broad policy alternatives and program wide mitigation measures.” The comment states that the EIR must address performance targets established independent from FAA’s CLEEN Program so they can be translated into specific control measures for the airline and airport industry. As noted in response to comment #3-3, Control Measure ADV-07 describes actions that could be deployed in the 2020 to 2030 timeframe, so no emission reductions are associated with it as part of this AQMP process. There is no requirement that a particular control measure must include emission reduction targets. Among other requirements, the AQMP must demonstrate attainment with the applicable ambient air quality standards for the non-attainment pollutants. In the case of the 2012 AQMP, it is specifically a PM_{2.5} SIP that demonstrates attainment of the federal 24-hour PM_{2.5} standard by 2015, as required by the CAA and contains additional ozone control measures to partially fulfill the 2007 SIP commitment. SCAQMD staff is also proposing a one-hour ozone demonstration to comply with U.S. EPA’s proposed SIP call. This demonstration is included in 2012 AQMP Appendix VII. As noted in response to comment #3-5, one of the main purposes of the Program EIR is to analyze environmental impacts from the control measures as written, which it does.

- 3-10 The comment states that there is a lack of clarity regarding the 2012 AQMP control measures because, in part, they do not include performance standards and objectives. As a result, the Program EIR does not meet CEQA’s disclosure standards, the project description is uncertain and the impact analysis is speculative. With regard to performance standards and objectives, see response to comment #3-9. The Program EIR includes a comprehensive description of the proposed project in Chapter 2, which includes summaries of all stationary and mobile source control measures. Similarly, Appendix F identifies all transportation control measures provided by SCAG. Further, the actual 2012 AQMP and associated appendices describing the control measures were available concurrently with the Draft Program EIR. The Program EIR complies with all relevant CEQA requirements for preparing a project description (see CEQA Guidelines §15124). The environmental analysis in the Program EIR includes examinations of potential secondary impacts from emission reduction technologies, as well as impacts

from other types of compliance approaches and is, therefore, not speculative. CEQA recognizes that preparing an EIR involves some degree of forecasting, and must use its best efforts to find out and disclose all that it reasonably can (CEQA Guidelines §15144). The Program EIR was prepared consistent with CEQA Guidelines §15144 and has disclosed all impacts that it reasonably can. Chapter 4 of the Program EIR includes robust analyses of potential adverse impacts to each of the environmental topics analyzed. Further, the analyses of environmental impacts in the Program EIR are commensurate with the level of detail of the 2012 AQMP and, therefore, cannot be as detailed as the environmental analysis for a specific construction project. The subchapters clearly identify control measures that could potentially contribute to impacts to that environmental topic; provides a quantitative or qualitative analysis of all control measures and PM2.5 control measures separately from the ozone control measures, depending on the information available for that control measure; and provides significance determinations for the 2012 AQMP overall and separately for impacts from PM2.5 and ozone control measures.

- 3-11 As noted in response to comment #3-9, criteria are followed in the development of the control measures. Some source categories already have established inventories and proposed methods of future control that enabled SCAQMD staff to determine an anticipated range of emission reductions from implementation of the proposed control strategy. Other measures, however, require further evaluation of inventory, available control technology, etc., that can only be established with a technological assessment and public participation during the rule development process. Estimated emission reductions will be determined at that time.
- 3-12 This comment requests the areas of controversy discussion in the Draft Program EIR to be revised to reflect issues previously raised on behalf of John Wayne Airport. While it is correct that CEQA Guidelines §15123 (b)(2) requires a public agency to identify the areas of controversy in the CEQA document, including issues raised by agencies and the public, no areas of controversy were identified at the time of release of the NOP/IS relative to the environmental analysis so no discussion was included in the NOP/IS. In response to this comment, however, an areas of controversy discussion has been added to the Final Program EIR. The issue of cost-effectiveness of the AQMP control measures is not an environmental topic required to be analyzed in a CEQA document because it did not result in a chain of cause and effect resulting in physical effects. Cost effectiveness is a topic discussed in the Socioeconomic report. With regard to the issue raised in this comment relative to the baseline, the 2012 AQMP baseline inventory was developed incorporating all information submitted by John Wayne Airport. Consequently, because the baseline inventory incorporates the data provided by the John Wayne Airport, this issue does not constitute an area of controversy as defined by CEQA. As explained in Section 1.3 in Chapter 1, no areas of controversy were identified in this comment letter or other comment letters on the Draft Program EIR received by the SCAQMD.
- 3-13 All control measures identified in the 2012 AQMP may be subject to constraints specific to the emission sources being controlled. Control measures are general blueprints for reducing emissions from affected sources, including sources that would be regulated by Control Measure MCS-03. Determining potential operational, technical and economic constraints more appropriately takes place during the rule development process when a

thorough evaluation of the source category is performed. Similarly, during the rule development process input from, and participation by affected industry, stakeholders, and the public would help identify potential constraints and strategies for overcoming these constraints, such as tiered compliance dates, compliance exemptions, and program incentives. Control measure MCS-03 is expected to initially include an evaluation of emission reductions from a number of sources, refineries in particular.

The analysis in the Draft Program EIR takes a conservative approach to analyzing environmental impacts from control measures such as MCS-03. Reasonable assumptions were made regarding potential types of control technologies or approaches that could be used to reduce emissions from this source category and secondary environmental impacts were analyzed accordingly.

- 3-14 Control Measure ADV-07 includes recognition of the efforts associated with the CLEEN Program to develop cleaner aircraft engines. However, in order to route cleaner aircraft to region, there is a need to determine if there are mechanisms such as incentives that will bring cleaner aircraft to the region. SCAQMD staff recognizes that this effort will involve local airport authorities, state and federal agencies and the airlines. It is premature at this point to determine the “performance target” for this measure since specific mechanisms have not been developed. The measure will be further developed as part of the next AQMP development.
- 3-15 The commenter asserts that a control measure that would have the SCAQMD work with the airports and airlines to develop mechanisms to route the cleanest aircraft to serve the South Coast Air Basin would necessarily be federally preempted, particularly in light of the Airport Noise and Capacity Act of 1990 (49 U.S.C. §2151 et seq.). SCAQMD staff disagrees. The measure involves working together with the affected parties. SCAQMD staff notes that the relevant preemption provision, 49 U.S.C. §41713, preempts regulations that “have the force and effect of law related to a price, route, or service of an air carrier...” Thus, it would not include, for example, incentive programs not having the force and effect of law. Moreover, the statute expressly provides that it does not limit a state or political subdivision of a state “from carrying out its proprietary powers and rights.” [49 U.S.C. §41713 (b)(3).] Thus, the airports may be able to exercise their authority as “municipal proprietors” in this area. The Airport Noise and Capacity Act (now reorganized at 49 U.S.C. §47521 et seq.) does not seem to be relevant since it deals with noise restrictions, and should not be interpreted to apply to air pollution issues. But even if it applied, it still allows restrictions on noisier aircraft in certain cases. [49 U.S.C. §47524.] The SCAQMD will work with the airports and other stakeholders to implement this measure to the extent legally feasible and not preempted.
- 3-16 As indicated in the text of Chapter 6 in the Draft Program EIR, Alternative 1 – No Project Alternative, consists of not adopting the 2012 AQMP. In this situation, the currently adopted AQMP, which is the 2007 AQMP, would remain in effect. Similarly, adopting Alternative 4 – PM_{2.5} Emissions Reduction Strategy Only, nevertheless means the ozone portion of the 2007 AQMP would still remain in effect. Table 6-2 identifies the remaining measures from the 2007 AQMP that could be implemented under these two scenarios. If Alternative 1 or Alternative 4 is adopted, then the airport control measure from the 2007 AQMP could be promulgated as a rule in the future based on the fact that it is also a control measure from the 2007 AQMP. Since the airport control measure in

the 2007 AQMP includes the bubbling concept, this could be considered in any future rule that is promulgated. Control measure ADV-07 in the 2012 AQMP does not identify airport bubbling as a proposed method of control.

The black box control measures in the 2007 AQMP are concepts that require further development. These concepts will be further developed with input from all affected stakeholders. Concepts included in the 2007 AQMP black box measures but not discussed in ADV-07 should not be interpreted as being removed from further consideration. Ultimately, some concepts may require actions on the federal level to implement, while other actions may potentially be incentives based that could be implemented at the local level.

- 3-17 Although it is correct that no national ambient air quality standards have been established for ultrafine particles, they are not part of demonstration of attainment of the 24-hour PM_{2.5} standard as analyzed in Chapter 5 and Appendix V of the 2012 AQMP. In addition, ultrafine particulates are not characterized in the emissions inventory data and were not considered in the development of the control strategy. Thus, no commitments to reduce ultrafine particles are submitted in the 2012 AQMP. Finally, the PM_{2.5} control measures in the 2012 AQMP do not specifically regulate ultrafine particles. As discussed in Chapter 9 of the 2012 AQMP, in most urban environments, vehicular fossil fuel combustion constitutes the major contributing sources of ultrafine particles. The PM_{2.5} control strategy in the 2012 AQMP is the curtailment of wood burning, thus, targeting PM_{2.5} emissions and not ultrafine particles. Reference to ultrafine particulates as a subset of PM_{2.5} in the 2012 AQMP is meant to inform the public that PM_{2.5} control measures would potentially provide ultrafine emission reductions. Although ultrafine particulates are included in the PM_{2.5} category, there are not control measures specific to ultrafine particulates in the 2012 AQMP.
- 3-18 The comment reiterates the County's desire to continue working with the SCAQMD with its efforts to improve air quality in the Basin. No further response is necessary.
- 3-19 This comment letter has the following documents attached as enclosures.
1. Copy of a July 27, 2012 comment letter from Ms. Lori Ballance on the June 28, 2012 NOP/IS for the 2012 AQMP. Responses to these comments were prepared and have been included in Appendix B of the Draft and Final Program EIR. Since this document is in Appendix B, it has not been included in Appendix G of the Final Program EIR.
 2. Copy of the August 31, 2012 comment letter from Ms. Lori Ballance on the Draft 2012 AQMP. This comment letter and responses to these comments have been prepared by AQMP staff and will be made available prior to the adoption hearing. Since this comment letter and responses to comments will be included as part of the 2012 AQMP documentation, it is not included here.
 3. Copy of the September 28, 2012 comment letter from Mr. Alan Murphy on the Draft 2012 AQMP. This comment letter and responses to these comments have been prepared by AQMP staff and will be made available prior to the adoption hearing. Since this comment and responses to comments will be included as part of the 2012 AQMP documentation, it is not included here.

The main focus of the above three documents is ensuring that the 2012 AQMP baseline includes up to date information on emissions from the John Wayne Airport. See response to comment #3-7, which addresses this topic.

Letter #4

Lori Moore

From: David Englin [david.englin@bizfed.org]
Sent: Tuesday, October 23, 2012 5:32 PM
To: Steve Smith; 2012 AQMP Comments
Cc: Matt Petteruto; Tracy Rafter
Subject: CORRECTED: AQMP Draft Plan EIR Business Comment Letter
Attachments: AQMP Draft Plan EIR Business Comment Letter.pdf

Steve,

There was a signature listed incorrectly on the comment letter sent earlier. Please replace that one with the attached. } 4-1

Best,

David

--
David Englin
Advocacy/Communications
BizFed, Los Angeles County Business Federation
703.505.6045 ~ David.Englin@bizfed.org
bizfed.org
*A Grass Roots Alliance of Over 100 Top LA County Business Groups
Mobilizing More Than 185,000 Businesses*



October 22, 2012

Dr. William A. Burke, Chairman
Members of the SCAQMD Governing Board
South Coast Air Quality Management District
21865 Copley Drive
Diamond Bar, CA 91765

RE: Draft Program EIR for the 2012 Air Quality Management Plan

Dear Chairman Burke and Governing Board Members:

As representatives of Southern California's broader business community, we appreciate the opportunity to provide comments on the 2012 Air Quality Management Plan (AQMP), and, here in particular, on the Draft Program Environmental Impact Report (DPEIR)¹.

Our group is comprised of leaders from many of Southern California's largest regional business entities and associations. The final 2012 AQMP, and the rule making that will eventually stem from it, will directly affect many of these businesses' interests. Our highest priority is to work with SCAQMD to develop a well-balanced strategy that addresses federal requirements through an economically feasible compliance program. To that end, we offer the following comments on the DPEIR:

4-2

1. A PM2.5-Only Plan as an alternative to the project currently proposed.

We requested² that the District include a PM2.5-only alternative in its CEQA evaluation and we very much appreciate the fact that such a Plan has been included as Alternative 4 in the DPEIR. We also want to acknowledge three specific conclusions about Alternative 4 in the DPEIR:

- A PM2.5-only Plan was not rejected as infeasible as were two other potential Alternatives³.
- A PM2.5-only Plan "... is considered to be a legally viable alternative ..." because, with this 2012 Plan submission, the District is only required to demonstrate attainment of the 24-hour PM-2.5 standard⁴.
- Alternative 4 - again, a PM2.5-only Plan - would generate fewer adverse environmental impacts or less severe impacts than the Project (i.e., the draft AQMP)⁵.

4-3

We strongly support these findings.

¹ The DPEIR was released on Thursday, September 8th.

² Comment letter on the CEQA Initial Study, July 27, 2012, comment letter on the Draft AQMP, August 31, 2012, and verbally at workshops and other venues.

³ DPEIR Section 6.3.

⁴ DPEIR Section 6.4.4.

⁵ DPEIR Section 6.8.

2. The summaries of some of the stationary source control measures in the DPEIR⁶ remain at odds with the draft proposed control measures themselves.

As was noted in our letter on the CEQA Initial Study, there were discrepancies between the descriptions of some of the stationary source control measures and the language of the actual measures. Notwithstanding the explanation that the DPEIR examines "... impacts from secondary effects that may not be directly stated in the control measure,"⁷ there are still a few fundamental differences in the descriptions (DPEIR compared to the Revised AQMP).

- CMB-01, NO RECLAIM, Phase I. Whereas the control measure itself has been made a contingency measure, there is no mention of that fact in the summary of the measure in the DPEIR.
- CMB-01, NOx RECLAIM, Phase II. There is no mention in the DPEIR of the contingency status of Phase I. Further, the actual control measure speaks of implementation beginning in 2020 while the summary in the DPEIR states that the control measure would seek further reductions by 2020.
- FUG-01, Vacuum Trucks. The summary in the DPEIR states that the "... control measure seeks to reduce emissions from the further venting of vacuum trucks." It is not known what is meant by "further venting", and there is no such discussion in the control measure itself.
- FUG-02, LPG Transfer and Dispensing. The expansion of the applicability of this control measure to is not a given. As is clearly stated in the control measure, with Rule 1177 having been adopted as Phase I, the intended next phase (Phase II) will be an evaluation of the potential for further emissions reductions.

4-4

3. DPEIR, Appendix F.

The Coalition is concerned that the current title of Appendix F, RTP/SCS Mitigation Measures Table, might be misinterpreted to imply that these are required mitigation measures. The title on the first page of the appendix, "Examples of Measures That Could Reduce Impacts from Planning, Development, and Transportation Projects," accurately conveys the proper meaning. In fact, the wording was carefully crafted by SCAG's Regional Council in response to concerns from local governments and the business community. The title of Appendix A should be changed to agree with the title on page F-1.

4-5

Finally, our July 27th comment letter on the CEQA Initial Study raised our concerns with the non-timely release of documents related to the 2012 AQMP. The District, in its response⁸ to our concerns, noted that four regional hearings had been scheduled in order to provide more opportunity for public comment. However, the late release dates of the DPEIR and the Revised AQMP (September 6th⁹, and September 8th¹⁰,

4-6

⁶ DPEIR Section 2.8.1.1

⁷ Responses to comments number 6-6, DPEIR.

⁸ Responses to comments number 6-4, DPEIR.

⁹ E-mail from CEQA Administration, SCAQMD.

¹⁰ E-mail from Mr. Michael Krause, SCAQMD.

respectively) effectively precluded meaningful review of the documents or presentation of appropriate comments at the regional hearings. We are now aware of the second round of regional hearings (scheduled for November 13th through 15th), and we sincerely hope that there will not be any further changes to the documents prior to these new hearings.

4-6
Con't

As the AQMP process moves forward, the individuals and organizations who have signed onto this letter look forward to our continued partnership with SCAQMD. Please know that the business community remains committed to helping develop a balanced, workable 2012 AQMP that provides for both environmental and economic success. We join here, however, to express our unity in finding that the Draft Program EIR for the 2012 AQMP is in need of additional improvement and correction - especially in regard to the issues outlined above. Also, please note that, in addition to supporting this joint letter, some of our members may wish to submit a comment letter of their own.

4-7

We welcome further discussion of these comments; please contact Tracy Rafter, CEO of BizFed (Tracy.rafter@bizfed.org) or Matt Petteruto, Vice President of Economic Development for the Orange County Business Council (mpetteruto@ocbc.org).

Sincerely,



Tracy Rafter
BizFed, Los Angeles County Business Federation



Matt Petteruto
Orange County Business Council



James Clarke
Apartment Association of Greater Los Angeles



Steven Schuyler
BIA of Southern California, Inc.



Michele Dennis
Building Owners and Managers Association of Greater Los Angeles



Jay McKeeman
California Service Station and Auto Repair Association / California Independent Oil Marketers Association

**Responses to Comment Letter #4
BizFed – David Englin (10/23/2012)**

- 4-1 This comment notifies the SCAQMD that a comment letter is attached to the email. No further response is necessary.
- 4-2 This comment provides a general description of groups represented by the comment letter. No further response is necessary. The comment also states that the groups' priority is to work with the SCAQMD to develop a well-balanced strategy that addresses federal requirements economically. The SCAQMD welcomes participation in the AQMP from all stakeholders including, but not limited to, public agencies, affected industries, environmental organizations, and other interested parties. To the extent that AQMP control measures affect a specific stakeholder group, it is important that the group affected participate in crafting control measures, as well as any resulting rules or regulations.
- 4-3 The comment indicates appreciation for including a PM2.5 only alternative (Alternative 4) in the Program EIR for the 2012 AQMP. The comment also lists three conclusions about Alternative 4 from Chapter 6 and supports the conclusions listed. No further response is necessary.
- 4-4 The comment notes that there were some discrepancies in the description of three control measures in the 6/28/12 NOP/IS compared to the Draft 2012 AQMP. Based on comments received regarding this inconsistency, the NOP/IS was revised to accurately describe the control measures and recirculated for an additional 30-day comment period. No comments were received.

The comment also states that there are fundamental differences in the descriptions in the Draft Program EIR compared to the Revised Draft EIR. SCAQMD staff disagrees with this assertion. As noted in the comment, the text in the Program EIR is a summary, so it does not track the text in the control measure word for word.

The Draft Program EIR does not mention that Phase I of Control Measure CMB-01 is now a contingency measure. In response to public comment, the emission reductions for Control Measure CMB-01 are now included as a contingency measure, which would be implemented if the emission reductions are needed to demonstrate attainment. This minor change has been included in the Final Program EIR as follows. “~~This proposed control measure will seek further reductions of 2 tpd of NO_x allocations by 2014.~~ The proposed Phase I reductions are designed to serve as a contingency measure. It will be implemented if the Basin does not attain the federal 24-hr PM_{2.5} standard by 2014. If necessary, Phase I is expected to be adopted in 2013 and the shave will be implemented/triggered for compliance year 2015 if the attainment of 24-hr PM_{2.5} standard is not met by 2014.” If Phase I of Control Measure CMB-01 is not triggered or implemented, Phase II would target a cumulative three to five tons per day of NO_x emission reductions. These modifications are noted in the Final Program EIR, were evaluated by SCAQMD staff, and do not affect the environmental analysis in any way because, regardless of whether or not Phase I is implemented, potential adverse impacts would be at most the same as those analyzed in the Draft Program EIR because the same types of secondary environmental impacts from the same types of control equipment

would occur to achieve NOx emission reductions of three to five tons per day. As a result, changing Phase I of Control Measure CMB-01 to a contingency measure does not affect the environmental analysis or change any significance determinations.

The comment also notes that Control Measure CMB-01 states that Phase II would be implemented in 2020, whereas the Draft Program EIR states that Phase II of Control Measure CMB-01 would seek NOx reductions by 2020. Implementation means that the control requirements would be in effect and that emission reductions would be occurring, so the two phrases are not inconsistent. However, the text in the Final Program EIR has been modified to as follows, “This proposed NOx control measure would seek further reductions in NOx allocations by the year is expected to be adopted by 2015 for implementation between 2017 and 2020 to be consistent with the 2012 AQMP. If Control Measure CMB-01, RECLAIM Phase I, contingency measure emission reductions are not triggered and implemented, Phase II will target a cumulative three to five tons per day of NOx emission reductions.”

The comment indicates that the summary of Control Measure FUG-01 in the Draft Program EIR states that the control measure would seek to reduce emissions from further venting from vacuum trucks, whereas, the control measure does not include this exact phrase. To further clarify the summary of Control Measure FUG-01, the text has been modified as follows, “This control measure will primarily focus on high-emitting seeks to reduce emissions from the further venting of vacuum trucks operations, such as those found in petrochemical industries and other operations that include the transfer of volatile liquids such as gasoline.”

The comment also states that the text in the Draft Program EIR does not indicate what the applicability of Control Measure FUG-02 would be expanded to. The summary of Control Measure FUG-02 in Chapter 2 of the Program EIR states, “The purpose of Control Measure FUG-02 is to further reduce fugitive VOC emissions associated with the transfer and dispensing of LPG by expanding rule applicability to include LPG transfer and dispensing at currently exempted facilities such as refineries, marine terminals, natural gas processing plants and pipeline transfer stations, as well as facilities that conduct fill-by-weight techniques.” This sentence clearly states the applicability of Control Measure FUG-02. However, for the full text of Control Measure FUG -02, the commenter is referred to 2012 AQMP Appendix IV-A.

Finally, it should be noted that the Draft Final 2012 AQMP was available for public review and comment during the same time period as the Draft Program EIR was available, so the public had access to the actual description of the 2012 AQMP control measures in addition to the summaries in the Draft Program EIR. As is apparent in the comment, the commenter had a copy of the Draft Final 2012 AQMP control measures to be able to make the comparisons with the summaries in the Draft Program EIR.

- 4-5 The comment requests that the cover page title of Appendix F be changed to match the title on the first page of the appendix. This requested change has been made.
- 4-6 This comment reiterates a previously submitted comment on the NOP/IS from July 27, 2012 regarding the difficulties of not having a sufficient amount of time to review the NOP/IS relative to the scheduling of the regional hearings. The comment also indicates that the timing of releasing the Draft Program EIR and the Revised Draft 2012 AQMP

relative to the scheduling of the four regional hearings held in September precluded meaningful review of the documents and presentation materials. Lastly, this comment acknowledges that additional regional hearings will be held in November and requests that no additional changes to the documents will be made prior to the hearings.

SCAQMD staff, while aware of the compressed time frame for the 2012 AQMP development, is also committed to providing sufficient time for public comment. It is important to note that the development schedule was constrained by the availability of input data from SCAG's 2012 RTP and CARB's emissions inventories as well as U.S. EPA's submittal deadline of December 2012. Nonetheless, SCAQMD staff continues the enhanced outreach efforts to all stakeholders and SCAQMD staff has made every effort to provide all data and information to the public as soon as it became available.

SCAQMD staff believes that there have been ample opportunities for the public to review and comment on the 2012 AQMP and supporting documents, including the NOP/IS and Draft Program EIR as demonstrated in the following timeline of events regarding the 2012 AQMP development process:

- The NOP/IS was released for a 30-day public review and comment period from June 28, 2012 to July 27, 2012. Five public workshops/CEQA scoping meetings were held regarding the NOP/IS on July 10, 2012, July 11, 2012 (two meetings), July 12, 2012 and July 24, 2012.
- The Draft 2012 AQMP (with Appendices I-IV and VI) was released for public review and comment on July 18, 2012. Appendix V of the Draft 2012 AQMP was released for public review and comment on August 2, 2012. Comments were encouraged to be submitted by August 31, 2012 for inclusion of possible modifications into the Revised Draft 2012 AQMP.
- The Recirculated NOP/IS was released for a 30-day public review and comment period from August 2, 2012 to August 31, 2012. Two public workshops/CEQA scoping meetings were held regarding the Recirculated NOP/IS on August 9, 2012 and August 12, 2012.
- The Draft Program EIR was released for a 47-day public review and comment period from September 7, 2012 to October 23, 2012.
- The Revised Draft 2012 AQMP was also released for public review and comment on September 7, 2012.
- Four Regional Hearings for the Revised Draft 2012 AQMP were held between September 11, 2012 and September 13, 2012.
- The Socioeconomic Report was released for a 45-day public review and comment period from September 28, 2012 to November 12, 2012.
- Four additional Regional Hearings for the Revised Draft 2012 AQMP will be held between November 13, 2012 and November 15, 2012.

Further, while comments on the 2012 AQMP can be received up to the date of the Governing Board hearing scheduled for December 7, 2012, SCAQMD staff continues to strongly encourage comments to be submitted as early as possible to allow staff time to

respond and make any necessary modifications to the document. In addition, so that all stakeholders can keep current with issues raised in the comments, all comment letters submitted to the SCAQMD on the 2012 AQMP have been made available online when received (<http://www.aqmd.gov/aqmp/2012aqmp/commentletters/commentlist.html>) and responses to these comments will be released prior to the Governing Board Hearing for consideration during the adoption hearing. Lastly, all comments submitted relative to the Draft Program EIR and their responses have been included in Appendix G of this Final Program EIR.

As demonstrated by the timeline outlined above, the review period for most of the documents has been extended, additional workshops and regional public hearings have been added, and the scheduled Governing Board hearing date has been delayed until December 2012. Further, an additional 45 days were provided when the Socioeconomic Report was released on September 28, 2012.

Thus, SCAQMD staff believes that with such additional review time, adequate time has been provided. For example, the total public review and comment period for both the Draft and Revised Draft 2012 AQMP will be over 100 days.

With regard to the comment about making changes to the documents prior to the regional hearings, there have been minor edits to the Revised Draft 2012 AQMP due to the comments received that have been reflected in the Draft Final 2012 AQMP released November 7, 2012, before the Regional Hearings starting on November 13, 2012. In addition, the Final Program EIR has been modified accordingly. Thus, because of the multiple opportunities for submitting comments, SCAQMD staff could not guarantee that the documents will not be revised again prior to the regional hearings scheduled in November.

Finally, when converting the Draft Program EIR to a Final Program EIR, changes are often made to the text based on public comments received on the environmental analysis. Changes in the text may also be made in response to modifications of the 2012 AQMP resulting from updated information, public testimony or other public comments. Any changes to the Program EIR are evaluated to determine whether or not they provide substantial new information or result in new significant impacts or substantially increase the severity of existing significant impacts, pursuant to CEQA Guidelines §15088.5. If changes to the Program EIR do not trigger any of the conditions identified in CEQA Guidelines §15088.5, recirculation is not required.

- 4-7 This comment states that members of the business community remain committed to helping develop a balanced and workable 2012 AQMP. However, the business community believes that the Program EIR needs improvement and correction, especially with regard to the issues outlined in the comment letter. As noted in response to comment #4-2, the SCAQMD welcomes participation in the AQMP development process from all stakeholders. Further, the Program EIR complies with all relevant CEQA requirements and includes responses to all issues raised in the comment letter. Most requested changes have been made. The changes to the Program EIR suggested in the comments have been evaluated and do not trigger any of the conditions in CEQA Guidelines §15088.5 requiring recirculation.

Letter #5

Lori Moore

From: Steve Smith
Sent: Wednesday, October 31, 2012 7:05 AM
To: Steve Smith
Subject: FW: 2012 AQMP Draft EIR
Attachments: 10-22-12 Draft 2012 AQMP Program Environmental Impact Report.pdf

From: Porter, Dylan [<mailto:dylan.porter@polb.com>]
Sent: Tuesday, October 23, 2012 2:45 PM
To: Jeffrey Inabinet
Cc: Holzhaus, Dominic; 'Gose, Joy'; Elaine Chang; Tomley, Heather; Wunder, Lisa
Subject: 2012 AQMP Draft EIR

Mr. Inabinet. Attached please find a comment letter from the Port of Long Beach and Port of Los Angeles regarding the 2012 AQMP EIR. A hard copy is in the mail.

} 5-1

Thank you,

Dylan Porter
Environmental Planning
Port of Long Beach
(562) 283-7100
porter@polb.com

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October 22, 2012

Jeff Inabinet
c/o Office of Planning, Rule Development, and Area Sources/CEQA Facilities
South Coast Air Quality Management District Development and Planning Branch
21865 Copley Drive
Diamond Bar, CA 91765-4182

Subject: Draft 2012 AQMP Program Environmental Impact Report

Dear Mr. Inabinet:

The Port of Long Beach (POLB) and Port of Los Angeles (POLA) appreciate the opportunity to comment on the Draft Program Environmental Impact Report (Draft EIR) developed for the 2012 Air Quality Management Program (AQMP). The ports appreciate that AQMD staff took steps to address the scoping comments provided by the ports, specifically the inclusion of a transportation and traffic impact analysis as part of the Draft EIR.

5-2

However, the ports must reiterate their concerns relating to AQMP Control Measure IND-01 (Backstop Measures for Indirect Sources of Emissions from Ports and Port-Related Sources). As the AQMD knows from prior comment letters submitted by the ports (please see AQMP comment letters dated August 30, 2012; July 10, 2012; and May 4, 2010), the ports believe that Measure IND-01 exceeds the AQMD's authority and should not be included in the AQMP for the reasons set forth in the referenced letters.

5-3

Measure IND-01 also contains various flaws which contribute to the inadequacy of the Draft EIR and failure to comply with the California Environmental Quality Act (CEQA). First, Measure IND-01, as described in the project description of the Draft EIR and in the AQMP itself, is unconstitutionally vague and lacks sufficient description of exactly what it proposes to impose on the ports or substantial evidence in support. The Draft EIR's failure to describe the project fully makes it impossible for AQMD, the ports, or the public to assess its environmental impacts. An EIR must describe the whole of the action, or the entirety of a project, including reasonably foreseeable actions that are part of a project, and must analyze the impacts of those reasonably foreseeable actions. Because of the importance and consequences of the AQMP to the State of California's State Implementation Plan (SIP) if adopted by California Air Resources Board (ARB), and to the Federal Clean Air Act enforcement if approved by the U.S. Environmental Protection Agency (EPA), the AQMD is required to fully disclose the details of Measure IND-01 before adoption, and CEQA requires a full disclosure and discussion, which AQMD has failed to do.

5-4

Port of Los Angeles • Environmental Management
425 S. Palms Verdes Street • San Pedro • CA 90731 • 310-732-3675

Port of Long Beach • Environmental Planning
925 Harbor Plaza • Long Beach • CA 90802 • 562-590-4160

The San Pedro Bay Ports Clean Air Action Plan was developed with the participation and cooperation of the staff of the US Environmental Protection Agency, California Air Resources Board and the South Coast Air Quality Management District.

Jeff Inabinet
 October 22, 2012
 Page -2-

Second, to the extent the AQMD intends to approve the Draft EIR and AQMP containing the vague current version of Measure IND-01, and later, as a part of future rulemaking, provide details regarding its proposed actions against the ports including an environmental assessment, that would be segmentation or piecemealing of its CEQA analysis.

5-5

Third, Measure IND-01 has serious problems of infeasibility which the Draft EIR has failed to analyze at all. Measure IND-01 in effect attempts to convert the ports' various aspirational goals, set forth in their voluntary Clean Air Action Plan (CAAP), into enforceable regulation against the ports. However, the CAAP goals depend upon future technology advancement which has not yet occurred, all of which are beyond the control of the ports. Therefore, there are technology feasibility issues with the AQMD making the ports' goals into required emissions limits. Further, as the ports are not air regulators and they do not themselves own, operate, or control the emissions equipment operated by the port industry, there are legal feasibility questions over the ports' ability to exercise authority to carry out the actions of Measure IND-01. There are also serious legal feasibility questions including federal preemption asserted by railroads in connection with locomotive specifications and rail operations, and international preemption asserted over ocean vessels. The Draft EIR is flawed in its failure to discuss these infeasibility issues, and had it done so, it would lead to the conclusion that Measure IND-01 should be removed from the AQMP.

5-6

5-7

Fourth, the AQMD has concluded in the air quality analysis that specific measures associated with Measure IND-01 "are unknown, and therefore the impacts are speculative," (see page 4.2-7 of Draft EIR). This is yet another reason why the Draft EIR is flawed. CEQA Guidelines Section 15145 specifies that if, after thorough investigation, a Lead Agency finds that a particular impact is too speculative for evaluation the agency should note its conclusion and terminate discussion of the impact. Instead, the AQMD proceeded to analyze secondary impacts to air quality that are based on speculative assumptions regarding construction emissions, energy demand, and operations.

5-8

Lastly, to the extent that Measure IND-01 proposes to impose upon the ports a form of enforcement for port industry's failure to meet the CAAP's target emissions reduction goals, when the ports do not own, operate, or control the emissions sources, it violates constitutional limitations requiring that exactions imposed on a party must be proportional to the party's contribution, when it fails to include all parties involved in the CAAP, including the actual emissions sources.

5-9

Given these deficiencies and speculation under CEQA and with the AQMP rulemaking, Measure IND-01 should be removed from the final EIR and the AQMP, and the analysis should be revised accordingly. With this change, the ports can support the revised AQMP and can continue to work with AQMD, other agencies, and the port industry in the collaborative manner that has made the ports' voluntary CAAP a success.

5-10

Jeff Inabinet
October 22, 2012
Page -3-

Thank you for considering the above comments. If you have any questions, please contact Dylan Porter, Port of Long Beach, at (562) 283-7100 or Lisa Wunder, Port of Los Angeles, at (310) 732-7688.

5-10

Sincerely,



Richard D. Cameron
Director of Environmental Planning, Port of Long Beach



Christopher Cannon
Director of Environmental Management, Port of Los Angeles

DP:s

cc: Elaine Chang, South Coast Air Quality Management District
Dominic Holzhaus, Deputy City Attorney, City of Long Beach
Joy Crose, Assistant General Counsel, City of Los Angeles

**Responses to Comment Letter #5
Ports of Long Beach and Los Angeles –
Richard Cameron & Christopher Cannon (10/23/2012)**

- 5-1 This comment notifies the SCAQMD that a comment letter pertaining to the Draft Program EIR for the 2012 AQMP is attached. No further response is necessary.
- 5-2 The comment states that the ports appreciate the opportunity to comment on the Draft Program EIR. No further response is necessary. The comment also expresses appreciation that SCAQMD staff took steps to address scoping comments provided by the ports, specifically by including a transportation and traffic analysis in the Program EIR.
- 5-3 The comment reasserts the commenters' position that the SCAQMD lacks legal authority to adopt Control Measure IND-01. The SCAQMD has responded to the commenters' previous letters. In brief, the SCAQMD has authority to regulate indirect sources under existing law. Health & Safety Code §§40716 (a)(1); 40440 (b)(3). The Ports satisfy the definition of indirect source because they are a "facility, ...installation...[or] real property...which attracts, or may attract, mobile sources of air pollution. 42 U.S.C. §7410 (a)(5)(C). Air districts may regulate indirect sources even though the regulation is intended to reduce emissions from the mobile sources associated with the indirect source, and although the district would be preempted from setting emission standards for those mobile sources. See *Nat'l Ass'n of Home Builders v. San Joaquin Valley APCD*, 627 F. 3d 730 (9th Cir. 2010)
- 5-4 The comment asserts that Control Measure IND-01 is unconstitutionally vague and that the Draft Program EIR's analysis fails to sufficiently describe the project so as to allow the public to comment on it. The doctrine against unconstitutionally vague laws is designed to assure that a penal statute defines "the criminal offense with sufficient definitiveness that ordinary people can understand what conduct is prohibited, " and to ensure that the statute establishes "minimal guidelines to govern law enforcement." *Kolender v. Lawson*, 461 U.S. 352, 357-58 (1983). Control measure IND-01 does not violate this doctrine because it has not yet been developed into a rule and hence cannot subject anyone to criminal enforcement.

The Draft Program EIR provides an overall project description as well as a general description of each control measure, including IND-01. The document analyzes the types of technologies and processes that would be used to reduce emissions from port-related sources and evaluates the potential environmental impacts of such methods. Since it is not known at this date exactly which technology or technologies will be selected, this description is all that can feasibly be provided. The CEQA document is a Program EIR because it covers a series of actions that can be characterized as one large project and is being prepared in connection with the issuance of rules, regulations, plans or other general criteria to govern the conduct of a continuing program (CEQA Guidelines §15168 (a)(3)). As such, CEQA expressly contemplates that future activities under the program will be evaluated as they are individually approved to determine if further environmental analysis is needed (CEQA Guidelines §15168 (c)). A program EIR may properly focus on "broad policy alternatives and programwide mitigation measures" as well as "regional influences, secondary effects, cumulative impacts...and other factors

that apply to the program as a whole” (CEQA Guidelines §15168 (b)(4) and (d)(2)). Therefore, a program EIR “... need not be as precise as an EIR on the specific projects which might follow.” *Rio Vista Farm Bureau Center .v County of Solano*, 5 Cal. App. 4th 351, 374 (1992) Program EIRs are frequently used in conjunction with the process of tiering, which is expected to be the case when preparing project-specific CEQA documents for control measures promulgated as rules or regulations. Tiering is “the coverage of general matters in broader EIRs (such as on general plans or policy statements) with subsequent narrower EIRs...” (CEQA Guidelines §15385). As stated by the California Supreme Court: “An agency that chooses to tier may provide analysis of general matters in a broader EIR, then focus on narrower project-specific issues in later EIRs.” *In re Bay-Delta Programmatic Environmental Impact Report Coordinated Proceedings*, 43 Cal. 4th 1143, 1173(2008). The Draft Program EIR for the 2012 AQMP analyzed the potential environmental impacts of various types of technologies and processes that could be used to reduce emissions from sources such as those found at the ports. The exact impacts resulting from the particular methods that will be used under Control Measure IND-01 can only be determined in the future as the measure is developed into a rule or regulation and adopted. As held by the California Supreme Court, this approach is proper where the details of future projects that are part of the overall program will be developed in the future.

The comment states that Control Measure IND-01 contains various flaws that contribute to the inadequacy of the Draft Program EIR, including a vague project description, which makes it difficult to assess environmental impacts. SCAQMD staff disagrees with the assertion that the Draft Program EIR is flawed and does not comply with CEQA. The Draft Program EIR complies with all relevant CEQA requirements for preparing an EIR (CEQA Guidelines §§15120 through 15131) and for preparing a program CEQA document (CEQA Guidelines §15168). The Program EIR includes a comprehensive description of the proposed project in Chapter 2, which includes summaries all stationary and mobile source control measures. Similarly, Appendix F identifies all transportation control measures provided by SCAG. Consequently, the Program EIR complies with all relevant CEQA requirements for preparing a project description (see CEQA Guidelines §15124). It should also be noted that the Draft Final 2012 AQMP was available for public review and comment during the same time period as the Draft Program EIR was available, so the public had access to the actual description of the 2012 AQMP control measures in addition to the summaries in the Draft Program EIR. Finally, Chapter 4 of the Program EIR includes comprehensive analyses of potential adverse impacts to each of the environmental topics analyzed. The subchapters clearly identify control measures that could potentially contribute to impacts to that environmental topic; provides a quantitative or qualitative analysis of all control measures and PM2.5 control measures separately from the ozone control measures, depending on the information available for that control measure; and provides significance determinations for the 2012 AQMP overall and separately for impacts from PM2.5 and ozone control measures. The Program EIR was prepared consistent with CEQA Guidelines §15144 and has disclosed all impacts that it reasonably can.

SCAQMD staff disagrees with the commenter that 2012 AQMP lacks sufficient description of Control Measure IND-01. As described in Chapter 4 of the 2012 AQMP, Control Measure IND-01 is a backstop measure whose implementation is triggered if

emission levels projected to result from the current regulatory requirements and voluntary reduction strategies specified by the Ports are not realized. These reductions are considered in the baseline emissions inventory, so if not achieved, the control strategy and attainment demonstration in the 2012 AQMP would not be accurate. A detailed description of Control Measure IND-01 can be found in Appendix IV-A which includes source category background, emission inventory, regulatory history, proposed method of control, rule compliance, cost effectiveness and implementing agency. Under the “Elements of the Backstop Rule” is a description of the phases of implementation such as a determination if: 1) reported emissions for 2014 exceed the 2014 target milestone; 2) Basin fails to meet the 24-hour PM_{2.5} standard by 2014; and, 3) further emission reductions from port-related sources are feasible. The discussion continues regarding the submittal of an Emission Control Plan if the backstop rule is triggered and details as to what should be included in the plan, for instance sufficient control measures to bring back into compliance with 2014. Any further details regarding the future requirements will be determined more appropriately during the rule development process.

- 5-5 The comment states that if the SCAQMD certifies the Program EIR and approves the 2012 AQMP, which includes Control Measure IND-01, future rulemaking, including the preparation of an environmental analysis would be piecemealing the CEQA analysis. As indicated, the CEQA document for the 2012 AQMP is a Program EIR prepared pursuant to CEQA Guidelines §15168 because the 2012 AQMP constitutes a series of actions that can be characterized as one large project and are related in the connection with the issuance or rules, regulations, plans, or other criteria to govern the conduct of a continuing program. In addition, preparation of a Program EIR allows an agency to consider broad policy alternatives and program-wide mitigation measures at an early time when the agency has greater flexibility to deal with basic problems or cumulative impacts. Further, CEQA recognizes that preparation of more than one CEQA document may occur for projects that contain a series of related actions or ongoing programs. Specifically, CEQA Guidelines §15152 describes the concept of tiering which refers to using the analysis of general matters contained in a broader EIR (such as one prepared for a general plan or policy statement) with later EIRs and negative declarations on narrower projects; incorporating by reference the general discussions from the broader EIR; and concentrating the later EIR or negative declaration solely on the issues specific to the later project. Any subsequent environmental analysis for Control Measure IND-01 would likely tier off of the 2012 AQMP Program EIR and, therefore, would not constitute piecemealing.

With regard to the comment that Control Measure IND-01 is vague, see response to comment #5-4 regarding details of the control measure.

- 5-6 SCAQMD staff considers the Control Measure IND-01 to be feasible for the following reasons. The control measure trigger is based on emission reduction targets from port-related sources, and “backstops” those emission reductions already expected from existing air quality rules, regulations, and commitments (such as the CARB/Class 1 Railroads MOUs). These emission reductions are part of the SIP’s future baseline emissions inventory for port-related sources, so nothing in the CAAP that isn’t already being implemented to meet existing and future reductions required by state and federal law, is required to meet the targets in the control measure. If the “backstop” rule is

triggered, the Ports would submit an Emission Control Plan to the District. The plan should include measures sufficient to bring the Ports back into compliance with the 2014 emission targets (Phase I) and to further reduce their emissions to the new target based on their contribution to the total inventories, necessary in meeting the 24-hr PM_{2.5} standard through a SIP amendment (Phase II). The “backstop” rule would be triggered if it is later determined that there is a shortfall in the original target or a change occurs in the Basin-wide carrying capacity for the 2014 federal 24-hr PM_{2.5} ambient air quality standard. In response to the statement that the measure makes the ports responsible for voluntary goals under the CAAP, the SCAQMD staff believes it can regulate Port sources under its existing authority under current state law. As stated in Control Measure IND-01, the SCAQMD has the authority to adopt rules to control emissions from indirect sources under existing law. The Clean Air Act defines an indirect source as a “facility, building, structure, installation, real property, road or highway which attracts, or may attract, mobile sources of pollution.” [42 U.S.C. §7410 (a)(5)(C); CAA §110 (a)(5)(C).] Under this definition, the Ports are an indirect source. As specified in the California State Air Pollution Control Laws, codified in the California Health & Safety Code, districts are further authorized to adopt rules to “reduce or mitigate emissions from indirect sources” of pollution. (Health & Safety Code §40716 (a)(1)). The SCAQMD is also required to adopt indirect source rules for areas where there are “high-level, localized concentrations of pollutants or with respect to any new source that will have a significant impact on air quality in the South Coast Air Basin,” (Health & Safety Code §40440 (b)(3)).

- 5-7 The comment asserts that there are serious legal feasibility questions regarding Control Measure IND-01, including federal preemption asserted by railroads, an international preemption asserted by ocean vessels, and because the ports do not own or operate the sources. The SCAQMD recognizes the preemption arguments raised by various industries but does not believe that these arguments establish that there can never in any case be a state or local rule affecting such sources. For example, a state rule affecting foreign-flagged vessels, even outside the three-mile state boundary, was upheld by the Ninth Circuit, and the US Supreme Court declined to review the case. *Pacific Merchant Shipping Ass’n. v. Goldstene*, 639 F. 3d 1154 (9th Cir. 2011). And the Ninth Circuit has held that when a state or local air pollution rule affecting railroads has been approved by U.S. EPA into the State Implementation Plan, the courts will harmonize the purposes of the Clean Air Act with the Interstate Commerce Commission Termination Act to determine whether the state or local rule is preempted. Preemption is not automatic. *Ass’n. of American Railroads v. South Coast AQMD*, 662 F. 3d 1094(9th Cir. 2010).

For a discussion of the issue relative to the ports not owning the polluting sources, see response to comment #5-9.

- 5-8 The comment refers to footnote “a” to Table 4.2-1, which states, “The specific actions associated with the control measure are unknown and, therefore, the impacts are speculative.” This footnote references Control Measure IND-01 among other control measures. The comment states that because impacts are speculative, Control Measure IND-01 should not have been further analyzed. However, footnote “a” goes on to say, “In order to provide a conservative analysis, it is assumed that the control measure could require air pollution control technologies that are similar to those that are currently required (e.g., SCR, electrification, use of alternative fuels, etc., and would have the

potential to require construction activities that would generate noise).” This approach was taken to provide a conservative analysis of environmental impacts from all control measures, including IND-01.

- 5-9 The comment asserts that Control Measure IND-01 violates constitutional limits requiring that exactions imposed on a party be proportional to the party’s contribution, because the ports do not own, operate, or control the emissions sources, when it fails to include all parties involved in the CAAP, including the actual emissions sources. The basic concept of indirect source contemplates that the emissions to be controlled are from sources not owned or operated by the indirect source. For example, Rule 2202 applies to employers of 250 or more employees and focuses on emissions from employee vehicles which are not owned or operated by the source. The concept of an “exaction” generally refers to a requirement that, as a condition of a development approval, a developer must dedicate sites for public or common facilities, or make payments to defray the costs of land or facilities or otherwise provide public amenities. Abbott, et al. *“Exactions and Impact Fees In California”* (Solano Press 2001), p. 15. Therefore, a regulation to reduce air pollution would not normally be considered an exaction. Moreover, the principle of proportionality referred to by the commenter was established by the United States Supreme Court which decided that a land dedication requirement must bear a “rough proportionality” to project impacts. *Dolan v. City of Tigard*, 512 U.S. 374(1994). In this case, all of the impacts of concern are ultimately the result of the fact that the two major ports operate here in the district, so the concept of proportionality to impacts is not violated. Finally, the state and the SCAQMD are also seeking to impose all feasible emission reduction measures on all types of mobile sources found within the ports, so the regulatory program does not fail to include all parties.
- 5-10 With regard to the deficiencies in the Program EIR asserted by the commenters, see responses to comments #5-4 and #5-5. With regard to the comments on speculation, see response to comment #5-8.
- See response to comment #5-4 regarding the reasons for keeping Control Measure IND-01 as part of the PM2.5 control strategy that relies on the emission reductions projected to be achieved from the current regulatory requirements and voluntary reduction strategies specified by the Ports. The SCAQMD intends to continue to work with the Ports in a collaborative manner to strive not to trigger Control Measure IND-01, but if a backstop rule is necessary, the SCAQMD will work cooperatively with the Ports to develop a feasibility analysis and implementation schedule.
- 5-11 The comment thanks SCAQMD staff for considering the comments in the letter and provides a contact person and phone number in case of questions. No further response is necessary.

Letter #6

Lori Moore

From: Steve Smith
Sent: Wednesday, October 31, 2012 7:06 AM
To: Steve Smith
Subject: FW: Comments to 2012 AQMP Draft Program Environmental Impact Report
Attachments: J. Inabinet It - 10_23_12.pdf

From: Noguera-Zagala, Denise M [<mailto:DNoguera-Zagala@semprautilities.com>]
Sent: Tuesday, October 23, 2012 3:32 PM
To: Jeffrey Inabinet
Cc: Garcia, Albert J
Subject: Comments to 2012 AQMP Draft Program Environmental Impact Report

Sent on behalf of and with Albert Garcia's approval.

} 6-1

Please see attached.

Denise Noguera - Zagala
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Please consider the environment before printing this email.



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October 23, 2012

Jeff Inabinet
Office of Planning, Rule Development, and Area Resources/CEQA
South Coast Air Quality Management District
21865 Copely Drive
Diamond Bar, CA 91765-4182

Re: Comments to 2012 Air Quality Management Plan (AQMP) Draft Program Environmental Impact Report (DPIER)

Dear Mr. Inabinet:

Southern California Gas Company ("SoCalGas") appreciates the opportunity to review and comment on the DPEIR for the AQMP. SoCalGas supports the South Coast Air Quality Management District's ("SCAQMD") comprehensive control strategies towards attainment of the Federal 24-hour PM2.5 ambient air quality standard, while making expeditious progress towards attainment of State PM standards, as currently outlined in the AQMP and the DPEIR. We encourage SCAQMD to continue along this path towards attainment. SoCalGas has no points of contention with DPEIR and applauds SCAQMPD for its work to date. In continued support of SCAQMD's efforts, SoCalGas offers the following comments to the DPEIR.

6-2

1. Subchapter 4.3 Project Specific Impacts - Energy

Section 4.3.4.2 states that control measures in the 2012 AQMP may result in an increase in demand for natural gas associated with stationary sources. In particular, the DPEIR asserts that demand for natural gas in Southern California is expected to increase by approximately .20 percent from 2010 to 2020 (DPEIR p. 4.3-13). However, SoCalGas' 2012 California Gas Report (CGR) predicts that our service area within Los Angeles, Riverside, Orange and San Bernardino Counties should expect to see a .13 percent decline in demand over the same period. Based on the 2012 CGR predictions, the overall statewide natural gas demand is projected to decrease by .25 percent.

6-3

Section 4.3.4.2 also identifies mitigation measures required for potentially significant impacts to natural gas resources associated with the AQMP. Mitigation Measure E-8 would focus on requiring project sponsors to pursue incentives to promote energy efficient equipment and promote energy conservation. SoCalGas supports this measure, as energy efficiency naturally leads to lower fuel consumption, which in turn reduces overall greenhouse gas

6-4

emissions as secondary pollutant. In addition, SoCalGas' efforts have also encouraged our industrial and commercial customers to utilize natural gas stationary sources during peak hours to reduce their electric demand and lower their electric bill, especially for those customers under a Time-Of-Use (TOU) contract. Further, SoCalGas encourages SCAQMD to require mitigation measures that include analysis of energy usage with the goal of conserving energy through the efficient use of energy. As part of the mitigation measures, SCAQMD should encourage project proponents to consider the potential for reducing energy peak demand by utilizing natural gas stationary sources during off-peak hours. Finally, SCAQMD should recognize that California natural gas utilities are subject to the California Public Utilities Commission's ("CPUC's") Evaluation, Measurement and Verification (EM&V) Policy framework. The EM&V objectively values the energy efficiency savings of the IOUs. For your reference, I am including an attachment that summarizes the CPUC's EM&V policy as we understand how it applies to SoCalGas.

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Once again, SoCalGas recognizes the importance of this DPEIR and appreciates continued collaboration with SCAQMD on the AQMP. If you have any questions to these comments, please free to contact Noel Muyco at (213) 244- 5514 or via email at NMuyco@semprautilities.com

6-5

Sincerely,



Albert J. Garcia
Senior Counsel

cc: Lee Wallace
Noel Muyco
Daniel McGivney
Alison Smith
Vince Gonzales
Colby Morrow

Summary of CPUC's EM&V Policy as applicable to SoCalGas

Energy Efficiency

Energy Efficiency and Demand Response are the first priority in California's loading order for energy resources. Pursuant to applicable Public Utilities Code sections, the CPUC regulates the IOUs' energy efficiency programs. Energy efficiency typically refers to the installation of energy efficient technologies or measures to reduce energy usage and eliminate energy losses in homes, businesses, and new construction. An energy efficient home or business can help consumers reduce energy usage while maintaining comparable service, thereby saving money on utility bills. On September 24, 2009, the CPUC approved funding and programs for the 2010-2012 energy efficiency program cycle. These energy efficiency programs are projected to save 7000GWh, 3460MW, and 150 MMTherms and follow the 2006-2008 program cycle, which resulted in savings of over 6000GWh, 1175MW, and 84MMTherms. The funding is 42% higher than the prior three-year cycle (2006-2008) and will support programs designed to produce deeper and more comprehensive savings that the Commission believes California's utilities can and will achieve. These programs and related energy savings are a key component of California's broader energy policies and greenhouse gas mitigation strategies. Energy Division's Demand-side Management (Evaluation, Measurement and Verification and Integrated Demand-side Analysis), and Residential and Non-Residential Programs sections work with the IOUs to develop and evaluate these energy efficiency programs.

Background

In 2003, the Commission, in collaboration with the California Energy Commission (CEC) and the now defunct California Consumer Power and Conservation Financing Authority developed California's first Energy Action Plan (EAP). The EAP sets forth a loading order that prioritizes which energy resources California will use to meet its future energy needs. The loading order stipulates that energy efficiency is California's "resource of first choice." Since the loading order issued, the Commission has invested in energy efficiency programs designed to displace or defer costly supply-side alternatives.

It is in the context of energy efficiency as a resource that the Commission's existing EM&V policy framework took shape. Decision (D.) 05-01-055 returned California's Investor Owned Utilities (IOUs)³ to the role of energy efficiency program administrators and tasked the Commission's Energy Division with EM&V of the utility programs. D.05-01-055 defined the objectives of EM&V as follows:

- 1) measure and verify energy and peak load savings for individual programs, groups of programs, and at the portfolio level;
- 2) generate data for savings estimates and cost-effectiveness inputs;
- 3) measure and evaluate the achievements of energy efficiency programs, groups of programs and/or the portfolio in terms of the "performance basis" established under Commission-adopted EM&V protocols: and

6-6

4) evaluate whether programs or portfolio goals are met. (D.05-01-055, at 12.)

Evaluation, Measurement, and Verification (EM&V) of California Utility Energy Efficiency Programs

http://docs.cpuc.ca.gov/PUBLISHED/FINAL_DECISION/125983.htm#P84_3093

The EM&V Methodological Framework

Two documents contain the Commission's methods and best practices to date: the California Evaluation Framework (Evaluation Framework) and the California Energy Efficiency Protocols (Protocols). The Evaluation Framework was developed through the collaborative work of the IOUs, Energy Division and TecMarket Works. Teams of professional evaluators offered recommendations for consistent methods and best practices for a wide range of evaluation questions outlined options for a cyclical approach to planning and conducting evaluations of energy efficiency programs. The Protocols were initially adopted by an Administrative Law Judge (ALJ) ruling in April 2006 as a follow up to the Evaluation Framework and were offered as a more prescriptive guide for conducting evaluation and allocating resources. Minor updates were adopted by ruling in January 2007. The Protocols were developed by TecMarket Works specifically to guide evaluation of the 2006-2008 IOU energy efficiency program cycles. The Protocols specify in detail acceptable approaches and procedures for the evaluation of IOU energy efficiency portfolios. The content of these documents has remained largely unchanged since 2006.

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The California Evaluation Framework (Evaluation Framework)

ftp://ftp.cpuc.ca.gov/Egy_Efficiency/CaliforniaEvaluationFrameworkSept2004.doc

California Energy Efficiency Protocols (Protocols)

ftp://ftp.cpuc.ca.gov/puc/energy/electric/energy+efficiency/cm+and+v/EvaluatorsProtocols_Final_AdoptedviaRuling_06-19-2006.doc

Responses to Comment Letter #6
Southern California Gas Company – Albert Garcia (10/23/2012)

- 6-1 The email informs the reader that the comments are included as an attachment and that the commenter is available to answer questions about the comment letter. No further response is necessary.
- 6-2 This comment states that SoCalGas supports the control strategies in the 2012 AQMP and encourages the SCAQMD to continue along this path towards attainment. Further, SoCalGas has no points of contention with the Draft Program EIR for the 2012 AQMP. No further response is necessary.
- 6-3 The commenter states that the Draft Program EIR presents a future increase in natural gas demand of 0.2 percent in southern California, but the SoCalGas *2012 California Gas Report* predicts a 0.13 decrease in natural gas demand over the same period.

Review of the *2012 California Gas Report*, indicates SoCalGas projects total gas demand to grow at an annual rate of 0.12% from 2011 to 2030. Over the forecast period 2012-2030, demand is expected to exhibit annual decline (of 0.13%) from the level in 2012 due to modest economic growth, CPUC-mandated energy efficiency (EE)s and renewable electricity goals, decline in commercial and industrial demand, and continued increased use of non-utility pipeline systems by enhanced oil recovery customers and savings linked to advanced metering modules. The Report states that although the forecast covers an 18-year natural gas demand and forecast period, from 2012 through 2030; only the consecutive years 2012 through 2014 and the point years 2015, 2020, 2025, and 2030, “These single point forecasts are subject to uncertainty, but represent best estimates for the future, based upon the most current information available.”

The future increase in natural gas demand in the Program EIR was obtained from the CEC’s *California Energy Demand 2012-2022 Final Forecast*. This report includes the following natural gas demand forecast.

“For the high demand scenario, consumption in the pure econometric forecast was almost 2 percent lower and peak demand 0.60 percent higher in 2022 compared to high demand CED 2011 Final statewide results shown in this chapter. The mid demand econometric scenario yielded projected 2022 consumption almost identical to CED 2011 Final, while peak demand was 1.8 percent higher. In the low econometric demand scenario, statewide consumption was projected to be 0.3 percent higher and peak 1.9 percent higher versus CED 2011 Final in 2022.”

Based on the above information, using the CEC’s natural gas demand forecast for the analysis of potential natural gas demand impacts in the Draft Program EIR provides a conservative estimate of future natural gas demand. Further, since future natural gas demand impacts were concluded to be significant, it is not necessary to revise the analysis. However, a footnote will be added to Subchapter 4.3, reporting the SoCalGas Report natural gas demand projections.

- 6-4 The commenter states that SoCalGas supports Mitigation Measure E-8 – Project sponsors should pursue incentives to encourage the use of energy efficient equipment and vehicles and promote energy conservation. The commenter states that SoCalGas encourages the

SCAQMD to require mitigation measures that include analysis of energy usage with the goal of conserving energy through the energy efficiency and consider the potential for reducing energy peak demand by utilizing natural gas stationary sources during off-peak hours. When promulgating 2012 AQMP control measures as SCAQMD rules or regulations, additional project-specific CEQA analyses will be prepared. To the extent that energy impacts from the subsequent projects need to be analyzed, if impacts are significant the SCAQMD would likely include energy conservation measures such as those suggested in the comment.

The commenter states that SCAQMD should recognize that natural gas utilities in the state are subject to the California Public Utilities Commission's Evaluation, Measurement and Verification (EM&V) Policy framework. The commenter states that the EM&V objectively values the energy efficiency savings of the investor-owned utilities (IOUs). The commenter prepared and provided an attachment to the comment letter that summarizes the policy as it applies to SoCalGas. SCAQMD staff recognizes that the EM&V policy appears to apply to the four largest IOUs in California with regard to implementing energy efficiency programs.

- 6-5 The concluding paragraph provides information on SoCalGas contacts. No further response is necessary.
- 6-6 As mentioned in comment #6-4, the commenter prepared and included an attachment that summarizes the EM&V policy as it applies to SoCalGas. SCAQMD staff may consider the EM&V policy, as appropriate, when evaluating projects with potential energy impacts. As already noted, the EM&V policy appears to apply specifically to the four largest IOUs in California with regard to implementing energy efficiency programs.

Letter #7

Lori Moore

From: Adams, Greg [GAdams@lacsds.org]
Sent: Tuesday, October 23, 2012 12:52 PM
To: Steve Smith; Michael Krause
Cc: Adams, Greg
Subject: LACSD 2012 AQMP CEQA COMMENTS

Hello Steve Smith and Mike Krause:

You and your staff have done a great job on this document. Our thoughts are as follows:

} 7-1

On Page 1-13, last paragraph of Section 1.4.5, I think you are confusing agencies and the facilities that they operate. I suggest the following re-write or something close to it:

"Much of the urbanized areas of Los Angeles and Orange Counties are serviced by three agencies that operate coastal facilities: the City of Los Angeles Bureau of Sanitation's Hyperion Treatment Plant in El Segundo and Terminal Island in San Pedro, the Los Angeles County Sanitation Districts' Joint Water Pollution Control Plant (JWPCP) in Carson and two Orange County Sanitation District treatment plants, one in Huntington Beach and one in Fountain Valley."

} 7-2

On Page 1-15, first sentence of Section 1.4.8. I checked and the two transformation (waste-to-energy) facilities located within the district have a long term combined average daily capacity of about 1600-1700 tons per day, not 3240 tons per day, depending on BTU content of the post-recycled waste stream they manage.

} 7-3

On Page 1-20, Section 1.5.5, wastewater treatment facilities can probably manage a reasonable increase in wastewater flows generated from air pollution control equipment scrubbers but not the SOx RECLAIM shave impacts (~ 2 billion gallons per day), for example.

} 7-4

On Page 3.3-8, LADWP operates Haynes (not Los Angeles County) and LADWP in cooperation with DWR operates the Castaic Pumped Storage Facility and not Los Angeles County.

On Page 3.3-20, Section 3.3.4.3.3 Anaerobic Digestion, it is amusing that you cite a small operation in Tulare operating two engines under a 100KW each, while right here in your back yard LACSD operates a combined cycle turbine facility in Carson using digester gas that produces around 20 MW and a landfill gas Rankine cycle steam plant at the Puente Hills Landfill that produces around 48 MW net, to mention a few. In the third paragraph, it is misleading to say that there are 132 "waste-to-energy" plants in California because of the term's very specific historical meaning. "Renewable energy" plants might be more appropriate.

6. In Subchapter 4.2 Air Quality, it is difficult for us to make intelligent comments on the CEQA-related aspects of the MCS-01 control measure, mentioned several times throughout this chapter, due to the almost complete lack of specificity on the measure. Many subtleties involved in the control measures can never be aired via this CEQA review process in absence of that detail. One example concern is our Rule 1134-governed digester gas fired combustion turbines mentioned above. Notwithstanding the fact that LACSD spent approximately \$3.5MM in the 1995-98 timeframe, under a SCAQMD variance, attempting to make Steuler GmbH post-combustion SCR catalysts work, there are several CEQA related aspects to upgrading to BARCT levels that should that be discussed now. These include the disposal of substantial quantities of gas-pretreatment media, whatever they may be, because of the near-zero siloxane tolerance of the catalysts; additional hydrogen sulfide sulfur removal capital systems and chemicals again for catalyst protection, and effects of non-optimum mixing length downstream of ammonia injection grids on particulate matter formation and ammonia slip plus the usual construction related emissions and additional electrical parasitic load considerations. The present CEQA document discusses SCR issues as ammonia slip in detail and a little about ammonium bisulfate formation and the construction emissions and additional electrical loads, but other project aspects are presumably left for rule-specific CEQA documents that accompany the formal rulemaking. Having certainty over the scope of the proposed control measure is only what we ask.

7-7

All in all, this is a comprehensive and well-crafted document. Again, you and your staff have done a commendable job and are to be congratulated.

7-8

Gregory M. Adams
Assistant Departmental Engineer
Air Quality Engineering
L.A. County Sanitation Districts
562 908 4288 ext. 2113
562 692 9690 FAX
e-mail: gadams@lacsdsd.org

Responses to Comment Letter #7
Los Angeles County Sanitation Districts – Greg Adams (10/23/2012)

- 7-1 This comment compliments SCAQMD staff on the work performed for the Draft Program EIR. No further response is necessary.
- 7-2 This comment recommends clarifications to the description of the agencies that operate POTWs and the actual facility names of the POTWs in the hydrology and water quality discussion in Chapter 1. The Final Program EIR has been modified accordingly in the hydrology and water quality discussions in Section 1.5.5 of Chapter 1 and in Section 3.5.7 of Subchapter 3.5.
- 7-3 This comment recommends a correction to the capacity of the two transformation facilities in the solid and hazardous waste discussion from 3,240 tons per day to an average daily capacity of 1,600 to 1,700 tons per day. While the comment did not include a reference to support the suggested revision, according to CalRecycle, the permitted capacities of the Southeast Resource Recovery Facility and the Commerce Refuse-To-Energy Facility are 2,240 tons per day¹ and 1,000 tons per day², respectively. Thus, the combined permitted capacity of these two transformation facilities is correctly stated at 3,240 tons per day. For clarity, the Final Program EIR has been modified to reflect the CalRecycle citations in the solid and hazardous waste discussions in section 1.5.8 of Chapter 1 and in section 3.8.2 of Subchapter 3.8.
- 7-4 This comment suggests that wastewater treatment facilities can handle a reasonable increase in wastewater generated from air pollution control equipment such as scrubbers as part of implementing the 2012, but not to the extent of the wastewater projections previously analyzed under the 2010 amendments to Regulation XX - RECLAIM for the SOx shave of RTCs. Based on the analysis in the Final Program Environmental Assessment (PEA) prepared for the 2010 amendments to the SOx RECLAIM program, which involved air pollution control equipment that utilize water and generate wastewater, SCAQMD staff also believes that wastewater treatment facilities should be able to accommodate a moderate increase in wastewater generation. However, it is important to note that Control Measure CMB-01 would call for a NOx shave of RTCs, not a SOx shave. Because control equipment installed to control NOx emissions is not typically water intensive, implementation of Control Measure CMB-01 would not be expected to have the same magnitude of wastewater impacts as was analyzed in the Final PEA for the 2010 amendments to the SOx RECLAIM program.
- 7-5 This comment recommends a correction to the name of the operator of the Haynes Natural Gas Power Plant to be changed from Los Angeles County to the LADWP. This comment also recommends a correction to the name of the operator of the Castaic Pump-Storage Power Plant to be changed from Los Angeles County to the LADWP and to note that the LADWP operates this plant in cooperation with the DWR. The Final Program EIR has been revised to reflect both of these corrections.

¹ Permitted capacity of Southeast Resource Recovery Facility,
<http://www.calrecycle.ca.gov/SWFacilities/Directory/19-AK-0083/Detail/>.

² Permitted capacity of Commerce Refuse-To-Energy Facility,
<http://www.calrecycle.ca.gov/SWFacilities/Directory/19-AA-0506/Detail/>.

- 7-6 This comment recommends including a reference to the LACSD’s combined cycle turbine facility in Carson and the landfill gas Rankine cycle steam plant at the Puente Hills landfill as examples of operations that also utilize anaerobic digestion. The Final Program EIR has been revised to reflect this recommendation in the discussion regarding anaerobic digestion in Subchapter 3.3.

This comment also recommends changing the phrase “waste-to-energy” to “renewable energy” because the phrase “waste-to-energy” has a specific historical meaning. While the comment did not include a reference to support the suggested revision, according to the California Energy Commission discussion of waste-to-energy facilities, the statement that there are 132 “waste-to-energy” plants in California is accurate³. Thus, the Final Program EIR will not be revised to reflect this recommendation.

- 7-7 The intent of Control Measure MCS-01 – Application of All Feasible Measures Assessment, is to focus on new technology developed in the future subsequent to the approval of the 2012 AQMP, so the specific description of the future actions under the control measure is not possible at this time. However, triggering requirements of the control measure would likely occur when new feasible cost-effective best available retrofit control technology is developed and made available. Implementation of Control Measure MCS-01 could take place in two phases if a technology study is warranted. However, if an assessment of the feasibility, cost effectiveness, and availability of new technology has already been prepared and properly demonstrated, a two-phase approach might not be necessary.

This comment remarks on the difficulty of commenting on the potential air quality impacts of implementing Control Measure MCS-01 due to the lack of specificity of elements in the control measure and requests certainty over the scope of the control measure. This comment also provides examples of potential environmental impacts pertaining to implementing BARCT requirements for digester gas fire combustion turbines subject to Rule 1134 and suggests including these examples in the Program EIR. This comment also recommends a modification to the CEQA document that reflects a discussion of ammonium bisulfate formation, construction and additional electrical loads. Lastly, this comment recognizes that several project aspects are left for rule-specific CEQA documents that accompany the formal rulemaking process.

Because Program EIRs analyze broad policies and not project-specific details, the analysis of Control Measure MCS-01 in the Final Program EIR for the 2012 AQMP is commensurate with the level of specificity of the project. However, as the comment acknowledges, when Control Measure MCS-01 undergoes the rule making process, the specifics of implementing the control measure and the individual environmental impacts will be fully analyzed to a much greater level of detail during the rule development process. For this reason, the Final Program EIR does not contain the same level of detail as suggested in the comment’s example of the environmental impacts relative to implementing Rule 1134.

- 7-8 This comment again compliments SCAQMD staff on the work performed for the Draft Program EIR. No further response is necessary.

³ California Energy Commission, Waste-to-Energy and Biomass; <http://www.energy.ca.gov/biomass/>

Letter #8



Comments by Sierra Club Angeles Chapter on
 Draft South Coast Air Quality Management Plan (AQMP) and
 Draft Program Environmental Impact Report (PEIR)

October 23, 2012, Sent to: 2012aqmpcomments@scqmd.gov

Dear South Coast Air Quality Management District,

For over a decade, the top priority of the Sierra Club has been stopping global warming to protect life on this planet. We are pleased with the emphasis placed in both the AQMP and PEIR on analyzing and reducing GHG emissions.

8-1

However, there are numerous examples in the PEIR of where opportunities to stake out a clear position to reduce GHG emissions are ignored.

For example, p. 1-11 states, "One of the key areas of concern in the energy sector is reducing the amount of petroleum-based fuels in the District. Consumption of these fuels is a major factor in the amount of criteria pollutants in southern California. Alternative fuels play an important role in the strategy to reach attainment in the region. Renewable energy resources include biomass, hydro, geothermal, solar and wind."

It is incorrect to talk about "alternative fuels" as a group. In fact, it is very misleading to have the sentence immediately following the use of the term "alternative fuels" be a definition of "renewable energy resources." A layman might conclude that "alternative fuels" only include "renewable energy resources." The PEIR should clearly specify that, compared to gasoline and diesel, there are some small criteria pollutant reductions from "alternative fuels" such as natural gas and methanol, but much larger reductions from "alternative fuels" such as electric cars, especially those powered by renewable energy resources.

8-2

In fact, the term "alternative fuels" is so misleading as to be obsolete. The term "alternative fuels" is widely misconstrued to include natural gas, especially by proponents and beneficiaries of that industry. Wind, solar, biomass and geothermal sources, moreover, are now fully "mainstream" fuels increasingly competitive with most fossil fuels. They are not "alternative" or second-class to anything else and are now as solidly established—in terms of legitimacy and need—as traditional fuels. SCAQMD should henceforth avoid the term and use instead terms that specify more precisely what is being referred to, such as renewable energy sources. In addition, energy efficiency and energy conservation, the cheapest and most abundant sources of clean energy—"negawatts"—should not be ignored or neglected in any discussion of "clean energy sources." Again, energy efficiency and conservation are not "alternative" sources but fully-accepted mainstream contributors to greenhouse gas reduction and air quality improvement.

Even more of a problem on p. 1-11 is ignoring the importance of GHG emissions from natural gas. We request the sentence be reworded as follows (bold added):

8-3

“One of the key areas of concern in the energy sector is reducing the amount of petroleum consumption of fossil based fuels in the District. Consumption of these fuels is a major factor in the amount of criteria pollutants and GHG emissions in southern California. Alternative fuels play an important varying roles in the strategy to reach attainment in the region. There are some small criteria pollutant reductions from “alternative fuels” such as natural gas and methanol, but much larger reductions in both criteria pollutants and GHG emissions using “alternative fuels” such as electric cars, especially those powered by renewable energy resources.” Then continue with the definition of renewable energy resources. ¶

8-3
Con’t

¶
In addition, we do not see any mention in the PEIR of the fact that much of the imported natural gas (which is 88% of the natural gas used in California) is produced by fracking of shale gas, which has been documented to have greater GHG impact than burning coal to make electricity. In fact, the latest analyses state, “Using all available information and the latest climate science, we conclude that for most uses, the GHG footprint of shale gas is greater than that of other fossil fuels on time scales of up to 100 years. When used to generate electricity, the shale gas footprint is still significantly greater than that of coal at decadal time scales but is less at the century scale. We reiterate our conclusion from our April 2011 paper that shale gas is not a suitable bridge fuel for the 21st Century.” – from “Venting and leaking of methane from shale gas development,” by Robert W. Howarth, Renee Santoro & Anthony Ingraffea, Climatic Change (2012) 113:537–549. ¶

¶
To summarize the latest science: ¶

1. • Unless leakage rates for new methane can be kept below 2%, substituting gas for coal is not an effective means for reducing the magnitude of future climate change. ¶
2. • Fugitive methane emissions from conventional natural gas wells are estimated at 2–5% of well production and thus conventional wells are major contributors to global warming, beyond even burning coal for electricity. ¶
3. • Fugitive methane emissions from natural gas fracked wells are estimated at least 2% more than a conventional natural gas wells, and thus are significantly greater contributors to global warming. ¶
4. • Industry admits that fugitive methane emissions from conventional natural gas wells are likely 2%. However, the only scientific study has found fugitive methane emissions of 4%. ¶
5. • We can’t slow global warming with natural gas; the only hope is ‘rapid and massive deployment’ of clean energy technologies (with zero-carbon emissions). ¶
6. • Therefore, fracked shale gas is not a suitable fuel for the 21st Century. ¶

8-4

¶
This means the PEIR must be amended to state the GHG emissions from the use of natural gas, for vehicles, power generation, and perhaps other uses, are significant and require strong mitigation measures, such as those listed below. ¶

8-5

¶
In addition, as the PEIR correctly reports, “Executive Order S-3-05 . . . established emission reduction . . . goals to . . . reduce GHG emissions . . . to 80 percent below 1990 levels by 2050.” The SCAQMD is legally bound to comply with Executive Order S-3-05. Therefore the AQMP and PEIR must show how they are supporting reduction of “GHG emissions . . . to 1990 levels by 2020, and to 80 percent below 1990 levels by 2050.” ¶

¶
Since there are many sources of GHG emissions in addition to fossil fuels, such as industrial processes, to achieve 80 percent below 1990 levels by 2050 means that essentially all use of fossil fuels for combustion (such as natural gas for electricity and hot water) must end by 2050. Since most large natural gas power plants have life expectancies of 40 years, it is past time for AQMP to state its policy is not to support construction of any new large natural gas plants. This would support reductions of both NOx and GHG emissions. ¶

8-6

¶ A simple straight-line extrapolation from 1990 levels by 2020 to 80 percent below 1990 levels by 2050 yields 40% percent below 1990 levels by 2035. Thus this AQMP and PEIR must show how they are on track to reduce GHG emissions to 40% percent below 1990 levels by 2035, the final target date in this plan (and the SCAG RTP). ¶

8-6
Con't

¶ Thus it is time for SCAQMD to end support for natural gas, whether it is for large natural gas power plants, hot water heaters, or even some industrial uses, which could be supplied by solar hot water, especially concentrating solar. State goals are zero net energy new buildings (residential by 2020 and commercial by 2030). SCAQMD should support this by all feasible control measures, plus investigate how to require this on sales. ¶

¶ We also call to SCAQMD's attention Sierra Club California's formal opposition to new licensing of all new natural gas-fired electrical generation power plants (larger than 50 MW). The only exceptions are permitting of certain technologies using natural gas fuel (such as cogeneration plants, renewables with natural gas backup, large fuel cell facilities, biogas wheeling) only if they significantly reduce fossil fuel consumption and carbon emissions and protect air quality. ¶

¶ This discussion has important implications for control measures, especially those that must begin now, because of the extremely slow turnover of residential, commercial, and government buildings. Some examples of such control measures would be as follows: ¶

- Requiring solar PV electricity generation for new, major remodels, and sales of residences, commercial, industrial, and government buildings. ¶
- Requiring solar thermal hot water generation for new and major remodels of residences, commercial, industrial and government buildings. ¶
- Requiring solar thermal hot water generation for new swimming pools. ¶
- Requiring industrial processes to install energy efficiency measures and convert as rapidly as possible to solar thermal hot water generation wherever feasible. ¶
- Requiring all new and major remodels of all large commercial, industrial and government buildings to install additional solar thermal generation to supply heat in the winter and operate absorption chillers for cooling in the summer. ¶
- Requiring district heating and cooling wherever feasible. ¶
- Requiring use of waste heat and co-generation where feasible from fuel cells or other sources of heat in large commercial, industrial and government buildings. ¶
- Requiring fleets to go to zero emission vehicles, such as battery electric vehicles charged by solar panels, or fuel cells fueled by hydrogen produced by solar electricity. ¶
- Requiring electric vehicles charging stations to be installed in all businesses and commercial buildings above a minimum size. ¶

8-7

¶ Mitigations for GHG effects of the use of natural gas need to be expanded. For example, Control Measure INC-01 must be amended to include efficiency and solar thermal for hot water and industrial processes. There also need to be additional control measures mandating implementation of the above requirements. ¶

8-8

¶ Thank you for the opportunity to comment. ¶

8-9

¶
Jim Stewart, PhD, Chair
Sierra Club Angeles Chapter Global Warming, Energy & Air Quality Committee
213-487-9340, Fax: 310-362-8400, Cell: 213-820-4345 ¶

Responses to Comment Letter #8
Sierra Club – Jim Stewart (10/23/2012)

8-1 This comment provides background information describing the nature of the commenter’s organization and states that there are numerous examples in the Draft Program EIR where opportunities to stake out a clear position to reduce GHG emissions are ignored. The commenter’s examples are addressed in responses to comments #8-1 through #8-6.

8-2 The commenter states that it is incorrect to discuss “alternative fuels” as a group. The commenter states that readers of the Program EIR may conclude alternative fuels only include renewable resources. The commenter states that the SCAQMD should avoid using the term alternative fuels and instead use terms that specify more precisely the energy source, such as, renewable energy resources. The commenter states that energy efficiency and energy conservation should not be neglected in any discussion of clean energy sources.

SCAQMD is fuel neutral and SCAQMD supports technologies that reduce criteria, toxic and GHG emissions. SCAQMD promotes energy efficiency and energy conservation. As stated in the Draft Program EIR, the 2012 AQMP is not expected to result in the use of fuel or energy resources in a wasteful manner.

8-3 The commenter requests modifying the last paragraph on page 1-11 of the Draft Program EIR to explicitly state that combustion of natural gas also generates GHG gases. The section in question is simply a summary of the energy existing setting. The proposed changes were not made as they specifically reference air quality impacts, not energy.

SCAQMD is fuel neutral and SCAQMD supports technologies that reduce criteria, toxic and GHG emissions. SCAQMD agrees that natural gas, as well as other combustion fuels, generates GHGs; however, the replacement of diesel and gasoline fueled sources under the 2012 AQMP with natural gas fueled sources would reduce criteria pollutant, air toxic, and GHG emissions.

8-4 The commenter states that much of the imported natural gas is produced by fracking of shale gas. The commenter states that fracking of shale gas has greater GHG impact than burning coal to make electricity. The 2012 AQMP does not include measures requiring fracking. In addition, based on discussions with natural gas utilities, it is not possible for them to distinguish what portion of the natural gas imported is from a specific source. Once natural gas is placed into the pipelines it is indistinguishable from all other natural gas in the pipeline. SCAQMD has no jurisdiction over natural gas sources outside of California.

SCAQMD staff appreciates the information on the fugitive releases of methane from the natural gas wells and transport system along with the environmental impacts from hydraulic fracturing. SCAQMD staff has been monitoring, tracking carefully, providing updates to the SCAQMD’s Governing Board, providing information to the public, and contacting representatives from academia and the oil and gas industry regarding hydraulic fracturing. Recently, the SCAQMD held a forum providing information on what hydraulic fracturing is, while focusing on potential environmental impacts of hydraulic fracturing and policy level implications. In addition, SCAQMD staff is

working with both the state and federal government in developing regulations. SCAQMD staff will also be developing hydraulic fracturing regulations in accordance with the SCAQMD's regulatory authority, if feasible and appropriate. Finally, any fugitive release of natural gas from wellheads or during transport does not affect in any way attainment of the federal 24-hour PM_{2.5} standard in the Basin.

- 8-5 The commenter states GHG emission from the use of natural gas for vehicles, power generation and other uses are significant and require strong GHG mitigation measures. The 2012 AQMP does not promote fracking (see response to comment #8-4). The comment also does not provide any qualitative data supporting the statement that GHG emissions are significant. The Program EIR includes a comprehensive analysis of GHG emission impacts, which were concluded to be less than significant.
- 8-6 SCAQMD staff recognizes the clean air benefits renewable energy provides to both the electric power grid and other services such as hot water heating. Chapter 10 of the 2012 AQMP addresses California's Renewable Portfolio Standard, requiring a 33 percent increase in the use of renewable energy generation, and the benefits that increased energy efficiency provides in reducing fuel and energy demands. The SCAQMD is exploring all options to reduce GHG emissions, while still meeting its mandates to attain the criteria pollutant standards and reduce exposures to air toxics. For example, the SCAQMD is working with the State in helping achieve the goals of S-3-05. The jointly developed document between SCAQMD, San Joaquin APCD, and the ARB *Vision for Clean Air: A Framework for Air Quality and Climate Planning* shows pathways on how we can achieve 2050 GHG reduction levels. As shown in the document there is not a single pathway that can be taken to meet the GHG goals and further development and implementation of transportation technologies is needed.

Chapter 10 shows that total energy consumption in southern California was nearly 2.1 quads⁴ in 2008 and is expected to show a slight 0.1 quad increase by 2023. However, the slight increase in projected energy use in southern California is expected to be met with a disproportionate increase in energy prices; in 2008 almost \$54 billion were spent on energy, while the projected cost of energy consumption in 2023 is expected to be \$74 billion. Overall the projected five percent increase in energy consumption is expected to be met with a 27 percent increase in energy prices. As also mentioned in Chapter 10, a large increase in the use of renewable energy coupled with the expanding mass transit systems would help lower emissions, including GHG emissions, reduce impacts from volatile energy prices, help localize dollars spent on energy, and provide some isolation from increasing energy costs.

The SCAQMD endorses solar power as a clean air solution to help provide emission-free electricity to residences and businesses. The SCAQMD has been an early supporter of implementing new solar technologies. For example, SCAQMD headquarters currently has over 180kW of solar panels installed that are being used to demonstrate three different solar technologies. Additionally, the SCAQMD is funding and participating in several technology demonstration projects that help address the limitations of solar energy, such as, coupling solar power production with energy storage to help with

⁴ A quad is a unit of energy equal to 10¹⁵ (a short-scale quadrillion) Btus, or 1.055 × 10¹⁸ joules (1.055 exajoules or EJ) in the international system (SI) of units.

intermittency (i.e., subject to interruption or periodic stopping). The SCAQMD is also promoting the benefits electrification technologies would provide to further reduce emissions, such as electric vehicles, and as mentioned earlier, promote electricity generation from clean sources such as renewable fuels.

The prices of solar panels having come down nearly a third in the past couple of years due to less expensive ways to manufacture polysilicon, an increase in solar manufacturers, and expiring solar incentives in other countries. Resulting price declines have made PV solar very competitive with conventional generating technologies. This decline in prices has helped implement solar technologies in southern California as there are now many solar installation companies that employ thousands in this sector. The recent increase in rooftop solar PV installations does not show any indication of slowing down in the near future since financing mechanisms have become available along with local incentives and federal tax credits. Additional incentives for solar installations are also likely in the near future as a portion of the revenues utilities start to receive from the Cap and Trade program under AB 32.

Unfortunately, solar power does not currently provide a standalone solution to providing all the electrical generation needs for Southern California. Until the intermittency, large storage technologies, and increased panel efficiencies become more cost effective existing generating natural gas-fired power generating technologies are required to provide base loads, ramp rates, and other ancillary services such as frequency regulation. Additionally, the clean air benefits renewable energy sources such as solar power provide in southern California would be best realized as transportation technologies, such as electrification, are implemented at a faster rate.

The *Vision* document also presented biofuels as a potential pathway among several to meet the GHG reduction mandates and goals of California. The use of biofuels does not typically provide an advantage in reducing criteria pollutants if they are combusted from standard internal combustion engines (ICEs) such as diesel ICEs. Therefore in the *Vision* document it is stated “In the longer-term, to meet the greenhouse gas targets, any combustion-based heavy-duty trucks would rely predominantly on efficiency and renewable and biofuel solutions. However, to achieve the air quality standards in the South Coast, a technology transition to zero- and near-zero emission trucks (e.g., electric, fuel cell, or hybrid with all electric range) to reduce NOx emissions is also needed.” In summary, SCAQMD staff supports the development and implementation of solar energy technologies to the maximum extent feasible and cost-effective. These technologies are not needed to attain the PM2.5 standards, but SCAQMD staff will continue to support solar technologies for attaining the ozone standards in the future.

The comment states that the 2012 AQMP and the Program EIR must show how they are on track to reduce GHG levels 40 percent by 2035. As noted earlier, the jointly developed document between SCAQMD, San Joaquin APCD, and the CARB *Vision for Clean Air: A Framework for Air Quality and Climate Planning* shows pathways on how we can achieve 2050 GHG reduction levels. Further, the purpose of the Program EIR for the 2012 AQMP is to evaluate potential environmental impacts from the proposed project. As indicated in Subchapter 4.2, potential GHG impacts from implementing the 2012 AQMP is expected to result in reducing GHG emissions approximately 0.477

million metric tons of CO₂e. Since GHG emission would be reduced from implementing the 2012 AQMP, GHG emission impacts were concluded to be insignificant and, therefore, measures to mitigate GHG emissions are not required.

- 8-7 The commenter states that the Sierra Club opposes the licensing of all new natural gas power plants, but lists exceptions. The commenter requests that the 2012 AQMP include a suggested list of control measures. Some of the alternative technologies mentioned in the comment include using natural gas in cogeneration, using biogas, and large fuel cells. Currently the SCAQMD is funding demonstration projects with many of these technologies and alternative sources of fuel. Biogas can provide a good replacement for natural gas and has GHG benefits, but currently has limited supply sources with high upfront costs to develop new sources. Generation sources using natural gas for fuel cells have many applications to provide a generation source and waste heat recovery for a building. The SCAQMD is currently installing a demonstration fuel cell to further investigate potential power generating and heating benefits. However, large fuel cells are currently very costly and the efficiency of the system with waste heat recovery is similar to a combined cycle power plant. As the costs of these systems come down they can be more widely implemented and have criteria pollutant emission benefits over large power generating facilities.

Some of the proposed control measures are covered under the Title 24 building standards. CEQA staff has referred this comment to the 2012 AQMP staff. In general, the SCAQMD supports measures such as these if and when they are feasible. The SCAQMD will consider these suggestions, as appropriate, in future rule development efforts.

See response for comment #8-6 regarding the use of solar power to replace current power generation sources.

- 8-8 The primary objective of Control Measure INC-01 is to develop programs that promote and encourage adoption and installation of cleaner, more-efficient combustion equipment with a focus on zero and near-zero emission technologies. The commenter's request to include "efficiency and solar thermal for hot water and industrial processes" in Control Measure INC-01 is not necessary as those example are in concert with the goals of Control Measure INC-01.
- 8-9 This comment concludes the letter. No further response is necessary.



Letter #9

- Orange County Council of Governments
- Member Agencies
- Aliso Viejo
- Anaheim
- Brea
- Buena Park
- Costa Mesa
- Cypress
- Dana Point
- Foothill Valley
- Fountain Valley
- Garden Grove
- Huntington Beach
- Irvine
- La Habra
- La Habra
- La Habra
- Laguna Beach
- Laguna Hills
- Laguna Hills
- Laguna Hills
- Laguna Hills
- Lake Forest
- Lake Forest
- Lake Forest
- Midway Valley
- Newport Beach
- Orange
- Orange
- Rancho Santa Margarita
- San Clemente
- San Juan Capistrano
- San Juan Capistrano
- San Juan Capistrano
- Stanton
- Tustin
- Villa Park
- Westminster
- Yuba Linda
- County of Orange
- OCTA
- TCA
- OC Sanitation District
- ISDC
- South Coast AQMD

October 23, 2012

Dr. Barry Wallerstein
 South Coast Air quality Management District
 21865 Copley Drive
 Diamond Bar, CA 91765

Subject: Comments of the Draft 2012 Air Quality Management Program Environmental Impact Report

Dear Dr. Wallerstein:

The Orange County Council of Governments (OCCOG) welcomes its responsibility to comment on the Draft 2012 Air Quality Management Plan Program Environmental Impact Report (AQMP/PEIR). As you will recall, OCCOG shared comments on the Draft 2012 Air Quality Management Plan in our August 31, 2012 letter to you.

9-1

As with our previous comment letter, given the timing of the comment period, the comments below have not been considered by the full OCCOG Board of Directors. The OCCOG Technical Advisory Committee has formed an ad-hoc subcommittee to review AQMP documents and their input formed the basis of our comments.

1. PEIR Appendix F: "RTP/SCS Mitigation Measures Table". The appendix title page should be revised to reflect the more accurate title "Examples of Measures That Could Reduce Impacts from Planning, Development, and Transportation Projects." This needed change will make the document consistent with the adopted Southern California Association of Governments 2012-2035 Regional Transportation Plan/Sustainable Communities Strategy.

9-2

2. It appears that the demographic and socio-economic data included in the analysis of the PEIR is outdated and is not the most recent data prepared for the Center for Demographic Research and used in the Orange County Sustainable Communities Strategy and the Southern California Association of Governments 2012-2035 Regional Transportation Plan/Sustainable Communities Strategy. The analysis should be revised to include the demographic and socio-economic data contained in the Orange County Sustainable Communities Strategy.

9-3

Dr. Barry Wallerstein
October 23, 2012

3. There are significant errors in describing Orange County in Subchapter 3.6 – Land Use and Planning and Subchapter 3.2 – Climate Change. Corrections need to be made in the final draft of the PEIR. These errors are included as an attachment to this letter.

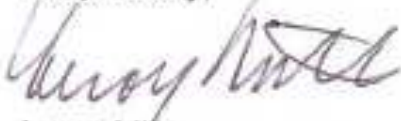
9-4

Again, OCCOG appreciates the opportunity to provide further comments on the 2012 AQMP/PEIR. At this time, we anticipate providing further comment on the overall AQMP plan and the recently released socio-economic report.

9-5

We look forward to receiving your response to our comments and would be pleased to work with your staff on the noted technical corrections.

Respectfully,



Leroy Mills
OCCOG Chairman

cc: OCCOG Board of Directors

Dr. Barry Wallerstein
October 23, 2012

**Errors Noted Orange County Data in Subchapters 3.6 and 3.2
Land Use and Planning and Climate Change**

Subsection 3.6.3.2 Orange County (page 3.6-7): The Orange County General Plan is only applicable to areas of unincorporated Orange County and does not supersede the General Plans of the 34 independent local jurisdictions. Therefore, it is erroneous and misleading to state policies identified in the County of Orange General Plan and generalize that these policies are applicable to the 34 local Orange County jurisdictions. The PEIR should either be revised to clearly state that the County of Orange General Plan is only applicable to those unincorporated areas of the County of Orange and each local jurisdiction has their own governing General Plan or remove the text in its entirety.

9-6

Subsection 3.6.3.2.2 Commercial (page 3.6-8): There are errors in describing the commercial areas within Orange County that need to be revised in the final version of the Program Environmental Impact Report. 1) The commercial area located within close proximity to the intersection of Interstate 5, State Route 22, and State Route 57 is not known as the "Orange Crush" as noted in the draft PEIR. The "Orange Crush" is used to describe the intersection of the three transportation corridors, not the commercial/office area. 2) The area surrounding John Wayne Airport and the University of California, Irvine is known as the Irvine Business Complex or IBC not the Irvine Spectrum. 3) The terminology "El Toro Y" is used to describe the intersection of two transportation corridors, Interstate 405 and Interstate 5, not the commercial/office center. That is the Irvine Spectrum.

9-7

Subsection 3.6.3.2.3 Industrial (page 3.6-8): The paragraph is erroneous in referencing the Orange County General Plan, which is only applicable to the unincorporated areas of the County of Orange. Every local jurisdiction has their own governing General Plan that may identify areas of industrial use. The paragraph needs to be revised for the final PEIR.

9-8

Subsection 3.6.3.2.5 Open Space (page 3.6-8): The Orange County Sustainable Communities Strategy identifies the preservation/open space programs located throughout all of Orange County, including the individual efforts of the County of Orange and the 34 local jurisdictions. This paragraph should be revised to generally reflect the open space policies outlined in the Orange County Sustainable Communities Strategy.

9-9

Dr. Barry Wallerstein
October 23, 2012

Table 3.2-1A and Table 3.2-1B (pages 3.2-13 and 3.2-14): It is unclear how certain calculations were made in both tables due to the rounding of the values. The Final PEIR should include the non-rounded values to ensure reviewers are able to confirm the calculations and assumptions. In addition, any reference to these numbers in the text of the document should be corrected for consistency. For example on Table 3.2-1A, under Waste Disposal NOx, the 2007 AQMP value is 2 and the draft 2012 AQMP is 2, yet the percent change is calculated at -24%. In Table 3.2-1B, under Fuel Consumption Sox, the 2007 AQMP value is 2 and the draft 2012 AQMP value is 2, yet the percent change is -3%. The Petroleum Production and Marketing Sox 2007 AQMP value is 1 and the draft 2012 AQMP value is 1, yet the percent change is -32%. The Petroleum Production and Marketing PM 2.5 2007 AQMP value is 1 and the draft 2012 AQMP value is 2, yet the percent change is 68%. The Cleaning and Surface Coatings PM 2.5 2007 AQMP value is 1 and the draft 2012 AQMP value is 2, yet the percent change is 53%.

9-10

Responses to Comment Letter #9
Orange County Council of Governments – Leroy Mills (10/23/2012)

- 9-1 This comment notifies the SCAQMD that the comments contained in the letter pertain to the Draft Program EIR for the 2012 AQMP but that the comments were not considered by the full OCCOG Board of Directors. Instead the comments were prepared by the OCCOG Technical Advisory Committee. Lastly, this comment notifies the SCAQMD that a previous comment letter was submitted relative to the Draft 2012 AQMP on August 31, 2012. No further response is necessary.
- 9-2 This comment recommends the title of Appendix F to be changed from “RTP/SCS Mitigation Measures Table” to “Examples of Measures That Could Reduce Impacts From Planning, Development, and Transportation Projects” for consistency with the SCAG 2012-2035 RTP/Sustainable Communities Strategy. The title of Appendix F of the Final Program EIR has been revised accordingly.
- 9-3 This comment states that the demographic and socioeconomic data included in the analysis of the Draft Program EIR is outdated and that the analysis should be revised to reflect the most recent data contained in the Orange County Sustainable Communities Strategy. Because the comment does not specifically state what data are obsolete, SCAQMD staff is unable to identify what data needs to be updated. Further, since Orange County’s SCS was incorporated into SCAG’s 2012-2035 RTP/SCS, which forms the basis of the 2012 AQMP’s socioeconomic forecasts, it is not necessary to update the CEQA document to include socioeconomic data.
- 9-4 This comment states that there are errors in the description of Orange County in Subchapter 3.6 – Land Use and Planning and Subchapter 3.2 – Air Quality and that the errors are described in more detail in an attachment to the comment letter. For responses to the individual described errors, see responses to comments #9-6 through #9-10.
- 9-5 This comment concludes the letter. No further response is necessary.

Responses to comments attached to Letter #9

- 9-6 This comment recommends the Land Use and Planning discussion that pertains to the Orange County General Plan be clarified to explain that the plan is only applicable to unincorporated areas within Orange County and that each of the 34 cities within Orange County has its own General Plan. Section 3.6.3.2 of Subchapter 3.6 in the Final Program EIR has been revised to reflect these recommended changes. None of these changes to the Final Program EIR, however, will alter the conclusions.
- 9-7 This comment recommends the Land Use and Planning discussion that pertains to the commercial areas within Orange County General Plan to be clarified to explain that the commercial area located within the proximity of Interstate 5, State Route 22, and State 57 is not the “Orange Crush” transportation corridor. This comment also recommends the Land Use and Planning discussion that pertains to the area surrounding John Wayne Airport and the University of California – Irvine to be described as the Irvine Business District and not the Irvine Spectrum. This comment also recommends the Land Use and Planning discussion that pertains to the intersection of Interstate 5 and Interstate 405 to be described as the “El Toro Y” and the commercial/office center in the vicinity of this

intersection to be described at the Irvine Spectrum. Subsection 3.6.3.2.2 of Subchapter 3.6 in the Final Program EIR has been revised to reflect these recommended changes. None of these changes to the Final Program EIR, however, will alter the conclusions.

- 9-8 This comment recommends the Land Use and Planning discussion that pertains to the Orange County General Plan be clarified to explain that the plan is only applicable to unincorporated areas within Orange County and that each of the 34 cities within Orange County has its own General Plan. Subsection 3.6.3.2.3 of Subchapter 3.6 in the Final Program EIR has been revised to reflect these recommended changes. None of these changes to the Final Program EIR, however, will alter the conclusions.
- 9-9 This comment recommends the Land Use and Planning discussion that pertains to open space should be revised to reflect the open space polices outlined in the Orange County Sustainable Communities Strategy. Subsection 3.6.3.2.5 of Subchapter 3.6 in the Final Program EIR has been revised to reflect these recommended changes. None of these changes to the Final Program EIR, however, will alter the conclusions.
- 9-10 The commenter has identified several typos in Tables 3.2-1A and 3.2-1B (in Chapter 3.2 of the Draft Program EIR). These typos have been corrected in the Final PEIR to match the actual, correct values as provided in Tables III-2-1A and III-2-1B in Appendix III of the 2012 AQMP, which have been available since July in both a draft (<http://www.aqmd.gov/aqmp/2012aqmp/draft/Appendices/AppIII.pdf>) and revised draft version (<http://www.aqmd.gov/aqmp/2012aqmp/RevisedDraft/appIII.pdf>).

The commenter has also suggested that the values provided in the tables should be provided in non-rounded numbers so that reviewers can confirm the calculations and assumptions. SCAQMD staff disagrees with this suggestion as the data provided in the table is a straight comparison between the emissions data in the 2007 AQMP and the 2012 AQMP, so other than the footnotes provided for certain entries, no assumptions were made when compiling this table. Further, based on the data compiled, the calculations can be confirmed as currently presented. Thus, other than the corrections made to the typos, no other changes to these tables are necessary.

Letter #10
Greg Nord, OCTA

Potential Conflicts with the 2012-2035 RTP/SCS PEIR ¶

Several sections of the PEIR for the 2012 AQMP include language along the following lines: ¶

¶

Mitigation measures are not required for the 2012 AQMP because implementation of the 2012 AQMP is not expected to result in potentially significant adverse _____ impacts and does not contribute to the impacts identified in the 2012-2035 RTP/SCS Final Program EIR. However, because implementation of the 2012-2035 RTP/SCS is expected to result in significant impacts, mitigation measures were identified in the 2012-2035 RTP/SCS Program EIR. The 2012-2035 RTP/SCS Program EIR mitigation measures are included in Appendix F, as part of the 2012 AQMP Program EIR. ¶

¶

The “legal standing” of Appendix F with respect to the 2012 AQMP PEIR is not explicitly stated anywhere within the document. Thus, circulation of Appendix F as part of the 2012 AQMP PEIR could be construed as an invitation to re-open the 2012-2035 RTP/SCS PEIR. It is recommended that language be included within the 2012 AQMP PEIR to clarify that Appendix F is provided for informational purposes only. ¶

¶

If additional mitigation to address the 2012 AQMP’s cumulative contribution is available, it should be included in the AQMP PEIR. For example, the 2012 AQMP could call for cleaner fuels and higher energy efficiency standards (regulations that would be introduced at the state and/or federal level). ¶

¶

Proposed Expansion of MM-TR-29 ¶

The following language is included on page 1-23 under the heading “Implementation of Control Measures” and is repeated later in the document: ¶

¶

SCAQMD recommends that mitigation measure MM-TR29 from SCAG’s 2012-2035 RTP/SCS PEIR (which generally requires a traffic management plan) be implemented for all [word(s) missing] that have the potential to impact roadways. ¶

¶

MM-TR29 addresses temporary construction-related traffic impacts and says project sponsors should develop construction management plans for review and approval by the lead agency. The AQMP PEIR should clarify what “all” refers to and ensure that the recommendation is reasonable for any project that would fall within the definition of “all”. (For instance, it might not be reasonable to require a comprehensive construction management plan for a small project, such as parking lot resurfacing or tree trimming that might disrupt traffic for only a few days.) ¶

¶

Site-Specific Air Quality Mitigation ¶

Page 4.2-18 of the AQMP PEIR ¶

¶

The proposed requirements AQ-1 through AQ-7 (especially the AQ-1 requirement to submit a Construction Emission Management Plan to SCAQMD/CEQA for approval prior to the start of construction) will add cost, time and complexity to the project delivery process. It is recommended (a) that appropriate thresholds be developed to distinguish which projects would be subject to these requirements and (b) that a self-certification process is implemented for compliance with them. ¶

10-1

10-2

10-3

Responses to Comment Letter #10
Orange County Transportation Authority – Greg Nord (10/23/2012)

- 10-1 This comment includes a statement from Chapter 5 in the Program EIR that addresses cumulative impacts. The statement indicates that mitigation measures are not required for specified environmental impact areas where the 2012 AQMP does not contribute to significant adverse impacts. This statement is made under two scenarios. The first scenario is where the 2012 AQMP does not create any impacts to an environmental topic area as indicated in the Initial Study and was not further analyzed in the Draft Program EIR. Under this scenario, project-specific mitigation measures are not required as no impacts are expected to be generated that could contribute to cumulative impacts, thus, cumulative impact mitigation measures would not be required.

The second scenario where this statement is made is when analysis of project-specific impacts to an environmental topic indicated that impacts would be less than significant. In this situation, impacts are not concluded to be cumulatively considerable as defined by CEQA Guidelines §15064 (h)(1) and, therefore, are not cumulatively significant. In the situation where impacts from the 2012 AQMP are not cumulatively significant, mitigation measures would not be required.

Finally, where project-specific impacts from the 2012 AQMP are concluded to be significant, the analysis concludes that project-specific impacts contribute to significant adverse cumulative impacts. For all environmental topic areas where project-specific impacts were concluded to be significant, feasible mitigation measures were identified. These measures would also serve to mitigate significant adverse cumulative impacts.

The comment also requests clarification on the “legal standing” of Appendix F, which includes mitigation measures from SCAG’s 2012–2035 RTP/SCS Final Program EIR. As recognized in the comment Appendix F is for informational purposes only. To make it clearer that Appendix F is for information purposes only, the following footnote has been added to page 5-1 in Chapter 5 of this Final Program EIR. “In addition to summarizing impacts from the 2012-2035 RTP/SCS, this document includes a list of all measures identified in the 2012-2035 RTP/SCS Program EIR to mitigate environmental impacts from that project for informational purposes only. The Program EIR for the 2012-2035 RTP/SCS, which includes all of the mitigation measures in Appendix F, was previously certified in April 2012.

As described in Chapter 4 and Appendix IV-B of the 2012 AQMP, 17 mobile source measures are being proposed that focus on accelerated retrofits or replacement of existing vehicles or equipment, acceleration of vehicle turnover, and greater use of cleaner fuels in the near-term. In the longer term, there is a need to increase the penetration and deployment of near-zero and zero-emission vehicles such as plug-in hybrids, battery-electric, fuel cells, and further use of cleaner fuels (either alternative fuels or new formulation of gasoline and diesel fuels). However, as noted by the commenter, regulating these sources would require state or federal involvement. The cost to incentivize the implementation of these mobile source measures are provided in the individual write-ups for each measure found in Appendix IV-B. Because these mobile measures already call for more efficient vehicle performance and cleaner fuels, and, thus, part of the proposed project, they are not classified as mitigation measures under CEQA.

- 10-2 This comment notes that there are words missing in a sentence in Chapter 1 on page 1-23 and requests clarification of the sentence. The sentence identified in the comment has been modified as follows:

SCAQMD recommends that mitigation measure MM-TR29 from SCAG’s 2012-2035 RTP/SCS Program EIR (which generally requires a traffic management plan) be implemented for all projects resulting from Control Measures ONRD-05 and/or ADV-01 that have the potential to impact roadways.

- 10-3 The comment recommends developing appropriate thresholds for identifying projects that would be subject to construction air quality mitigation measures AQ-1 through AQ-7 and that a self-certification process be implemented to demonstrate compliance with the referenced mitigation measures. With regard to the comment about thresholds, the SCAQMD has developed construction air quality thresholds, both regional and localized significance thresholds that are recommended for use by public agencies when preparing an environmental analysis pursuant to CEQA or NEPA. For those lead agencies that use the SCAQMD’s recommended construction significance thresholds, if projects for which they are lead agencies exceed the recommended construction air quality significance thresholds as part of complying with 2012 AQMP control measures promulgated as rules or regulations in the future, they would be required to implement mitigation measures AQ-1 through AQ-7. Projects with construction emission less than the SCAQMD’s suggested significance threshold would not be required to implement the mitigation.

It is unclear what is meant by “self-certification process.” However, when the SCAQMD imposes mitigation measures on an affected facility, it is typically the responsibility of the facility owner/operator to implement applicable mitigation measures. Further, the owners/operators are typically required to keep records documenting implementation of applicable mitigation measures that must be kept onsite for a specified period of time and be available for review by SCAQMD inspectors.

Letter #11

Lori Moore

From: Steve Smith
Sent: Wednesday, October 24, 2012 8:44 AM
To: Steve Smith
Subject: FW: Comments to AQMD Draft EIR-2012 Air Quality Management Plan AQMP due 10.23.2012

From: Joyce Dillard [mailto:dillardjoyce@yahoo.com]
Sent: Tuesday, October 23, 2012 2:25 PM
To: 2012 AQMP Comments
Subject: Comments to AQMD Draft EIR-2012 Air Quality Management Plan AQMP due 10.23.2012

Federal Register Docket EPA-R09-OAR-2012-0721-0001 titled Finding of Substantial Inadequacy of Implementation Plan; Call for California State Implementation Plan Revision; South Coast and dated August 30, 2012 states:

Our proposed SIP call is based on the evidence submitted by California in the form of the 2003 South Coast 1-Hour Ozone Plan that the approved 1997/1999 South Coast 1-Hour Ozone SIP was substantially inadequate to provide for attainment of the 1-hour ozone standard by the applicable attainment date of November 15, 2010.

Federal Register EPA-R09-OAR-2012-0713-0001 titled Disapproval of Implementation Plan Revisions; State of California; South Coast VMT Emissions Offset Demonstrations and dated September 19, 2012 states:

EPA is proposing to withdraw its final approvals of state implementation plan revisions submitted by the State of California to meet the vehicle-miles-traveled emissions offset requirement under the Clean Air Act for the Los Angeles-South Coast Air Basin 1-hour and 8-hour ozone nonattainment areas. EPA is also proposing to disapprove the same plan revisions. EPA is proposing the withdrawal and disapproval actions in response to a remand by the Ninth Circuit Court of Appeals in Association of Irrigated Residents v. EPA.

Are you figures reflective of that criteria and how does it effect the facts, assumptions, and mitigations of this plan.

You base the plan on the following components:

- 1) the SCAQMD's Stationary and Mobile Source Control Measures;
- 2) suggested State Mobile Source Control Measures; and
- 3) Regional Transportation Strategy and Control Measures provided by SCAG.

Not taken into consideration for emission projections, monitoring and mitigation are increases in density, planned by the municipalities, not SCAG and major projects that generate VMT such as an NFL Football Stadium and related sports such as Major League Baseball, whether it be in the City of Los Angeles, City of Industry or the Rose Bowl in Pasadena (temporary) and its related entertainment activities affect Air Quality such as tailgating (barbeques) and fireworks. Also, the effects of increase in Metrolink traffic, maintenance and maintenance yard usage are not addressed. The increase of hotels for tourism is not addressed nor any increase in airplane traffic and in port traffic (supplies). These are regional factors that should be reflected in your Emission Growth Factors.

11-1

11-2

In my prior comments, you ducked the question of Ozone and Signage. Though you may not be the permittees of signage, you need to take into consideration the growth effects of the region, especially 24/7 digital signage.

11-3

These factors MUST be considered in any Mitigation for the 2012 AQMP. This Draft EIR is flawed.

11-4

Under **Aesthetics**, you state:

These general plans establish local policies related to aesthetics and the preservation of scenic resources within their communities or sub-planning areas, and may include local scenic highway programs.

11-5

You also fail to list the Caltrans Arroyo Seco Scenic Byway within the District borders. This Byway should be considered for mitigation in any NFL Stadium in Los Angeles or temporary site at the Rose Bowl in Pasadena in all measures of the EIR.

Under **Hydrology and Water Quality**, you state:

2012-2035 RTP/SCS impacts associated with hydrology and water quality would be reduced following the implementation of the 2012-2035 RTP/SCS Program EIR mitigation measures. However, 2012-2035 RTP/SCS impacts would remain significant following mitigation for water quality, wastewater, riparian habitats and waters of the U.S. runoff/drainage, groundwater, flooding, and water supply.

Therefore, the 2012 AQMP, when combined with past, present, and reasonably foreseeable activities, and in particular with the 2012-2035 RTP/SCS transportation projects, would contribute to cumulatively considerable impacts following mitigation to water demand impacts. The cumulative impacts of other hydrology and water quality impacts associated with the 2012 AQMP are less than significant.

11-6

Omitted are effects on the Watersheds and Sub-Watersheds and the compliance issue of pollutants generated from emissions. This is extremely significant as the LA County Flood Control District LACFCD is implementing a parcel task to pay for watershed mitigation and maintenance under Watershed Management Areas, as guided by the LA Regional Water Quality Control Board.

The cost is extremely high for this execution, compounded by other local and state taxpayer-backed funding mechanisms.

Under **Land Use and Planning**, you state:

Implementation of the 2012 AQMP would not result in any significant impacts associated with land use or planning. Potential land use and planning impacts associated with the 2012-2035 RTP/SCS would be reduced following the implementation of 2012-2035 RTP/SCS Program EIR mitigation measures.

However, 2012-2035 RTP/SCS impacts would remain significant following mitigation because implementation of the 2012-2035 RTP/SCS would contribute to inconsistencies with general plans, disruption or division of established communities, changes to land uses by changing concentrations of development throughout SCAG, change patterns of growth and urbanization beyond the SCAG region, and cumulatively considerable changes to land use and the intensity of land use. Short-term construction related impacts and long-term or permanent displacement or offsite impacts from new facilities would also potentially occur as a result of implementation of the 2012-2035 RTP/SCS.

11-7

Moreover, the 2012 AQMP, when combined with past, present, and reasonably foreseeable activities, and in particular with the 2012-2035 RTP/SCS transportation projects, would not be expected to contribute to cumulatively considerable land use and planning impacts requiring mitigation.

11-7
Con't

Under State law, there should be no inconsistencies with the General Plans and their Elements. Guidance is issued by the Governor's Office of Planning including COMPLETE STREETS AND THE CIRCULATION ELEMENT and COMMUNITY AND MILITARY COMPATABILITY PLANNING.

Under **Noise**, you state:

The 2012 AQMP control measures associated with construction of overhead catenary lines could result in significant noise and vibration impacts after mitigation due to the geographic proximity of sensitive receptors. Although impacts would be reduced following implementation of noise mitigation measures identified in the 2012 AQMP Program EIR, noise and vibration impacts associated with the construction of catenary lines would remain significant in areas where sensitive receptors are located near transportation corridors.

2012-2035 RTP/SCS impacts associated with noise would be reduced following the implementation of 2012-2035 RTP/SCS Program EIR mitigation measures. However, 2012-2035 RTP/SCS impacts would remain significant following mitigation for noise and vibration during construction activities and operational activities. Therefore, the 2012 AQMP, when combined with past, present, and reasonably foreseeable activities, and in particular with the 2012-2035 RTP/SCS transportation projects, would contribute to cumulatively considerable construction noise and vibration impacts following mitigation.

11-8

You fail to recognize destruction, damage and possible emissions from underground pipes due to these factors. You have not even addressed the types of emissions from the various underground pipe infrastructure.

Under **Solid/Hazardous Waste**, you state:

The 2012 AQMP control measures would not result in significant impacts on solid or hazardous waste. Solid and hazardous waste impacts associated with the 2012-2035 RTP/SCS would remain significant following mitigation because the demand for solid waste services in the SCAG region and the resulting need to move solid waste large distances, potentially out of the region, would remain. Based on the above information, the 2012 AQMP, when combined with past, present, and reasonably foreseeable activities, and in particular with the 2012-2035 RTP/SCS transportation projects, would not be expected to contribute to cumulatively considerable solid or hazardous waste impacts following mitigation

11-9

You fail to recognize attempts by municipalities to place solid waste recycling operations within the region. You fail to neither analyze landfill usage increase nor identify the landfills that would accommodate waste. All these factors contribute emissions themselves and require more mitigation than addressed.

Under **Transportation and Traffic**, you state:

The 2012 AQMP control measures that could result in the construction of overhead catenary lines are expected to remain a significant construction impact to traffic after mitigation. Such construction activities would generate traffic associated with construction worker vehicles and trucks delivering equipment, materials and supplies to the project site during the duration of the construction activities.

11-10

Similarly, transportation infrastructure improvements pertaining to overhead catenary electrical lines could require the dedication of an existing lane exclusive to vehicles using the overhead catenary electrical lines or fixed guideway systems. Thus, a reduction in the number of available lanes could result in significant adverse operational traffic impacts.

According to the 2012-2035 RTP/SCS PEIR, implementation of the RTP/SCS would result in several significant and several less than significant impacts after mitigation. The 2035 VMT and 2035 heavy-duty truck VHD would be substantially greater than the existing conditions and as such would result in a significant impact in spite of implementing mitigation measures. As the population increases through 2035, the number of trips originating and ending in Santa Barbara, San Diego and Kern counties to and from the SCAG region would increase. And the transportation demand from growth, in combination with the accommodating projects in the 2012-2035 RTP/SCS would contribute to a cumulatively considerable transportation impact.

Therefore, the 2012 AQMP, when combined with past, present, and reasonably foreseeable activities, and with 2012-2035 RTP/SCS projects in particular, would contribute to cumulatively considerable construction impacts following mitigation and, since no mitigation measures were identified that reduce potential operation-related traffic impacts, these remain significant.

You fail to recognize increased VMT in relationship to conversion timetables and any emission factors sustained before conversion.

Under Biological Resources, you state:

The 2012 AQMP is not expected to result in significant biological resources impacts. 2012-2035 RTP/SCS impacts associated with biological and open space resources would be reduced following the implementation of 2012-2035 RTP/SCS Program EIR mitigation measures. However, 2012-2035 RTP/SCS impacts would remain significant following mitigation due to significant disturbance and removal of natural vegetation that may be utilized by sensitive species, habitat fragmentation and the associated decrease in habitat quality, litter, trampling, light pollution and road noise in previously undisturbed natural areas, displacement of riparian and wetland habitat, siltation of streams and other water bodies during construction, and the loss of prime farmlands, grazing lands, open space and recreation lands. The increased urban development anticipated by the 2012-2035 RTP/SCS would also result in similar impacts. However, since the 2012 AQMP was not identified as creating any adverse biological resources impacts, it would not create cumulatively considerable impacts, so adverse cumulative biological resources impacts from the 2012 AQMP are concluded to be less than significant.

You have not taken into consideration ecosystems, endangered wildlife and vegetation, wetlands and watershed management issues.

Under Cultural Resources, you state:

The 2012 AQMP is not in itself expected to result in significant cultural resources impacts. The development of transportation facilities as part of the 2012-2035 RTP/SCS may affect historical resources because many projects could be located in older urban centers where structures of architectural or historical significance are likely to be located. In addition, 2012-2035 RTP/SCS transportation projects would significantly affect archaeological and paleontological resources because projects could be located in previously undisturbed areas.

You fail to even mention Tribal issues or Disadvantaged Communities.

11-10
Con't

11-

1-12

Under Geology and Soils, you state:

Implementation of the 2012 AQMP would not in itself result in significant geological or soil impacts. Potential geologic and soil resources impacts associated with the 2012-2035 RTP/SCS would be reduced following the implementation of 2012-2035 RTP/SCS Program EIR mitigation measures. However, 2012-2035 RTP/SCS impacts would remain significant following mitigation because implementation of the 2012-2035 RTP/SCS is expected to result in potential damage to transportation infrastructure through surface rupture, ground shaking, liquefaction, and landsliding, as well as long term soil erosion and/or loss of top soil, subsidence, and slope failure. Moreover, the 2012 AQMP would not contribute to geologic and soil resources impacts associated with transportation projects projected in the 2012-2035 RTP/SCS and, therefore, would not be expected to contribute to a cumulatively considerable impact requiring mitigation.

11-13

and under Mineral Resources, you state:

Implementation of the 2012 AQMP would not result in any significant impacts associated with mineral resources. However, 2012-2035 RTP/SCS impacts would remain significant following mitigation because implementation of 2012-2035 RTP/SCS would result in increased demand driven by growth and the large number of projects anticipated in the 2012-2035 RTP/SCS. The 2012 AQMP, when combined with past, present, and reasonably foreseeable activities and in particular with the 2012-2035 RTP/SCS transportation projects, would not be expected to contribute to cumulatively considerable mineral resources impacts following mitigation.

You are now addressing the Fracking issue under your October 12, 2012 press release. The issue is omitted in the Draft EIR as are emissions from subsidence factors.

Under Population and Housing, you state:

The 2012 AQMP control measures would not result in population and housing impacts. The policies included in the 2012-2035 RTP/SCS seek to direct growth in a way that is efficient for both mobility and land consumption. Implementation of the RTP/SCS would help induce growth to certain vacant areas of the region, a substantial number of residences and businesses would likely be displaced, and the mobility benefits from the RTP/SCS may shift population, households, and employment. This may generate potentially significant adverse cumulative population and housing impacts in spite of implementing mitigation measures.

1-14

Therefore, the 2012 AQMP, when combined with past, present, and reasonably foreseeable activities, and with 2012-2035 RTP/SCS projects in particular, would not be expected to produce a cumulatively considerable impact following mitigation

You fail to recognize density issues in COMMUNITY PLANS of the GENERAL PLANS and the high density planned with consequences in Health Risk Assessments being underplayed.

Under Public Services, you state:

The 2012 AQMP control measures would not result in significant public services impacts. The public service impacts from the 2012-2035 RTP/SCS associated with police, fire, and emergency response were concluded to be significant in spite of implementing mitigation measures. Impacts to wildfire threats would also remain significant because development would occur in areas that have a high threat of fire. In addition, the region's demand to accommodate an additional 453,000 school children

1-15

would remain a significant impact on public services following implementation of 2012-2035 RTP/SCS mitigation measures.

Based on the above information, the 2012 AQMP, when combined with past, present, and reasonably foreseeable activities, and with 2012-2035 RTP/SCS projects in particular, is not expected to produce cumulatively considerable impacts to public services following mitigation

You fail to recognize sea-level rise with emissions and possible flooding factors. Emergency services and their need for equipment and vehicles have not been addressed in relationship to population and density increase.

Under **Recreation**, you state:

The 2012 AQMP control measures would not result in significant impacts on recreation resources. Impacts associated with recreation resources remain significant following mitigation because the 2012-2035 RTP/SCS would contribute to the loss and disturbance of open space and recreational lands. Based on the above information, the 2012 AQMP, when combined with past, present, and reasonably foreseeable activities, and in particular with the 2012-2035 RTP/SCS transportation projects, would not be expected to contribute to cumulatively considerable recreation impacts following mitigation.

You have not addressed pollution effects on warming of the air and atmosphere and its effects on plants, wildlife and birds in parks, open spaces, forests and wetlands.

Under **Agricultural Resources**, you state:

The 2012 AQMP is not expected to result in significant agriculture resources impacts, as evaluated in the NOP/IS.

For the 2012-2035 RTP/SCS, agricultural resource impacts are expected to remain significant following mitigation as the 2012-2035 RTP/SCS is expected to contribute to the loss and disturbance of agricultural lands as up to 74,300 new lane miles could be developed, some of which could disturb or consume agricultural lands. Potential agricultural resources impacts associated with the 2012-2035 RTP/SCS would be reduced following the implementation of 2012-2035 RTP/SCS Program EIR mitigation measures. However, 2012-2035 RTP/SCS impacts would remain significant following mitigation because implementation of the 2012-2035 RTP/SCS would contribute to significant loss and disturbance of agricultural lands. Moreover, the 2012 AQMP would not contribute to these impacts, so adverse cumulative operational agricultural resources impacts are concluded to be less than significant.

You have not addressed pollution effects on warming of the air and atmosphere and its effects on agriculture.

Will you be able to obtain **OVERALL ATTAINMENT STRATEGY** with this flawed and understated Draft EIR or have a Federal Implementation Plan exercised over the State Implementation Plan?

Joyce Dillard
P.O. Box 31377
Los Angeles, CA 90031

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Con't

11-16

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11-18

Responses to Comment Letter #11
Ms. Joyce Dillard (10/23/2012)

- 11-1 As noted in the comment the U.S. EPA published a “SIP call” on September 19, 2012, finding the existing approved one-hour ozone SIP substantially inadequate to provide for attainment of the revoked one-hour ozone standard (<http://www.aqmd.gov/aqmp/2012aqmp/EPA/FederalRegister-SIPcall.pdf>). This action was in response to the decision of the Ninth Circuit Court of Appeals in *Association of Irrigated Residents, et al, v. United States Environmental Protection Agency, et al.*, 686 F. 2d 668 (Amended January 12, 2012). As a result, SCAQMD staff prepared Appendix VII of 2012 AQMP for the purpose of providing an attainment demonstration of the one-hour ozone standard. Appendix VII is composed largely of summaries or replication of information, such as air quality, emission inventory and ozone control strategy, presented in the main volume and appendices of the 2012 AQMP, so there is no effect on the 2012 AQMP. The only new information presented in Appendix VII is the discussion demonstrating attainment with the one-hour ozone standard. Because the one-hour ozone standard demonstration does not require that additional control measures be identified, the one-hour ozone standard attainment demonstration has no effect on the 2012 AQMP, which also demonstrates the attainment of the federal 24-hour PM_{2.5} standard.

As also indicated in the comment, in response to a decision of the Ninth Circuit Court of Appeals in *Association of Irrigated Residents v EPA*, (9th Cir., reprinted as amended on January 27, 2012, 686 F. 3d 668), EPA withdrew its approval of, and then disapproved, the vehicle miles travelled (VMT) emissions offset demonstrations in the 2003 one-hour ozone SIP and the 2007 one-hour ozone plan (“Disapproval of Implementation Plan Revisions; State of California; South Coast VMT Emissions Offset Demonstrations”, September 19, 2012 (77 Fed. Reg. 58067)). In August 2012, the U.S. EPA issued guidance entitled “Implementing Clean Air Act Section 182 (d)(1)(A): Transportation control measures and Transportation Control Strategies to Offset Growth in Emissions Due to Growth in Vehicle Miles Travelled.” The U.S. EPA guidance recommended a calculation methodology that could be done to determine if sufficient transportation control strategies and TCMs have been adopted and implemented to offset the growth in emissions due solely to growth in VMT. SCAQMD staff conducted a VMT emissions offset analysis pursuant to U.S. EPA guidance and concluded that actual emissions with controls and VMT growth were substantially less than emissions assuming no new measures and no VMT growth (“ceiling”). Based on this conclusion, no new TCMs are required for the one-hour ozone SIP. SCAQMD staff has prepared the *VMT Offset Requirement Demonstration* (2012 AQMP Appendix VIII) to provide the results of the VMT emissions offset analysis to the public. Consequently, the VMT offset demonstration in Appendix VIII does not affect the emission reduction strategies in the 2012 AQMP.

- 11-2 SCAG has the responsibility of preparing and approving the portions of the AQMP relating to regional demographic projections and integrated regional land use; housing; employment; and transportation programs, measures, and strategies using a “bottom up” approach. This means that the local municipalities provide the above types of information to SCAG, which in turn develops regional and subregional forecasts. The

transportation strategy and transportation control measures (TCMs) are also included in SCAG’s adopted 2012-2035 RTP/SCS that links regional transportation planning to air quality planning. The 2012-2035 RTP/SCS considers every component of regional multimodal transportation system, including transit, passenger rail, high-speed rail, goods movement, aviation, airport ground access, highways, arterials, operation and maintenance. In addition, in developing the 2012-2035 RTP/SCS, SCAG worked with dozens of public agencies, 191 cities, hundreds of local, county, regional and state officials, business community, environmental groups, as well as various nonprofit organizations. Future VMT activity is determined through SCAG’s transportation demand model based on the socioeconomic growth demographics and land use developments.

- 11-3 The comment states that the SCAQMD needs to take into consideration the effects of the growth of digital signage light pollution in the region on air quality. This comment is similar to a comment previously submitted by this commenter. The previous comment letter included an attachment entitled “City Light Pollution Affects Air Pollution,” which asserts that light pollution has the potential to affect ozone concentrations. The 2012 AQMP is required by law to demonstrate attainment with the federal eight-hour PM2.5 ambient air quality standard, although it contains control measures to reduce ozone precursors to continue making progress in attaining the federal eight-hour ozone standard. A comprehensive ozone SIP will be prepared in 2015, so consideration of the effects of light pollution on ozone concentrations can be considered and evaluated as part of the future federal eight-hour ozone plan.

As indicated in response to comment #11-1 above, the U.S. EPA published in the Federal Register a proposed “SIP call” which, if finalized, would require the SCAQMD to prepare a demonstration of attainment of the one-hour ozone standard, with attainment required by ten years from the date the SIP call is finalized. In response to the U.S. EPA’s “SIP call” and in anticipation that it will be finalized, SCAQMD staff has prepared the *One-hour Ozone Attainment Demonstration*, which demonstrates attainment of the federal one-hour (revoked) ozone standard by the year 2022. Therefore, it relies on the same ozone control measures as the eight-hour ozone plan to respond to the U.S. EPA’s “SIP call.”

- 11-4 This comment states that these factors [see comments #11-1 through #11-3] must be considered in any mitigation for the 2012 AQMP and the Draft Program EIR is flawed. The factors in comments #11-1 through #11-3 have been addressed. See responses to comments #11-1 through #11-3. SCAQMD staff disagrees with the assertion that the Draft Program EIR is flawed. The Draft Program EIR complies with all relevant CEQA requirements for preparing an EIR (CEQA Guidelines §§15120 through 15131) and for preparing a program CEQA document (CEQA Guidelines §15168). No evidence has been provided in the comment that supports the assertion that the Draft Program EIR is flawed.
- 11-5 The comment states that the Draft Program EIR fails to list the CalTrans Arroyo Seco Scenic Byway within the district. Subchapter 3.1 of the Draft Program EIR contains existing setting information relative to aesthetics resources. Table 3.1-2 identifies designated scenic highways within the district and Table 3.1-2 identifies highways within the district eligible for scenic highway designation. The Arroyo Seco Parkway is not a

designated scenic highway nor is it a highway listed as eligible for designation, although it is listed as an historic highway⁵. Regardless of its designation, no control measures were identified that would adversely affect this roadway. The only roadways identified that could be adversely affected by Control Measures ONRD-01, ADV-01, and ADV-02, were existing transportation corridors in areas within and adjacent to the Port of Los Angeles (e.g., Navy Way, and Port of Long Beach), around container transfer facilities (truck/train) near the Terminal Island Freeway and East Sepulveda Boulevard intersection, along the Alameda Corridor, as well as the railyards near downtown Los Angeles (East Washington Boulevard in the City of Commerce, which are located within three miles of the northern terminus of the Alameda Corridor and east of I-710). As indicated in Subchapter 4.1, based on current information regarding the possible future location of catenary lines, they would likely be located near cargo transfer facilities or on existing heavily used cargo transport corridors. The Arroyo Seco Parkway does not fit these categories. For the reasons given here, aesthetics impacts to scenic highways were concluded to be less than significant.

The comment also states that the Arroyo Seco Parkway should be considered for mitigation in any NFL Stadium in Los Angeles, temporary site at the Rose Bowl, and in all measures of the EIR. It is unclear what this comment means. The CEQA document for the NFL stadium in Los Angeles was prepared and recently certified by the City of Los Angeles. It is the responsibility of the lead agency to identify and impose feasible measures, as necessary, to mitigate aesthetics impacts from this project. As a single purpose agency responsible for air quality, the SCAQMD has no authority to impose measures to mitigate aesthetics impacts in a CEQA document prepared by another public agency. The Rose Bowl is an existing facility that currently hosts college football games as well as other events, so it unclear what mechanism would be used to require aesthetics mitigation measures. Finally, as noted in the first part of this response, control measures in the 2012 AQMP are not expected to affect in any way aesthetic resources along the Arroyo Seco Parkway or any other scenic highways in the district, so mitigation measures are not required.

- 11-6 The comment cites text regarding potential cumulative hydrology and water quality impacts from the 2012–2035 RTP/SCS. The comment then states that the Draft Program EIR does not take into consideration the effects of implementing the 2012 AQMP on watersheds and sub-watersheds and the compliance issue of pollutants generated. The comment mentions the Los Angeles County Flood Control District (LACFCD) is implementing an expensive parcel tax to cover costs for watershed mitigation and maintenance.

Implementation of the 2012 AQMP does not require the construction of structures that would affect watersheds or sub-watersheds. Further, the comment does not identify any specific effects of the project on hydrology and water quality nor does the comment provide any evidence that ecosystems would be adversely affected by implementing the 2012 AQMP. Lastly, the implementation of LACFCD's parcel tax project is unrelated to the implementation of the 2012 AQMP.

⁵ California Scenic Highway Mapping System. http://www.dot.ca.gov/hq/LandArch/scenic_highways/index.htm.

- 11-7 In addition to citing text from the cumulative impacts chapter, the comment also states that under state law, there should be no inconsistencies between general plans and their elements. The 2012 AQMP is not a general plan with the various elements associated with general plans so it is not subject to general plan requirements. As discussed in response to comment #11-2, growth forecasts are provided by local jurisdictions as developed in their detailed general plans.
- 11-8 The comment cites text regarding potential cumulative biological resources impacts from the 2012–2035 RTP/SCS. The comment then states that the SCAQMD does not take into consideration potential noise impacts to underground pipes or emissions from underground pipes. It is assumed that this comment refers to the 2012 AQMP. As noted in response to comment #11-5, the only roadways identified that could be adversely affected by Control Measures ONRD-01, ADV-01, and ADV-02, were existing transportation corridors in areas within and adjacent to the Port of Los Angeles (e.g., Navy Way, and Port of Long Beach), around container transfer facilities (truck/train) near the Terminal Island Freeway and East Sepulveda Boulevard intersection, along the Alameda Corridor, as well as the railyards near downtown Los Angeles (East Washington Boulevard in the City of Commerce, which are located within three miles of the northern terminus of the Alameda Corridor and east of I-710). These roadways are already heavily travelled roadways and the control measures that propose installation of catenary lines do not increase traffic and, therefore, would not increase noise from traffic. Further, to the extent heavy-duty trucks operate on catenary lines, they have the potential to be quieter than heavy-duty diesel trucks. For these reasons, operational noise impacts were concluded to be less than significant.

Project construction could involve equipment and activities that may have the potential to generate groundborne vibration. In general, demolition of structures during construction generates the highest levels of vibration. The FTA has published standard vibration levels and peak particle velocities for construction equipment operations. The FTA uses vibration decibels (abbreviated as VdB) to measure and assess vibration amplitude. In the United States, vibration is referenced to one micro-inch/sec (25.4 micro-mm/sec) and presented in units of Vd.

As noted above noise and vibration impacts from ONRD-01, ADV-01, and ADV-02 as a result of installing catenary lines would occur along existing transportation corridors and right-of-ways where few structures, if any, would be located. Since, demolition would be the primary cause of vibrations and demolition is expected to be minimal, damage to underground pipes and any resulting emissions are not anticipated. Finally, because no specific projects are currently proposed, any noise or vibration impacts would be speculative.

- 11-9 The comment cites text regarding potential cumulative solid waste impacts from the 2012–2035 RTP/SCS. The comment then states that the SCAQMD does not recognize attempts by municipalities to place solid waste recycling operators within the region. It is assumed that this comment refers to the 2012 AQMP. The 2012 AQMP does not include any control measures that would require or result in construction and operation of solid waste recycling operations in the district. The SCAQMD has no land use authority so would not be able to require solid waste recycling facilities in any municipalities in the district. Land use decisions are made by the public agencies with general land use

authority, i.e., cities or counties. The decision by local municipalities to develop such facilities is also independent from the 2012 AQMP. If local municipalities plan to locate solid waste recycling facilities in their jurisdictions, they would be subject to CEQA, requiring a separate environmental analysis of the project.

The comment also states that the Draft Program EIR does not analyze landfill usage increase or identify landfills that would accommodate waste. The CEQA Guidelines indicate that the degree of specificity required in a CEQA document depends on the type of project being proposed (CEQA Guidelines §15146). The detail of the environmental analysis for certain types of projects cannot be as great as for others. Since the 2012 AQMP is a broad planning document the level of detail of the control measures is not as great as it would be for a specific construction project. As a result, a Program EIR is the appropriate CEQA document because it allows the analysis to properly focus on broad policy alternatives and program wide mitigation measures. The analysis of solid waste impacts in Subchapter 4.8 is commensurate with the level of detail of the 2012, which means that specific landfills that might be affected by 2012 AQMP cannot be identified. Based on that analysis, solid waste impacts were concluded to be less than significant so mitigation is not required.

- 11-10 The comment cites text regarding potential cumulative transportation and traffic impacts from the 2012–2035 RTP/SCS. The comment then states that the Draft Program EIR does not recognize a potential increase in VMT in relation to conversion timetables and any emission factors sustained before conversion. Contrary to the comment, there is no increase in VMT from converting from conventionally fueled vehicles to alternative clean fuel vehicles.
- 11-11 The comment cites text regarding potential cumulative biological resources impacts from the 2012–2035 RTP/SCS. The comment then states that the SCAQMD does not take into consideration ecosystems, endangered wildlife and vegetation, wetlands and watershed management issues. It is assumed that this comment refers to the 2012 AQMP. As is indicated in both the original 6/28/12 NOP/IS for the 2012 AQMP and the 8/2/12 Recirculated NOP/IS, all of the topics mentioned in the comment were evaluated to determine whether or not the 2012 AQMP has the potential to adversely affect biological resources (see the discussions under “IV. Biological Resources” in the 8/2/12 recirculated IS, which can be found in Appendix A of this Final Program EIR). As indicated in the original 6/28/12 NOP/IS for the 2012 AQMP and the 8/2/12 Recirculated NOP/IS, it was concluded that the 2012 AQMP would not generate any biological resources impacts. No comment letters were received that refuted this conclusion and no information or other data are provided that indicate in any way that the 2012 AQMP could adversely affect biological resources.
- 11-12 The comment cites text regarding potential cumulative cultural resources impacts from the 2012–2035 RTP/SCS. The comment then states that the Draft Program EIR fails to mention tribal issues or disadvantaged communities. The topic of cultural resources was concluded in the NOP/IS for the 2012 AQMP to have less than significant cultural resources impacts and no comments were received disputing this conclusion. Further, the comment does not provide any evidence to support the implication that Native American tribes or disadvantaged communities would be adversely affected by implementing the 2012 AQMP.

11-13 The Draft Program EIR did not evaluate hydraulic fracturing because the 2012 AQMP does not include any control measures that would require hydraulic fracturing. However, SCAQMD staff is currently assessing current SCAQMD regulations to determine if they adequately cover oil and gas production activities when hydraulic fracturing is used. Additional regulatory actions may include additional controls as well as reporting and public notification requirements for hydraulic fracturing. See also response to comment #8-4 for additional information on hydraulic fracturing.

11-14 The comment cites text regarding potential cumulative population and housing impacts from the 2012–2035 RTP/SCS. The comment then states that the SCAQMD does not recognize density issues in community plans of general plans, high planned density or the potential for health risk assessments being underplay. It is assumed that this comment refers to the 2012 AQMP. As is indicated in both the original 6/28/12 NOP/IS for the 2012 AQMP and the 8/2/12 recirculated NOP/IS, potential impacts to land use and housing were evaluated to determine whether or not the 2012 AQMP has the potential to adversely affect these areas (see the discussions under “XIII. Population and Housing” in the 8/2/12 recirculated IS, which can be found in Appendix A of this Final Program EIR). As indicated in the original 6/28/12 NOP/IS for the 2012 AQMP and the 8/2/12 recirculated NOP/IS, it was concluded that the 2012 AQMP would not generate any impacts to population or housing in the district. No comment letters were received that refuted this conclusion and no information or other data are provided that indicate in any way that the 2012 AQMP could adversely affect biological resources.

With regard to density, the 2012 AQMP projects future emissions in the Basin using growth projections provided by SCAG, which in turn are provided from the local land use agencies. See response to comment #11-2 for additional information on density information provided to the SCAQMD by SCAG.

It is unclear what the comment about health risk assessments (HRA) “being underplayed” refers to. An HRA is an analysis of toxic air contaminants (TACs) from an institutional, commercial, or industrial facility on local sensitive receptors. New or existing facilities that have the potential to emit or currently emit TACs may be required to prepare an HRA pursuant to SCAQMD Rule 1401 or Rule 1402. If the comment implies that increases in density may increase the number of sensitive receptors affected by a new or existing facility, there is no evidence or data provided to support such an assertion. First, as already noted, the 2012 AQMP is not expected to affect population growth in any way. Second, the 2012 AQMP takes into consideration future growth as discussed in response to comment #11-2. Although the 2012 AQMP is a PM_{2.5} attainment plan, some of the ozone control measures in the plan promote replacing diesel fueled mobile sources with alternative clean fuels and accelerated compliance with existing CARB regulations that reduce diesel PM emissions. Diesel PM is classified as carcinogenic, so measures to reduce diesel PM emissions would serve to reduce exposure by sensitive receptors to TAC emissions. Finally, future projects involving air toxics emissions from stationary sources would still be subject to SCAQMD air toxics control Rules 1401, 1401.1 or Rule 1402.

11-15 The comment cites text regarding potential cumulative public services impacts from the 2012–2035 RTP/SCS. The comment then states that the SCAQMD does not consider sea level rise and flooding, which could increase demand for emergency services, equipment

and vehicles, relative to population and density increases. It is assumed that this comment refers to the 2012 AQMP. It is assumed that the reference to sea level rise and flooding refer to global climate change impacts, specifically global warming, from GHG emissions. An analysis of GHG emission impacts from the 2012 AQMP was prepared and is included in Subchapter 4.2 in the Program EIR. The analysis concluded that implementing some of the mobile source control measures would actually reduce GHG emissions compared to the baseline year (2008) levels. Consequently, potential GHG emission impacts were concluded to be less than significant so impacts to emergency service described in the comment would not be an effect of adopting the 2012 AQMP. Similarly, as previously noted, the AQMP is not expected to affect population growth in any way, so adverse impacts to emergency services from increasing population and density growth is not an effect of adopting the 2012 AQMP.

- 11-16 The comment cites text regarding cumulative recreation resources impacts from the 2012–2035 RTP/SCS. The comment then states that the SCAQMD has not addressed pollution effects on warming of the air and atmosphere and resulting effects on plants, wildlife and birds in parks, open spaces, forests, and wetlands. It is assumed that this comment refers to the 2012 AQMP. The environmental checklist used to perform the analysis of potential impacts from the 2012 AQMP in the IS identifies two types of recreation impacts: would a project increase the use of neighborhood and regional parks resulting in substantial use and accelerated deterioration; and projects that included or require construction of parks that could have adverse environmental effects (see also CEQA Guidelines Appendix G). As is indicated in both the original 6/28/12 NOP/IS for the 2012 AQMP and the 8/2/12 recirculated NOP/IS, potential recreation impacts were evaluated to determine whether or not the 2012 AQMP has the potential to adversely affect recreational resources (see the discussions under “XV. Recreation” in the 8/2/12 recirculated IS, which can be found in Appendix A of this Final Program EIR). As indicated in the original 6/28/12 NOP/IS for the 2012 AQMP and the 8/2/12 recirculated NOP/IS, it was concluded that the 2012 AQMP would not generate any recreational resources impacts. No comment letters were received that refuted this conclusion and no information or other data are provided that indicate in any way that the 2012 AQMP could adversely affect recreational resources.

With regard to the comment about warming the air and atmosphere, it is assumed this refers to global warming impacts from GHG emissions. As indicated in response to comment #11-15, some of the mobile source control measures would actually reduce GHG emissions compared to the baseline year (2008) levels, so GHG emission impacts were concluded to be less than significant.

With regard to the 2012 AQMP’s effects on plants, wildlife and birds in parks, open spaces, forests, and wetlands, these are actually biological resources impacts, so see response to comment #11-11.

- 11-17 The comment cites text regarding cumulative agricultural resources impacts from the 2012–2035 RTP/SCS. The comment then states that the SCAQMD does not take into consideration warming of the air and atmosphere and its effects on agricultural resources. It is assumed that this comment refers to the 2012 AQMP. As is indicated in both the original 6/28/12 NOP/IS for the 2012 AQMP and the 8/2/12 recirculated NOP/IS, agricultural resources were evaluated to determine whether or not the 2012 AQMP has

the potential to adversely affect agricultural resources (see the discussions under “II. Agriculture and Forest Resources” in the 8/2/12 recirculated NOP/IS, which can be found in Appendix A of this Final Program EIR). As indicated in the original 6/28/12 NOP/IS for the 2012 AQMP and the 8/2/12 recirculated NOP/IS, it was concluded that the 2012 AQMP would not generate any agriculture or forest resources impacts. No comment letters were received that refuted this conclusion and no information or other data are provided that indicate in any way that the 2012 AQMP could adversely affect biological resources.

With regard to the comment about warming the air and atmosphere, it is assumed this refers to global warming impacts from GHG emissions. As indicated in response to comment #11-15, some of the mobile source control measures would actually reduce GHG emissions compared to the baseline year (2008) levels, so GHG emission impacts were concluded to be less than significant.

- 11-18 The 2012 AQMP demonstrates attainment of the 24-hour PM_{2.5} national ambient air quality standard by 2014 (see Chapter 5 of the 2012 AQMP) with the implementation of the PM_{2.5} control strategy outlined in Chapter 4 of the 2012 AQMP. In addition, 2012 AQMP Appendix VII includes an attainment demonstration for the one-hour ozone standard by 2022 through implementing: the eight-hour ozone reduction strategy, carryover measures from the 2007 SIP, and the §182 (e)(5) (“black box”) measures. In addition to the one-hour ozone demonstration, the control strategies and emissions inventory can also be found in Appendix VII of the 2012 AQMP. If the 2012 AQMP is not approved by the U.S. EPA, then consequences can occur including a Federal Implementation Plan. The U.S. EPA approval of the 2012 AQMP or consequences if not approved does not have any bearing on the environmental analysis.

Letter #12

Lori Moore

From: Harvey Eder [harveyederpspc@yahoo.com]
 Sent: Tuesday, October 23, 2012 4:52 PM
 To: Steve Smith; 2012 AQMP Comments
 Cc: harveyederpspc@yahoo.com; earthdayla.org, jim
 Subject: Steve Smith Comments DEIR New +11 paGES 6/17/17.12 Harvey Eder & PSPC 10/23
 Attachments: COMMENT LETTER.docx

Howdy SSmith AQMD,

I am incorporating the comments of the Angeles Chapter Sierra Club in the Deir and AQMP as well as the 11 pates submitted to you and the district July 17 &18 2012.

12-1

Also EDU 01 needs to include GHG green House Gases and education in the form including but not limited to public service announcements and kl-14 + education plans for teachers for various grades about how solar is cost effective now and the ghg problems from natural gas being 100 times the gwp compared to co2 etc.(co2e)

12-2

Any other public methods that the district or carb or epa used or that may be effective to educate about the costs of fosswel fuel ghgs vs solar electricity /batteries for vehicles and or solar hydrogen direct or through fuel cells for vehicles should be covered as well etc. Pro solar problems of ghg etc criteria pollution etc especially ghg of methane/natural gasw etc.

Thanks, take care

Harvey Eder 10/23/12
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 1218 12th St. #25
 Santa Monica , CA 90401
 (310)3932589
 & the PSPC Public Solar Power Coalition

Responses to Comment Letter #12
Mr. Harvey Eder (10/23/2012)

- 12-1 The comment states that the comment letter submitted by the Sierra club is incorporated by reference. See Comment Letter #8 and responses to comments #8-1 through #8-9. The comment also states that previous comments submitted on July 17 and 18, 2012, by this commenter and attached to the e-mail are incorporated by reference. The attached comments, which were also submitted to the SCAQMD were previously evaluated and it was concluded that they did not include any comments on the environmental analyses, mitigation measures, or project alternatives in the Draft Program EIR. As a result, the comments were treated as AQMP comments and were forwarded to SCAQMD staff responsible for preparing the 2012 AQMP. The attached comments and responses to these comments have been prepared by AQMP staff and will be made available prior to the adoption hearing. As a result, the attachment to this letter is not included in this appendix.
- 12-2 The education components requested to be added into Control Measure EDU-01 are in concert with the goals of this measure and the lifecycle analysis of different energy sources and combustion processes will be included.

SCAQMD staff is aware of the larger GWP potentials of climate forcers with shorter atmospheric lifetimes, such as methane, when looking at a 20- or 10-year time horizon. Referencing these larger GWPs on a shorter timeframe has no affect on the Basin achieving PM2.5 standards. SCAQMD staff is also working on identifying ways to assess the forcing impacts of other components such as the black carbon emitted within the Basin.

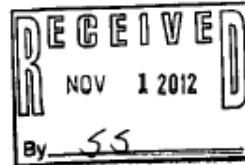
Letter #13



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October 24, 2012

Mr. Steve Smith, Ph.D., Program Supervisor
Planning, Rules, and Area Sources
South Coast Air Quality Management District
21865 Copley Drive
Diamond Bar, California 91765-4182



NCL 12-029

SUBJECT: Draft Program environmental Impact Report for 2012 Air Quality Management Plan (AQMD)

Dear Mr. Smith:

The County of Orange has reviewed the Draft Program environmental Impact Report for 2012 Air Quality Management Plan (AQMD) and offers the following comments:

Advance Planning:

- 1. DEIR Appendix F: "RTP/SCS Mitigation Measures Table". The appendix title page shall be revised to reflect the more accurate title "Examples of Measures That Could Reduce Impacts from Planning, Development, and Transportation Projects", which is consistent with the adopted Southern California Association of Governments 2012-2035 Regional Transportation Plan/Sustainable Communities Strategy. 13-1
2. It appears that the demographic and socio-economic data included in the analysis of the Program Environmental Impact Report (PEIR) is outdated and is not the most recent demographic and socio-economic data prepared for the Center for Demographic Research and used in the Orange County Sustainable Communities Strategy and the Southern California Association of Governments 2012-2035 Regional Transportation Plan/Sustainable Communities Strategy. The analysis should be revised to include the demographic and socio-economic data contained in the Orange County Sustainable Communities Strategy. 13-2
3. There are mischaracterizations in describing Orange County in Subchapter 3.6 – Land Use and Planning. These should be revised in the final draft of the Program Environmental Impact Report. 13-3
a. Subsection 3.6.3.2 Orange County (page 3.6-7): The County of Orange General Plan is only applicable to areas of unincorporated Orange County and does not supersede the General Plans of the 34 independent local jurisdictions. Therefore, it is erroneous and misleading to state policies identified in the County of Orange General Plan and 13-4

generalize that these policies are applicable to the 34 local Orange County jurisdictions. The Program Environmental Impact Report should either be revised to clearly state that the County of Orange General Plan is only applicable to those unincorporated areas of the County of Orange and each local jurisdiction has their own governing General Plan or remove the text in its entirety.

13-4
Con't

b. Subsection 3.6.3.2.2 Commercial (page 3.6-8): There are inaccuracies in describing the commercial areas within Orange County that should be revised in the final version of the Program Environmental Impact Report. 1) The commercial area located within close proximity to the intersection of Interstate 5, State Route 22, and State Route 57 is not known as the "Orange Crush" as noted in the draft PEIR. The "Orange Crush" is used to describe the intersection of the three transportation corridors, not the commercial/office area. 2) The area surrounding John Wayne Airport and the University of California, Irvine is known as the Irvine Business Complex or IBC, not the Irvine Spectrum. 3) The terminology "El Toro Y" is used to describe the intersection of two transportation corridors, Interstate 405 and Interstate 5, not the commercial/office center. That is the Irvine Spectrum.

13-5

c. Subsection 3.6.3.2.3 Industrial (page 3.6-8): The paragraph is erroneous in referencing the County of Orange General Plan, which is only applicable to the unincorporated areas of the County. Every jurisdiction has their own governing General Plan that may identify areas of industrial use. The paragraph should be revised for the final DEIR.

13-6

d. Subsection 3.6.3.2.5 Open Space (page 3.6-8): The Orange County Sustainable Communities Strategy identifies the preservation/open space programs located throughout all of Orange County, including the individual efforts of the County of Orange and the 34 local jurisdictions. This paragraph should be revised to generally reflect the open space policies outlined in the Orange County Sustainable Communities Strategy.

13-7

Sincerely,



Michael Balsamo
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OC Public Works/OC Planning
300 North Flower Street
Santa Ana, California 92702-4048
Michael.Balsamo@ocpw.ocgov.com

cc: Ruby Maldonado, Advance Planning

Responses to Comment Letter #13
Orange County Public Works – Michael Balsamo (10/24/2012)

- 13-1 The comment requests that the cover page title of Appendix F be changed to match the title on the first page of the appendix. This requested change has been made.
- 13-2 The comment states that it “appears” that the demographic and socioeconomic data included in the Program EIR is outdated and that the analysis should be revised to reflect the most recent data contained in the Orange County Sustainable Communities Strategy. Because the comment does not specifically state what data are obsolete, SCAQMD staff is unable to identify what data need to be updated. Further, since Orange County’s SCS was incorporated into SCAG’s 2012-2035 RTP/SCS, which forms the basis of the 2012 AQMP’s socioeconomic forecasts, it is not necessary to update the CEQA document to include socioeconomic data. Without further clarification of what data do not appear to be the most recent, no further response is possible.
- 13-3 This comment is a general assertion that the Program EIR contains inaccurate descriptions of Orange County. See responses to comments #3-4 through #3-7 for responses to comments on each topic mentioned.
- 13-4 This comment states that discussion regarding the Orange County General Plan be clarified to explain that the plan is only applicable to unincorporated areas within Orange County and that each of the 34 cities within Orange County has its own General Plan. Section 3.6.3.2 of Subchapter 3.6 in the Final Program EIR has been revised to reflect these recommended changes. None of these changes to the Final Program EIR, however, will alter the conclusions.
- 13-5 This comment states that there are inaccuracies in Subsection 3.6.3.2.2 regarding the descriptions of commercial areas in Orange County. This comment recommends the Land Use and Planning discussion that pertains to the commercial areas within Orange County General Plan to be clarified to explain that the commercial area located within the proximity of Interstate 5, State Route 22, and State 57 is not the “Orange Crush” transportation corridor. This comment also recommends the Land Use and Planning discussion that pertains to the area surrounding John Wayne Airport and the University of California – Irvine to be described as the Irvine Business District and not the Irvine Spectrum. This comment also recommends the Land Use and Planning discussion that pertains to the intersection of Interstate 5 and Interstate 405 to be described as the “El Toro Y” and the commercial/office center in the vicinity of this intersection to be described at the Irvine Spectrum. Subsection 3.6.3.2.2 of Subchapter 3.6 in the Final Program EIR has been revised to reflect these recommended changes. None of these changes to the Final Program EIR, however, will alter the conclusions.
- 13-6 This comment recommends the Land Use and Planning discussion that pertains to the Orange County General Plan be clarified to explain that the plan is only applicable to unincorporated areas within Orange County and that each of the 34 cities within Orange County has its own General Plan. Subsection 3.6.3.2.3 of Subchapter 3.6 in the Final Program EIR has been revised to reflect these recommended changes. None of these changes to the Final Program EIR, however, will alter the conclusions.

- 13-7 This comment recommends the Land Use and Planning discussion that pertains to open space should be revised to reflect the open space polices outlined in the Orange County Sustainable Communities Strategy. Subsection 3.6.3.2.5 of Subchapter 3.6 in the Final Program EIR has been revised to reflect these recommended changes. None of these changes to the Final Program EIR, however, will alter the conclusions.