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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
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February 23, 2012

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Los Angeles District – Regulatory Division, North Coast Branch
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Ventura, California 93001

Subject: Draft Environmental Impact Statement/Environmental Impact Report for Proposed Berths 302-306 (APL) Container Terminal Project, at the Port of Los Angeles, Los Angeles County, CA (CEQ # 20110428)

The U.S. Environmental Protection Agency (EPA) is providing comments on the Draft Environmental Impact Statement (DEIS) for Proposed Berths 302-306 American President Lines (APL) Container Terminal Project, at the Port of Los Angeles. Our comments are provided pursuant to the National Environmental Policy Act (NEPA), Council on Environmental Quality regulations (40 CFR Parts 1500-1508), and our NEPA review authority under Section 309 of the Clean Air Act. Our comments are also prepared under the authority of, and in accordance with, Section 103 of the Marine Protection, Research and Sanctuaries Act (MPRSA) and Section 10 of the Rivers and Harbors Act (RHA), and the provisions of the Federal Guidelines promulgated at 40 CFR 230 under Section 404(b)(1) of the Clean Water Act. We appreciate the Corps of Engineers' willingness to accept this letter as timely, after the close of the comment period, as discussed in your email of February 8, 2012, to Tom Kelly, of my staff.

The project proponent, the Port of Los Angeles, along with Port of Long Beach, continues to demonstrate environmental leadership in reducing air pollution, especially diesel particulate matter, yet the APL container terminal project still imposes added burdens on the local community. The local effects include significant emissions of volatile organic compounds, carbon monoxide, nitrogen oxides (NO₂), particulate matter, both 10 microns or less (PM₁₀) and 2.5 microns or less (PM_{2.5}), and exceedences of federal, state and local standards for nitrogen dioxide and particulate matter. Numerous scientific studies have linked particulate pollution exposure to a range of health problems, including premature death, increased hospital and emergency room visits for cardiovascular and respiratory effects, and development of chronic respiratory disease. Likewise, exposure to NO₂ has been correlated with increased visits to emergency rooms and hospital admissions for respiratory issues, especially asthma. Because the community impacted by this project is predominantly minority and low income, these impacts constitute a disproportionate high and adverse effect on minority and low income populations.

The Department of Defense is signatory to the August 4, 2011 Memorandum of Understanding (MOU) on Environmental Justice and Executive Order 12898. In addition to reinforcing the federal government's commitment to environmental justice, the MOU is relevant to actions such as the APL Container Terminal Project through its focus on goods movement, NEPA, and Title VI of the Civil Rights Act. In light of this renewed commitment and focus, we recommend that the Corps consider changes to alternatives and mitigation measures, as proposed in this letter and by other stakeholders, to avoid or further mitigate the project's disproportionately high and adverse impacts. Further efforts to reduce environmental justice impacts could assist the Port and the City of Los Angeles, as recipients of Federal funds, to meet their potential obligations under Title VI of the Civil Rights Act.

The Ports, and its partners such as EPA and the South Coast Air Quality Management District, are also working to accelerate the commercial feasibility of new clean air strategies to reduce air pollution through

the Technology Advancement Program or TAP. The TAP is evaluating and demonstrating zero tailpipe emission trucks, locomotives, cargo-handling equipment and retrofit technologies for ocean-going vessels and harbor craft. While the APL DEIS mitigation measures are consistent with the Clean Air Action Plan, the DEIS lacks a clear plan to transition to technologies being demonstrated through the TAP.

APL, the terminal operator and primary shipping line using the terminal, has participated in multiple TAP projects to retrofit existing ships to reduce emissions. Additionally, APL announced the purchase of 12 new, and cleaner, container ships in 2011. Despite these and other fleet-wide environmental improvements by APL, the DEIS does not include a commitment to retrofit older ships with emission reduction technologies demonstrated through the TAP or a commitment to bring new cleaner ships to the Port of Los Angeles.

Based on our review of the DEIS, we are rating the action alternatives as *Environmental Objections - Insufficient Information (EO-2)* (please see the enclosed "Summary of EPA Rating Definitions"). Please see the enclosed detailed comments for a more thorough discussion of the comments provided above, as well as additional comments on, air quality and water quality and sediment.

We appreciate the opportunity to review this DEIS. When the FEIS is released for public review, please send one hard copy and one electronic copy to the address above (mail code: CED-2). If you have questions, please contact me at (415) 972-3856 or Tom Kelly of my staff at kelly.thomas@epa.gov.

Sincerely,

/s/

Enrique Manzanilla, Director
Communities and Ecosystems Division

Enclosures: EPA's Detailed Comments
Summary of EPA's Rating Definitions

cc: Christopher Cannon, Port of Los Angeles
Cindy Miscikowski, Los Angeles Board of Harbor Commissioners
Rick Cameron, Port of Long Beach
Susan E. Anderson Wise, Port of Long Beach Harbor Commissioners
Susan Nakamura, South Coast Air Quality Management District
Cynthia Marvin, California Air Resources Board
Hassan Ikrhata, Southern California Association of Governments
David Seep, BNSF Railway
Lanny Schmid, Union Pacific Railroad
Martin Tuttle, Caltrans
Bimla Rhinehart, California Transportation Commission
Alan Hicks, U.S. Department of Transportation, Maritime Administration
Gene Seroka, APL

Air Quality

Environmental Justice

The EJ analysis and conclusions in the DEIS state that there will be disproportionately high and adverse effects on minority and low-income populations due to air quality impacts. We recognize the considerable level of analysis in the DEIS, but we note that the proposed mitigation does not fully offset the significant project-related impacts to the local community. The local community is already heavily impacted¹, a condition likely to be exacerbated by the many projects currently planned at and around the Port, such as the Cop of Engineers Pier S project, the Southern California International Gateway, and perhaps the expansion of Interstate 710. Therefore, all impacts, even seemingly small ones, are important to consider and mitigate in order to fully offset the adverse Project-related impacts to the local community.

EPA is helping to develop a growing body of evidence that environmental justice communities are more vulnerable to pollution impacts than other communities². As discussed in EPA's *Framework for Cumulative Risk*³ and *Integrated Science Assessment for Oxides of Nitrogen – Health Criteria*⁴ (July 2008), disadvantaged, underserved, and overburdened communities are likely to come to the table with pre-existing deficits of both a physical and social nature that make the effects of environmental pollution more, and in some cases, unacceptably, burdensome. Thus, certain subpopulations may be more likely to be adversely affected by a given stressor than is the general population.

In the past, EPA has recommended using a Health Impact Assessment (HIA) or an HIA type approach as a means to more creatively mitigate project impacts. While we are not seeking an HIA for this project, we do encourage the Port to identify additional community-supported mitigation, as a means to better address disproportionate and adverse health impacts of the proposed project.

As stated by the Council on Environmental Quality (CEQ)⁵, the identification of disproportionately high and adverse human health or environmental effects on a low-income or minority population does not preclude a proposed agency action from going forward nor compel a finding that a proposed project is environmentally unacceptable. Instead, the identification of such effects is expected to encourage agency consideration of alternatives, mitigation measures, monitoring needs, and preferences expressed by the affected community or population.

Recommendations:

Considering the magnitude of potential cumulative health impacts, the FEIS should vigorously consider all feasible mitigation strategies, monitoring measures, and the

¹ Final Report, Multiple Air Toxics Exposure Study in the South Coast Air Basin, MATES-III, September 2008, South Coast Air Quality Management District.

² Symposium on the Science of Disproportionate Environmental Health Impacts, March 17 - 19, 2010, see the fourteen scientific reviews commissioned by EPA and published in the American Journal of Public Health at: <http://www.epa.gov/compliance/ej/multimedia/albums/epa/disproportionate-impacts-symposium.html> .

³ Available at: <http://cfpub.epa.gov/ncea/raf/recordisplay.cfm?deid=54944>.

⁴ Available at: <http://cfpub.epa.gov/ncea/cfm/recordisplay.cfm?deid=194645#Download>.

⁵ Environmental Justice Guidance Under the National Environmental Policy Act, Council on Environmental Quality, 10 December 1997.

preferences expressed by the local community. Examples of mitigation measures to reduce the community's exposure and reduce community vulnerability are:

- Fund proactive measures to improve air quality and general health in neighboring homes, schools, and other sensitive receptors;
- Provide public education programs about environmental health impacts to better enable residents to make informed decisions about their health and community; and
- Engage in proactive measures to train and hire local residents for construction or operation of the project to improve their economic status and access to health care.
- Expansion and improvement of local community parks and recreation system, in areas where air quality is highest, in order to provide increased access to open space and exercise opportunities.

As an element of the Corps Pier S project, the proponent, the Port of Long Beach, offered grant funds for impacts that could not be fully mitigated. We recommend that Corps discuss this option with the Port of Los Angeles, the proponent for the current Corps project, and include consideration of a similar program to implement these examples in the FEIS

Ocean Going Vessels

Ships represent the largest category of NO_x emissions (Table 3.2-29). Mitigation measure AQ-9 (i.e. shore power) substantially reduces ship hoteling emissions (at port) by more than 85%. The reductions would also be achieved by the California Air Resources Board (CARB) regulation, but MM AQ-9 slightly accelerates implementation of shore power. In contrast to the decreasing hoteling emissions, the ship transit and anchoring emissions subcategory not only increases by 51% by 2027, it exceeds truck and locomotive emissions combined, representing 48% of all project (annual) emissions (Table 3.2-29).

The DEIS proposes three operational mitigation measures for ocean going vessels: AQ-10: Vessel Speed Reduction Program, MM AQ-11: Cleaner OGV Engines; and OGV Engine Emission Reduction Technology Improvements. We support vessel speed reduction as a measure to minimize air impacts and reduce whale strikes. We acknowledge that the Ports of Los Angeles and Long Beach are working with Agency partners, including EPA, to develop corresponding Clean Air Action Plan (CAAP) measures (OGV5 and 6), which correspond to MM AQ-10 and 11. Further development of the CAAP measures and revision of the DEIS mitigation measures is necessary to achieve emission reductions for ocean-going vessels.

Terminal operators, railroads and the trucking industry have been investing in the expedited turnover to cleaner equipment, often at the urging of the Port of Los Angeles. The FEIS should discuss the contribution of APL to a strategy for expedited turnover. We note that the APL website states the company plans to purchase 32 new ships, a 22% increase when compared to its current fleet. At a minimum, these ships must comply with International Maritime Organizations Tier II standards, but Tier III engines, which are not required until 2016, are available now. APL can readily share their plans to bring cleaner ships and retrofit older ships with demonstrated emissions control technologies. The project's significant impacts and disproportionately high and adverse effects to minority and low income communities call for the best efforts of all sectors in the chain of goods movement, particularly the entity that, along with the Port itself, stands to benefit from the project.

Recommendations:

The FEIS should revise mitigation measures AQ-10 and 11, consistent with the developing Clean Air Action Plan measures OGV5 and OGV6, to ensure that cleaner ocean-going vessels will use the APL terminal.

Include in the FEIS a discussion of expedited delivery of cleaner equipment and how APL and the Port of Los Angeles are investing in the commitment for cleaner equipment.

Terminal Operations

The DEIS states that the proposed action would not increase capacity, or throughput, by automating the new 41 acres of backlands (Appendix C2). The berth capacity limits the APL terminal throughput, not the processing capacity of the backlands or container yard. Consequently, the proposed action does not fully automate the terminal, but (as stated on p. 2-42) the infrastructure necessary to support an electric automated terminal will be installed. The DEIS discusses a grounded or “stacked” system (containers stacked in high-density arrays) and chassis or “wheeled” system (containers stored on individual wheeled chassis and not stacked), or a combination of the two (p. 1-32).

While the APL terminal may not need to adopt modern high density stacking to maximize throughput, we note that stacking and a higher density system would minimize on-site tailpipe emissions from cargo handling equipment. Direct air emissions from terminal equipment are estimated at 10% of the project emissions initially, but decline to just over 1% by 2027; Automating Berth 306 would reduce these emissions and the need for backlands at Berth 302 to 305, providing more area for on-dock rail. Lease measure LM AQ-2, Substitution of New Technology, if applied on an aggregate basis, appears to require automation. The DEIS notes automated equipment is mostly electric (p. 2-18), while the proposed project includes diesel equipment.

Recommendations:

Consistent with lease measure LM AQ-2, the proposed project should require automated container handling equipment at Berth 306. Should the proposed project allow expansion of traditional diesel operations at Berth 306, the FEIS should quantify emission benefits of maximizing backland automation and on-dock rail.

The DEIS considered, but did not further evaluate, a fully electrified container terminal, expanded rail lines and increased technology to increase efficiency. Because the terminal is “berth-constrained”, these options were dismissed, as they do not increase terminal capacity. While adding rail lines to the APL terminal will not increase its throughput, it will reduce the air quality and traffic impacts of the increased trucks used to haul containers to off dock rail yards. For that reason, we support measures to maximize backland automation and on-dock rail throughout the low-density APL backlands (i.e. behind berths 302-305). Alternative 6 is a step in the right direction, as it would increase on dock rail by 100,000 TEU, converting 10 acres of backlands to railyard. Alternative 6 would reduce peak daily truck trips for the project at full throughput by 531 per day (4.7%), cutting NOx emissions by more than 40 pounds per day (3.3%). At a minimum, this concept should be increased so that near-dock rail is no longer necessary for the APL terminal, reducing nearly 1500 truck trips per day and 115 pounds per day of NOx. The proposed project would allow APL to avoid adding on-dock rail and continue business as usual until economic and space considerations dictate stacking is necessary.

In many respects, the container terminals are underutilizing land at the Port of Los Angeles. A 2005 APL press release notes “nearly every container at the GGS [Global Gateway South a.k.a APL]

terminal is on a chassis” meaning containers are not stacked. This is confirmed by a recent Google Earth aerial photo showing almost no stacked containers behind berths 302-305⁶.

The DEIS recognizes that stacking will be needed for the terminal to reach its full throughput, but even three-high stacking, described as “relatively low” in Appendix C2, is sufficient to meet APL’s future need. In contrast, modern terminals like Euromax are designed to stack containers 5-high⁷. In light of the Harbor Commission’s recent proposal to locate a new rail yard, the Southern California International Gateway, close to residents, schools, day care centers and senior facilities, we urge recognition of the current underutilization of port property at the APL terminal, and a commitment to create additional space for on-dock rail through high density stacking. Alternative 5 proposes to relinquish 30 acres on current space assignment and electrify a portion of the backlands infrastructure, while Alternative 6 would expand on-dock rail. An alternative that combines and expands on these elements of Alternatives 5 and 6 would better optimize the cargo-handling efficiency and capacity than the proposed project, and better meeting the purpose and need for the project.

Recommendations:

Because the backland behind Berth 302-306 is capable of supporting APL’s needs using stacked containers over a much smaller footprint, the FEIS include an alternative with minimized backland footprint and a maximized on-dock rail system.

Should the on-dock rail be larger than necessary to serve APL, it could be made available to nearby container terminals to avoid trucking containers to near and off-dock rail yards (e.g. the Evergreen Container Terminal).

Health Effects

The DEIS concludes that NO₂ emissions are significant and unavoidable, because it exceeds the NO₂ 1-hour NAAQS. The DEIS does not include any additional information on the extent of the exceedence. As the DEIS notes, NO₂ has the potential to aggravate chronic respiratory disease and respiratory difficulties in sensitive groups, but it does not evaluate health data to assess the health status of the community, such as asthma rates and asthma-related hospitalization or emergency room visits.

The DEIS concludes that the acute hazard index for occupational acute exposures is significant for industrial exposures, but not significant for residential exposures (3.2-145 and Table 3.2-38b). In both cases, the acute incremental or project-related hazard index is compared to the significance threshold of 1.0. This is consistent with South Coast Air Quality Management District’s Air Quality Significance Thresholds; however, the significance level is an effect/no effect threshold. Much like the NO₂ significance level, the relative (or project increment) of the hazard index is less important than the total hazard index (background plus project exposure). Additional mitigation, such as altering the construction schedule or using high emitting equipment only when emissions would otherwise be low, may sufficiently change the timing of emissions to avoid an acute residential hazard.

⁶ Imagery date March 7, 2011.

⁷ Euromax: A New Standard in Container Handling, undated,
<http://www.tba.nl/uploads/files/euromax,_a_new_standard_in_container_handling.pdf>

Recommendations:

The FEIS should map the results of NO₂ dispersion modeling, and consider the health status of the local community. The FEIS should identify mitigation measures to reduce emissions causing the acute hazard index to exceed 1.0.

Drayage Trucks

The DEIS summarizes the Clean Truck Program, a key element of the Clean Air Action Plan, that has substantially reduced port-related air emissions, especially diesel emissions, from both San Pedro Bay ports (p. 3.2-34). While we acknowledge the success of the current program, and the challenges that the Port undertook to implement it, the FEIS needs to incentivize and require continuous improvement for drayage trucks. Additionally, the Port of Los Angeles needs to fulfill its promise “to accelerate the verification or commercial availability of new, clean technologies, through evaluation and demonstration, to move towards an emissions free port⁸.”

The DEIS offers lease measure LM AQ-1, Periodic Review of New Technology and Regulations, as a means to incorporate the Port’s Technology Assistance Program and Zero Emissions Technology Program. This measure could be dramatically improved with a schedule for implementation of zero tailpipe emission trucks, following the Ports determination that a zero tailpipe emission technology is feasible. The Los Angeles Harbor Commission proposed a lease measure that would require low-emission drayage trucks from 2016 to 2026 for the Southern California International Gateway. That requirement could be met by natural gas powered trucks, which we are not suggesting for this project, as it does not fully mitigate the project’s high and disproportionate impacts; however, that schedule could serve as a basis for a zero emission drayage truck schedule. Following successful demonstration of zero emissions drayage truck by the Port, the schedule could be adjusted to account for current uncertainties, such as capital and operating costs, incentives and other differences between zero emissions and natural gas trucks.

Recommendations: The FEIS should describe zero and near zero emission tailpipe demonstration and deployment projects. The FEIS should include lease measure AQ-3 providing a schedule for phase-in of zero emission drayage trucks by the leaseholder, following successful demonstration by the Port. The lease measure could include adjustment criteria to account for current uncertainties.

Mitigation measure AQ-16, Truck Idling Reduction Measure, limits idling to 30 minutes total and 10 minutes at any one time. Many vehicles are commonly limited to 5 minutes or less of idling, such as school busses and sleeper berth heavy duty trucks. Even Mitigation Measure AQ-4, Fleet Modernization for Construction Equipment, limits idling to 5 minutes when not in use. EPA sees no need to justify ten minute idling for trucks at the APL terminal.

Recommendation:

The FEIS should limit diesel truck idling at the APL terminal to 5 minutes.

Rail

The DEIS analysis appears to have used Tier 2 locomotives for the APL on-dock terminal (Table 3.2-7b), but the DEIS also notes that the Pacific Harbor Line will transition to a cleaner, Tier 3, diesel fleet by the end of 2011 if grant funds are available (p. 3.2-32). We congratulate the Ports and

⁸ Technology Advancement Program, San Pedro Bay Ports, accessed November 18, 2011 < <http://www.cleanairactionplan.org/programs/tap/default.asp> >.

Pacific Harbor Line on the receipt of California's Carl Moyer grant funds⁹ to retrofit 16 locomotives to meet the Tier 3+ standard. As we noted earlier, stacked backland operation offers an opportunity to create additional space for on-dock rail. New rail lines could offer an opportunity to demonstrate zero emission rail transportation systems.

Recommendation:

The FEIS should discuss the potential for zero emission and hybrid rail transportation systems and evaluate layouts that increase the use of on-dock rail.

General Conformity:

General conformity requires federal agencies to demonstrate that the direct and indirect emissions from both the construction and the operational phases of the project conform to the approved State Implementation Plan and do not cause or contribute to violations of the National Ambient Air Quality Standards. While the DEIS estimated (NEPA) construction emissions for the project (Appendix E1), it did not estimate operational emissions.

The emissions associated with reasonably foreseeable action-related activities occurring during the operational phase of the project may be excluded from the general conformity evaluation only if the applicable Federal Agency lacks the authority to practically control these emissions (such as through conditions on permits) or the agency lacks continuing program responsibility for such emissions; however, the DEIS does not make this assertion.

Recommendation:

The FEIS should include direct and indirect operational emissions as part of the general conformity evaluation.

Emissions Related to Transloaded Goods

The DEIS estimates emissions associated with goods movement for the APL terminal throughout Section 3.2 and Appendix E. These sections do not include an estimate of emissions following transloading of goods from marine shipping containers to domestic containers or trailers for re-shipping. The *Port and Modal Elasticity Study, Phase II*¹⁰ estimates that 36% of the goods shipped into the Ports of Los Angeles and Long Beach were transloaded.

Recommendation:

The FEIS should include truck and locomotive emissions that occur in the South Coast Air Basin after transloading.

Diesel Emission Standards for Mitigation Measures

DEIS mitigation measures frequently cite compliance with EPA 2007 on-road and Tier 4 non-road emission standards (e.g., MM AQ-13, p. 3.2-110). Some but not all mitigation measures provide PM_{2.5} and NO_x emission levels. As the DEIS notes, EPA on-road standards allowed manufacturers to phase-in compliance with the NO_x emission standard of 0.2 grams per brake horsepower-hour (g/bhp-hr) and non methane hydrocarbons or NMHC (p. 3.2-22). EPA is also phasing-in Tier 4 standards for non-road engines beginning in 2008 to 2014; however engines from 75 to 750

⁹ In the News: New Less Polluting Locomotives Arrive at Ports Complex, Anacostia and Pacific Company. (Pacific Harbor Line) accessed 11/21/2011, <<http://www.anacostia.com/latestnews/phl110929.html>>

¹⁰ Port and Modal Elasticity Study, Phase II, Final Report, Southern California Association of Governments

horsepower, are now available that meet the Tier 4 NO_x standard, 0.3 g/bhp-hr. Larger mobile engines (greater than 750 horsepower) have one year of additional flexibility to meet their emissions standard¹¹.

Mitigation measure AQ-3, Fleet modernization for on-road trucks used during construction, commits to compliance with 2007 on-road standards for NO_x, 1.2 g/bhp-hr or better, for on-road trucks. It commits to complying with 2004 on-road emission standards, 2.0 g/bhp-hr, for earth movers and import haulers. Mitigation measures AQ-13, AQ-14 and AQ-15 do not provide a NO_x emission level. In view of the significant impacts to the air basin and residents, and the high and adverse impacts to environmental justice communities, the cleanest achievable NO_x emission control is justified for trucks and equipment used on this project.

Recommendation:

Mitigation measures AQ-3, AQ-13, AQ-14 and AQ-15 should commit to meeting the cleanest available Tier 4 non-road diesel emission standard for NO_x (e.g., 0.3 g/bhp-hr for engines from 75 to 750 horsepower) or the 2010 on-road standard for heavy-duty highway compression-ignition (diesel) engines (0.2 g/bhp-hr).

Reasonably Foreseeable Future Actions

The DEIS states the purpose and need for the proposed project “is to optimize the cargo handling efficiency and capacity at the APL Terminal to accommodate projected long-term increases in volume of containerized goods shipped through the port.” (p. 2-11) The proposed project would incorporate 7 acres behind Pier 301 as backlands, specifically for parking and storage (p. 2-16); however, none of the action alternatives include a fifth berth at Pier 301. A fifth berth would require the fill of a small channel separating Pier 301 from the 7 acres of backlands. Because the terminal is “berth constricted” as explained in Appendix C-2, an additional berth at Pier 301 could dramatically increase the throughput of the APL terminal. Adding a fourth berth would increase the terminal’s throughput more than 1 million TEUs per year in 2027. While the DEIS does not consider a fifth berth, the Port of Los Angeles’ *Terminal Island Land Use Plan, Summary Report (1/11/2012)* states¹², “[a] fifth berth at Pier 300 was decided to be a part of all options.” All three options also consider filling the channel behind Pier 301 and the Southeast corner of Fish Harbor¹³.

Recommendation:

The FEIS should consider a fifth berth at Pier 300 as a reasonably foreseeable action and evaluate the air, water quality and other cumulative impacts resulting from it.

Refrigerated Container Storage Area

The proposed project includes creating a refrigerated container (reefer), storage area with plug-in electric power (p. ES-10). While the current APL terminal has an area of white-roofed containers, which we assume are reefers, in one area, the DEIS does not consider the benefit of a roof over the reefer storage area, to keep the containers cool. The roof might even include photovoltaic solar array to partially off-set the power use of the containers.

¹¹ For more details and limits appropriate to smaller non-road diesel engines, see <http://www.epa.gov/nonroad-diesel/2004fr.htm>.

¹² See page 8, *Terminal Island Land Use Plan, Summary Report*, Port of Los Angeles, Planning and Economic Development Division, 1/11/2012

¹³ See page 13, *Terminal Island Land Use Plan, Summary Report*, Port of Los Angeles, Planning and Economic Development Division, 1/11/2012

Recommendation:

The FEIS should consider a roof over the reefer storage area for cooling and/or renewable energy generation purposes.

Harbor Craft Used During Construction

Mitigation measure AQ-1, Harbor Craft Used During Construction, contains practical measure to ensure clean, Tier 3, harbor craft are used during construction. The mitigation measure does not consider new Tier 4 standards applicable to harbor craft in 2015. The mitigation measure makes allowances in the event that the contractor can provide proof that harbor craft are unavailable for leasing in California, but equipment in Oregon and Washington would seem to be available at relatively minor transportation cost.

Recommendation:

Mitigation Measure AQ-1 should be revised to require Tier 4 harbor craft in construction as of January 2015. It should also be revised to so that the contractor is required to provide proof that the cleanest Tier is unavailable in California, Oregon or Washington, before allowing the use of a lower Tier harbor craft.

Periodic Review of New Technology and Regulations

Lease measure LM AQ-1, Periodic Review of New Technology and Regulations, would require the ports tenant to consider new emissions reduction technologies. If the technology is determined by the Port to be feasible, the tenant will work with the Port to implement it (p. 3.2-111 and 112). This requirement would be required at the time of any lease amendment or facility modification, but “not less frequently than once every 7 years following the effective date of the permit.”

Recommendations:

The FEIS should commit to reviewing new technologies every five years from the date of the most recent facility lease. Additionally, technology reviews and any resulting recommendations should be made available to the public.

Water Quality

Sediment

The DEIS presents three options for disposal of sediment from dredging at Berth 306. Suitable sediment could be used as fill for the Cabrillo shallow water habitat or disposed at the LA-2 Ocean Dredged Materials Disposal Site. Sediment unsuitable for unconfined aquatic disposal would be placed at Port Berths 243-245 (p. 3.3-3). The DEIS also states that the majority of sediments off Berth 306 are unsuitable for unconfined aquatic disposal due to heavy metals and amphipod toxicity (p. 3.14-17); however, the easternmost portion of Berth 306 could qualify for placement at the Cabrillo shallow water habitat or disposal at LA-2.

On July 27, 2011, the interagency Southern California Dredged Material Management Team (SC-DMMT; agencies include: EPA, Army Corps of Engineers, National Oceanic and Atmospheric Administration, Los Angeles Regional Water Quality Control Board, California Coastal Commission and the California Department of Fish and Game) reviewed the sampling and analysis report for this project (Appendix K) and concurred on several determinations:

- the eastern half of the proposed dredging area off Berth 306 is suitable for aquatic disposal (unconfined ocean disposal) or beneficial reuse placement;
- the western half of the proposed dredging area off Berth 306 contains potential contamination hotspots which requires further specific delineation to minimize the volume to dispose in the Pier 243-245 landfill.
- clean sediments may be too fine for beneficial reuse placement at the Port of Los Angeles Cabrillo Shallow Water Habitat Area; therefore this area needs standards and performance criteria as well as a monitoring plan

Recommendations:

The FEIS should discuss submissions of the following plans to the SC-DMMT:

- standards and sediment placement criteria for the Cabrillo shallow water habitat area
- a dredging plan including specific engineering specifications for the management of the suitable and unsuitable sediments, as well as cap placement over the unsuitable sediments after they are placed in confined aquatic site (Pier 243-245).

Ballast Water Treatment

The DEIS does not discuss the requirement for Vessel General Permits (VGP), under EPA's National Pollution Discharge Elimination System, authorized by the Clean Water Act. The VGP applies to discharges incidental to the normal operation of all non-recreational, non-military vessels of 79 feet or greater in length which discharge in waters of the United States. It requires vessel owners and operators to meet certain requirements, including seeking coverage for most vessels, assuring their discharges meet effluent limits and related requirements, corrective action process for fixing permit violations, and requirements for inspections, monitoring, recordkeeping and reporting. For more information, please see <http://cfpub.epa.gov/npdes/vessels/vgpermit.cfm#2008>.

The DEIS discusses a shipboard ballast water treatment system that APL is testing, in collaboration with the Ports of Los Angeles and Long Beach and the California State Lands Commission, but also prefaces this discussion with, "no feasible mitigation is currently available to totally prevent introduction of invasive species via vessel hulls or even ballast water, due to the lack of proven technology." (p. 3.3-59) On the contrary, as stated in the federal register notice for EPA's Draft 2013 VGP¹⁴:

The SAB [EPA's Science Advisory Board] found, among other things, that at least five types of ballast water treatments systems are available which treat to the limits found in the International Maritime Organization (IMO) Ballast Water Convention and proposed in today's permit.

As EPA noted in the *Proposed 2013 Vessel General Permit (VGP) Fact Sheet*¹⁵, the ballast water treatment system industry is relatively young and currently has a limited production capacity, but Lloyd's Register estimated that 119 ballast water treatment systems had been installed worldwide by February 2010, and 200 systems installed by June 2011.

¹⁴ 76 FR 76720, Thursday, December 8, 2011,

<http://www.epa.gov/npdes/pubs/vgp_draft_federalregister2011.pdf>

¹⁵ See http://www.epa.gov/npdes/pubs/vgp_draft_factsheet2011.pdf

Recommendation:

The FEIS should include the requirements of the applicable VGP. The FEIS should also consider expedited implementation of ballast water treatment as a mitigation measure to reduce the significant impact of introducing non-native species into the Harbor.