UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105-3901

December 15, 2008

Dr. Spencer D. MacNeil
U.S. Army Corps of Engineers
Los Angeles District
Attn: Regulatory Division
P.O. Box 532711
Los Angeles, California 90053-2325

Subject: Draft Environmental Impact Statement (DEIS) for the San Pedro Waterfront Redevelopment Project (Project) in the Port of Los Angeles (CEQ # 20080386)

Dear Dr. MacNeil:

The U.S. Environmental Protection Agency (EPA) has reviewed the DEIS for the Port of Los Angeles (Port) San Pedro Waterfront Redevelopment Project (Project) pursuant to the National Environmental Policy Act (NEPA), Council on Environmental Quality (CEQ) regulations (40 CFR Parts 1500-1508), and our NEPA review authority under Section 309 of the Clean Air Act. These comments were also prepared under the authority of, and in accordance with, the provisions of the Federal Guidelines (Guidelines) promulgated at 40 CFR 230 under Section 404(b)(1) of the Clean Water Act (CWA) and EPA's ocean dumping regulations promulgated at 40 CFR 220-227 under the Marine Protection, Research and Sanctuaries Act (MPRSA). We appreciate your office's accommodation of our request for additional time to submit our comments. Our detailed comments are enclosed.

We appreciate having coordinated with you and Port staff during our review of the DEIS and preparation of our comments for the Project. Based on review of the DEIS we have rated the document EC-2, Environmental Concerns – Insufficient Information (see enclosed EPA Rating Definitions). While the document is very well done, and substantial mitigation efforts have been identified, we remain concerned with significant and unavoidable impacts to air quality and environmental justice communities. We are also concerned with proposed ocean disposal of sediments without sufficient consideration of beneficial reuse. In addition to describing our environmental concerns, we have identified where the DEIS provides insufficient information, and have recommended ways of addressing these concerns and insufficiencies. Our detailed comments are enclosed.

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EPA has previously reviewed several Port NEPA documents, and in all instances we have expressed concern with air quality impacts and resulting health risks to the surrounding Environmental Justice (EJ) community. As noted above, we have similar concerns with the subject DEIS. Almost without exception, the Port has provided high quality health risk assessments (HRAs) for each EIS, including this project; yet while all of these HRAs have demonstrated substantial reductions in project-related health risks following mitigation, all have also demonstrated that, even with such mitigation, increased cancer and acute and chronic non-cancer impacts would still occur. To date, there has been no port-wide HRA that considers cumulative impacts from all the Port projects, including those at the Port of Long Beach. The need exists for a better understanding of the cumulative impacts of port projects. For this reason, we support the Los Angeles Harbor District's development of a port-wide HRA and strongly urge that the results of this study be released prior to, or in conjunction with, the release of any future Port EISs and adoption of the ROD for all Port projects currently undergoing NEPA review.

We are concerned with the results of the Project HRA that indicate increased health risks for residential, occupational and recreational receptors. Based on our recent conversations with the Corps and Port, it appears that the DEIS could have better reported the results of the HRA, especially with regard to spatial distribution of impacts to various receptors from the different alternatives. We have recommended the Final EIS (FEIS) expand this discussion to demonstrate where health impacts will increase or decrease around the Port, and the extent to which different receptors will be affected.

Where health impacts are expected to increase, we recommend consideration of additional mitigation measures. A health impact assessment (HIA) - which we have recommended in our comments on several other Ports of Los Angeles and Long Beach EISs, and which we recommend for this project, as well - would be a useful tool for identifying appropriate mitigation measures to reduce the impacts of Port activities on, and the vulnerability of, minority and low income communities around the Port. An HIA looks at health holistically, considering influences beyond just bio-physical effects, in order to understand health impacts better than a traditional HRA might predict. From such a study, appropriate mitigation measures can be developed. In the absence of an HIA, our detailed comments provide several additional mitigation opportunities for the Port to consider to reduce impacts to the already health burdened community. We have also provided recommendations on various air quality mitigation measures in an attempt to build further upon the Port's already aggressive air quality mitigation measures intended to reduce health impacts around the Port and in the greater South Coast Air Basin.

The DEIS lacks sufficient discussion of how the Port would avoid ocean disposal of approximately 605,000 cubic yards of sediment that would be excavated as a result of new harbor cuts. We are concerned that a rigorous analysis of beneficial reuse opportunities has not occurred, and that as a result, the Project would impact ocean resources at the LA-2 and LA-3 disposal sites and fail to meet the Long Term Management Strategy goal of 100 percent beneficial reuse of dredged sediments. We understand, based on our conversations with Corps and Port staff, that beneficial reuse opportunities will be discussed in the FEIS, and the Corps

and Port intend to avoid ocean disposal if appropriate beneficial reuse opportunities are identified.

We appreciate the opportunity to review this DEIS and look forward to continued coordination with the Corps and the Port. When the FEIS is published, please send a copy to us at the address above (Mail Code: CED-2). If you have any questions, please contact me at 415-972-3521, or contact Paul Amato, the lead reviewer for this project. Paul can be reached at 415-972-3847 or amato.paul@epa.gov.

Sincerely,

Kathleen M. Goforth, Manager
Environmental Review Office

Enclosures: Summary of EPA Rating System
EPA's Detailed Comments
September 18, 2008 LA County Public Health Department Letter

cc: Dr. Ralph Appy, Director, Environmental Management Division, Port of LA;
Ms. Jan Green Rebstock, Port of LA;
Ms. Cindy Tuck, Assistant Undersecretary, California Environmental Protection Agency;
Ms. Cynthia Marvin, Assistant Division Chief for Planning and Technical Support, California Air Resources Board;
Ms. Susan Nakamura, South Coast Air Quality Management District;
Mr. Hassan Ikrhata, Executive Director, Southern California Association of Governments;
Dr. Paul Simon, Director, Division of Chronic Disease and Injury Prevention, Los Angeles County Department of Health

ENVIRONMENTAL PROTECTION AGENCY'S DETAILED COMMENTS ON THE DRAFT ENVIRONMENTAL IMPACT STATEMENT FOR SAN PEDRO WATERFRONT REDEVELOPMENT PROJECT IN THE PORT OF LOS ANGELES, DECEMBER 15, 2008

Air Quality

Similar to our previous comments on Port of Los Angeles (Port) Draft Environmental Impact Statements (DEIS), EPA commends the efforts of the Port and Corps to conduct a high quality health risk assessment (HRA) for toxic air contaminants (TACs) emitted from all alternatives assessed in the DEIS for the Project. We consider this HRA to serve as an excellent example of the level of analysis that should be conducted for projects of this scale, and will encourage other federal agencies to refer to it in developing HRAs to assess health impacts and appropriate mitigations for their projects.

Results of a port-wide HRA should be provided as soon as possible to better inform decision making. While significant impacts to air quality and human health risk occur in the Port region, we recognize the efforts of the Port and Corps to assess these risks through the HRA and to reduce them with the San Pedro Bay Ports Clean Air Action Plan (CAAP), the Los Angeles Harbor District (LAHD) Sustainable Construction Guidelines, and Project-specific mitigation measures. These mitigation measures would substantially minimize the increase in risks of cancer and both acute and chronic non-cancer health impacts that would result from the Project. However, the HRA indicates that, even with implementation of all of the proposed mitigation measures, cancer risk from the proposed Project will increase by 15, 25 and 38 in a million for residential, occupational, and recreational receptors, respectively, exceeding the 10 in a million threshold of significance. As stated in the DEIS, these are considered significant and unavoidable impacts. According to the HRA, acute non-cancer health risks are also shown to exceed thresholds, though only slightly. These elevated health risks are a concern to EPA, both in the context of the proposed Project and cumulatively, when taking into account the various other proposed Port projects and existing degraded air quality in the Port region.

According to the DEIS, the Los Angeles Harbor District (LAHD) is planning to conduct a port-wide HRA to evaluate impacts from Port of Los Angeles and Port of Long Beach projects. EPA commends the LAHD for committing to this HRA and we strongly encourage completion of this study as soon as possible. We also suggest that the HRA consider other major emission sources outside the Port, or, at a minimum, present the HRA results in the context of the South Coast Air Quality Management District (SCAQMD) Multiple Air Toxics Exposure Study III (MATES III), the California Air Resources Board (CARB) 2006 report titled *Diesel Particulate Matter Exposure Study for the Ports of Los Angeles and Long Beach*, and the Port's own air quality monitoring efforts initiated in February 2005. Ultimately, the Port and Corps and those reviewing NEPA documents for Port projects, should have access to the potential cumulative health risks of Port activities, in addition to the direct health risks, during review and prior to decision making for proposed projects.

The DEIS does not sufficiently describe spatial distribution of health risks in the Port region. EPA continues to have concerns with any increases in cancer risks, and both chronic and acute non-cancer health impacts that may result from Project emissions, both directly and cumulatively. We raised these concerns during our phone call with the Corps, Port, and HRA consultants on December 8, 2008. We appreciate having had the opportunity to discuss the

results of the HRA with you. Based on our discussion, it became apparent that the DEIS could have provided further detail on the spatial distribution of increased health risks that would result from the Project. For example, according to Air Quality Impact 7, Table 3.2-38, the proposed Project with mitigation would result in a 15 in a million increase in residential receptor cancer risk. However, cancer risk isopleths from Figure 7-10 in Appendix D-3 illustrate that the proposed Project would maintain or reduce residential receptor cancer risk below NEPA baseline in the San Pedro residential community, and that elevated levels would only occur to a small portion of Cabrillo Marina. The DEIS also fails to explain that, based on the HRA, cancer risk in the San Pedro residential community would be greater for Alternatives 1 and 3, due to operation of three cruise ship berths at the Inner Harbor, than for the proposed Project and Alternative 2, which would include operation of two such berths. The FEIS should clarify the spatial distribution of health risk in the Project area, as well as the differences in risks among the alternatives, and clearly demonstrate where the proposed Project will have negative and beneficial impacts to different receptors throughout the Project area.

For questions regarding air quality issues, please contact Francisco Donez, EPA Air Division, in our Los Angeles Office at (213) 244-1834, or by email at donez.francisco@epa.gov.

Recommendations:

The Port should implement a port-wide HRA as soon as possible to better inform the public and the decision making process for this project and other port-related activities. The HRA should either include other major sources of emissions outside the ports or, at a minimum, describe results in the context of SCAQMD, CARB, and other Port studies. A commitment and timeline should be provided in the FEIS and the Record of Decision (ROD) for the Project. We recommend that results of the port-wide HRA be publicly released prior to release of any future Port DEISs and adoption of the ROD for all Port projects currently undergoing NEPA review.

The FEIS should include an expanded discussion of Air Quality Impact 7 that demonstrates the spatial distribution of cancer risk throughout the Port region. We suggest the study emphasize where increased health risks will occur from the Project alternatives, how much they will increase, and which receptors will be negatively or positively affected.

Given that there will be increased health risks to some receptors, the Port and Corps should commit in the FEIS and the ROD that CAAP measures, Project-specific mitigation, and LAHD Sustainable Construction Guidelines necessary to reduce cancer risk and both acute and chronic non-cancer health impacts, will be fully implemented as described in the DEIS. This should include a commitment to implement additional mitigations if implementation of these measures is delayed or insufficient to meet cancer risk and health impact reduction targets described in the DEIS. We also recommend the Port commit to additional emission reduction measures to further reduce health risks in the Port region.

The FEIS should provide a detailed description of the process by which the Port will ensure that construction contractors and Project operations will comply with CAAP measures, Project-specific mitigation, and LAHD Sustainable Construction Guidelines.

We appreciate the inclusion of Mitigation Monitoring Table 3.2-141, but recommend additional information on procedures for monitoring, reporting, and enforcement be provided. EPA considers monitoring and reporting requirements to be a critical part of ensuring that these mitigations are affective.

The FEIS should provide additional information on requirements for low sulfur fuel for ocean going vessels. Air Quality Mitigation Measure AQ-10 states that low sulfur fuel (0.2 percent) would be required for all ships calling at the Outer and Inner Harbor Terminals, beginning on Day 1 of operation. Ships with mono-tank systems or technical issues that prohibit the use of low sulfur fuel would be reported and the tenant would make very effort to retro-fit these ships within one year. Based on the assumptions in the air quality analysis, minimum participation was estimated to be 30 percent in 2009 and 90 percent in 2013. We note that beginning in 2009, this would result in the use of fuel with sulfur content below the 0.5 percent CARB requirement. What is not clear in the DEIS is the need for ships to meet the CARB promulgated 0.1 percent sulfur content standard for 2012. We strongly support the Port's efforts to promote greater use of low sulfur fuels; but suggest a date be established by when full (100%) participation would be required. We also suggest providing incentives for operators to retrofit currently incompatible ships within one year.

Recommendation:
The FEIS should describe how the Project would meet or exceed CARB requirements for low sulfur fuel, and describe incentives for operators to retrofit incompatible ships within one year. The Port should also set a date when full compliance would be required, and include that information in the FEIS.

The FEIS should clarify whether emissions from tugboats transporting sediments to the LA-3 ocean disposal site were considered. According to the DEIS, analysis of Project emissions included operation of tugboats transporting excavated sediments to the LA-2 ocean disposal site. The DEIS also describes LA-3 as a possible ocean disposal location but the air quality analysis only mentions delivery to LA-2. Based on recent communications between the Port and EPA, disposal at LA-3 has been eliminated from further consideration. The Port should continue to consider LA-3 as a possible disposal site for clean sediments, in the absence of beneficial reuse opportunities and adequate justification that the site is impracticable or unavailable due to capacity limitations.

Recommendation:
The FEIS air quality analysis should also consider emissions from tugboats delivering clean sediments to the LA-3 ocean disposal site unless elimination of that site from consideration can be adequately justified to EPA.

Construction notifications to sensitive receptors should provide additional information. The Port has committed to Air Quality Mitigation Measure AQ-8 requiring construction contractors to notify sensitive receptors of construction 30 days prior to start. While it is clearly stated that this mitigation has not been quantified because effectiveness has not been established, it remains unclear what the notification will include and why it is considered a mitigation measure at all. We support notification and suggest that it include information on potential health risks from

construction emissions as well as additional measures that receptors could take to avoid potential impacts.

> *Recommendation:*
> Mitigation Measure AQ-8 should be modified to specify that construction contractor notifications will include information on potential health impacts from construction emissions, and avoidance measures receptors should consider.

Consider accelerated compliance with the Port's Vessel Speed Reduction Program (VSRP). Mitigation Measure AQ-11 states that 30 percent of ships calling at the Inner Harbor would comply with the VSRP in 2009 and 100 percent in 2013. Outer Harbor compliance would be 100 percent in 2013, when the proposed terminal would be capable of ship calls. We recognize the importance of the VSRP for reducing emissions from ocean going vessels and encourage the Port to accelerate the rate of compliance, primarily at the Inner Harbor. This is especially important given the proximity of the Inner Harbor to sensitive receptors in the San Pedro community.

> *Recommendation:*
> The Port should consider accelerating VSRP compliance to 100 percent in 2009 for all ships calling at the Inner Harbor.

A General Conformity Determination for Port projects would be more informative at the DEIS stage. The General Conformity Statement says that analysis and findings will be made outside of the DEIS and that a detailed determination will be provided in the FEIS to support the ROD. The Clean Air Act does not require a federal lead agency to determine conformity with the most recently approved State Implementation Plan as part of the DEIS; however we recommend the Corps and Port provide this information at the DEIS stage for future Port projects, given the already degraded air quality conditions in the South Coast Air Quality Basin. This information would be more beneficial to interested parties as part of the DEIS.

> *Recommendation:*
> The Corps and Port should provide a General Conformity Determination during the DEIS stage as part of the air quality analysis for future Port projects.

Cumulative impacts to air quality should be quantified and reported accordingly. The cumulative impacts analysis indicates that after mitigation, construction and operations of the proposed Project and Alternatives 1 through 5 would make a considerable and unavoidable contribution to a cumulatively significant impact for volatile organic compounds (VOC), carbon monoxide (CO), nitrogen dioxide (NOx), sulfur dioxide (SOx), particulate matter greater than ten microns (PM_{10}) and particulate matter greater than 2.5 microns ($PM_{2.5}$). As stated earlier, the cumulative air quality impacts of the proposed Project are of concern to EPA; however the degree of impact cannot be determined without a quantification of emissions of specific pollutants as was done for air quality impacts assessed in Section 3.2, Air Quality and Meteorology. This lack of quantified cumulative emissions leaves the reader uncertain as to how significant these cumulative impacts could be.

Recommendation:
The FEIS should include a quantification of cumulative emissions from the Project and, at a minimum, other Port of LA and Long Beach projects where emissions have already been quantified. Results should be provided in impact tables similar to those provided in Section 3.2 of the DEIS.

Environmental Justice

The Environmental Justice (EJ) analysis in Chapter 5 addresses the impacts of the San Pedro Waterfront project on the communities adjacent to the project. The analysis is very well done, particularly the following parts:

- Page 5-2: consideration of the high cost of living in Southern California and factoring that into the low-income calculations.
- Figures 5-1 and 5-2. These maps are very clear and easy to interpret.
- Section 5.3 on Applicable Regulations is very thorough and provides good context for the rest of the chapter.
- Section 5.4.1 clearly explains the methodology to be used.
- Page 5-15 where "meaningfully greater" is interpreted to mean simply "greater", which provides for a conservative analysis.
- Section 5.4.2 summarizes the public comments that have been received.
- Section 5.4.2.1 and Section 5.4.2.2 are very thorough in that they address every resource with a clear discussion on whether there are environmental justice impacts or not.
- Section 5.5 summarizes the public outreach efforts and describes efforts made beyond what is required.
- Table 5-3 presents a clear, relatively easy to understand summary of the environmental justice impacts.

EPA acknowledges the efforts of the Port and Corps to analyze impacts of the Project on the EJ community. We note, however, that the analysis concludes that there will be disproportionately high and adverse effects on minority and/or low-income populations related to air quality, noise, recreation, and ground traffic and transportation. The local community is already heavily impacted, a condition which could be exacerbated by the many projects currently planned at and around the Port. In addition, we note that Wilmington and East San Pedro are designated as Health Professional Shortage Areas.[1] Therefore, all impacts, even seemingly small impacts, are important to consider and mitigate in order to fully offset the adverse Project-related impacts to the local community.

The DEIS does not propose any measures to mitigate significant and unavoidable impacts identified in Chapter 5. Considering the magnitude of potential cumulative health impacts related to the Project, and Council on Environmental Quality (CEQ) guidance[2] that encourages agency consideration of mitigation measures and preference of the local community, the Port

[1] http://hpsafind.hrsa.gov/HPSASearch.aspx
[2] Council on Environmental Quality, CEQ Guidance Regarding Environmental Justice, Section III.B.2, December 10, 1997

should commit to additional mitigation measures to offset impacts to the EJ community. EPA has provided examples of potential resources for identifying community-based mitigations in our recent NEPA comment letters on three Port of LA and one Port of Long Beach projects. We encourage the Port to solicit these resources. We also provide a list of potential mitigation measures that may be appropriate for offsetting health impacts to the EJ community. The Port and Corps should consider and work with communities to further develop these mitigation measures:

Recommendation:

- EPA strongly encourages the Port to implement additional emission reduction measures as soon as possible to prevent increased health risk from greater exposure opportunities.
- Contact those involved with the Port Community Mitigation Trust Fund to get their input on appropriate mitigation measures for this project.
- Recommendations of the Port Community Advisory Committee (PCAC) such as the recommendation for a Public Health Trust Fund, Health Survey, Partners for Kids Health (mobile clinic) and the Health and Environmental Directory should be considered as potential environmental justice mitigations.
- Engage in proactive efforts to hire local residents and train them to do work associated with the project in order to improve economic status and access to healthcare;
- Provide public education programs about environmental health impacts and land use planning issues associated with the Port to better enable local residents to make informed decisions about their health and community;
- Improve access to healthy food through establishment of farmer's markets or retail outlets on Port lands;
- Continue expansion and improvements to the local community's parks and recreation system in order to ensure access to open space and exercise opportunities, and to make the area visually attractive and aesthetically pleasing.

The Port should conduct a port-wide health impact assessment (HIA) as a tool to inform appropriate mitigation for the EJ community. EPA has described why we consider a port-wide HIA a useful tool in our past Port of LA and Port of Long Beach NEPA comment letters.[3] We believe that a port-wide HIA is critical to fully understanding the status of the health burden, or burdens that may currently increase the vulnerability of the EJ communities near the Port. Dr. Jonathan Fielding, Director and Health Officer of the County of Los Angeles Public Health Department agreed with this in his enclosed September 18, 2008 letter to the Port[4], in which he also stated that his agency is a most willing partner in the HIA process. Absent the information that would be gained through an HIA, it is uncertain whether current HRAs and proposed

[3] See letters to Dr. Spencer D. MacNeil, U.S. Army Corps of Engineers (USACE), re: RDEIS for the Berth 97-109 Container Terminal Project and Pacific L.A. Marine Terminal LLC Pier 400, Berth 408 Project, July 21, 2008 and August 20, 2008, respectively; letter to Mr. Antal Szijj, USACE, re: DEIS for the Port of Long Beach Middle Harbor Redevelopment Project, August 8, 2008; and letter to Ms. Joy Jaiswal, USACE, re: DSEIS for the Port of Los Angeles Channel Deepening Project, August 29, 2008.;

[4] Dr. Fielding states that the EISs "...provide a relatively narrow and incomplete perspective on potential health impacts of proposed port expansion projects" and that an HIA would consider the influences of social and economic factors as well.

mitigations are properly considering and most effectively addressing the health impacts on the community.

> *Recommendation:*
> We recommend the Ports and Corps consider development of a port-wide health impact assessment (HIA). Given the magnitude and complexity of potential health impacts related to Port projects, EPA recommends the Corps and Port partner with the local health department and the local community to conduct a HIA which encompasses this project and all upcoming Corps/Port projects. An additional resource that provides information about Health Impact Assessments is the following Center for Disease Control and Prevention (CDC) website: http://www.cdc.gov/healthyplaces/hia.htm.

EPA is available to participate as a partner with the community, the Port, and the Corps to assist in the identification of mitigation measures to reduce the impacts on the affected communities for this and future projects. For further coordination with EPA on EJ issues, please contact Zoe Heller at (415) 972-3074 or by email at heller.zoe@epa.gov. You can also contact Steven John, Director of EPA's Los Angeles Office at (213) 244-1804, or by email at john.steven@epa.gov.

Waters of the U.S.

The FEIS should include a discussion of beneficial reuse of clean sediments, and identify beneficial reuse opportunities. According to the DEIS, approximately 605,000 cubic yards of material would be excavated to create the proposed 7th Street, Downtown, and North Harbors. The Port proposes to dispose of this material at the LA-2 or LA-3 ocean disposal sites or at an upland location, depending on results of sediment pollutant analysis. EPA is concerned with the proposal to use ocean disposal in the absence of a sufficient discussion of beneficial reuse opportunities. We are also concerned with the potential inconsistency with the Los Angeles Regional Contaminated Sediment Task Force (CSTF), Long Term Management Strategy (LTMS) goal of 100 percent beneficial reuse of sediment.[5] EPA will require a rigorous analysis of beneficial reuse opportunities that demonstrates a need for ocean disposal prior to issuing concurrence for disposal at LA-2 and LA-3.

As we discussed during our December 2, 2008 telephone call between EPA, the Corps and the Port, the FEIS will include this discussion. EPA appreciates the Port and Corps recognizing the importance of this issue and committing to providing an adequate discussion in the FEIS.

The FEIS should also discuss how the Project would not exceed current annual disposal caps of one million cubic yards at LA-2 and 2.5 million cubic yards at LA-3, if ocean disposal were approved and in light of disposal demand of other Port and non-Port dredging projects.

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[5] See the LTMS at: http://www.coastal.ca.gov/sediment/long-term-mgmt-strategy-5-2005.pdf. The long–term goal of the CSTF is to achieve 100 percent beneficial reuse of contaminated sediments, eliminating the need for aquatic disposal.

Recommendation:
The FEIS should discuss beneficial reuse of sediment from the Project consistent with the LTMS goal of 100 percent beneficial reuse. The FEIS should also commit to avoidance of ocean disposal at the LA-2 and LA-3 sites, to the maximum extent practicable.

Biological Resources

Permanent impacts to mudflat and eelgrass habitats should be clarified and mitigated at ratios of 3:1. The DEIS describes permanent impacts to 0.175 acre of existing mudflat habitat at Berth 78-Ports O'Call and 0.04 acre at the inlet of the Salinas de San Pedro Salt Marsh. Impacts would result due to shading from the proposed promenade. In addition, permanent impacts would occur to approximately 0.07 acre of eelgrass habitat due to construction of a rock groin intended to improve circulation at the salt marsh. The DEIS states that mudflat impacts would be mitigated at ratio of 1:1; however mitigation for impacts to mudflat and eelgrass habitats would consist of expanding and enhancing the salt marsh habitat approximately 0.56 acre by excavating, recontouring, revegetating, and monitoring the site (Mitigation Measure BIO-4). It appears that this would actually result in a total mitigation ratio of approximately 3:1, though the specific ratios for eelgrass habitat and mudflat habitat are not clear. EPA supports improving the salt marsh to mitigate for impacts to existing mudflat and we recommend the Port specify how much new mudflat and eelgrass habitat would be created at the salt marsh. The Port should commit to minimum mitigation ratios of 3:1 to ensure permanent and temporary impacts are adequately offset.

Recommendation:
The FEIS should describe separately the acreage of eelgrass and mudflat habitats that would be created to mitigate for permanent impacts and clarify the mitigation ratios for each. The Port should commit in the ROD to minimum mitigation ratios of 3:1.

The FEIS should describe how the proposed mudflat and eelgrass mitigation will comply with the new Corps/EPA Compensatory Mitigation Rule for Losses of Aquatic Resources; Final Rule (June 9, 2008, 33 CFR Parts 325-332, 40 CFR Part 230). As described above, the Port proposes to mitigate for permanent impacts to mudflat and eelgrass habitats by expanding and improving the Salinas de San Pedro Salt Marsh. As part of the application to the Corps for a Clean Water Act (CWA) Section 404 authorization to fill these waters of the U.S., the Port will need to submit a mitigation plan to the Corps District Engineer for review[6]. The mitigation plan has several requirements, including long-term site protection, performance standards, and adaptive management.

Recommendation:
The FEIS should briefly mention how the Port intends to comply with the new rule and commit to developing an appropriate mitigation plan.

[6] Details of the twelve components of a mitigation plan can be found in the new rule at 33 CFR 332.4(c)/40 CFR 230.92.4(c)

Avoid building the promenade along the Cabrillo Youth Camp and Salinas de San Pedro Sal Marsh. The proposed Project and Alternatives 1 through 4 would construct a new 30 foot wide promenade across the length of the waters edge at the youth camp and the salt marsh. The Alternative 5 alignment would be located along Shoshonean Road. EPA is concerned with the potential impacts of locating the promenade through the length of the currently undeveloped waters edge and finds insufficient information in the DEIS to adequately assess these impacts. We suggest that locating the promenade along the existing road and proposed Red Car alignment would better isolate disturbance to an already developed area and better avoid impacts to wildlife, habitat and aesthetics that might otherwise occur.

> *Recommendation:*
> The Port should limit the alignment of the promenade to the Shoshonean Road side of the youth camp and salt marsh to avoid potential impacts to the undeveloped waters edge.

Traffic Comments

Acceptable traffic mitigation should be determined and disclosed. The Level of Service (LOS) for traffic would be reduced at various intersections, depending on the alternative. Mitigation measures would reduce impacts to LOS; however some of the mitigation measures may not be adopted because they would increase traffic lanes on Harbor Boulevard and would not contribute to a pedestrian friendly environment. In this case, impacts would be worse. The Port should make a final determination of what mitigation measures would be acceptable and include this information in the FEIS. If proposed mitigation measures are determined to be unacceptable, the resulting impacts to traffic should be described. The FEIS should also clarify whether effects of reduced mitigation on traffic congestion have been accounted for in the air quality analysis.

> *Recommendation:*
> The FEIS should identify acceptable mitigation measures and disclose the most accurate impacts to traffic. Impacts on air quality from reduced mitigation should also be described.

Noise

Consider changes in the construction schedule to reduce noise impacts on the local community. The DEIS clearly describes basic information on noise, baseline noise conditions, and potential human health affects associated with excessive noise. The analysis indicates a significant and unavoidable impact from construction and operations of the proposed Project and Alternatives 1 through 5. Cumulative impacts to sensitive receptors from construction of the proposed Project or Alternatives 1 through 4 are considered cumulatively considerable.

Several mitigation measures are proposed to reduce noise impacts from construction, including consistency with construction hours prescribed in the City of Los Angeles Noise Ordinance. This includes prohibiting construction between the hours of 7:00 AM and 9:00 PM on weekdays and between 8:00 AM and 6:00 PM on Saturdays. Given the construction duration and close proximity to sensitive receptors that are already disproportionately affected by noise and other

port-related health impacts, EPA suggests soliciting input from the local community to determine whether construction until 9:00 PM on weekdays could be characterized to be, "In a manner as to disturb the peace and quiet of neighboring residents or any reasonable person of normal sensitiveness residing in the area" (41.40 LAMC- Construction Noise). The Port should also consider whether it would be appropriate to further mitigate noise impacts by avoiding the use of louder equipment, like hydro hammers, after 6:00 PM on weekdays.

> *Recommendation:*
> To further reduce noise-related health impacts to sensitive receptors near the Project, the Corps and Port should solicit input from the local community to determine whether construction until 9:00 PM on weekdays would be a disturbance. Consider avoiding the use of louder construction equipment, like hydrohammers, after 6:00 PM.

Purpose and Need

The Project purpose is defined too narrowly and should be refined in the FEIS. Section 2.3.2 of the DEIS defines the basic purpose of the project to "...improve waterfront accessibility and use." The document goes on to describe overall purposes, including implementing modifications to improve accessibility and use without impeding public navigation. EPA agrees with this definition of project purpose but we suggest modifying the additional purpose of "...increasing the open water area approximately 7 acres to provide a variety of waterfront uses..." to be less specific. This appears to be an objective of the proposed Project and some, but not all alternatives, and including it as a Project purpose could unfairly bias selection of alternatives that create 7 acres of open water.

> *Recommendation:*
> The purpose and need statement should be modified such that the creation of 7 acres of open water is a Project objective, and not a specific part of the purpose of improving waterfront accessibility and use.

Green Building

LEED certification should be sought for all new and refurbished Project structures. We commend the Port for committing to construct new structures that meet Leadership in Energy and Environmental Design (LEED) certification standards, consistent with the Port's Green Building Policy. According to the DEIS, new terminal buildings would be Gold certified and all new structures greater than 7,500 square feet would be minimum Silver certified. While we recognize that this is an important environmental commitment, it is unclear what percentage of buildings would be less than 7,500 square feet and why they would not be required to meet LEED certification. We encourage the Port to consider achieving LEED certification for new and refurbished Project buildings, even if they are smaller than 7,500 square feet. Studies

indicate that LEED certification results in environmental benefits while not necessarily costing more to build[7].

Recommendation:
The Port should commit in the FEIS and ROD to LEED certification for new and refurbished Project structures, even if they are less than 7,500 square feet.

Climate Change

The climate change discussion could better illustrate annual emissions, and should consider additional offsets, and impacts of climate change on the Project. Anthropogenic greenhouse gas emissions have been linked to global climate change[8]. The DEIS provides an inventory of greenhouse gas emissions from the proposed Project, and mitigation measures that specifically target these emissions. EPA recognizes the importance of this analysis and mitigation measures; however, we suggest that the FEIS include additional information to better illustrate the amount of greenhouse gas emissions the Project would produce. Table 3.2-43 provides annual carbon dioxide equivalent (CO_2e) emissions in metric tons per year, after mitigation. Based on the table, the proposed Project would produce 4,126 metric tons of CO_2e in 2011, and 17,735 metric tons of CO_2e in 2037. To better illustrate the amount of emissions released, the Port could equate these emissions to the number of passenger cars that would release an equivalent amount of comparable emissions.[9] For example, using the EPA sponsored Greenhouse Gas Equivalencies Calculator, proposed Project annual emissions in 2037 would be 17,735 metric tons, which is equivalent to 2,771 passenger vehicles being driven for one year. In addition, while some mitigation measures are provided, we recommend the Port consider additional voluntary mitigation measures to further offset greenhouse gas emissions[10].

Recommendations:
The FEIS should provide a discussion that better illustrates Project greenhouse gas emissions, and the Port should consider additional mitigation measures to further offset these emissions.

We also recommend the FEIS include a discussion of potential effects on the Project from climate change and sea level rise and how the Port would adapt to these changes.

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[7] Lisa Fay Matthiessen and Peter Morris of Davis Langdon in their 2007 paper, "The Cost of Green Revisited" found that there is no significant difference in average costs for LEED certified buildings.
[8] See the Intergovernmental Panel on Climate Change (IPCC), Climate Change 2007:Synthesis Report at http://www.ipcc.ch/pdf/assessment-report/ar4/syr/ar4_syr.pdf
[9] For example, see the U.S. Climate Technology Corporation Gateway website, which is sponsored by the EPA and the U.S. Agency for International Development. See http://www.epa.gov/cleanenergy/energy-resources/calculator.html /.
[10] For example, see the discussion of potential mitigation measures at Climate Vision: http://www.climatevision.gov/.

SUMMARY OF EPA RATING DEFINITIONS

This rating system was developed as a means to summarize EPA's level of concern with a proposed action. The ratings are a combination of alphabetical categories for evaluation of the environmental impacts of the proposal and numerical categories for evaluation of the adequacy of the EIS.

ENVIRONMENTAL IMPACT OF THE ACTION

"LO" (Lack of Objections)

The EPA review has not identified any potential environmental impacts requiring substantive changes to the proposal. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposal.

"EC" (Environmental Concerns)

The EPA review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce the environmental impact. EPA would like to work with the lead agency to reduce these impacts.

"EO" (Environmental Objections)

The EPA review has identified significant environmental impacts that must be avoided in order to provide adequate protection for the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no action alternative or a new alternative). EPA intends to work with the lead agency to reduce these impacts.

"EU" (Environmentally Unsatisfactory)

The EPA review has identified adverse environmental impacts that are of sufficient magnitude that they are unsatisfactory from the standpoint of public health or welfare or environmental quality. EPA intends to work with the lead agency to reduce these impacts. If the potentially unsatisfactory impacts are not corrected at the final EIS stage, this proposal will be recommended for referral to the CEQ.

ADEQUACY OF THE IMPACT STATEMENT

Category 1" (Adequate)

EPA believes the draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis or data collection is necessary, but the reviewer may suggest the addition of clarifying language or information.

"Category 2" (Insufficient Information)

The draft EIS does not contain sufficient information for EPA to fully assess environmental impacts that should be avoided in order to fully protect the environment, or the EPA reviewer has identified new reasonably available alternatives that are within the spectrum of alternatives analysed in the draft EIS, which could reduce the environmental impacts of the action. The identified additional information, data, analyses, or discussion should be included in the final EIS.

"Category 3" (Inadequate)

EPA does not believe that the draft EIS adequately assesses potentially significant environmental impacts of the action, or the EPA reviewer has identified new, reasonably available alternatives that are outside of the spectrum of alternatives analysed in the draft EIS, which should be analysed in order to reduce the potentially significant environmental impacts. EPA believes that the identified additional information, data, analyses, or discussions are of such a magnitude that they should have full public review at a draft stage. EPA does not believe that the draft EIS is adequate for the purposes of the NEPA and/or Section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised draft EIS. On the basis of the potential significant impacts involved, this proposal could be a candidate for referral to the CEQ.

*From EPA Manual 1640, "Policy and Procedures for the Review of Federal Actions Impacting the Environment."

COUNTY OF LOS ANGELES
Public Health

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September 18, 2008

Dr. Ralph Appy
Director, Environmental Management Division
Port of Los Angeles
425 South Palos Verdes Street
San Pedro, CA 90731

Dear Dr. Appy:

This is in response to the recent recommendation from the United States EPA, Region IX Office (see attached) that the Los Angeles and Long Beach Ports and U.S. Army Corps of Engineers conduct, in partnership with the local health department and the community, a port-wide health impact assessment (HIA) of current and planned projects at the Los Angeles and Long Beach ports.

Given the vast magnitude of operations at the two ports and the great potential for these operations to adversely impact the health of neighboring communities and the regional population, the Los Angeles County Department of Public Health strongly supports efforts to evaluate and prevent or mitigate these health impacts to the greatest degree possible. We believe that the current environmental impact statements provide a relatively narrow and incomplete perspective on potential health impacts of proposed port expansion projects. HIA represents an important complementary tool for more comprehensively assessing the broad range of health effects of proposed policies and projects, including not only the impacts arising from the physical environment but also consideration of the influences of the social and economic environments on health.

In considering the potential value of an HIA at the ports, it is important to consider two general types of HIA--one, a "participatory" approach that is generally more qualitative in its analysis and relies to a large degree on input provided by the community and other stakeholders and, the other, a "quantitative, analytic" approach that involves more intensive data gathering and analysis. We believe that both approaches have potential value as related to the ports. However, it would be important early in the process to define the scope of the HIA, especially if a quantitative, analytic HIA is being considered as this approach is more technically challenging and may require substantially more resources than the participatory approach.

Given the size and complexity of the port operations and the surrounding communities, we do not have the resources to lead a port-wide HIA. However, we would be most willing to participate in the process along with you and Long Beach Port officials, the Corps, the community, EPA officials, and the City of Long Beach Department of Health and Human Services.

If you have questions or would like to discuss any of this further, please call Dr. Paul Simon at (213) 351-7825.

Sincerely,

Jonathan E. Fielding, M.D., M.P.H.
Director and Health Officer

JEF:ps

c: Jonathan Freedman
Paul Simon
Angelo Bellomo
Ron Arias, Long Beach City Health Department
Richard Cameron, Port of Long Beach
Debbie Lowe Liang, US EPA, Region IX