

**California Attorney General's Comments re Global Warming Mitigation Measures
in the Draft Environmental Impact Statement/Report For the
Port of Los Angeles Berths 136-147 (TraPac) Terminal Expansion Project**

Mitigation of significant environmental impacts is one of the most important functions of CEQA. See Pub. Res. Code § 21002.1, subd. (b). The TraPac DEIS/R appropriately includes mitigation measures addressed to the global warming impacts of the project. The TraPac DEIS/R must analyze all feasible options for mitigating or avoiding the project's contribution to the global climate crisis, and ensure that proposed mitigation measures "are fully enforceable through permit conditions, agreements, and other measures." Pub. Res. Code, § 21081.6, subd. (2)(b).

While it may not be possible to eliminate the global warming impact of this project altogether, we believe more can be done to reduce the project's greenhouse gas emissions by (1) strengthening proposed mitigation measures, (2) adopting additional feasible measures, (3) offsetting significant impacts that cannot be mitigated otherwise.

(1) Strengthen Proposed Mitigation Measures:

MM AO-6: Alternative Marine Power (AMP): Project will provide AMP for vessel hoteling purposes at new dock facilities. DEIR/S claims that a ship using AMP emits 47% fewer greenhouse gases than one using auxiliary marine engines. DEIR/S assumes 10-year phase-in for implementation of this measure. (DEIS/R at 3.2-104.)

Comment: The DEIR/S does not explain why it will take 10 years to fully implement this measure. Given the significant decrease in both greenhouse gas and criteria air pollutant emissions possible through full implementation of this measure, the DEIR/S must explain why it is not feasible to achieve earlier implementation.

- **Add incentives for vessels to convert to AMP:** Would incentives achieve earlier implementation? Reduced dockage fees? Credits? Other financial incentives? Technological and/or financial assistance to complete early conversion?
- **Add or fund solar source for AMP.** The new 500-space parking lot provides additional potential for solar panel installation. Consider feasibility and analyze carbon reduction impact.¹ Terminal user mitigation fees (see below) could also fund off-site alternative power projects (wind, solar, etc.)

MM AO-10: Vessel Speed Reduction Program (VSRP): Ocean-going vessels shall slow to 12 knots within 40 nautical miles of the Point Fermin. DEIR/S estimates 95% compliance with this measure by 2008, reducing overall container ship transit greenhouse gas emissions by 70% compared to the project without VSRP. (DEIS/R at 3.2-104.)

¹ Implementation of AMP will cause the emission of 13,000 metric tons of greenhouse gases per year at full build-out. Presumably this is far less than ships using auxiliary engine power, but the DEIR/S does not provide this analysis.

Comment: The DEIR/S does not discuss any compliance measures for this program. Currently, this is a voluntary program at the port. Without some mechanism for monitoring, compliance and enforcement, this measure cannot be relied upon to achieve the level of greenhouse gas reduction that the DEIS/R predicts.

- ***This measure should be mandatory and include mechanisms for assuring compliance.*** Evaluate feasibility of add monitoring, enforcement mechanisms, program of incentives. 5
- ***Explain how 95-100 percent compliance will be achieved.*** 6

MM AQ-16: Truck Idling: This measure requires the operator “to ensure” that truck idling is reduced at the terminal, and suggests improved gate design, leaving gates open, implementing a truck appointment system. (DEIS/R at 3.2-105.)

Comment: This measure is merely aspirational. It does not impose any limitation on actual idling. It has no monitoring or enforcement mechanism. Existing regulations appear to allow truck idling while queuing so long as the distance to the nearest residence or school is greater than 100 feet. (DEIS/R at 3.2-20.) 7

- ***Mandate specific anti-idling measures, monitoring and enforcement mechanisms*** as condition of operator lease. In addition to reducing greenhouse gas emissions, putting teeth into this measure is essential to reduce criteria air pollutants. 8
- ***Prohibit all non-essential idling*** of construction equipment, yard equipment, off-road vehicles, as condition of operator lease. Require monitoring and enforcement. 9
- ***In-terminal truck electrification:*** Provide electricity plug-in for trucks that must keep engines running for operational purposes while waiting to pick up or deliver cargo. Similar to AMP for ships. Already implemented at truck stops in California.²

MM AQ-13: New Vessel Design: This measure requires all new vessels to incorporate NOx and PM control devices. (DEIS/R at 3.2-72.)

Comment: In addition to promoting new vessel design that incorporates conventional pollution controls, adopt all feasible measures to reduce GHGs, including high efficiency design, reduced power propulsion, design to accommodate emerging and new technologies, etc. 10

² Truck electrification is considered cost effective when fuel savings are factored into full cost of installation, coupled with federal and state incentives. See Center For Clean Air Policy, *Analysis of Measures for Reducing Transportation Emissions in California* (Oct. 2005) at p. 13.

- *Evaluate feasibility of GHG reduction measures* suggested in International Council on Clean Transportation, *Air Pollution Greenhouse Gas Emissions from Ocean-going Ships: Impacts, Mitigation Options and Opportunities for Managing Growth*.

MM AQ-19 – 24: Green Building Measures: The project includes various green building measures, including LEED “gold” certification for the new terminal building, solar panels on the building, use of compact fluorescent lighting within the building, an energy audit, recycling program, and tree planting around the building.

Comment: The DEIR/S does not discuss the feasibility of all available building mitigation measures. Additional feasible measures might include:

- **Solar Carport** New 500-space parking provides additional opportunity for solar power generation via installation of solar photovoltaic carport.³] 11
- **Cool Roofs.** Require light-colored, reflective roof materials and paint on all buildings. Thirty square meters of white or “cool” roof can offset 1 ton of CO₂.⁴] 12
- **Recycling Rates.** The DEIR/S proposes to achieve a recycling rate in the main terminal building of 40% by 2012 and 60% by 2015 without explanation for such low expectations. Discuss feasibility of employee education or other programs to produce significantly higher rates, sooner.] 13
- **Tree Planting.** The DEIS/R suggests that shade trees be planted around the new terminal building to act as insulators, thereby reducing energy requirements. (DEIS/R at 3.2-107.) Evaluate the carbon sink potential of planting additional trees within the terminal area. Consider all available space within the terminal area and access streets where additional trees could be planted: medians, traffic islands, barriers, etc.] 14

- (2) **Adopt All Feasible Mitigation For Significant GHG Impacts.** There are numerous sources of additional greenhouse gas emissions associated with the project for which the DEIS/R does include mitigate measures. These sources must be addressed, including:

Terminal and Railyard Equipment: Use of this equipment in furtherance of the project’s goals

³ Solar carports have been built in Riverside County, Glendale, Palm Desert, Huntington Beach, and the U.S. Postal Service’s Distribution Center in West Sacramento, among other places.

⁴ *Achieving the 2050 Greenhouse Gas Reduction Goal*, Arthur Rosenfeld, California Energy Commission, for the Fourth Annual Climate Change Conference (Sept. 10-13, 2007). See, e.g., <http://www.energy.ca.gov/title24/coolroofs/index.html>

will add 52,000 metric tons of greenhouse gases to the atmosphere annually at full build-out. *The DEIR/S does not discuss or propose mitigation for this impact.*

- *Discuss feasibility of converting to electrically powered or fuel-cell equipment, and assess carbon reduction potential of such a program.*
- *Adopt strict idling restrictions for yard tractors, terminal equipment.*

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Truck Transit. Increased truck trips due to port expansion is the biggest contributor to overall GHG emissions of the project, accounting for nearly 500,000 metric tons annually at full-build-out. (DEIR/S at pp. 3.2-103 and 3.2-109.) *The DEIR/S does not discuss or propose mitigation for this impact.*

- *Mitigation fees.* Terminal user GHG mitigation fee, tied to size of cargo and distance truck will travel to deliver it as measure of GHG impact to offset. Funds to be used for off-site, community based carbon mitigation.
- *Fleet Modernization Incentives.* Reduced terminal fees or credits for biodiesel, other alternative fuel, low emission fuels, hybrid-powered trucks.
- *Mandatory tire check/tire inflation program.* Properly inflated tires maximizes fuel efficiency. Terminal could provide tire check and inflation for all trucks leaving the terminal.

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Ocean-going Vessel Emissions: The DEIR/S does not consider total GHG emissions from the project's increase in shipping (only considers impact within CA borders). Is it feasible to create incentives to reduce total vessel emissions?

- *Consider environmentally differentiated port fee, tied to transit-generated GHG emissions.* Differentiated fee structure could reward low emissions and/or high efficiency vessels, and provide incentive for vessel modernization, clean engine design.

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Coolants Used in Refrigerated Vessels/Containers Hydrofluorocarbons (HFCs) are used as cooling agents in refrigerated vessels, and when released to the atmosphere, have a potent global warming effect. It has been estimated that more than 50% of the HFCs used on a ship are released during operation and maintenance of the vessel.⁵ *The DEIR/S does not discuss mitigation for this impact.*

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- *Require periodic leak inspections* for ships, truck and any other transport vehicles that use HFC as refrigerants.

⁵ See *Air Pollution and Greenhouse Gas Emissions from Ocean-going Ships*, at 34.

- **Impose fees on vessels that leak HFCs**, could be utilized to create mitigation fund.] 22
- **Implement mechanisms to require or incentivize the use of alternative refrigerants.** (Environmentally differentiated fees; mitigation funds for grants to assist in switching to alternative technologies, etc.)] 23
- **Provide servicing** at the terminal to ensure that HFC refrigerants are recovered.] 24

Locomotive Idling: The project will move a greater percentage of cargo by rail with the addition of an on-dock railyard. *The DEIR/S does not discuss mitigation for this GHG impact.*] 25

- **Include idling restrictions for locomotives in railyard, within terminal.**

Terminal Lighting: Project will replace and add lighting throughout the 243-acre project area; project operations are 24/7. *The DEIR/S does not discuss mitigation for this GHG impact.*] 26

- **Ensure project installs and uses the most energy efficient lighting available.**⁶

Employee commuting: Project will emit 2,500 metric tons of GHGs per year as a result of adding 11,000 employees. *DEIR/S does not discuss mitigation for this impact.*

- **Consider variety of available programs to reduce commuter vehicles.** Create incentives (subsidies) for use of public transit, free shuttle to public transit; promote ride-sharing, van-pools, park n' ride, car share programs; create bicycle-friendly workplace (bike lanes, locking facilities, etc.); work with transit authority on reducing number of commuter vehicles traveling to/from the port, and to educate workforce about public transportation.] 27

Construction: The DEIS/R does not discuss the feasibility of measures to reduce to the maximum extent possible the greenhouse gas emissions related to construction of the project.

- **Incorporate Efficiency/Low Emissions Standards Into Construction Equipment.**] 28
- **Consider environmentally preferential contracting with "green" contractors.**] 29
- **Consider requiring that contractors reuse and/or recycle construction materials; use recycled materials**] 30

⁶ See, e.g., Association of Bay Area Governments, *Energy Smart Streetlighting*, www.abag.ca.gov/lgep/

(3) **Offset Unmitigated Impacts:** Even incorporating all feasible mitigation measures, the project's greenhouse gas impacts will be *substantial and significant*.

- ***Project carbon offsets:*** As additional mitigation for irreducible GHG emissions, offset may fund off-site mitigation (e.g., alternative energy projects) that will produce measurable emissions reductions or sinks, or SCAQMD-managed local mitigation projects, or to purchase credits from another entity that will fund such projects with measurable outcomes.

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