PORT DEVELOPMENT AND THE ENVIRONMENT AT THE PORTS OF LOS ANGELES AND LONG BEACH

(110–160)

FIELD HEARING

BEFORE THE

SUBCOMMITTEE ON
COAST GUARD AND MARITIME TRANSPORTATION

OF THE

COMMITTEE ON
TRANSPORTATION AND
INFRASTRUCTURE
HOUSE OF REPRESENTATIVES

ONE HUNDRED TENTH CONGRESS

SECOND SESSION

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August 1, 2008

SUMMARY OF SUBJECT MATTER

TO: Members of the Subcommittee on Coast Guard and Maritime Transportation

FROM: Subcommittee on Coast Guard and Maritime Transportation Staff

SUBJECT: Hearing on "Port Development and the Environment at the Ports of Los Angeles and Long Beach"

PURPOSE OF HEARING

The Subcommittee on Coast Guard and Maritime Transportation will meet on August 4, 2008, to examine the efforts of the Ports of Los Angeles and Long Beach to meet infrastructure needs, including through the assessment of a container fee that will be applied to containers passing through the port and then expended on projects intended to improve infrastructure in and around the port areas.

The Subcommittee will also consider the ports' efforts to reduce emissions from port-related activities, including from trucks that provide drayage services at the ports as well as from vessels in transit to and from the ports. Specifically, the hearing will examine the ports' adoption of the San Pedro Bay Ports Clean Air Action Plan, including the Plan's "Clean Trucks" program. Under the Clean Trucks program, the Ports of Los Angeles and Long Beach plan to assess a fee on each container loaded in the port to generate the funding necessary to replace the entire fleet of trucks providing drayage services at the ports with clean trucks meeting 2007 federal emissions standards.

BACKGROUND

Overview of the Ports of Los Angeles and Long Beach (LA/LB)

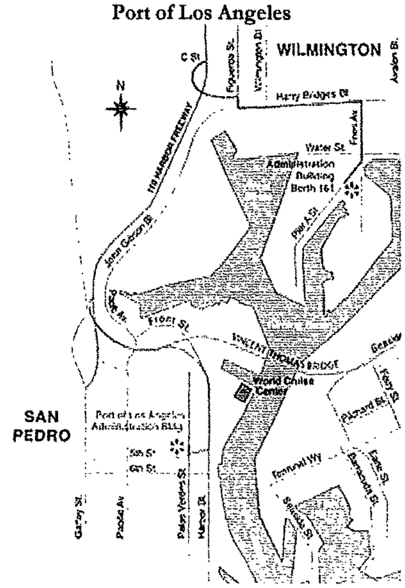
The Ports of Los Angeles and Long Beach are adjacent port facilities located on San Pedro Bay in southern California. Together, they constitute the fifth busiest port complex in the world, moving some $260 billion in total trade, including handling 15.7 million 20-foot containers (commonly referred to as twenty-foot equivalent units or TEUs) in 2007 (approximately 40 percent of all the containers entering the United States). In 2007, the Ports of Los Angeles and Long Beach received 5,881 vessel calls – a decline of 3 percent in total vessel calls under the previous year.[1]

The Port of Los Angeles

The Port of Los Angeles is the busiest seaport in the United States. Its port facilities cover approximately 7,500 acres along 43 miles of waterfront property; these facilities employ approximately 16,000 people. The Port of Los Angeles is a department of the City of Los Angeles; it is managed by an executive director and administered by a five-member Board of Harbor Commissioners.

In calendar year 2007, the Port of Los Angeles handled 8.4 million TEU containers – which was a slight decline below the port's container traffic in 2006. In fiscal year 2007, the port handled a total of 190.1 million metric revenue tons of cargo, of which 171.9 million metric tons was general cargo.

Port of Los Angeles

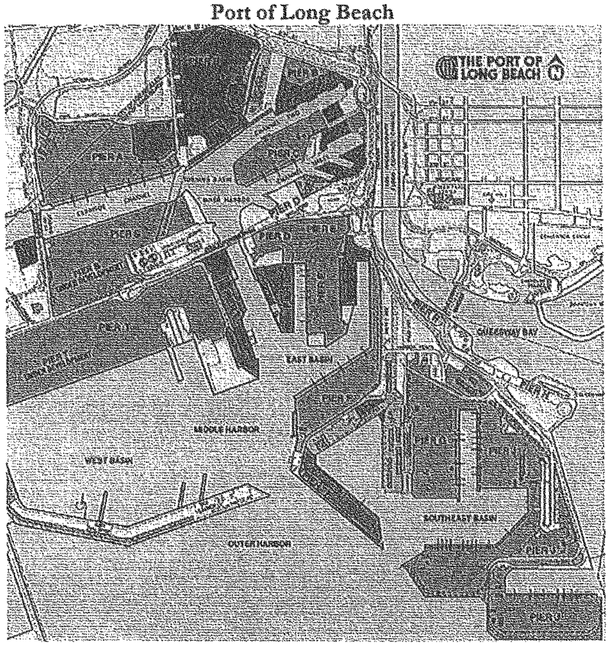


[1] Chris Phillips, "Regional Report: Los Angeles and Long Beach," *Pacific Maritime Magazine*, June 2008.

The Port of Long Beach

The Port of Long Beach is the second busiest port in the United States. It encompasses 10 piers located on more than 3,000 acres of land. In 2007, the port handled more than 7.31 million TEU containers and a total of 87 million metric tons of cargo valued at $140 billion. The Port of Long Beach is managed by the Long Beach Harbor Department, part of the city of Long Beach. The Harbor Department is managed by a five-member Board of Harbor Commissioners.

Port of Long Beach



Container Fees

The Ports of Los Angeles and Long Beach have identified extensive infrastructure needs in and around the port facilities, including the Gerald Desmond Bridge Replacement, the SR-47 Expressway, the Navy Way/Seaside Avenue Interchange, the South Wilmington Grade Separation, the I-110 Connectors Program, and the development of an on-dock rail system. In an effort to generate revenue to support the development of this infrastructure, the Ports of Los Angeles and Long Beach have approved an "infrastructure cargo" fee that will be applied to containers moving through the ports. Additionally, the State of California is considering legislation to create a container fee at the Ports of Los Angeles, Long Beach, and Oakland which would support infrastructure projects as well as projects intended to mitigate the environmental impacts of port operations. These fees are described in more detail below.

Ports of Los Angeles and Long Beach Infrastructure Fees

Beginning January 1, 2009, the ports of Los Angeles and Long Beach will each assess an "infrastructure cargo" fee on containers moving through the ports to support. The fees approved by ports are expected to be $15 per 20-foot TEU in 2009 – but the fees can fluctuate based on the funding needs of infrastructure projects in progress. A fact sheet authored by the Port of Los Angeles anticipates that the fee will grow to $18 in 2010 and 2011 but could fall to $14 in 2012. The fee is expected to raise approximately $1.4 billion to support designated infrastructure projects.

California State Container Fee

California is considering legislation that would create a State-imposed container fee. According to an analysis of SB 974 as amended on July 14, 2008 (Senate third reading) produced by the California Assembly, the legislation would require the Ports of Los Angeles, Long Beach, and Oakland to begin collecting a container fee of up to $30 per 20-foot TEU by January 1, 2009. The analysis indicates that 50 percent of the funds generated through this fee would be utilized to fund projects that would contribute to congestion relief and improve the flow of containerized cargo, while the other half of the funding would be utilized to fund projects that mitigate air pollution created by the movement of cargo through the ports. SB 974 also authorizes the ports that collect these fees to bond against the fees collected to finance the projects for which the funds are authorized to be expended. The analysis of SB 974 indicates that the container fees collected by the Ports of Los Angeles and Long Beach will generate approximately $100 million in 2008 to 2009 – and will generate approximately $340 million annually in each year after 2009.

In its analysis of SB 974, the Assembly notes that critics have suggested that imposition of the container fee the legislation would create may violate the Commerce Clause of the United States Constitution. The Commerce Clause, found in Article I, Section 8, reads in part:

> The Congress shall have power to lay and collect taxes, duties, imposts and excises, to pay the debts and provide for the common defense and general welfare of the United States; but all duties, imposts and excises shall be uniform throughout the United States;
>
> To borrow money on the credit of the United States;
>
> To regulate commerce with foreign nations, and among the several states, and with the Indian tribes.

Regarding this issue, the Assembly analysis of SB 974 states that a 2005 opinion provided by the Assembly's Legislative Counsel concluded "it is our opinion that a court faced with the question would find that the charge proposed is a valid regulatory fee imposed under the police power of the state, as long as the amount of the charge assessed does not exceed the reasonable cost of providing the services described, and that amount bears a reasonable relationship to the burdens created by the marine terminal operators."

As of July 22, 2008, SB 974 had passed the California Assembly and awaited final action by the California Senate.

In their report "Cargo on the Move Through California: Evaluating Container Fee Impacts on Port Choice," dated July 28, 2006, Dr. James Corbett, Dr. James Winebrake, and Erin Green argue that imposition of a container fee of up to $30 per TEU would increase voyage costs to these ports by between 1.5 percent and 2.5 percent on average, resulting in ship diversions of less than 1.5 percent.

Air Emissions at the Ports of Los Angeles and Long Beach

Ships are a major source of polluting air emissions in California – and the port complex of Los Angeles/Long Beach is the largest single source of polluting air emissions in southern California. According to the South Coast Air Quality Management District (SCAQMD), ships generate 70 percent of the sulfur dioxide emissions in that management district. The SCAQMD also reports that ships traveling along the southern California coast generate more emissions of nitrogen oxides than are emitted from all of the power plants and refineries in that area combined.

Further, the shipping lanes that ships traverse to reach the ports of Los Angeles and Long Beach bring them close to the coasts of Ventura and Santa Barbara counties – causing significant air pollution in these counties. The Santa Barbara Air Pollution Control District estimates that ships are the sources of more than 40 percent of all nitrogen oxides generated in that county.

The trucks that serve the Ports of Los Angeles and Long Beach are also a significant source of polluting emissions. According to one source, approximately 10 percent of total emissions from the port complex and port-related activities come from trucks[2]. However, according to the California Air Resources Board (CARB), the particulate matter released from diesel is the greatest single threat to public health – and 66 percent of diesel particulate matter released as part of port-related activities originates from trucks. CARB indicates that in California, diesel particulate matter accounts for up to 70 percent of the cancer risk associated with air pollution.

San Pedro Bay Ports Clean Air Action Plan

Together, the Ports of Los Angeles and Long Beach have adopted a plan to reduce polluting air emissions at the ports called the San Pedro Bay Ports Clean Air Action Plan. Full implementation of the plan's components is expected to require the combined expenditure of billions of dollars from all participating sources, including the ports, the State of California, and industries that work in and around the ports of Los Angeles and Long Beach. The plan's

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[2] Jon Haveman and Christopher Thornberg, "Clean Trucks Program: An Economic Policy Analysis" Beacon Economics, February 2008.

components are expected to cut emissions of particulate matter from port-related sources by 47 percent within five years. The plan will also reduce emissions of nitrogen oxides by 12,000 tons per year and reduce emissions of sulfur oxides by 8,900 tons per year.

The specific components of the plan include the following:

- Requiring the use of clean diesel trucks at the ports (the "Clean Truck" initiative).
- Requiring the use of low sulfur fuels during transits close to the ports and requiring reductions in transit speeds – and providing shore-side electricity to vessels docked at ports (so that they do not have to idle their engines to generate electricity).
- Replacing or retrofitting cargo-handling equipment to meet stricter air emissions standards.
- Requiring the use of cleaner locomotives in the port complexes, including requiring the use of cleaner fuels and equipment that treats the exhaust produced by locomotives.

Several of these plan elements are discussed in more detail below.

Clean Truck Programs

The San Pedro Bay Ports Clean Air Action Plan includes as one of its centerpieces the implementation by the Port of Los Angeles and the Port of Long Beach of Clean Truck programs, which are intended to reduce the air pollution emitted by trucks used in port properties by more than 80 percent below current emissions levels. The programs will achieve these reductions by replacing (or retrofitting) as many as 16,000 trucks by the year 2012.

The Clean Truck programs developed by each of the Ports of Los Angeles and Long Beach are described in more detail below. The two plans are similar – but not identical – and individual trucking companies wishing to carry cargo in each port must enter into a separate concession agreement with each port.

Port of Los Angeles Clean Truck Program

Under the terms of the Clean Truck program adopted by the Port of Los Angeles, beginning October 1, 2008, trucks built before 1989 will be forbidden from entering the Port of Los Angeles. Beginning January 1, 2010, trucks built before 1993 will be banned from the port together with all trucks built between 1994 and 2003 that have not been retrofitted with emissions control technologies. Beginning January 1, 2012, any truck not in compliance with the 2007 Federal Clean Truck Emissions Standard will be forbidden from entering the port.

Only Licensed Motor Carriers (LMC) who have "direct control over employee drivers" will be eligible to receive a concession agreement from the Port of Los Angeles – though the employment requirements will be phased in between 2008 and 2012 (for example, 20 percent of an LMC's drivers must be employees of the LMC by the end of 2009). Individual truck owner-operators that are not LMCs will not be eligible to receive concessions at the Port of Los Angeles – but they will be eligible to operate at the port until the employment requirement is fully phased in to effect.

LMCs will be required to pay $2,500 for a five-year concession; they will also be required to pay an annual fee of $100 for each truck they operate. Concessionaires must meet specified safety and security standards and hold required licenses and insurance policies.

Concessionaires will be eligible to receive grants from the Port of Los Angeles Clean Truck Fund (described below) to cover up to 80 percent of the cost of purchasing a 2007 standard diesel truck or a truck that runs on LNG. Concessionaries purchasing a 2007 diesel truck with funding from the Clean Truck Fund must turn in an old truck to be scrapped. Further, only trucks sold by vendors authorized to participate in the Clean Truck Program will be eligible to be purchased through the assistance provided to concessionaires.

Entities that do not receive funding for the purchase of a new truck will be eligible to receive $5,000 for every truck built prior to 1989 that they turn in for scrapping. Additionally, certain older trucks will be eligible to receive funding to cover the installation of equipment that will make emissions compliant with the 2007 emissions standards.

Beginning October 1, 2008, the Port of Los Angeles will collect a "clean truck fee" of $35 from cargo owners for each 20-foot TEU loaded in the port; this fee will not apply to cargo moving on a train or cargo moved from one terminal to another terminal within the port complex. The fee will be collected until 2012, when the entire fleet of trucks serving the Port of Los Angeles will be required to meet 2007 emissions standards. The funds collected from this fee will be deposited in a Clean Truck Fund and will be used to assist LMCs in purchasing clean trucks. Trucks privately funded by LMCs that meet the requirements of the Clean Truck program will be exempted from the container fee.

According to data issued by the Port of Los Angeles, there are approximately 1,000 LMCs currently coordinating the drayage provided by 17,000 owner-operator truckers in the Port of Los Angeles. The Port states that this is "a financially unstable, inefficient system that perpetuates the use of cheap, high-polluting and poorly maintained trucks." The Clean Truck Program seeks to remedy this problem by instituting a concession plan that "establishes a contractual relationship between the Port and the licensed motor carriers to provide drayage services under guidelines meeting the Port's business objectives." The Port of Los Angeles claims that this will benefit truck drivers by "freeing drivers from the burden of purchasing and maintaining the trucks they drive."

Port of Long Beach Clean Truck Program

The Port of Long Beach's Clean Trucks Program specifies that trucks of model year 1988 and older will be banned from the Port of Long Beach beginning October 1, 2008. Beginning January 1, 2010, trucks of model year 1993 and older will be forbidden from serving the Port of Long Beach – together with trucks from model years 1994 through 2003 that have not been retrofitted with emissions control technology. Beginning January 1, 2012, any truck not meeting the model year 2007 federal truck emission standard will be forbidden from serving the Port of Long Beach.

Under the Port of Long Beach's Clean Truck program, only LMCs holding concessions issued by the Port of Long Beach will be able to provide drayage services at that port. However, unlike at the Port of Los Angeles, at the Port of Long Beach, LMCs holding a concession agreement will be allowed to dispatch either employee-operators or owner-operators to serve the Port of Long Beach. Owner-operator truck drivers serving the port will be required to enter their truck in the Port Drayage Truck Registry.

LMCs seeking a concession will be required to pay an application fee of $250 for a concession lasting 5 years; they will also be required to pay a fee of $100 per year for each truck they operate at the port. Concession sign-up begins at the Port of Long Beach on July 28, 2008.

Concessionaire employees and owner-operators dispatched by concessionaires will be offered financial assistance through two different programs to assist them in purchasing clean trucks. Concessionaires can participate in a lease-to-own program, through which they can trade in an old truck and make monthly payments ranging between $500 and $600 for the lease of a new diesel truck or make monthly payments ranging between $500 and $1000 for the lease of a new LNG-powered truck. These leases will last for seven years. At the end of the lease period, concessionaires will be eligible to purchase their leased truck by paying half of the remaining cost of the truck. Conversely, concessionaires can trade in an old truck and receive a grant that will cover up to 80 percent of the purchase cost of a new clean truck.

Like the Port of Los Angeles, the Port of Long Beach will begin collecting a $35 fee for each 20-foot TEU ($70 per 40-foot TEU) loaded in the port. The fee will not be applied to containers that move through the port by train. These container fees will be collected in a fund that will be utilized to pay for concessionaires' lease-to-own program and truck purchase grants.

Containers carried on privately financed LNG-powered trucks will not be charged a container fee. Containers carried on privately financed diesel-powered trucks will pay half the standard container fee. However, if the privately financed clean truck enters service after October 1, 2008, the truck's owner must provide proof that a truck that did not meet the 2007 federal emissions standards has been removed from service.

Potential Economic Impact of the Clean Truck Programs

The Port of Los Angeles and the Port of Long Beach have commissioned several different studies of the potential economic impacts of their Clean Truck Programs. Most of the studies conclude that implementation of the Clean Truck Programs will raise drayage costs by some amount (though the predicted increases vary widely) and that some containers could be diverted from the Ports of Los Angeles and Long Beach. Importantly, the studies suggest that the actual increase in drayage costs will result from an equation that will involve some increased costs (such as the increased costs of labor when all drivers serving the Port of Los Angeles become employees and increased truck maintenance costs) balanced by reduced costs in other of the factors contributing to drayage costs (including efficiencies predicted in dispatching through the management of the drayage process that is expected to be provided by LMCs and increased fuel efficiency).

In his "Economic Analysis of Proposed Clean Truck Program," Dr. John Husing found that drayage rates could increase by as much as 80 percent at the Ports of Los Angeles and Long Beach. He also found that there are between 800 and 1,200 LMCs currently serving the port – but that 85 percent or more of the actual drivers are owner-operators.

In a report dated September 27, 2007, prepared for the Ports of Los Angeles and Long Beach by Moffat & Nichol and BST Associates, the authors examined the Husing report and found that some of the drayage cost increases Husing identified were likely due to the implementation of the Transportation Workers Identification Credential (TWIC) and that if these increases were excluded, "the increase in trucking costs *relative to trucking costs at other ports* is actually closer to 40 percent." They attributed much of this increase to increases in labor costs that will be created when drivers become employees of LMCs. The authors of this report suggest that no more than 193,000 TEUs will actually be diverted from the Ports of Los Angeles and Long Beach due to the Clean Trucks Programs.

A February 2008 report by Jon Haveman and Christopher Thornberg with Beacon Economics entitled "Clean Trucks Program: An Economic Policy Analysis" projects the likely increase in drayage costs at the Ports of Los Angeles and Long Beach will be between 20 percent and 25 percent. Haveman and Thornberg also found that trucks 10 years old or older provide more than half of the truck miles of drayage service at the ports. They also argue strongly that consolidating drayage services through LMCs that hold concessions will improve the efficiency of trucking operations through the ports – which will contribute some of the savings in the equation that will yield the final increase in drayage rates.

Interestingly, in a report made to the Los Angeles Harbor Board of Commissioners on March 6, 2008, the Boston Consulting Group suggested that if – as has happened – the Ports of Los Angeles and Long Beach adopted different Clean Truck programs, "there is a risk that volume of containers and supply of truckers could divert from Los Angeles to Long Beach" [sic.].

Federal Maritime Commission's Role in Reviewing the Clean Truck Programs

The Federal Maritime Commission (FMC) is an independent regulatory agency responsible for enforcing U.S. shipping laws. The FMC reviews agreements made by ports, liner services, and other maritime entities – many of which enjoy some immunity from anti-trust provisions – to assess their compliance with U.S. law, including whether they may result in an unreasonable increase in transportation costs or a decrease in transportation services. Under the Shipping Act of 1984, agreements filed with the FMC are allowed to go into effect unless challenged by the FMC in court. Once agreements filed with the FMC take effect however, any party affected by them can file a challenge with the FMC – which can then initiate an investigation of the agreement that has been challenged.

Section 40301 of Title 46, United States Code, requires that all agreements between or among marine terminal operators be filed with the FMC if they are intended to "discuss, fix, or regulate rates or other conditions of service" or if they are created to "engage in exclusive, preferential, or cooperative working arrangements, to the extent the agreement involves ocean transportation in the foreign commerce of the United States." Additionally, Title 46 forbids certain conduct by marine terminal operators. For example, section 41106 states that marine terminal operators may not "give any undue or unreasonable preference or advantage or impose any undue or unreasonable prejudice or disadvantage with respect to any person" and may not "unreasonably refuse to deal or negotiate."

On June 13, 2008, the FMC announced that it had concluded its review of the Los Angeles/Long Beach Port/Terminal Operator Administration and Implementation Agreement (AIA). In its announcement, the FMC noted that the AIA under review did not provide sufficient detail regarding how the Clean Trucks Program will be administered. As a result, the FMC determined "that there was no basis at this time to determine that the AIA is likely to result in an unreasonable increase in transportation costs or decrease in transportation services." The FMC instructed that the parties to the AIA "need to immediately file with the Commission all substantive aspects of the Clean Truck Programs" so that a determination of the programs' impacts on costs and service levels could be made. Even if the FMC allows the AIA to go into implementation, the Commission may investigate the actions of the marine terminal operators at the Ports of Los Angeles and Long Beach and penalize them if violations of Sections 40301 or 41106 of Title 46 are found.

Lawsuit Challenging Clean Truck Programs

On July 28, 2008, the American Trucking Associations (ATA) filed a complaint for declaratory judgment and injunctive relief in the U.S. District Court for the Central District of California against the Board of Harbor Commissioners of the City of Los Angeles, the Board of Harbor Commissioners of the City of Long Beach, the cities of Los Angeles and Long Beach, and the Harbor Department of the City of Long Beach. The ATA alleges that the concession plans approved by the Ports of Los Angeles and Long Beach would "unlawfully re-regulate the federally-deregulated trucking industry and, effective October 1, 2008 bar more than one thousand licensed motor carriers from continuing to enter and service routes in interstate commerce directly to and from the ports of San Pedro Bay."

The suit alleges that the Ports of Los Angeles and Long Beach have violated the Federal Aviation Administration Authorization Act, P.L. 103-305, which states that a "State, political subdivision of a State, or political authority of 2 or more States may not enact or enforce a law, regulation, or other provision having the force and effect of law related to a price, route, or service of any motor carrier." The suit further alleges that the concession plans impose unreasonable burdens on interstate commerce under the Commerce Clause of the U.S. Constitution and 49 U.S.C. §14504a.

Importantly, the ATA lawsuit challenges only the concessions portion of the Clean Truck programs. The suit does not challenge the schedule for banning older trucks from the ports.

Reducing Emissions from Ships

In 2006, the Port of Long Beach initiated its Vessel Speed Reduction Program, which offered vessels a 15 percent reduction in their dockage fees if they slow their speed to 12 knots or less within 20 miles of the port.

On July 1, 2008, the ports announced that they were initiating another incentive plan intended to reduce emissions from ships transiting the California coast line near the Ports of Los Angeles and Long Beach. Under this plan, the ports have offered to pay ships that switch to low-sulfur fuel within 40 nautical miles of the ports the difference in cost between this fuel and regular bunker fuel, which is typically high in sulfur. On July 10, 2008, the ports announced that 13 shipping lines had enrolled their ships in this program.

Regulations promulgated by the CARB took effect in 2007 requiring that ships sailing within 24 miles of the California coast use fuel in their auxiliary engines (which are used to generate the electricity that powers systems on board vessels) containing less than 1,000 parts per million of sulfur. These regulations were written specifically to limit polluting air emissions. In February 2008, the U.S. Court of Appeals for the Ninth Circuit ruled that California could not issue such regulations without first receiving a waiver from the Environmental Protection Agency from current federal law.

In July 2008, CARB approved a new regulation requiring that ships use lower sulfur fuel in both their auxiliary and main engines within 24 miles of the California coast line. The regulations phase in reductions in allowable sulfur content between 2009 and 2012, when fuel with no more than 1,000 parts per million of sulfur will be allowed to be used. This regulation has been written to specify allowable fuels – rather than to limit emissions. The CARB estimates that enactment of this regulation would reduce the emissions from ships of particulate matter by 15 tons per day

Internationally, air emissions from ships are governed by the International Convention for the Prevention of Pollution from Ships (MARPOL), Annex VI. This Annex limits the sulfur content of fuel to 4.5 percent, limits nitrogen oxide emissions from new engines, and prohibits the intentional release of ozone depleting emissions. The *Maritime Pollution Prevention Act,* H.R. 802, which brings U.S. laws into compliance with the provisions of Annex VI, passed the Senate on June 26, 2008 and passed the House of Representatives on July 8, 2008. The measure was signed by the President on July 21, 2008, becoming Public Law 110-280.

PREVIOUS COMMITTEE ACTION

The Subcommittee on Coast Guard and Maritime Transportation previously held hearings on April 15, 2008, and on June 19, 2008, to examine the Federal Maritime Commission's proposed fiscal year 2009 budget as well as the administration of the Commission and its conduct of the regulatory business before it.

WITNESSES

PANEL I

The Honorable Ronald O. Loveridge
Mayor, City of Riverside
Riverside, California

PANEL II

Mr. Richard D. Steinke
Executive Director
Port of Long Beach

Dr. Geraldine Knatz
Executive Director
Port of Los Angeles

PANEL III

Mr. Charles Mack
Director, Port Division
International Brotherhood of Teamsters

Mr. David Petitt
Senior Attorney
Natural Resources Defense Council

Ms. Elizabeth Warren
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FuturePorts

HEARING ON PORT DEVELOPMENT AND THE ENVIRONMENT AT THE PORTS OF LOS ANGELES AND LONG BEACH

Monday, August 4, 2008

House of Representatives
Committee on Transportation and Infrastructure
Subcommittee on Coast Guard and Maritime Transportation
Long Beach, CA.

The Subcommittee met, pursuant to call, at 3:00 p.m., in Port of Long Beach Administration Building, 64 Board Room, 925 Harbor Plaza, Long Beach, California, Hon. Elijah Cummings [Chairman of the Subcommittee] presiding.

Present: Representative Cummings and Richardson.

Also Present: Representatives Solis, Napolitano, Filner and Rohrabacher.

Ms. Richardson. The Subcommittee will come to order. The Chairman of the Subcommittee, Congressman Elijah Cummings, is on his way from San Francisco, where he just commissioned the Coast Guard's newest cutter, the Bertholf. Unfortunately, his plane has been delayed but he is en route. We anticipate his arrival shortly, but he asked us to begin the hearing, and therefore I will convene the hearing at this time.

I ask unanimous consent for his entire statement to be submitted for the record, and without objection, it is so ordered.

I ask unanimous consent that Congressman Bob Filner and Congresswoman Grace Napolitano, Members of the Committee of Transportation and Infrastructure, may sit on the Subcommittee of the Coast Guard and Maritime Transportation and participate in this hearing.

Without objection, it is so ordered.

Also, I ask unanimous consent that Congresswoman Hilda Solis and Congressman Dana Rohrabacher may sit with the Subcommittee today and participate in this hearing.

Without objection, it is so ordered.

Ladies and gentlemen, first of all, let me say thank you for all of you being here today. It is quite an exciting time for us all to be here, to talk about, I think, one of the most important subjects that is facing this particular region today.

You might hear us give some very formal things. This is an official congressional hearing, and therefore, we have to abide by the rules and regulations, without any exceptions, and we ask for your due diligence in that matter.

I am going to begin with my opening statement as the Chair. However, I am waiting for a document of individuals that I would like to introduce, who are here present, and to acknowledge them appropriately.

First of all, let me say thank you to Congresswoman Hilda Solis, Congressman Dana Rohrabacher, Congress Bob Filner, Congresswoman Grace Napolitano, for being here and participating in this hearing today on the port development and the environment at the ports of Los Angeles and Long Beach.

Sitting here today, surrounded by the United States' largest port complex, including both the Port of Los Angeles, we are provided with a unique insight on the daily operational challenges associated with providing goods in a quick and efficient manner to America and abroad.

The ports' impact on the local, regional and national economies is extensive, to say the least. As you will hear in the testimonies today, these two ports move 45 percent—let me repeat that again—45 percent of the entire Nation's cargo moves through these two ports, with an overall value, from year to year, at a staggering number of $250 billion.

As a former member of the City Council and State Assembly for the last six years, it became blatantly obvious that the infrastructure that supports this amazing strong economy is aging, it is deficient, and it is unable to meet the current demands of projected growth.

In light of these facts, both the local organizations, the two ports that we have here, who will testify today, on the state level, State Senator Lowenthal, and now several federal proposals that are being considered, it became incumbent upon me, as a Member of the Transportation Committee, to make sure that we held this hearing today.

As a Member of that Committee, it is important for us to ensure that any discussions of fees that would be collected, we need to, number one, validate the need for the fee, and I think that is going to be very clear today.

We have to understand the implication of who pays for that fee, where the fees should be expended, and then I think, most importantly, we need to make sure that there are mechanisms in place, that we continue to have the public's trust. That where we say fees will be collected and how they will be used, we have to ensure that those proper mechanisms are there, so that we can maintain that trust.

It is of great concern to this Committee that container fees could be applied on the local, state and federal level, with no coordination and negatively impacting the goods movement industry and the affordability of products.

It would not make sense, and I think most would agree, to have three different proposals. So we applaud what the port has already done. We also understand that the governor is looking very seriously at the state senate bill, and then you have, as I said earlier, federal proposals as well.

So it would be our hope, as Members of this Committee, to make sure we are all working in conjunction and not causing these negative impacts. Given the rising prices for fuel and the dwindling amount of revenue coming in from the federal gas tax, all levels of Government, including Congress, must examine new and creative ways of raising required capital to expand America's bridges, roadways, rail, while improving transportation efficiency and capacity.

As Congress, we are the true keepers of the interstate commerce. It is our responsibility to evaluate new solutions in this 110th Congress and beyond.

I applaud Chairmen Cummings and Oberstar for allowing us to come directly into the community where we are really being impacted, to get the input, and to make sure that the correct decisions are made.

With that, I would like to, before I yield to my colleagues, acknowledge a few of the Members who are here, that rightly deserve introduction.

For the city of Long Beach, we have four of the harbor commissioners who are here present. Our president of the Harbor Commission. Please welcome Mr. Jim Hankla.

Next we have a dear friend, Mr. Mike Walter, who is also a professor at Cal State Long Beach. Welcome, Mr. Walter.

Next we have our former president, who really I think many would say was an integral part of birthing what we call today the Green Port, here, in Long Beach. Please welcome, also attorney, Mr. Mario Cordero.

And finally, our newest Member of the team who is here, one of our harbor commissioners. Why this gentleman is so critical is that he lives on the west side, directly where a lot of this activity and cargo goes. He is the neighborhood's conscience. Please welcome Mr. Nick Sramek.

For the Port of Los Angeles, we have one of our commissioners who is here. I have known him for quite a few years. I also consider him a dear friend and an advocate, not only on behalf of the port, but also on the working people who move the cargo. He is a member of ILWU but today, he is in the capacity of an LA commissioner. Please welcome Joe Radisich.

And finally, although we have many organizations, and we appreciate all of you being here, I have one other elected official who I would like to acknowledge we have with us today. She is our Long Beach vice mayor, here, in the city of Long Beach, but she is also our nominee for the California state legislature, and I am sure many of the things that she will hear today, she will incorporate as she moves forward as well.

Please welcome Ms. Bonnie Lowenthal.

With that, just a few little housekeeping. Because this is an official hearing, we will not be able to accept testimony from the audience. However, you should all have in your package a piece of paper where you can submit your questions, or your comments. That will be submitted into the record and we will make sure that it will be dealt with appropriately.

With that, I would like to yield to the gentleman on my left, Mr. Dana Rohrabacher.

STATEMENT OF THE HON. DANA ROHRABACHER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. ROHRABACHER. Well, first of all, I would like to congratulate Laura on just a terrific job of getting us here and making sure that this official hearing took place. Laura has only been in Congress for a short period of time but her influence has been felt, and I can tell you that we have established a terrific working relationship, a bipartisan relationship that will be put to good use for the people of this area, and for the United States of America.

So thank you very much for the hard work that you have put in, which this represents.

As to the subject today, all of us on this panel have an interest in making sure that we have the policies in place that will be best for our country in terms of international trade and what goes on in our ports.

A container fee, which is what we are focusing on today, will provide the needed resources to clear truck-related traffic congestion off of our freeways, to save fuel that is totally wasted, which comes directly from that overcongested freeway traffic, and let us note that to pay for a new system that will get rid of the trucks, and a new system that actually ends the wastefulness of fuel that the trucks waste, as well as the pollution that goes into the air—that new system is not just some kind of a dream.

We know now, as Laura said, that there are 45 percent of the containers that come into the United States come in through these ports, and a large percentage of those containers go directly on our road system, and that means the congestion, that means the waste of fuel in that congestion, and the health-related cost to the people who live there.

That can be fixed. This is not, as I say, an impossible dream. But we need the resources, and the resources are available through what? Through a container fee which is basically a user fee. We are asking those manufacturers, either Americans or foreign manufacturers, the Americans, many American capitalists have gone overseas, closed up their companies here and gone overseas to set up a production unit,while it is only fair for those people overseas and manufacturers overseas, that they pay all of the expenses related to manufacturing their product and transporting their product.

What we have had now is a subsidy by the taxpayers of those people who are manufacturing overseas, by providing them these great facilities and the roads. And the worst subsidy of all is a health subsidy by the people who live in the inland areas where these trucks are going through and spitting out this pollution.

It is possible to build a system that will be clean and take the congestion off of our roads, and will pay for itself, based on this user fee, container fee concept, and I am looking forward to working with my colleagues here today in making sure that we move forward and get this job done.

We can do it, and we will do it, and this is the first great public step, and I salute you, Laura, for being the mastermind behind it, and I pledge myself to be working with you, and remember, the full cost of change and making it better—we are not going to have to raise taxes, we just charge those people who are using the system. That is fair to us and it is really fair to them as well.

So thank you very much. I am looking forward to the testimony.

Ms. RICHARDSON. Thank you, Mr. Rohrabacher.

I was remiss in not properly recognizing you. He has been a Member of Congress for 18 years, a Member of the Oversight, International Relations and Science Committee, a special assistant to Reagan, and oh, by the way, attended Cal State Long Beach. Thank you, Mr. Rohrabacher.

Next, I would like to introduce—in Congress a lot is by order and seniority and all of that. So next in line for me to introduce is Representative Bob Filner.

Mr. Filner came to Congress in 1992. He represents an area down in San Diego. He has been in Congress for 16 years, started off in local government, a doctor himself, was a professor, Chair of the Veterans Affairs, and most importantly today, a Member of the T&I Committee.

Mr. Filner.

STATEMENT OF THE HON. BOB FILNER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. FILNER. Thank you, Congresswoman Richardson, and thank you for bringing us all together. Ms. Richardson has only been with us, one of our newest Members, having come in a special election. But we have learned already, you don't say no to Laura Richardson. When she says be here—I said, well, I don't know about my schedule, so she gave me a plane schedule to get me here. So she takes charge.

I am not supposed to do this as someone who is representing the Port of San Diego, but I want to say we admire what you are doing here. In fact, we want some of the business!

We are very impressed with the San Pedro ports plan, and want to learn what you are doing, what you have done, of course, at a time when the Federal Government Trust Funds are diminishing rapidly.

In Washington, we even hear there are some problems with the budget in Sacramento, and what you decided to do is take things into your own hands, from a local point of view, and solve your local problems. As Rohrabacher and I never agree on anything, but I see a user's fee is one thing that we can agree on.

So thank you for educating all of us, but helping us become leaders for ports all over the country.

You know, when Mr. Cummings gets here, he represents the Baltimore port. I represent the San Diego port. You have got some inland people who are part of the inland port concept, and of course Mr. Rohrabacher represents Long Beach also.

So we are here to learn and we are here to extend this to a wider area. Thank you, Congresswoman Richardson.

Ms. RICHARDSON. Thank you, Mr. Filner.

Next, we have Representative Grace Napolitano. Ms. Napolitano came to Congress in 1998. She represents the Los Angeles Norwalk area, and really is one of my mentors on the Transportation Committee. Well-known in the state legislature for her leadership regarding international trade, she is a Member of the Transportation and Infrastructure Committee as well as Natural Resources.

Please welcome—and I would be remiss, I would like to acknowledge her grandson is in the audience, Nick, who came to learn a little bit about what grandma and her buddies do.

Thank you. Please welcome Ms. Napolitano.

STATEMENT OF THE HON. GRACE NAPOLITANO, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Ms. NAPOLITANO. Thank you, Laura. It is really a pleasure. I am from the Norwalk area, and have been in local government for a long time. I know the area. I have been in this area for almost 48 years. I understand some of the issues that have happened, and I was one of the original assembly members on the Alameda Corridor when we were holding hearings to set it up, and we had hoped by now there would have been a lot more of the improvement that we expected to take the trucks off the freeway, but coming down 710, that has not happened.

As we look at what has happened, the growth of the ports, the importance of the economy to the State of California, and the rest of the Nation—and believe me, folks, in Washington, they are beginning to get the idea that if they want on-time delivery for the product, they are going to help us do something about some of the issues of transportation.

That is something that is long-fought for, and currently, they understand that if we "get our act together," and are able to provide on-time delivery, they win. Their businesses win.

It is not only economy but at whose cost, and cause I come from Norwalk and I go all the way to Pomona. Well, Alameda Corridor is doing well but Alameda Corridor East is not doing so well. The infrastructure is still in need of repair. The social and economic impact, the environmental impact is such, that out of the 54 grade separations from East Los Angeles to Pomona, only twenty are scheduled to be separated, which means that the other 34 are going to have an economic, environmental and safety impact on my whole district, cause it is a long snake from East LA to Pomona.

And unfortunately, we want to ensure that as we are talking about container fees, as we are talking about being able to help the area, they don't forget those that are in the middle and take the brunt of a lot of that transportation going through our areas.

We support much of what is being touted. We want to ensure that Bob Filner doesn't end up with a lot of the port traffic out in the San Diego area. We want to keep it where it is, but we want to ensure not only that you have the best methodology, the infrastructure, the technology. And at whose cost? We want to ensure it is not the taxpayer again, paying for that. You need it, we want to help make sure that we work collaboratively, with the county, state and other officials, so that we can get this done.

Right now, about 160 trains go through my district. That's expected to double by 2020. That is one train in my district every 10 minutes. Guys, I don't think you would want to live anywhere near where you don't have much access to be able to cross some of those streets.

What we want to ensure is that we consider everything, that people are allowed on the table, and that those that are benefiting, as was pointed out before, are at the table putting in their fair share.

We don't want to lose them to any other country, to any other state, to anybody else, but we certainly want to ensure that we protect those that we represent, including the families of most of you who live in the district.

So with that, Laura, thank you very much. I do sit on Transportation, three Subcommittees, Highway, Rail, and Water. So you know I have a great interest in this. Thank you, ma'am.

Ms. RICHARDSON. Thank you, Ms. Napolitano.

Next we have to introduce Congresswoman Hilda Solis. Congresswoman Solis came to the Congress in 2000. She represents the Los Angeles area and has been with us for eight years. She also had a local government background. She, in addition to local government, served in the state assembly from 1992 to 1994, and then quickly moved no to the California state senate before she came here to Congress.

She serves on the Energy and Commerce Committee, Natural Resources, has had a long history of commitment to our environment, women, health, and immigration.

Cal State Poly Pomona, and is also a USC graduate. A part of the Carter administration.

Please welcome Congresswoman Hilda Solis.

STATEMENT OF THE HON. HILDA SOLIS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Ms. SOLIS. Thank you, Madam Chair, and to my colleagues for inviting me, and also a special thanks to, of course, the Port of Long Beach for hosting this very important meeting.

It is exciting to be here because this is a issue that we know is not going to go away, and I know we are going to be uniquely involved because transportation, passing cargo along from one city to another, and to its final destination impacts all of us.

But I think it is very important to underscore what the title of this special hearing is, and it is on the port development and the environment at the Ports of Los Angeles and Long Beach.

And I am particularly concerned about marine vessels and locomotives since we know that they are the largest unregulated source emitting more nitrogen oxides than all of the refineries, all of the power plants, and 350 other largest stationary sources in the South Coast Basin alone. Many of the communities on the frontlines of the pollution are environmental justice communities, ones that we find here. 92 percent of the people living within a three mile radius of facilities that are cited for violations in LA County, are typically minority communities, and 51 percent of those live under the poverty level.

The California Air Resources Board estimates that each year, there are about 5,400 premature deaths, 2,400 hospitalizations, 140,000 cases of asthma, and 980,000 lost days of work productivity.

Environmental conditions significantly impact the quality of our lives and the health of our workers and families who live near rail yards and face an increased cancer risk from increased diesel emissions from expanding goods movement.

A recent study also indicates that residents in commerce near four rail yards are 70 percent to 140 percent more likely to contract cancer from diesel soot than people in other parts of Los Angeles. While ports and rail yards negatively impact the health of our local communities, they also play a large and growing role in our economy as we know.

The Ports of LA and Long Beach are about the fifth largest in the world and the Nation's busiest. 43 percent of those goods coming into the U.S., they enter through these two ports. The amount of cargo handled by the ports is expected to triple in the next 15 years, and the value of those goods traveling through these ports will increase by more than $400 billion in the next 15 years.

Together we must ensure that our economy grows and that our public health care improves for those workers that are here. I am pleased that this need has been recognized, and that together and separately, the ports are taking steps to mitigate these concerns.

The container fee is a unique approach that will generate needed funds to improve infrastructure as was mentioned by my colleague, Grace Napolitano, regarding theAlameda Corridor. 70 miles of mainline railroad travel through the San Gabriel Valley. The train traffic through the corridor is expected to increase by 160 percent in the year 2020, and without continued infrastructure improvement, delays in the rail and highway crossings will increase by as much as 300 percent.

I am interested in hearing today from our witnesses about the fee and how it will function, particularly ensuring that there is equitable distribution with all the stakeholders, and I am hopeful that today we can discuss the impact of air quality on our communities.

And I am also pleased that the ports have taken steps to improve air quality as well. That is why I have authored H.R. 2548, the Marine Vessel Act. It has been supported by both the Port of Long Beach and Los Angeles.

I am eager to hear more about the Clean Trucks Program, and also want to commend those individuals, the stakeholders that are involved in all of that.

I also want to commend the longshoremen and the dock workers, and also the Teamsters, for coming together. But more importantly, the International Longshoremen and Warehouse Union, and Pacific Maritime Association, that came to an agreement on a very important element in this overall plan.

So I want to commend you, I want to thank, again, the Chairwoman, and I see our Chairman here—welcome—and again just want to commend this body for having this hearing and hope to partake in other future hearings. Thank you.

Ms. RICHARDSON. Thank you, Congresswoman Solis.

The last part I am going to do here is to introduce a few other guests and then turn it over to our great Chairman, who I am really excited to see has made it, and is going to lead us in this hearing.

First of all, I would like to acknowledge, we didn't have his name before and I apologize, the man who represents what he calls "the donut hole." He says don't forget what is happening in Signal Hill where a lot of our oil is coming from.

Please welcome from the Signal Hill City Council, Mr. Larry Forrester.

Another champion of our environment, a lady I had an opportunity to serve with on the City Council. If you talk about the environment, I already introduced Ms. Lowenthal, but second to none would clearly be Ms. Rae Gabelich who represents the Long Beach City Council. She has been truly an advocate of our environment. Thank you for being here.

Next I would like to introduce Mr. Steven John with the Environmental Protection Agency. Have you arrived? Yes; he is. So we do have the EPA who is here listening and willing to help as well.

And then finally, I would like to acknowledge Dr. Felton Williams with the Long Beach Unified School District. They have been involved with what is happening in our environment and how it impacts cargo. Thank you, Dr. Williams.

With that, I am going to turn it over to our able Chairman. I have got to tell you that coming into Congress nine short months ago, one of the key things of moving up the learning curve is getting some good mentors who take you under their wing, who have an expertise of the knowledge, and who are willing to see this country move forward.

Chairman Cummings is the Chairman of the Coast Guard and Maritime Committee, the Subcommittee. He represents the Baltimore area, so he also covers a port as well, so he is very well-versed on these issues.

And I just want to say on behalf of all of us here, thank you for bringing this hearing to us.

Mr. CUMMINGS. [Presiding.] Thank you very much. Thank you, Congresswoman Richardson, and good evening, good afternoon, I guess, to all of you.

Today we convene the Subcommittee on the Coast Guard and Maritime Transportation to consider the efforts of the Ports of Los Angeles and Long Beach to generate the financing needed to expand their infrastructure to meet the increasing demands of global trade, while working to reduce the release of polluting air emissions that result from all aspects of the ports' operations.

The need to provide infrastructure adequate to accommodate transportation demands, while protecting our environment by reducing air emissions, are concerns of almost every facet of transportation policy in this Nation today, including maritime and freight transportation.

Because the Ports of Los Angeles and Long Beach together comprise the largest port complex in the United States, as well as the largest single source of pollution in California's South Coast Air Quality Management District, their efforts to respond to these two critical challenges are of great interest to the Subcommittee as well as to ports throughout the entire Nation.

And I emphasize that this is definitely going to be and becoming a national issue.

I thank Congresswoman Laura Richardson, who requested this hearing, to give the Subcommittee the opportunity to see these issues firsthand. I also commend her for her steadfast leadership on the Subcommittee on issues relating to freight transportation and for the dedication with which she represents the interests of her constituents.

I also thank all of our colleagues for being here today. I know somebody must have said it. This is basically the first day of our little break, and they find themselves sitting in a hearing room, which they, I guess, were anxious to get away from, but they needed to be here, so I am glad they are here, and I thank you all very much for being here.

In an effort to generate additional capital to finance needed infrastructure, the Ports of Los Angeles and Long Beach will begin assessing an infrastructure cargo fee in 2009, that will be expended on infrastructure improvement projects intended to ease congestion around the ports.

The fees are expected to be $15 in 2009, but will fluctuate, depending on the resource needs of the projects to which the funding will be directed. Additionally, the State of California is considering legislation that would impose a fee of up to $30 per container passing through the Ports of Los Angeles, Long Beach and Oakland.

Half of this funding would be directed to infrastructure projects that contribute to congestion relief, while the other half would fund projects to mitigate air pollution.

The need to generate income to pay for port development has been a challenge for decades. In 1986, for example, Congress established the Harbor Maintenance Tax, which I note was assessed on an ad valorem basis to pay for dredging projects, but the application of this tax to U.S. exports was eventually declared unconstitutional under the Constitution's Export Clause.

This ruling, and rulings in related cases considering taxes and fees, are important touchstones as we consider container fees and other revenue generation mechanisms.

We look forward to examining this very complex issue in more detail today.

In an effort to take decisive action to reduce emissions from port-related activities, the State of California, the Ports of Los Angeles and Long Beach, and other partners, have adopted the ambitious San Pedro Bay Ports Clean Air Action Plan.

This plan is intended to reduce polluting emissions from all facets of port operations, including from vessels calling on the ports, trucks providing drayage services at the ports, and freight railroad and cargo handling equipment operating at the ports.

The part of the plan that has probably received the most attention is the Clean Trucks Program. Both the Port of Los Angeles and the Port of Long Beach have adopted a Clean Trucks Program and the programs have many similarities.

Both ports intend to assess a $35 fee on 20-foot equivalency unit containers, which will then be utilized to support the replacement of virtually the entire fleet of trucks currently serving the ports, with new clean trucks meeting current emission standards.

Both ports will allow only licensed motor carriers that enter into concession agreements with the ports to provide drayage services at the ports.

However, the Port of Los Angeles will phase in a requirement, over time, that will allow only individuals who are employees of the licensed motor carrier concessionaires to serve that port, while the Port of Long Beach will allow licensed motor carrier concessionaires to dispatch individuals who are either employees of the carrier or owner-operators.

We look forward to the testimony of Mr. Richard Steinke, and the executive director of the Port of Long Beach, and Dr. Geraldine Knatz, the executive director of the Port of Los Angeles, regarding the efforts of both ports to meet their infrastructure needs and to combat air emissions.

We also look forward to discussing with them the container fee programs that have been adopted at the Ports of Los Angeles and Long Beach as well as the ports' decisions to adopt different models for their Clean Truck Programs.

The witnesses who will appear on our second panel represent critical stakeholder groups affected by the ports' development and financing plans, including the International Brotherhood of Teamsters, the Natural Resources Defense Council, and the members of FuturePorts.

We invited a number of other stakeholder groups to join us today, but they were unable to join due to scheduling and other conflicts.

Many of these groups have submitted statements that will, without objection, be included in the hearing record, and we invite them to submit statements within the next seven days.

Finally, I want to thank all of our witnesses for being here, and I want to thank all of you for taking up the time to be a part of Government. This is how Government works and I am glad that you have taken the time to be with us today.

We will first hear from Mayor Ronald Loveridge, the mayor of the city of Riverside.

Mayor, welcome.

STATEMENT OF THE HONORABLE RONALD LOVERIDGE, MAYOR, CITY OF RIVERSIDE, CALIFORNIA

Mayor LOVERIDGE. Chairman Cummings, Members of the California delegation, thank you for holding this hearing in Southern California. Kudos also to what was, I thought, an excellent summary by the staff of the subject matter today.

Ron Loveridge, mayor of the city of Riverside. I also serve on the South Coast Air Quality Management District Board and the California Air Resources Board, SCAG Regional Council, and I am the second vice president of the National League of Cities.

I tried to decide who I am speaking for today, and I'm not speaking for Los Angeles or Long Beach. I'm not speaking for SCAG, I'm not speaking for the air districts, nor the National League. I am speaking as mayor of the city of Riverside.

We are a city of 300,000 people. We are in the inland area, which Grace Napolitano knows. Some 4 million in population. We would be the 24th largest state if the Inland Empire was a separate state.

What I would like to do today is not read my statement. You have my formal statement. What I would like to do is make a series of sort of observations off the statement, which is before you.

First, goods movement in Southern California is really a national trade corridor. We are talking about more than the two ports and their immediate infrastructure We are talking about going beyond the 710 freeway. And as a I read the staff statement, the staff summary, I did think it effectively identified the impacts, the regional impacts of goods movement.

One example I often use from Riverside, as an archetype new economy business, we have a Magnuson Furniture Company distribution center. They are headquartered in a small city outside of Toronto. They market out of High Point, North Carolina. Goods are manufactured in China. They come through the ports. They come to Riverside. There is one distribution center for all of North America, an example, it seems to me, of the global marketplace that we live in.

I am also a professor at the University of California at Riverside, and have done a little teaching on this business of goods movement, and what strikes me as you read about other countries is how carefully other countries invest in their global trade corridors. It is seen as a national mission.

When we talk about the two ports in Southern California, we are really talking about them as Southern California ports, we have identified how much comes into the United States and how that is expected to grow.

What I would like to just briefly focus on is on rail freight. I could talk about trucks and the impact they have on the two major freeways through the inland area, the 60 and the 10, but let me talk about freight.

And Riverside is about 60 miles from this place. So we are not talking about a short distance, we are talking about some 60 miles away.

Our city is really trisected by both the Union Pacific and the Burlington Northern-Santa Fe. We have 128 trains that daily go through Riverside. We have some 26 priority at-grade crossings. The crossing gates may be down for an average of three hours per day, and as long, some, as six hours per day at our 26 grade separations.

I got a call last week from a fellow that said he stopped and the gates were down, and one train went by. The gate remained down and another train went by. The gate remained down for a third time and another train went by.

He said for a half hour he was sitting at that intersection waiting to go through.

Beyond this question of mobility and the inconvenience, there clearly are important impacts on public safety, I mean fire and police and ambulance, vehicular traffic, air quality and economic development.

We have done a very careful tally of delays at these grade separations, and our estimate for 2007, there were 769 times there were delays. This is delays for fire, police and ambulance. 769 times, for as long as some 32 minutes.

The challenge the city faces is grade separations, a cost somewhere between 30- to $50 million. We have got some funding in Proposition 1-B, the state bonds. There is legislation, which you may talk about today, that has been introduced by my Congressman, Ken Calvert, called the On Time Act, and I strongly applaud Calvert's bill as recognizing funding to key trade corridor projects.

You also had mentioned Senator Lowenthal's bill which may shortly be on the desk of the governor.

I was looking at a resolution, which I am sure all of you will receive, which is offered by the National League of Cities, and I thought I might just hit the top description.

It says, "Urging the Federal Government to create adequately funded, comprehensive national surface transportation plan." This is not simply the voice of the National League of Cities. It is many voices, when you read newspapers, when you read reports, when people look at our country. There is a unified call for a comprehensive effort to deal with national surface transportation.

It is time for the Federal Government to take responsibility and join the locals and the state, to become partners in the funding for national trade corridors.

We thank you for your attention, again speaking for the impacts that these two extraordinary ports have, regional impacts on inland empire and specifically on the city of Riverside. I would be happy to answer any questions.

Mr. CUMMINGS. Mr. Mayor, thank you very much for being with us and I just want to ask you a couple questions, and then each panel member will have five minutes to ask questions.

Through your work with the National League of Cities, have you found that there are other cities confronting rail and grade mobility issues, similar to the ones that Riverside is confronting? And what do you believe needs to be done to enhance our Nation's goods movement network, particularly around major port areas?

Mayor LOVERIDGE. I think the concept has to go beyond ports, that we have to see this as a corridor. The last time I think we really looked at the kind of national network pattern, in terms of trade, was when Eisenhower did it in 1958, and it seems to me that is really the call that is before Congress and before your own work.

You hear it again and again from major cities, the kind of clash that exists between this increased rail traffic and mobility, and I read just one part of the resolution, but this is going to be a primary call of the National League, to try to call for a comprehensive transportation look.

Mr. CUMMINGS. Riverside has 26 at-grade crossings that need to be reconfigured. How much are those projects expected to cost, and have you approached the railroads about potentially contributing to the costs of those projects?

If so, what has been their response?

Mayor LOVERIDGE. Well, our estimate is that if we were——

Mr. CUMMINGS. I could almost guess but——

Mayor LOVERIDGE. If we fund them, we are talking about 800 million to a billion dollars. That is our estimate of the cost, if we indeed build 26 grade separations. The railroads look at Riverside and they look at many other cities, and say they simply can't do it. They contribute a little bit at the edges, but the bulk of the money now is—we are looking at the state, we are looking at our own kind of transportation sales tax, we are looking at city funds, we are looking at fees we place on developers. We are looking for any place we can to locate money and we are in the process of building one. We have another one out to bid. We have several others in design.

But it is not easy to come up with 800 million to a billion dollars.

Mr. CUMMINGS. Mr. Rohrabacher

Mr. ROHRABACHER. Thank you very much, Mr. Chairman. Mayor, did you say that there are 128 trains a day that come to your city?

Mayor LOVERIDGE. Yes.

Mr. ROHRABACHER. Did you say 128 trains a day?

Mayor LOVERIDGE. That is counting the MetroLink. Yes. 128 trains go through.

Mr. ROHRABACHER. Okay. And you outlined for us the traffic congestion. And you have an air quality problem in your city. Do you think the fact that these people standing at railroad crossings contributes greatly to your air pollution?

Mayor LOVERIDGE. It certainly contributes to it. And then there are some places in the inland area where it is, particularly with railroad yards, where there are very serious health effects. There is one place particularly, in San Bernardino, our sister city, where it is quite serious.

Mr. ROHRABACHER. You suggested it would cost 30- to $50 billion?

Mayor LOVERIDGE. 30 to $50 million per grade separation.

Mr. ROHRABACHER. But did you say the overall cost would be 30- to $50 billion?

Mayor LOVERIDGE. Cost would be 800 million to 1 billion. 800 million to $1 billion, if we did all 26 grade separations.

Mr. ROHRABACHER. But that is in your city or is that all the way, the 60 miles to——

Mayor LOVERIDGE. Well, I have seen one estimate as much as $4 billion, the one that Norm King, heading the Traffic Institute at Cal State-San Bernardino—I'm not sure where he got the number but his estimate was $4 billion across the region.

Mr. ROHRABACHER. $4 billion. And how many containers? 128 trains. How many containers does that represent coming from this port to your city every day?

Mayor LOVERIDGE. I'm not sure what the container count is. You watch them go by. There are many of them.

Mr. ROHRABACHER. So it is in the thousands?

Mayor LOVERIDGE. I would think that is fair.

Mr. ROHRABACHER. All right. Let's just note that railroads are a technology that is about maybe 200 years old, the idea of pulling something on a rail with a heavy diesel engine, or whatever kind of engine it is, and of course trucks are at least a 100 years old technology.

There are some other technologies that are options for you. Are you aware of any of the other, MAGLEV technologies that are being discussed?

[Applause.]

Mr. ROHRABACHER. Thank you.

Mayor LOVERIDGE. I know there are technologies that are being discussed, that have been identified from electrifying the railways, to look into MAGLEV. For Southern California, with our 18 million people, adding 6 more million people, I think we must have new transportation forms, or else this whole place is not going to work very well. So I'm not sure what they are, that as you recognize, they are extraordinarily expensive, and to do something different than we are now doing is not easy.

Mr. ROHRABACHER. But in the meantime, we are stuck with a congestion rate in your city, which is just the same as what we have here for members of the panel. The congestion is not only a waste of fuel, which adds tremendous cost for our society, but has tremendous health impact for your citizens, and we are stuck with old technology that is a 200-year-old technology; but a powerful force in our society. Let's note: Railroads are a powerful force in our society.

There is a better way. Thank you very much.

Mr. CUMMINGS. Ms. Richardson.

Ms. RICHARDSON. Thank you, Mr. Chairman. You know, it is very important, and I am glad you were able to accept the invitation to come here today, because oftentimes we think of the cargo activity that goes through in this complex, we tend to think of it stopping here on the 710 as you said. So thank you for accepting the invitation.

Mayor Loveridge, a question for you. How would you rate the effectiveness—there has been discussion of, as we had the Alameda Corridor, us doing a full Alameda Corridor East. What are your thoughts on that?

Mayor LOVERIDGE. Exactly what form that should take, both in governance and funding—but no, I think the Alameda Corridor should be—we need to see this, again, as a regional effort as opposed to simply a local coastal effort. So I know some of that is involved in Lowenthal's bill, which he talks about the kind of governance if that passes and the funding that would be involved, in many ways is like an Alameda Corridor approach.

Ms. RICHARDSON. Okay. We have the Chairman who really helped shepherd through the original Alameda Corridor, who is present today, Commissioner Jim Hankla, so I have great respect, and that was one of, I think the few projects, that we actually completed on time and under budget.

Mayor Loveridge, you talked a lot about the actual rail activity, and what I find particularly interesting, and why this hearing was so important, is I was sitting on a Transportation Subcommittee hearing when Mr. Calvert, who is from your area, presented his bill of On Time, and that is what really brought my concern, to be very frank with all of you here today, because it was at that point that I saw literally the possibility of potentially three different fees that could be levied on our cargo activity.

It is interesting, though, I think you have a very good point, that some of these proposals do not include funding that could be allocated towards rail grade separations, and so on. So if I am hearing you correctly, you are supportive of the overall idea but you want to make sure that there is a comprehensive plan that is addressing everyone's needs. Would that be correct?

Mayor LOVERIDGE. That is a good summary.

Ms. RICHARDSON. Thank you, sir. I yield back the balance of my time.

Mr. CUMMINGS. Thank you very much.

Mr. Filner.

Mr. FILNER. Just two brief comments, Mr. Chairman. One, let me play shamelessly to the crowd. I have been working on magnetic levitation trains in San Diego to try to solve our airport problems. I mean, this is a train, and I have ridden on a couple of them that reach speeds exceeding 300 miles per hour, and because it runs off electronic-magnetic forces, there is no pollution. So we ought to be looking at that, certainly. I was playing shameless to the crowd there.

Let me also put the cost of this into some relative proportions, because when we say a billion to solve your problems, or 4 billion on the corridor, I mean, it sounds like an awful lot of money, which it is, but, you know, in relative proportions, I mean our budget is 3 trillion as a National Government, and one particular priority, right now, of our Government, is a war which is costing us a billion dollars every two days.

Now if we could spend a billion dollars every two years, we have the money, as a Nation, to solve these and a lot of other infrastructure problems.

So I would urge you not to think that we are asking for too much here. It is a question of priorities. This Nation has to focus on these infrastructure priorities. We have the money. We are the richest Nation in the history of the world. Much of this is not rocket science. It is very common sense, and you have shown some of that. I appreciate your testimony, Mr. Mayor.

Mayor LOVERIDGE. Thank you.

Mr. CUMMINGS. Thank you very much.

Ms. Napolitano.

Ms. NAPOLITANO. Thank you, Mr. Chairman, and Mayor, I am glad you are here. I am a past mayor, so I am pretty well aware of some of the factors that you face in your daily carrying out of your duties.

Unfortunately, in your statement for the railroads, and their ability to help solve a problem is very minimal. Dismal. I believe it is 5 percent by Federal Government, an that is 3 percent normally, and then 2 percent in kind, which turns out to be nothing. Test we are moving transportation of goods to the benefit, and they have had several banner years, and I constantly remind them of that, because I think they need to be better partners in this effort, to be able to solve the issue of goods movement.

The container fee. Where would you feel would be best put in being able to upgrade the infrastructure of the railroad, your grade separations, your rail crossings, better signage? Where would be the best use for that, if you were able to get some of—because you are impacted. And while you say you have 125 trains a day, I have 160 in mine.

Mayor LOVERIDGE. You have more than I do. Well, I think the important answer is that—I mean the word, kind of comprehensive. One, there needs to be a kind of comprehensive look at this region. You need to obviously establish priorities for projects and then we need to figure out how to fund them.

I mean, the funding I think if we have a container fee as a way to do that, funding is here but we need to establish priorities, and there are different ways that we do that. Can't do everything at the same time.

Besides spending the money in Riverside, it seems to me the argument needs to be made on a kind of comprehensive regional planning effort. I mean, there are transportation commissions that have worked these questions through, and I think we need to be respectful of their own priorities.

I don't think the problem is one of, though, comprehensive planning. The problem really is the availability of funding and then having a governance structure that works.

Ms. NAPOLITANO. So you want a place at the table?

Mayor LOVERIDGE. Yes.

Ms. NAPOLITANO. Okay. We are looking at the ICE-TEA bill coming up next year, and I have suggested to some of my colleagues that Southern California basically needs to work together, both sides, collaboratively, to determine what those priorities ought to be, because it is important that we start now, and being able to have people come and put their case before a group of legislators, to find out where it is going to be best suited to start the prioritization, and with focus.

Do you have any suggestions on that?

Mayor LOVERIDGE. Well, we have gone through this business of having a regional transportation plan. I mean, SCAG, Southern California Association of Governments has done that. But I think your invitation is really an important one, and which we ought to respect. We ought to try to figure out what are the particular priorities of Southern California and then come to our own delegation and say here is our take, what can we do to support you in advancing that agenda?

One of the problems, at least my own judgment, one of the problems we have in Southern California is each sort of agency, city, area, has sort of been on its own, and I think we need to somehow——

Ms. NAPOLITANO. Bring it together.

Mayor LOVERIDGE. —come together, and together, 18 million people can be an important force.

Ms. NAPOLITANO. Well, when the state assembly and the senate, back during the time of Mr. Hankla, I remember the Subcommittee with Betty Carmack, and myself, and several of the other Members, who were working with Juanita Millendar-McDonald—may she rest in peace—on being able to set the Alameda Corridor, and it was deemed the best solution, was to trench it. I just wish there had been a little more foresight in our area, that is on the Alameda Corridor East, to trench it. Then we wouldn't have to worry about pollution, safety issues, environmental and economic impacts.

Is there any suggestions from any of the agencies to look at trenching, to be able to get——

Mayor LOVERIDGE. I think the experience of Placentia, I don't think so. I've not seen trenching raised, as far as I know, by any transportation commission or any city.

Ms. NAPOLITANO. Thank you, sir, for your answers, and Mr. Chairman, I yield back.

Mr. CUMMINGS. Thank you very much.

Ms. Solis.

Ms. SOLIS. Thank you, Mr. Mayor, and I appreciate all the other hats that you wear, and wanted to touch base a little bit about what you didn't talk about, the environmental justice issues, and I know that you are a representative on various regional air quality groups, and wanted to hear a little bit about that, and what you feel we, as a Federal Government, can do to help provide any direction or mitigation there as well, because in the end analysis, much of the cargo and rail traffic maybe begins here, but it doesn't certainly end in Riverside.

But certainly there are different impacts, and I know that the community out here in Long Beach and San Pedro have been assaulted, has been under assault because of the soot and diesel emissions that have very, very devastating impacts, health impacts that perhaps we are not even factoring in also as a part of this cost, that we should be looking at. Any thoughts?

Mayor LOVERIDGE. Research now is pretty clear on the health effects immediately around the ports. Number one. Number two is it is very clear, when you look at the sources of pollution, air pollution, a major role that this whole complex does, not simply to the areas immediately around it but as it pushes further inland, there is—I am, in some ways, representing the inland area. We argue that we are a downwind area, and so much of the—you look at the high measures of particularly ozone, and at particulate matter, you find it in our areas, and it comes—some of that is coming from pollution at the port, some of it is in the goods movement of trains and trucks as they move goods and services to the east of us.

There are a number of major important steps this port, both ports have taken. CARB has taking some important steps, recently. You can see it in the materials before you. The South Coast is going to take on, and I think has played a significant role. And one of the reasons for that I think is—my own judgment—is that we understand that sort of clean air and good air go in tandem with fast freight, and we have got to see them as mutual objectives. They are not separate objectives.

Ms. SOLIS. But one of the arguments that is always made when we talk about the efficiencies of scale, and what it means when you start to clean up areas that are heavily contaminated, is that there is a cost, either to jobs or to the industry. What would you have to say about that?

Mayor LOVERIDGE. Well, South Coast Air Quality Management District, in my judgment, is the best in the world at what it does. There used to be some alarm about its economic costs. What are we? the 10-th largest economy in the world in Southern California. It is a vital, exciting place. Having clean air, in my judgment, has helped that rather——

Ms. SOLIS. Can we do both?

Mayor LOVERIDGE. Yes.

Ms. SOLIS. Can we meet those two objectives? I know that my colleagues on the Subcommittee have much more knowledge about the amount of revenue that is brought into the country regarding the importation of goods, and is perhaps their need to take a closer look at those products that are brought in, those companies that are involved in that, and asking them to help pay, and share the burden, so that we have also people who work in the industry, at the ports and in the trucking industry, have a fair share, and availability to have a good living.

What concerns me, that we haven't talked about yet, is the impact in the truck program and the differences between Los Angeles and Long Beach. It is an economic impact, and we need to talk also about what that is going to mean for those independent truckers, many of whom are immigrant, many of whom are Latino, who are looking at not being able to get a license, not being able to associate with the appropriate fleet agencies because of rigorous requirements, and what happens to them? And if they even have an ability to be a part of a collective bargaining agreement that might, in Long Beach work well, but we are finding that there are some different regional—you know, next-door neighbor here, Long Beach, may have a different take on that.

Those are issues too, that we need to think about, and I would like to hear very quickly, cause I know my time is running out, if you can address that.

Mayor LOVERIDGE. Well, I think the major point that one recognizes is that these things are going in tandem. I think we used to think about clean air and fast freight as separate kind of enterprises. We need to join them together, and as we move for faster freight, they need to be connected with what we can do for cleaner air.

I mean, that is the overall summary point.

Ms. SOLIS. And I agree with you on the regional aspect. It is not somebody else's problem, it is our problem, and we have to come up with collective solutions as stakeholders.

Mr. CUMMINGS. Thank you very much, Mr. Mayor. We really do appreciate your testimony. I mean, you have brought some things to our attention, and I guess the issue becomes exactly to how far these fees will stretch and where will they go. We appreciate it, and you may appreciate more, in answering, I think, one of Ms. Napolitano's questions, how nice it is to come from a small state. There are only eight Members of the House from Maryland and so it is real easy for us to get together. I mean, you can fit us in a phone booth. But I do appreciate what you have brought to us, and we do thank you for taking the time to be with us.

Mayor LOVERIDGE. Well, thank you for the invitation, and thank you for the questions, and godspeed on your work.

Mr. CUMMINGS. Thank you again. As other witnesses come forward, Richard Steinke, the executive director of the Port of Long Beach and Ms. Geraldine Knatz, the executive director of the Port of Los Angeles, I might say that you have heard already some issues that have been brought up by the members of the panel here, and if there are some of these that you would like to address, like what was just brought up by Ms. Solis and others, feel free to intertwine those in your comments. Because one of the things that we try to do in these hearings is we try not to be so rigid that we don't have the effectiveness that we could possibly have.

And again, I want to thank both of you for joining us today, and we will hear from you first, Mr. Steinke.

RICHARD D. STEINKE, EXECUTIVE DIRECTOR, PORT OF LONG BEACH, AND GERALDINE KNATZ, EXECUTIVE DIRECTOR, PORT OF LOS ANGELES

Mr. STEINKE. Thank you, Mr. Chairman, Members of the Committee, and invited Members of Congress, my name is Richard Steinke and I am the executive director for the Port of Long Beach.

I would like to thank you for the opportunity to speak before this Committee this afternoon. This is very, very important, that these issues are discussed in this kind of forum, because this is the future of goods movement, and this is how Government works, and Mr. Chairman, I think your comment was very appropriate, in your opening statement, that this is the process that gets things changed.

As you know, the Port of Long Beach is the second-largest seaport in the United States. Last year, this port handled about 7.2 million containers known as 20-foot equivalent units, or TEUs, and we use that as a barometer of the success, or the business of ports around the Nation and around the world. Combined with our partner, the Port of Los Angeles, both ports handled over 15.7 million TEUs, which equals over 40 percent of all containerized goods entering United States ports.

Due to the increase in consumer demands, both ports are expected to meet the growth in international cargo, which is estimated to more than double, from 15 million TEUs in 2007 to over 35 million TEUs by 2020.

In an effort to reduce emissions related to current and future trade demands, the Port of Long Beach has adopted some very aggressive environmental mitigation programs to help improve air quality.

The Board of Harbor Commissioners adopted the Green Port Policy in 2005 to protect the community from harmful environmental impacts related to port operations, to promote sustainability, and to employ the best-available technologies.

We recognized that we could no longer continue to move cargo without recognizing the environment footprint and the impact on our communities.

In November 2006, the Long Beach and Los Angeles Board of Harbor Commissioners met in an unprecedented meeting, and approved the Clean Air Action Plan, a plan to reduce emissions associated with port operations by more than 45 percent over a five year period.

As the most comprehensive air quality mitigation plan being implemented at any port complex in the world, the Clean Air Action Plan is expected to cut particulate matter pollution, nitrogen oxide and sulfur oxide from source categories that include ocean-going vessels, harbor craft, cargo-handling equipment, railroad locomotives, and heavy-duty trucks.

As part of the Clean Air Action Plan, over the next five years, the San Pedro Bay ports required 16 switching locomotives and thousands of pieces of cargo-handling equipment to be replaced or retrofitted, to meet or exceed U.S. EPA emission standards, that required cargo and cruise ship terminals to be equipped with shoreside electricity as well as look at new technologies to help further reductions.

A key component in the Clean Air Action Plan is the Clean Trucks Program, as Congresswoman Solis referred to.

A landmark plan that will dramatically modernize the port trucking industry and significantly reduce truck-related air pollution, by requiring all heavy-duty trucks operating at the ports be replaced with newer cleaner trucks that meet USEPA 2007 emission standards by 2012.

The Clean Trucks Program is expected to result in truck-related air pollution reductions of approximately 80 percent.

Although the ports do not own or operate the drayage trucks serving the port terminals, the ports have determined that a progressive ban, which will begin October 1, 2008, on dirty trucks, is the most direct way to cut pollution and reduce public health risks posed by dirty diesel trucks, on a timeframe that meets the needs of our local communities.

Last December, both ports approved the cargo tariff, the clean truck fee to help fund the Clean Trucks Program, which is estimated to cost $2.2 billion. The fee will be charged to cargo owners, the beneficial cargo owners, that will place a $35 fee on every loaded TEU entering or leaving any terminal, by truck, beginning in October 2008.

This fee is expected to generate $1.6 billion, in addition to the $143 million that has been committed by both ports.

The ports are also expecting to receive $98 million from the state Proposition 1B bond, which California voters approved to help pay for major transportation and air quality improvement projects.

As part of the Clean Trucks Program, only port-permitted concession trucks will be allowed to work at the San Pedro Bay ports. The concession system is designed to provide oversight and accountability for the trucking industry, and will ensure that our port's aggressive clean air plans are being met.

Although the Ports of Long Beach and Los Angeles jointly adopted the Clean Trucks Program, and progressive ban on trucks, our respective boards have taken slightly different approaches to the concession program for the plan.

The Clean Trucks Program at both ports require licensed motor carriers in good standing, and with a valid license, and to operate clean trucks consistent with the Clean Trucks Plan requirements and our port tariff. The major difference in the plan is that the Port of Long Beach concession system allows licensed motor carriers to use employee drivers, independent contract drivers, or a combination of employee and contract drivers, as they do now.

Choice in the drayage industry is important, and the Long Beach plan, drivers can choose to be an employee or be their own boss while accomplishing the real goal of the Clean Trucks Program, and that is cleaning the air. Simply put, we want to clean the air as quickly as possible.

As part of the concession system, the Port of Long Beach also requires licensed motor carriers to offer health insurance to all drivers.

In addition, Long Beach will grant five year concessions to the licensed motor carriers who pay a one-time application of $250 versus a $2500 fee at the Port of Los Angeles, and a concession fee of $100 per truck, per year, in order to operate successfully in the ports.

In addition to the Clean Trucks fee, the ports approved a tariff called the Infrastructure Cargo Fee to help finance harbor area, port-related infrastructure projects, and I would like to emphasize that those are harbor area, port-related infrastructures, projects unlike the senate Bill 974 which really looks at the infrastructure projects on a more regional basis.

The money generated by this fee will be used to augment and complement funding received from federal and state sources, like Senator Lowenthal's container fee bill. The ICF, or the Infrastructure Cargo Fee, is separate and distinct from the Clean Trucks fee, and will be charged to cargo owners by placing a $15 fee on every loaded TEU entering or leaving any terminal by truck or train, beginning January 1, 2009.

Direct industry user fees are needed because of the limitations in federal, state, local and port funding for high-priority projects like replacement of the Gerald Desmond Bridge. The fee was derived by estimating the cost of key harbor infrastructure projects that were identified by both ports and regional transportation agencies.

The Infrastructure Cargo Fee will allow the ports to raise funds to pay for the projects as they progress, and the ICF establishes a way for the goods movement industry to pay for a share of the needed infrastructure improvements.

Mayor Bob Foster, the mayor of Long Beach, and the board of Long Beach harbor commissioners, have committed that projects identified to be funded with the Infrastructure Cargo Fee will not move forward before the port moves forward on implementation of environmental projects.

So this Infrastructure Cargo Fee and the Clean Trucks fee are linked together. One will not move in advance of the other.

In order to improve air quality and to move goods more efficiently from the San Pedro Bay ports to regions across the Nation, additional investments will be needed to be made to fund environmental and infrastructure programs at the Nation's ports.

The Port of Long Beach looks forward to working with the Committee, and other key stakeholders, to develop progressive environmental policies, and on the upcoming transportation authorization bill, to develop a list of critically-needed infrastructure projects that will allow goods that fuel our economy to continue moving.

I think we need to change the behavior of the waterfront that has been taking place for many, many years. We are doing that here at the Port of Long Beach and the Port of Los Angeles. We have congestion pricing. We have done a number of things with incentives.

You are seeing things like alternative fuels. We are investigating the alternate goods movement system that Congressman Rohrabacher has been mentioning.

And so we are doing things that no other port complex in the world has attempted to do. We need to change the way we think about goods movement. We need to look at a systemwide approach at addressing the problem, which has not been done in the United States in terms of marine transportation.

Thank you for the opportunity to testify in front of your Committee.

Mr. CUMMINGS. Thank you very much.

Dr. Knatz.

Ms. KNATZ. Mr. Chairman, Members of the Committee, thank you for the opportunity to appear on behalf of the Board of Harbor Commissioners and Mayor Villaraigosa, and the Los Angeles City Council, welcome to the San Pedro Bay Port Complex.

I don't want to duplicate comments that were made by Mr. Steinke, so I think I am going to focus on trying to answer some of the questions that you raise, specifically with respect to the Infrastructure Cargo Fee. And I should say we call it an Infrastructure Cargo Fee instead of a container fee, because although it originally will start out on containers, at some point we do intend to expand the fee to other commodities.

The Infrastructure Cargo Fee complements our Clean Air Action Plan because it deals with the way to improve goods movement while we also work to reduce emissions.

To address what we view as the existing transportation system deficiencies, and to accommodate our future traffic, we have actually, over the past several years, expended millions of dollars on critical intermodal transportation projects, projects of national significance. But it is still not enough.

We have identified about $3 billion in immediate infrastructure improvements that are needed in and just directly adjacent to the port, and these also are congressionally-designated projects of national and regional significance, and high-priority projects.

Because these projects cannot, and arguably should not, be paid for entirely with federal and state funds, about three years ago, the two ports started working together on a container fee for local infrastructure, and we really took this on ourselves, for a couple of reasons.

First, we thought if we didn't do it, there would likely be state fees, and possibly not on terms that we could support. Second, we saw the value in having a dedicated revenue stream to match bond measures devoted to goods movement. And three, we came to the conclusion we had to be really a self-help port complex. We hope that our fee will complement the next Federal Surface Highway Transportation bill, and we hope that that has a new dedicated federal account to support goods movement and environmental improvements associated with goods movement.

But what was really unique about our Infrastructure Cargo Fee is that we used a bottoms up approach to develop the fee structure. The fees are established through the result of a thorough technical analysis and a three-year dialogue with industry that really began with agreement on what projects should be funded.

Throughout this process, we worked to address industry concerns, they would agree to pay their fair share, and they wanted to see the results for their money. So we agreed that the fee would only be collected after an environment impact report was certified for that project, and these days, getting any EIR certified in Southern California is quite a feat; and I think it would be fair to say that getting to this stage now with the ports actually means something, because our EIRs are a primary vehicle for how we are imposing the measures in our Clean Air Action Plan.

The infrastructure fee rate was established at a level based on a detailed and fair traffic nexus for each specific project.

In other words, if 60 percent of the traffic that used a bridge, or any other infrastructure project, was cargo-related, then the container fee had to be set high enough to collect 60 percent of the cost of that bridge.

Because our fee will be made up of a composite of fees for specific projects, all on different construction schedules, we anticipate that it will start at approximately $15 a TEU, go as high as $18 a TEU, based on the known list of projects.

Once the industry's share was established, we then created a plan of finance for each of the proposed projects, which included contributions from the ports and a proposal for a fair share of the state bond money, and with that framework in place, then our Boards, in January, adopted the Infrastructure Cargo Fee.

By the year 2014, we will have complete funding for $2.9 billion worth of port-adjacent bridge, highway projects, and rail improvements. And we adopted the infrastructure fee separate from the clean trucks fee because we recognize that the infrastructure projects take a long time, and as some projects are finished, new projects would come along.

We believe that the approach we took, the bottoms-up, crafted a program that helped us avoid litigation, and to date, there have been no challenges on the fee, and we do not expect any.

The fee is collected locally and the money stays locally. Because our local project focus fee—beyond our local project focus fee, we also recognize the need for industry fees to fund regional projects. In fact, the port has considered collection of a fee for regional infrastructure, initially identifying the Alameda Corridor East Project, and a major rail intersection known as Colton Crossing, but we actually dropped our regional fee in deference to the legislation that was pursued by Senator Lowenthal.

Even though we tried to work the same strategy with industry on the regional fee, making sure the project was used for projects that industry supported, I cannot say, with absolute certainty, that we were able to develop the same support for the regional fees that we did for our local fees. But we are committed to taking up the issue on regional fees again, should it ever become necessary.

We are aware that the Committee may be examining national infrastructure fees.

Mr. Chairman, from our perspective, any national container fee now would be duplicative of what is in place here in California. We already have to work through some overlap, our ICF has, with Senator Lowenthal's proposed state fee and the rail portion of our infrastructure fee.

We urge the Committee to ensure that port regions that have taken the initiative to help themselves not be penalized by yet more fees, and that any federal plan provides exemptions for independent action on the part of the state or the port region.

Mr. Chairman and Members of the Committee, thank you for your interest and that concludes my prepared statement.

Mr. CUMMINGS. I want to thank both of you for your testimony and as you were talking, you know, sometimes in these hearings, what happens is that people come after you and then you can't answer their questions because you have gone, and so you're not testifying anymore.

And so I want to ask you a question about what FuturePorts—I am sure you are very familiar with them—have said. They claim that not enough analysis has been conducted of the potential economic impact all of the fees proposed to be levied on these containers may create.

And so you believe that the market, particularly in this difficult economic climate, will bear all of the fees that are proposed for the ports?

And I know in Baltimore, we compete fiercely. I mean, it is a fight, trying to get every single bit of business we possibly can get for our port.

And I am just wondering what, if any impact, you all think this might have.

Mr. FILNER. Could you yield for just a corollary question. I don't know what the average size of a concession here would be or how many trucks they would have. But is there such a thing as an average cost, that would be meaningful for us to know, to an average business?

Ms. KNATZ. Okay. Let me address the first question. Mr. Chairman, we did look at this issue. You know, you have sort of the pile-on effect when you have the PierPASS fee, and then we have our clean truck fee, and then we have the infrastructure fee, both the local, and potentially, a regional state fee.

We really felt like we got to the point where that was it, the system could not really stand any additional fees, so a national fee would really, I believe, affect our competitive position.

I think the fact that we have worked with industry on our regional fee, they recognize that, and they supported it because if it increases velocity on their end, that is cost savings for them, and so it was important to bring them in on the process.

We charge our fees against the cargo, the beneficial cargo owner, it is not paid by the terminal operator. So we tried to get the fee as close as possible to the goods, and in that way, kind of spread the fee among the greater number of users.

Mr. STEINKE. Mr. Chairman, I would just add that we have done some elasticity analysis for the ports here in San Pedro Bay, the Southern California Association of Governments has also done an elasticity study, and there is a point that there is significant diversion of cargo by, as Geraldine said, the pile-on effect. If there are too many fees, cargo will move some place else. We recognize that.

But as Geraldine said, if we keep the fees associated with the cargo itself, not the marine terminal operator, not the ocean carrier, and not the licensed motor carrier, not the trucker, and it goes to the retailer that is bringing in the goods, I think there was some analysis done that it is pennies on an Ipod. It is, you know, 50 cents on a pair of Nikes.

So that the hit to the consumer is fairly di minimis, even though the charge to the cargo owner is fairly significant on a per TEU basis.

Mr. CUMMINGS. Dr. Knatz, you have sent quite a bit of your testimony seeming to be concerned about a national fee. Can you talk about that for a moment. Just what is your biggest concern? That it will be harmful, or it would supersede your fees?

Ms. KNATZ. We would have several concerns. First of all, one of the things we like about our fee is it is collected here, it stays here, and it delivers the project. We are committed to carrying out the projects.

Oftentimes when you pay a fee, and if it goes to Washington, then sometimes you have to fight to get the money back. So that would be one issue. And the second issue, we have been—I think we are pretty clear on what projects need to be done, both in the port region and regionally. The Mayor mentioned Alameda Corridor East.

That is also the number one project on our regional list as well. I think there is a lot of consensus of the major good movement projects that need to be done in Southern California. So I think we are covered with the regional fees and the local fees, and as I said, some things will get done, the bridge will get done and then there will be the 710 that comes after it, or some new technology thing that we want to do, that Congressman Rohrabacher is looking at.

There is always going to be something. But we are sort of managing the process and making sure that, you know, the fee will go up and down, and we deliver on what we collect.

Mr. CUMMINGS. just one other question. Mr. Steinke, when Congress enacted the Oil Pollution Act of 1990, Congress phased out the use of the single haul tankers, and why would a simple phaseout of old trucks, coupled with the introduction of a mandate requiring the use of green trucks, accomplish some of your goals, and why wouldn't the market fuel a demand for trucks meeting the 2007 emission standards?

Mr. STEINKE. Mr. Chairman, I think we have experienced what the market can and cannot do without some kind of regulation here in San Pedro Bay. I think we know that the Clean Trucks Program, you know, with the concession program that both LA and Long Beach have proposed, provides the momentum and the motivation and the incentive for the truck fleet to be changed over.

We are not talking about a insignificant number of trucks. We are talking about 16,000 trucks that need to be replaced between now and 2012. And so we need a mechanism that moves the market more quickly than the market would move itself, in order to stimulate a changeover, and that is why we have adopted the Clean Trucks Program.

Mr. CUMMINGS. Thank you very much.

Mr. Rohrabacher.

Mr. ROHRABACHER. Thank you. It was such a pleasure to hear you describe why the container fees should be kept here, locally. It is the argument that I made three years ago when both ports opposed the legislation that I had, that would have done exactly what you said.

So thank you for indulging me on "I told you so." But it is always good to have people coming over to your side rather than having to admit you were wrong and going to their side.

But anyway, let me note that the ports—and again, I am going to admonish the ports on behalf of my colleagues, but I am sure they feel the same way. Look, when you are talking about what we are going to do, and where the fee is going to be put, and how that is going to affect this and that, you are acting like you are the big decision makers. I want to tell you something. You are not the decision makers. The region is the decision makers here.

Now I am represent you in the United States Congress, but I represent a lot of other people in the United States Congress too. Whatever comes out of this idea for container fees and reforms, and modernization of the port system here, in Southern California, the goods movement system, is going to be a regional decision, and it is not going to be the ports having control of a certain amount of money and deciding where it goes. That is just not going to be it.

We are going to be working together, and I am working together with our colleagues here, to make sure that we come up with something that is the very best solution, and it is a long-term solution and not just stop-gap solutions.

So let me first admonish you, I think that that attitude was very present in your testimony today, and I will leave that to my colleagues to verify, whether they caught that or not; but I certainly caught it.

Second of all, a lot of times I come up and, you know, try to deal with the ports, and I do not get what I consider to be a cooperative spirit. I mean let me just note.

When I first talked about going at night, which was of course when we redistricted back into here, everybody said it wouldn't happen, and I got more guff from people trying to say that Dana Rohrabacher is being so, you know, how would you say it? I am not being responsible and I am not being practical enough to let the ports understand that they, as they explained to me, you can't open the ports at night because nobody will go then. Well, we have PierPASS now and 40 percent of the trucks are going at night.

And then of course we started talking about the source of income for the container fees, and again received a bad reception, and now it is receiving a good reception.

Let's go back to now, to the latest, which is this Clean Trucks Program. What is it that makes you seem to think that you guys can determine the best way to accomplish a goal?

Is not the goal to bring down the emissions coming from the trucks that service your ports? Why is it that you had to come up with a complicated system of leasing trucks and involve yourself directly in the implementation of trying to achieve the goal, rather than permitting, quote, the market to work and saying, if you could achieve this level of emissions, that is fine, and just insist that that level of emissions be enforced.

Mr. STEINKE. Well, Congressman, I think that we have seen what the industry can do and what it can't do on its own, and I think that was the reason why the two ports, or the two cities have gotten together and worked together on a Clean Trucks Program, that through subsidies and incentives moves people into new trucks as quickly as possible.

Mr. ROHRABACHER. No, this is not a Clean Trucks Program. But it is not a Clean Trucks Program. It is a New Trucks Program. It is an assumption that new trucks are a more cost-effective way to deal with the issue than perhaps offering some type of effort to upgrade old trucks. And I will suggest, that as a senior Member of the Science Committee, I came to the ports for the last year and a half, suggesting that there might be some technology efforts that would save—you know, we are talking about, say, tens of thousands, if not hundreds of thousands of dollars per truck, and the ports were unwilling to test the new technologies that I was talking about.

You know—look. We are all in favor of the trade that you are talking about. Mr. Chairman, I just think that we have to make sure that we open up this whole dialogue and this discussion, so that we are doing the most effective thing, at of course the most reasonable cost, and I don't think that we have had that same type of open discussion with the policies of the ports in the past, and I would hope with the Clean Trucks Program, I would hope it is not just going to lead us to, number one, a situation where we are wasting taxpayers' dollars that could have brought down emissions.

There is a possibility the technology that I was talking about, which the final test will be out this week, would have lowered the emissions to make sure that older trucks are actually cleaner than the newer trucks, with the attachment on to the engine.

One last thing. How much does it cost to take a container from the port to the inland empire, to the rail heads in the inland empire?

Mr. STEINKE. I think that dray cost is anywhere between 150- to $180; somewhere in that range.

Mr. ROHRABACHER. Someone told me it was $480. Is that way off?

Mr. STEINKE. I don't think it is that much.

Mr. ROHRABACHER. To hire a truck to go from dockside to inland empire railhead?

Mr. STEINKE. I don't believe the one-way trip is that much; no.

Mr. ROHRABACHER. Thank you. Thank you very much. Thank you, Mr. Chairman.

Mr. CUMMINGS. Let me just say this, as we move to Ms. Richardson, it strikes me, as I listened to what you just said, and listened to the testimony of our witnesses, that the whole issue of the regional decisions make a lot of sense, because, in a way, what the witnesses have testified to, at least one of them, I can't remember which, is that when you talk about, say, the container fees, it is going to cost something on that Ipod, and those Ipods are going to be sold all over California, I mean, all up and down the coast here, and so it seems to me that it makes sense that you have the regional decisions.

The other thing that you have got to keep in mind—this issue is one which is going to call for everybody, pretty much to be on board, and when people feel that they have a part of what is coming out of this revenue source, I think, and that they actually have a hand in it, in deciding where it goes, so the money, of course it is spent effectively and efficiently, they are more apt to be a part of it.

And I think that while some may look at Mr. Rohrabacher's comments as strong, I think there is certainly something that is, you know, that we all need to consider there.

Ms. Richardson.

Ms. RICHARDSON. Thank you, Mr. Chairman. First of all, I will take a slightly different approach.

Let me say again, since I started here as being on the City Council and then the state legislature, I think it is important to kind a create a little framework.

I clearly understand, and absolutely, Mr. Rohrabacher, and now the Chairman, but what I want to reiterate out of the testimony of our witnesses is something unique that is happening here. A lot of ports are talking about, because of the impact of the traffic, they want to do something at night.

Well, thank goodness, we have two ports that have stepped forward, who have actually done that, and they have implemented PierPASS. We have also had a lot of ports talk about the negative impacts, and fortunately, we have had two ports who have come forward, more than any other ports in this Nation, and have established this Green Port Program.

We also have a lot of ports who talked about all different things that we need to do, but this is really a miracle. We should realize that it is happening where you have the two largest ports in the Nation, who are actually sitting next to each other, talking to each other, have worked with each other for two or three years, and have developed a plan to do so.

So I think it is also important to—and I wanted to highlight that, because I was here when all that was happening—that what I heard in your testimony was not a resistance to working on a regional plan, or a resistance of understanding there might be a national plan.

It was just that we have gotten to the point, in this particular community, where we can't wait any longer, where the aging infrastructure, the diaper that is hanging over the Gerald Desmond Bridge, the highest rate of asthma and cancer in the country is right here—we had to move now. And that is what I heard of the testimony.

And now what this Committee is saying, which is why we wanted to make sure to have this hearing here, is that unfortunately what you are hearing my colleagues talk about is that Representative Calvert's bill has brought to the attention, with this Committee, that we have a role as well, and that is what our responsibility is going to be.

Now that we have heard all this, we hear what you are doing, and your plans, but we also have to acknowledge that we now have to step up. We have to make sure that if the regional stakeholders are not working with you, and it is not getting done, what you are hearing all these people here saying is, well, then we have got to make sure that that happens.

And so I just wanted to provide that, just as a background of your comments.

Now Mr. Steinke, you mentioned about the elasticity of a potential fee, and I thought I remember reading somewhere, that that could be anywhere between 100 and $150. Is that correct?

Mr. STEINKE. I think that is in the range of where we thought the diversion might start to occur, once we hit that amount, around 150, $160, something like that.

Ms. RICHARDSON. Okay. And also, there was discussion here about you are hearing us talk about interstate, which is what we do on a national level. What you have done is intrastate.

What do you think about this discussion that we are having, that we applaud your efforts, but, you know, what is going to happen to the region as a whole? What are your thoughts?

Mr. STEINKE. Well, Congresswoman, I think, as you accurately portray it, I think we recognize the sense of urgency that this port complex had in needing to move forward with not only environmental initiatives, but also infrastructure initiatives.

The Gerald Desmond Bridge is a good case in point. That bridge was built in 1965. It does not handle the amount of cargo that goes across it as efficiently as it should, and it is about a $900 million project.

I think it would be presumptive for us to think that we were going to get $900 million from the Federal Government. So there needs to be other ways that we need to look at that through a public/private partnership, whether that is a local fee or whether that is 1B money, matching funds from the ports. But we recognize that, you know, if we just take a normal course of action, you know, we are going to have more serious deficiencies with that bridge than we currently have now.

And I think that what we—you know, from my position, and only speaking as the executive director of the Port of Long Beach, where I am not certainly opposed to a national fee, you know, in the time that that dialogue takes place, I think we need to take some actions, initially, to see where we can come up with the matching fees we need for some of these very serious infrastructure projects that have national significance, not just local significance, not just significance for California, but 10 percent of the Nation's cargo goes across that bridge.

Ms. RICHARDSON. Okay. I have about 20 seconds, so let me wrap up with this, and Ms. Knatz, if you would like to comment on this point.

Both of you talked about, ultimately, this price coming down to the consumer, and I work with my colleagues here, so I saw the hair raise and, you know, the collars raise.

I understand that it is easier to do it in this way and it makes sense from your perspective. But what would you say to that consumer who—really, is it the consumer's responsibility to pay another 50 cents? Or what about the shippers and everybody else who are making money on these products?

What is their responsibility to pay their fair share instead of adding it on to the consumer, and is that possible?

Ms. KNATZ. Well, I would say that every entity in this logistics chain has a role in this. I mean, in the whole Clean Air Action Plan, we have told the carriers, "You have to clean up the ships," and we have told the railroads, "You have to clean up the locomotives," and, you know, the trucks were something that we felt, because the industry was so diffuse, that the ports had to take that on themselves. There was a lot of discussion about charging the drayage companies, and a lot of the companies that we have now don't have any assets. They couldn't afford it.

So the only way to really do it, and really be the fairest, was really to spread it among a larger consumer base, and I think the consumers nationally, maybe they don't recognize the fact that this region bears a burden for the entire country in terms of experiencing the health impact as a result of, you know, 45 percent of the goods coming through this area.

So at least for that component, it was important to really spread it among a sort of wider base.

Ms. RICHARDSON. Thank you, Mr. Chairman, for the additional time, and again, I think this particular panel has brought forward the point that clearly we have made some local progress here, but as you are hearing from my colleagues, there is great concern as we extend it out.

Mr. CUMMINGS. Thank you very much. I just want to make it very clear. As I became more and more familiar with this issue, I think you all ought to be complimented for not just looking at a problem and saying, ah, you know, we will pass it on. But you tried to grapple with it and to address it, and I mean, this kind of cooperation I think has to be complimented, because we don't see enough of this.

[Applause.]

Mr. CUMMINGS. And so now the question is how do we move from here.

Mr. Filner.

Mr. FILNER. Thank you. I would agree with your last statement. You know, we, in San Diego, have long admired what you do here. And Dr. Knatz, you sort of said that you didn't think there would be much of a legal challenge.

I assume you were talking about the Infrastructure Cargo Fee.

Ms. KNATZ. Right.

Mr. FILNER. And were you distinguishing that from the Clean Trucks Program? I heard there was a legal challenge filed already.

Ms. KNATZ. Yes.

Mr. FILNER. And what do you make of this? I mean, do you feel very confident about surmounting a legal challenge?

Ms. KNATZ. Yes. I was differentiating, I was talking about the Infrastructure Cargo Fee and we felt very comfortable, there is just not going to be a legal challenge. There has been a legal challenge filed on the Clean Trucks Program against both ports, and yes, we feel very confident about our program.

Mr. FILNER. Just for a layman, what is the general basis of that complaint and why do you think you will overcome it? The counsel will say don't answer this but——

Ms. KNATZ. Yes, right, exactly, and I probably am not going to do it justice. I would say from our perspective, we really have our proprietary interest on as ports in terms of the businesses that we operate, which gives us the opportunity to deal with certain things and set some conditions, and we believe that we have the right to do that, and the Trucking Association believes different, based on various case law.

Mr. FILNER. Good luck.

Ms. KNATZ. Thank you.

Mr. FILNER. I hope you prevail.

You mentioned that you started with, you wanted to call it Infrastructure Cargo instead of a container fee because obviously there are other ways of bringing in cargo, but you haven't moved there. Give me some of those other ways of measuring, I mean, because of course we, in San Diego, don't have many containers coming in.

Ms. KNATZ. Right.

Mr. FILNER. By the way, if anybody says they are going to leave your port and come somewhere else, we can't take them anyway. I wish we could. Anyway, what other ways did you measure that? Tonnage of bulk?

Ms. KNATZ. Yes.

Mr. FILNER. That kind of thing? Is that what you are talking about?

Ms. KNATZ. Yes, exactly. It would be a very modest amount because that cargo is low value and couldn't handle it. But it is the principal of the thing, that the trucks that may handle the bulk cargos use some of the same infrastructure that the container trucks do.

Mr. FILNER. Right. I was wondering about that, because some of us don't have the containers that you all have here.

You guys have differed in your approach, in your demands on the—I forget what you call them.

Ms. KNATZ. Concessionaires.

Mr. FILNER. Yes. IMC, or LMC?

Mr. STEINKE. Licensed Motor Carriers.

Mr. FILNER. Licensed Motor Carriers. I mean, is there a reason for that? I mean, why did you approach that differently?

Mr. STEINKE. Well, I think, Congressman, two philosophical positions by each respective board and elected official within each city. I think from the Port of Long Beach's standpoint, we wanted to keep things as close to the same as they are. These are landmark programs. They are pioneering programs. No other port complex has done that. We want to make sure that we try to ensure that cargo moves. But we need to make sure that we clean the air, and so we felt that the best way to accomplish continuing goods movement and cleaning the air as quickly as possible was to have the flexibility of either having a licensed motor carrier that has the employees, a licensed motor carrier that has independent owner-operators, or a licensed motor carrier who has a combination of both.

Mr. FILNER. And you took a different stance.

Ms. KNATZ. And I would say we took a longer-term view, you know, considering the fact that changing over this truck fleet is a $2 billion program. You know, we believe the program has to be sustainable, that five, seven years down the road, the trucks we buy today are no longer going to be the cleanest trucks out there.

So we did not believe that giving grants to individual truck drivers was a way to build a sustainable trucking industry. Five to seven years from now, we would like to see licensed motor carriers that have the ability to buy the next generation of new trucks, without coming to us and trying to find $2 billion.

Also using employees allows that truck to be used more than one shift. So that means less trucks to buy, less trucks on the road, less emissions. It creates some efficiencies in the system that we don't have today, where every driver has to own his own truck.

Mr. FILNER. Thank you. My time is up. Thank you, Mr. Chairman.

Mr. CUMMINGS. Ms. Napolitano.

Ms. NAPOLITANO. Thank you, Mr. Chairman.

And Dr. Knatz, in your statement you were talking about investment in rail improvements. Would you expound on that.

Ms. KNATZ. Yes. About as far as what we need to do in the near term, near area of the port, we need about $600 million in rail infrastructure, just surrounding the port area. That is not including new... dock rail facilities inside the terminals, and that is also not including the Alameda Corridor East, which, you know, a lot of that is actually highway work because it is overpasses.

So when I talked about rail projects, I am talking about that $600 million or so, that is near the ports, where an investment is needed.

Ms. NAPOLITANO. Thank you.

And Mr. Chairman, you were mentioning, in your statement, about the ports moving collaboratively, to work together to address the issue of the growth of the port, the economic impact, etcetera. But I would like to thank EPA, because they came to the ports years ago and said, "You will clean it up." Am I correct?

Ms. KNATZ. I would also say yes, and with AQMD too, also was a big driver.

Ms. NAPOLITANO. Correct. It wasn't totally "We see the light."

Ms. KNATZ. Oh, no, no, no.

Ms. NAPOLITANO. And I just want to make that for the general public, because we have been working on this issue for many, many years. And you heard from the mayor, saying that pollution from here goes through the inland empire and they get the brunt of what we send down.

So it is something that we need to be sure that we understand, that all your efforts are great, and we do applaud you, but we have some way to go in moving forth on this.

And I started back in the nineties, when I was in state assembly, trying to bring the ports together, to be able to have a view of the dredging, a view of the capacity, a view of the growth, and I was told I was crazy and that I, you know, ought to go somewhere and disappear. Along with Mr. Filner, it was like—just to make my point. And I can tell you, I have had some of my colleagues, and one of them, former Chair of Rules Committee, made a statement to me that I very much understand now, and that is that if we were to check every container that came in for the truth in statement, that every member of the United States, every person would have seven lawn chairs.

So we are not charging for what is being imported in this country based on its value, just, rather, based on container. I think that has to change, because we are-iPods, other equipment is exceedingly expensive, we are not taking the fair share of what is being brought into this country, at the expense of people in our areas that are bearing the brunt, whether it is on the rail or the highways.

And what I hear a lot is truck versus train. I don't hear you say anything that you are going to be working with the railroads, to try to get them to do the improvements for grade separations, or betterment on the grade crossings, and that is important. That is critical for some of us.

That is our district. You talk about some 30 grade—I have got 54 from East LA to Pomona. So, you know, when you say you are going to try to keep that here, locally, I beg your pardon. Regionally, is we get all your traffic in our area, and I have been one of the strongest vocal opponents, on the Railroad Committee, to make sure that the railroads understand that we are going to start holding them accountable.

Federal law limits of what they are capable of being forced to do. But I have got news. There are new sheriffs coming to town, and we need to understand how that is going to be looked at in the future, to being able to put the onus where it belongs, and getting that fair share back to the general public.

And you are the entities, and I agree with Mr. Rohrabacher. I think we need to start taking a very close look at how you are doing some of these things. We never hear from you. We only sit on those Committees that look at the funding that comes into this area.

Mr. CUMMINGS. Thank you very much.

Ms. Solis.

Did you all have a response? I am sorry.

Ms. KNATZ. Well, I just wanted to clarify one thing—the fee that will start collection in January 09 is for the local projects. That is about the $3 billion worth of improvements.

There was also a regional fee that we developed, the two ports, that in deference to Senator Lowenthal's legislation, we did not move forward with and which, you know, depending on what happens with that, we, you know, our Board made commitments to do that, and so that was always part of the plan, and that dealt with those projects of national significance that were not so much designated by us but by others in the region, like Alameda Corridor East and Colton Crossing, and things like that. So I just didn't want you to leave with the misunderstanding that maybe we were not looking at regional projects.

Ms. NAPOLITANO. And Mr. Chairman, may I point out that we talk about green trucks but we don't talk about green trains, and they have been developed, and I think maybe the ports ought to look at forcing the railroads to use green trains. Thank you.

Mr. CUMMINGS. Ms. Solis.

Ms. SOLIS. Thank you. A lot has been said but just a quick question for both of you.

Are both of you supportive of the Lowenthal legislation? The different ports?

Mr. STEINKE. Yes. Our Board has supported the Lowenthal legislation.

Ms. KNATZ. Yes. And that's true. Yes.

Ms. SOLIS. Okay. I can understand part of your argument about not taking on the bigger aspect of covering of the regional areas, because hopefully we will see Mr. Lowenthal's legislation go forward, which I support, but I do want to say that something that we have to keep in mind is that the cost of health care for individuals that are impacted by the business of the ports isn't just San Pedro's problem, or Long Beach or LA. It is all of us.

The taxpayers have to pay for much of those individuals that are in the industry, and some that are working as independent contractors, what have you, and people that live in the surrounding area, that can't afford health care coverage, and there tends to be a large disproportionate number of truckers, and individuals along the corridor of Long Beach and LA port, that live in very high poverty-stricken areas.

So I wonder what mitigation we also need to look at. Not all of us are going to agree on this, but I think it is a real cost for the American public, and I would just ask you to look at bigger regional issues, and who bears that cost.

I represent more of the inland area and the San Gabriel Valley, and East Los Angeles. We also have some major issues with the railroad industry, and I do agree with my colleague. We have to go clean. We have to force them. Just as you are forcing these fleets to go forward with cleaner diesel trucks, and what have you, or another type of fuel that is more productive, I would say stand up, and I think Members of Congress will stand with you to see that that happens.

I have also a concern with the terminal operators, the fact that somehow you are not actually going after them to pay what I think is a responsible amount of funding that should be made available for your operations, for your change to clean energy, and for upgrading the workers and their skills, and what training they are going to need.

And I want to know why, why, deliberately, that was done.

Mr. STEINKE. Well, I think with respect to the marine terminal operators, those operators, we have entered into a number of green leases. The green leases require that the marine terminal operators change out all of their yard equipment.

Ms. SOLIS. Can you give me an update on exactly who those are. Which ones haven't and which ones are. Because I personally took a tour and met with one of your main operators, and was very impressed by one lead operator, and having talked to him learned that the other operators in the area who are foreign-owned, are not paying their fair share here.

And I would ask what is going on to help push them in that direction, or force them to come forward?

Mr. STEINKE. Well, specifically to your question, Congresswoman, we have ITS International Transportation Service, which is a subsidiary of K-Line, a shipping line out of Japan, they have entered into a green lease. We have Matson, which is a U.S. line, that has entered into a green lease. Those all have specific provisions that require them to use low sulfur fuels, to plug into shoreside electric power, to change out all of their yard equipment, and use the best environmental practices as possible.

Ms. SOLIS. Well, which ones have not signed those agreements?

Mr. STEINKE. One of the things we have is leverage with a lease, and as those leases come due, that is one of our opportunities to impose green lease language in these leases.

Ms. SOLIS. And how many leases do you have left to get to that?

Mr. STEINKE. We have about four other container terminal leases that we will have to get to, in terms of moving forward and implementing green lease into those.

Ms. SOLIS. And I think that is a very important aspect for us to also focus in on, because there is a wealth of profits being made, also again looking at what comes into our ports, how that is handled, and the fact that everyone here, I believe the stakeholders have to be represented, and they may not be at the table right now but I think that we have to somehow kind of move that along.

That is what my interest is in this particular matter, health-related, worker safety and protection, and making sure that those that can afford to pay more, because they do reap some really great profits here, we know that, we don't want to harm that industry, but we know that there has to be more transparency, there has to be more accountability, and on the part of both cities, I do want to say I do commend you for moving forward on the truck program, and your effort to try to clean up those vessels that come in, that add also to the soot and contaminants in the air.

We need to work together, and I hope that that is something that you all will take home with you, because I think that is something that has been missing from this paradigm. This is the first time I have actually come to a hearing, to deliberately hear how the impact of the ports is going to affect positively or negatively in the future, and how these programs that you are rolling out are going to impact the residents and constituents that I represent.

So I applaud our leadership for having this, but this is one in a series of hearings that I think we will have to have throughout the Southern California Basin, that is affected by these great ports and by the railroad industry.

Mr. CUMMINGS. I can tell you something else, Ms. Solis. That this issue is so significant. I mean, I don't know if people really realize how big this is, and I can see my people back in Baltimore asking, you know, why aren't we doing this, or trying to do it.

I am sure we will, I know this Committee will have other hearings, and I am sure you will have them in your region.

I want to thank you both for being with us, and I just want to ask you one last question.

If the lawsuit should be successful in striking down the concession programs, what impact would that have on the Clean Trucks Program?

Mr. STEINKE. Mr. Chairman, speaking for the Port of Long Beach, we still intend to move forward with the progressive ban, starting October 1, where 1988 and older vehicles will be banned from accessing port terminals, and we still intend to collect the $35 per TEU fee.

As I understand the lawsuit, they are not asking for an injunction on either one of those two elements of the Clean Trucks Program.

Mr. CUMMINGS. I just wanted to get Ms. Knatz and then I will go to you, Mr. Rohrabacher.

Ms. KNATZ. Right. The same.

Mr. CUMMINGS. Thank you.

Mr. Rohrabacher.

Mr. ROHRABACHER. Let me get this right. If a older truck is cleaner and meets an emission standard, might be cleaner than, for example, if it is using a new type of fuel or has a different type of upgrade on its engine, that older truck, even though it is cleaner, will not be permitted in the ports?

Mr. STEINKE. Congressman, as I understand it, and I don't know if we have any technical people here, you can't clean up an older truck to even meet the 2007 standards, through retrofit devices or cleaner fuels or anything else. The way——

Mr. ROHRABACHER. That is not the question. The question is somebody does meet an emissions standard that is as clean as a new truck, they will not be permitted. An older truck that has a cleaner engine than a current engine will not be permitted to move forward and participate?

Mr. STEINKE. The way the program is designed, 1988 and older trucks will not be able to access terminals after October 1.

Mr. ROHRABACHER. Mr. Chairman, I just have to say that, to me, is almost nonsensical, considering how many technologies—I am on the Science Committee. People come to me with fuel additives every day. People come to me with different devices and different ways of upgrading the efficiencies of engines. It seems like to me, that somebody wants to make a lot of money selling new trucks, and there are some other powerful forces at play at this, if you don't just go with a standard that has to be met, and everybody has to meet the standard. So thank you very much, Mr. Chairman.

Mr. CUMMINGS. Thank you. Thank you very much. And again, I want to thank both of you for your testimony. Thank you very much..

We now call our final and our third panel. Mr. Charles Mack is the director of the Port Division of the International Brotherhood of Teamsters, and let me add, that we have in the audience UA 250, the Teamsters AFSCME District Council 36, and the International Longshoremen and Warehouse Union. We want to thank all of you for being with us.

We also have on our panel Mr. David Petitt, who is a senior attorney with the Natural Resources Defense Council and Ms. Elizabeth Warren, who is the executive director of FuturePorts.

Ms. RICHARDSON. Mr. Chairman.

Mr. CUMMINGS. Ms. Richardson.

Ms. RICHARDSON. Mr. Chairman, first of all, I just want to let you know that outside, we actually have another room where folks are watching this on television. We had a standing room only, which is pretty exciting, and I just wanted to again make sure the public is aware, although we will not be able to take your questions as we are hearing testimony, please feel free to complete one of these forms, leave them outside if you are leaving a little bit earlier, and we will make sure that they are submitted to the Committee for appropriate review.

Thank you, Mr. Chairman.

Mr. CUMMINGS. Thank you. Thank you very much.

Mr. Charles Mack.

CHARLES MACK, DIRECTOR, PORT DIVISION, INTERNATIONAL BROTHERHOOD OF TEAMSTERS; DAVID PETTIT, SENIOR ATTORNEY, NATURAL RESOURCES DEFENSE COUNCIL; AND ELIZABETH WARREN, EXECUTIVE DIRECTOR, FUTUREPORTS

Mr. MACK. Thank you, Mr. Chairman, and Members of the Subcommittee, and Members. I welcome the opportunity to offer testimony on port development and the environment at the Ports of Los Angeles and Long Beach.

My name is Chuck Mack. I am a Teamster vice president and also the head of the Port Division for the union.

The Teamsters represent hundreds of thousands of transportation workers across the country. They depend upon the movement of freight through our maritime ports for their livelihood. Without a robust and vibrant port economy, our members who drive trucks, our members who work in rail, our members who work in the warehouse would be out of work.

But in recent years, we have become acutely aware that the health of our members, their families, and the communities they live in are at risk because of the deadly diesel pollution spewing from dirty trucks, ships, cranes, and other equipment.

Unless port operations, and particularly port trucking, and our whole global supply chain is made environmentally sustainable, our global economy will be at risk and transportation workers, especially port truck drivers, will suffer.

What we have today is a system where the oldest trucks on the road end up at the ports. In fact the average port truck is nearly 15 years old, poorly maintained, and produces at least 10 times the diesel pollution as a new, properly-maintained 2007 diesel trucks.

And the 2000 port trucks that were made before 1989 produce at least 60 times the pollution of a new truck. Just 10 percent of the port trucking fleet puts the equivalent of 120,000 new diesel trucks, spews pollution, on the road.

No wonder data from the California Air Resources Board shows that pollution from port trucks kills two people each and every week. Failure to clean up the port trucks will cost the region nearly $6 billion in premature deaths, hospital admissions, respiratory illnesses, and lost school and work days over the next 10 years.

Here is why. Port truck drivers are currently required to own their own truck in order to get hired to work in the industry by a trucking company. But the so-called trucking companies at the port currently shirk and skirt their responsibilities as legitimate employers and cheat the state out of millions of dollars in payroll taxes by hiring these owner-operators as independent contractors.

Let's be clear. Port drivers are not small business owners. They are severely underpaid workers who must sign leases that usually force them to haul for only one company, with no ability to negotiate contracts, a fact that has led the attorney general to launch an industrywide investigation.

Last week, California's attorney general filed complaints against two companies for illegally classifying their drivers as independent contractors, and denying them worker's compensation, unemployment insurance, and coverage of wage and hour, and health and safety laws that protect employees in the State of California and the country.

This misclassification pins them with all the responsibility to buy and maintain the trucks. They receive no health care, no Social Security. They are paid only by the load not the trip. The traffic and the time is on them. They bring home, on average, only $29,000 a year.

And it is far lower when the diesel price climbs over $5 a gallon as it is today.

In fact many drivers can't survive on what they make at the port today. Over the weekend, Mario Aguilar, a long time so-called independent owner-operator, here at the San Pedro ports, brought us a copy of his last pay stub. I have it here to show you. His take-home pay was 1.76. That is not $176. That is one dollar and 76 cents out of a gross check of $656.59.

His take-home pay was eaten up because 70 percent of the check went to fuel, insurance ate up the rest, and it is a good thing that he has got his truck paid off, because if he had truck payments, he would literally be paying to work instead of being paid to work.

It shouldn't come as a surprise that labor unrest is pervasive factor in the port economy throughout North America and particularly here, in Southern California. In the nearly three decades since deregulation, drivers in U.S. ports have struck, staged convoys, and shut down the ports to protest their conditions related to the legal fiction that they are independent businesses and not workers.

This frequent unrest adds additional cost to business, workers in the community costing port stakeholders millions of dollars. Los Angeles and Long Beach were the site of two major strikes that lasted several months in 1988 and 1995. It involved thousands of misclassified drivers, who halted all economic activity.

With diesel costs soaring, more recently hundreds of drivers parked their trucks in protest in Oakland. There have also been several wildcat strikes involving hundreds of drivers over the past few months, here, in the San Pedro ports.

The Los Angeles Clean Trucks Program is the only comprehensive, sustainable program, that economists, environmentalists agree, will clean the air in the long term and better equip the industry for today's rapidly-changing global economy.

Fundamentally, what the Port of LA is trying to achieve with their Clean Trucks Program is to minimize the mount of equipment and hardware by maximizing the use of labor. Only a company-based system, that enables the port to hold trucking companies accountable for their operations, is capable of achieving this fundamental objective.

If companies are responsible for the cost of owning and maintaining the trucks operating under their authority, they have economic incentives to maximize the hours that each truck is in service.

An owner-operator system prevents these efficiencies from occurring because the owner of a truck is limited in the number of hours he or she can work.

An owner-operator system makes drivers akin to sharecroppers on wheels. Minimizing the number of trucks serving the port by maximizing their hours of service will reduce the number of trucks, reduce congestion, and wait times, and increase operational efficiencies through more load matching.

Finally, the ports need a program so they can achieve a greater level of security at the port. The transportation worker identification credential has taken years to get off the ground, and it is unclear when it will be actually operational. In the meantime, the ports need to be able to identify who the drivers are in case there is a problem.

The Clean Trucks Program will enable them to register drivers and require companies to be held responsible for their workforce.

While the San Pedro ports are the first ports in the United States to address port truck pollution, they are not the first in North America to enact a licensed program to stabilize the industry. In 1999, the Vancouver Port Authority, Vancouver, Canada, enacted a truck licensing program that restricts access to trucking companies that have obtained a license from the port—to only trucking companies that have obtained a license from the port.

The Vancouver Port Authority credits its current workforce stability to a mandatory licensing system for trucking companies doing business at the ports that hire employees. The truck industry in Canada has accepted this business model without litigation. Further, the port is now phasing in truck standards to clean up the fleet.

In the face of the unreasonable efforts by the American Trucking Association to block the enactment of the Ports Clean Trucks Program, the Teamsters Union urges the Committee to provide whatever support it can to ensure the successful implementation of the Los Angeles Clean Trucks Program for the health of our communities, the workers at the ports, and for the future health of our economy.

Thank you, Mr. Chairman, and I have this pay stub in case you would care to see it.

Mr. CUMMINGS. I would love to see that. Please.

Mr. Pettit.

Mr. PETITT. Thank you. Good afternoon, Mr. Chairman, and Members of the Subcommittee. Thank you for the chance to share my views on port development and the environment in Southern California.

My name is David Pettit. I am a senior attorney for the Natural Resources Defense Council and I am director of NRDC's Southern California Air Program.

I have to say as a lawyer, when I face a panel of seven, they are usually wearing robes, and I seldom have a chance to get a sentence out.

Mr. CUMMINGS. Is your mike on?

Mr. PETITT. It is on. I seldom get a chance to get a sentence out before I get questions.

So what I would like to do is respond to some of the questions and remarks that I have heard from the panel this morning.

Starting with Congresswoman Solis, you asked about the EJ communities, and what is the effect on those communities of what is happening in the ports.

I have a graphic here that I would like to show you.

Courtesy of Google Earth, we have a graphic that shows all of the so-called sensitive receptors within 5 miles of a huge proposed project that the Port of Los Angeles calls the China Shipping

Project. And you can see that they are color-coded, so we tried to show all of the schools and medical facilities, nursing homes and the like, and as you can see there are a lot of them. As you know, these communities that are near our ports are largely working class communities of color. These are NRDC's clients. These are our clients who we attempt to represent.

In the law suit that the American Trucking Association has filed, we have moved to intervene with a couple of our environmental partners, in order to defend and represent the health interests of these people as well as try to defend both ports clean trucking plants.

Ms. RICHARDSON. Mr. Chairman, I would like to ask that this be made a part of the record.

Mr. CUMMINGS. So ordered.

Mr. PETITT. Thank you. And in the written testimony I have submitted, there is a small version of the same chart.

Congressman Rohrabacher, you asked a very good question. But why is it that an older truck that can meet these new standards, why do we kick that truck out? And there is a legalistic answer to that, and that is, under the Clean Air Act, when local jurisdictions start setting emission limits they get in trouble.

NRDC recently lost a law suit that I participated in, having to do with the ability of the State of California to do just that, to set emission standards. That is how the court viewed it, anyhow, for marine fuel in auxiliary engines, and the 9th Circuit said no, you can't do that because it is preempted by the Clean Air Act. You have to go ask EPA first and maybe they will let you and maybe they won't.

So for the ports here to say, well, any truck that meets this limit can come in, in my view, that is subject to litigation. As I said, our recent experience on that is not good.

If you just say okay, a truck that is earlier than X year, that legally is a use restriction, not an emissions limit, it may seem like a crazy distinction but it is one that works. So the ports are on firm legal ground doing that and would be on shaky ground, at least in my view, if they said okay, if you meet a certain emissions limit, then you are okay. I should say, having said that, though, when the first part of the clean trucks ban goes into effect this October, 50 percent of all the truck-related diesel pollution will go away overnight. Overnight.

So the people who live in the communities that you saw on that big charge, they will breathe better overnight, when that first ban goes into effect, and that is because the oldest trucks have a much higher percentage of the total truck pollution than you would think if you just did some sort of linear analysis.

You get a similar result with the clean marine fuel programs that Dr. Knatz and Mr. Steinke were talking about. It is voluntary now but when the big ships, when they tie up at dock, mostly they run their auxiliary engines 24/7.

So it takes like three days to load or unload a ship. You are talking about the pollution equivalent of a million cars, a million cars, and when you go to the cleaner sulfur fuel, 80 percent of that goes away overnight, and that is a result that, again, the people in those communities near the ports are going to see literally overnight, when those improvements go into effect.

With respect to the clean trucks plan—oh, the other point I wanted to make, Congress Rohrabacher, is in terms of technology. It is NRDC's view that we try to sponsor a result, not a technology. I don't care what it takes to get clean air in this area. If I could stand on my head and that would clean up the air, that will be fine with me. If it is maglev, if it is, you know, electric guideways, if it is electric trucks, it doesn't matter to me, it doesn't matter to us what it is as long as this problem gets fixed.

The Port of LA has recently rolled out an electric drayage truck which has a lot of promise, and I am hoping that we are going to see at least some of those on the road, literally, within the next year or so.

Chairman Cummings, you had remarks about a regional approach. I completely agree with that. The pollution doesn't respect city or county boundaries. It goes wherever it goes. Much of it starts here at our ports, it flows into the inland empire. If you look at the studies that our local air board has done, AQMD, they have maps that shows where the pollution is worse, where the cancer risk is worse in our area.

There is a huge cluster right at the ports, and then it goes right up the goods movement routes. If you look at the 710, which I drove on getting here, and some of you may have driven on, that is the worst of any of the throughways that the trucks or trains go on, in terms of the cancer risk for the people who live near it.

And that kind of risk is exactly what the Clean Trucks Program is designed to fix. And let me just conclude by saying that in my view, you can't fix that, the Clean Trucks Program, without the container fee, and the reason for that is the new trucks are really expensive. They are about 150- to $175,000 each for a 2007 EPA-compliant truck, and as Mr. Mack has said, given the economics of the poor truckers right now, they can't afford that.

If you have a gentleman who is making $30,000 a year, on average, and that is before the recent spike in diesel fuel, that person doesn't have $150,000 for a new truck. That person is not going to be able to get financing from the bank to go out and buy one of those new trucks.

And so if we talk about a national standard for having new trucks, we need to say, okay, nationally, no one's driving pre-1989 anymore, that is great, except then I think we have to confront squarely the issue of how are we going to pay for the new trucks to replace the lost cargo volume from those old trucks?

And the Port of LA and the Port of Long Beach have come up with a way to do that, with container fees, and NRDC fully supports that. Thank you very much.

Mr. CUMMINGS. Thank you very much.

Ms. Warren.

Ms. WARREN. Good afternoon, Mr. Chairman and Members of the Subcommittee. My name is Elizabeth Warren and I am the executive director of FuturePorts.

Thank you for the opportunity to address the Subcommittee this afternoon.

We have nearly 60 member communities and partnering organizations, and we have at least two things in common. One is a vested interest in the economic performance of our ports of LA and Long Beach. The other is that we all believe in the need for clean air. We all live here and we are all part of the community.

We believe that by growing our ports, we can advance economic performance while concurrently improving our environment by cleaning the air. This will not be easy nor inexpensive.

How we achieve this and how we pay for it in an equitable and economically-sustainable manner is where the discussion and the dialogue needs to occur.

We fervently believe that doing nothing is not an option, and to clean our ports, we must simultaneously and continuously grow, while growing green.

Recently, the ports released their 2006 emissions inventories, and although there were increases in emissions over the 2005 levels, emissions on the per TEU basis were down. The benefits of many of the adopted programs, which were not in existence in 2006, are now being realized. Increased use of rail, which is two to three times more efficient than trucks has been a significant factor in this reduction.

I have attached in my written testimony a factsheet from the California Resources Board summarizing many initiatives. Some of those are voluntary. There are also voluntary and incentive-based programs like the PierPASS Offpeak Program and the voluntary replacement of cargo handling equipment with newer cleaner equipment, installation of retrofit devices, and use of cleaner fuels.

Other voluntary action includes vessel speed reduction programs and use of shore power.

The success of these voluntary programs to cut pollution is highly encouraging. When the ports and business work together on air pollution problems from specific sources, we see dramatic results.

With respect to the trucks, we have urged the ports and elected officials to focus on implementing a truck plan that has considered the legal implications of the port actions to mandate certain restrictions on the trucking industry. Business cannot function with the level of uncertainty that is currently occurring.

We believe our first priority is to implement a sustainable air quality improvement program, with the highest emphasis on improvements that can be implemented in a timely manner, such as the truck replacement program.

Regarding container fees, we are aware of the many fees that are currently in place and being proposed at the local, state and federal level. We have many concerns about how these fees are being proposed and implemented, the potential unintended consequences of these fees. I don't mean to say that industry opposes fees.

Some fees, like the PierPASS in Alameda Corridor provide benefits. But user fees should be differentiated from the legislated fees. If fees are levied, they should be applied to specific projects that are identified, the account must be protected for use for the specific project for which it was intended, and there should be a sunset on the fee once the project is complete.

Industry needs to see a return on that fees investment. Projects should be prioritized as those that will increase efficiencies while reducing emissions, therefore creating a win-win situation for the ports, the businesses, and the community.

We are also concerned that not enough analysis has been given to the overall number of fees, and total amount being levied against shippers. A summary of the various adopted and proposed fees is attached.

There is a threshold that will drive business away, creating unintended consequences of inefficiencies, emission increases, loss of jobs, and economic harm.

We used to think that cargo volume at our ports could never be diverted in the numbers that it is today.

Today, we have significant declines and our concern is that once the cargo is gone, it will never return. It is just like the water that it travels on. It will seek and find the path of least resistance.

Billions of dollars of investment in new green terminals have gone to Houston, Jacksonville, Canada, Savannah, and all of this is because of the uncertainty facing Southern California. Those billions of dollars could have been invested here, creating state-of-the-art terminals that operate more efficiently, provide thousands of good jobs, and pump up the regional and local economy.

We are no longer any shipper's first or only choice. We are one of many choices, and more often now we are coming into the last choice because of uncertainty and costs.

We believe that quality of life begins with a job. Community leader, Father Boyle, from HomeBoy Industries, needs to be quoted. "Nothing stops a bullet like a job." We have many construction projects waiting to be approved that would provide the boost to the economy that we need, and will also clean the air. Projects that achieve environmental benefits, increase port capacity and generate jobs must proceed as quickly as possible, and not be overburdened by uncertainty and expense.

So thank you for the opportunity to address the Subcommittee today. We look forward to continuing our dialogue with you and look forward to any questions.

Mr. CUMMINGS. I want to thank you all for your testimony. I was very moved by some of the things that were said about the health of people. I think so often what happens is that we are so busy trying to make business run and do well, that the health of people is sort of put to the side. I have seen a lot of that in my city. As a young boy I worked at Bethlehem Steel in the summers, and a lot of the people I worked with, older men, inhaled all kinds of fumes and died early, and went through a lot of pain.

And I think that, you know, as I listened to you, Mr. Mack and Mr. Pettit, I was just thinking that we do have to balance the concerns that you rightfully bring up, Ms. Warren, with the health and safety, and it is good to hear our union folks talking about that, because I think it is so very, very important. I often say we have one life to live, this is no dress rehearsal, and this is the life, and there are too many people whose lives are ending poorly.

So I am going to go straight to Ms. Richardson and then we will go to Mr. Rohrabacher.

Ms. RICHARDSON. Thank you, Mr. Chairman.

Interestingly, a report that was made to the Los Angeles Board of Harbor Commissioners on March 6, 2008, the Boston Consulting group suggested that if, as happens, the Port of Los Angeles and Long Beach adopt different clean truck programs, there is a risk that a volume of containers and supply of truckers could divert from Los Angeles to Long Beach.

Ms. Warner, could you share your thoughts, if you think that that in fact would happen. The question is do you think that the traffic would divert completely to Los Angeles instead of Long Beach, given the difference of the two programs?

Ms. WARREN. We haven't fully reviewed all of the implications of the truck plans as far as the diversion from one port to another, although I think that it would be fair to say that if a trucking company can only operate in one port or the other, there would be increased levels of complications for them to do their work. They would not be able to work in both ports, if there are two different plans, unless they are, I guess, the concession. So that is not really an area that our board of directors has really focused on.

We are really more concerned with getting a plan that's legally defensible, that can move forward, and not cause those diversions, not only to other port but other parts of the country, by causing uncertainty.

Ms. RICHARDSON. If I understand your testimony correctly, you said that the primary concern is the uncertainty in cost, and if in fact there was a program that had specific projects, that the funding was protected, that there was a sunset clause in it and that the projects would be prioritized, that there would be support in the industry for such a program. Did I summarize your thoughts correctly?

Ms. WARREN. Yes. They would like to have input on that, they would like to be brought to the table, but those are all areas that they had big concerns with when it comes to the different fees.

Ms. RICHARDSON. And Ms. Warren, could you, for the record, state, is your membership of your organization more on the retail side, the shipping side? Would you describe your membership.

Ms. WARREN. We have a very unique and diverse membership. We really represent the entire supply chain, so we don't have more than one group of another. We have transportation providers. We have marine terminal operators. We have labor. We have consultants, construction companies. Really, any company, any type of business that operates or depends on the ports for their business, is a candidate for membership in FuturePorts, if they have a concern at the ports.

Ms. RICHARDSON. So then some of the discussion that was had before your testimony, there was much discussion about whether the consumer should pay for this, the shippers, the cargo owner, etcetera. What are your thoughts, since you have members that are in all those areas? What would you anticipate the reaction would be, if it was more spread across the board, particularly in a national scenario?

Ms. WARREN. We have, as I mentioned, we have a very broad, diverse—and it is a very complicated issue, because what benefits one may not be as beneficial to another.

So I think that because of the complexity of that issue, we are not going to be able to solve that in five minutes today, but I think that there would be a way for all of those members to come together and work on that issue, and to be able to solve some of these concerns.

We have done it, we have proof that we have done it on other issues, so we have confidence that if we come to the table, we have a chance to discuss this, we can solve some of those issues.

Ms. RICHARDSON. Well, I look forward to those conversations.

Mr. Pettit, much of the discussion has focused on the shortfall of the Federal Highway Tax Fund and the need to supplement the federal gas tax. However, no doubt, clearly, the air quality is a driving force in this whole discussion.

How many large ports, would you say nationwide, would you estimate, and what percentage have this type of serious air quality situation that would require a more nationwide consideration?

Mr. PETITT. Well, Congresswoman Richardson, all of the major ports have pollution problems similar to ours, here, in Los Angeles, where you have diesel equipment, where you have diesel-powered ships and trucks you are going to have the same emission issues. Here, in LA, as you probably know, we have the dirtiest air in the country.

So what is exacerbated here with the total that people are breathing is worse than anywhere else in the country. I can't say—I mean, I have been to Baltimore, the weather was beautiful when I was there. I don't know, you know, what the air quality is like, in general. But here, we have just an awful problem, and we have the worst problem in the United States.

But you shouldn't think that the problem of the actual emissions from the trucks and trains—from the trucks and ships is different than any other port, because it is not.

Ms. RICHARDSON. And Mr. Chairman, could I just do one last question, and Mr. Mack, if you could be very brief.

In your opinion, do you feel that a port truck driver could in fact afford to replace their truck in the scenario of the Long Beach program?

Mr. MACK. I don't think so. I think it would be very, very difficult to do that, given the current economic circumstances, and just having to come up with 20-, 30-, 40-, 50-, $75,000, whatever it would be, I think is going to be very, very tough to do. And if it is laid on the drivers, we are going to run into the same problems that we have today. As Ms. Knatz said, Dr. Knatz said, a few years down the road, of having to replace the equipment again, where drivers don't have the economic wherewithal, where they don't have the capital, one of two things has to happen.

They have got to find a way to get it, or taxpayers again are going to be called upon to basically subsidize the industry.

Ms. RICHARDSON. Mr. Chairman, I would like to revisit that answer compared to, I remember reading something about a lease program and the whole thing with the vehicle. So we will revisit that and I will make sure it gets back into the record. Thank you, sir. Thank you, Mr. Chairman.

Mr. CUMMINGS. Thank you very much.

Mr. Rohrabacher.

Mr. ROHRABACHER. Thank you very much, Mr. Chairman. Thank you for coming here today and holding this hearing, and again, thanks to Laura for being the prime, I would say inspiration, and

I think this has been a great discussion. I think this is just the type of public discussion that we have needed on this issue.

We have raised a lot of issues that I think will continue to be discussed because of this hearing. So thank you very much. Let me go on record, first, before I get to my questions, as saying that I do not, in any way, begrudge the Teamsters Union or Longshoremen Union, or any other union for trying to get their hands on more money for their members.

There is a lot of money being made in this business of transporting goods from overseas, letting these manufacturers close their plants in the United States, manufacture overseas. There is a lot of money being made in that whole scenario, bringing it into our market, and a lot of the money being made is made on the shipping side of that, and if Teamsters can make more money, if, individually, Americans, Teamsters, or Longshoremen, I don't begrudge them that.

With that said, it is not the purpose of regulation by our Government to basically deliver goods in any other way except to make it the most efficient, to have regulations so that we have the most efficient delivery of goods, goods that are safely delivered, goods that are basically consistent with the public health. That is what our concern is.

Now how you organize it over there, and quite frankly, one of our witnesses stated that the purpose, that they are going to be building, I think it was Ms. Knatz, a more efficient trucking industry.

Well, our goal here is not to increase membership in the Teamsters union and it is not even here to build a better trucking industry. The fact is taking goods from our ports, by truck, to the inland empire, where they are picked up by rail, is ancient history. It is outdated. It is not good for the public health, and it is not cost-effective in terms of use of scarce resources like oil and gas.

This is something that we have to try to change, and evolve out of that dependency. That is yesterday. We need to build a better tomorrow, not based on what is good for the Teamsters, not what is good for the trucking industry, but what is good for the people of the United States at large, and especially here, in Southern California. That is what we are trying to do.

In terms of our actual, the first step here, we heard about today this Clean Trucks Program, I would submit to you that this idea that—well, the EPA, there is just some regulation there that gets in the way of this, thus just setting a very strict emission standard, and enforcing that standard is not the answer, we have to come and give the specific solutions that happen to benefit people like the Teamsters Union.

The fact is that that didn't just happen. I mean, this is part of the whole ball of wax of how these decisions are made, and, in the end, we didn't have a strict emissions standard, and certain people benefited, people who sell trucks and the Teamsters Union, and people who want to keep us dependent on trucks rather than trying to create a new system of transportation for containers, that will be clean and efficient, and eliminate these problems that we have been talking about today.

Now, again, I am not begrudging the Teamsters Union for that at all. I think that union people should get not only their cut of the pie, but as we move forward, there are a lot of other people getting a lot of profits. Let's make sure our working people get those profits as well.

But not in maintaining a system that is out of date, and so out of date it is hurting the health of our people.

By the way, I would just say this. That, as I say, shipping by truck is bad for the economy, it is wasteful for energy. Shipping by truck, as we have heard today, is bad or the public health, and shipping by truck causes congestion which exacerbates all the other problems.

Mr. Pettit, this would be a example of the ships that you are lauding, that we set these standards for those ships, but we would say, no, you have to have a new ship. That is this new truck program, or Clean Trucks Program. It is not a Clean Trucks Program. This is a new truck program, just like it wouldn't be a clean ship into the port program. It would be a new ship program, if that is what we demanded, and I do not accept the explanation, that there is some unsolvable EPA malaise up there, bureaucratic malaise. That was never even challenged from what I know.

Now Mr. Pettit, were there challenges to those impediments made before we decided to go with this very expensive program for new trucks?

Mr. PETITT. Well, I can say we lost—NRDC participated in losing a law suit on——

Mr. ROHRABACHER. No; no. By this industry. When we moved forward, did the ports attempt to go to the EPA and challenge those EPA regulations and challenge them in court if necessary?

Mr. PETITT. No.

Mr. ROHRABACHER. No.

Mr. PETITT. I think they did not.

Mr. ROHRABACHER. That is the answer. Thank you.

And I only have a couple seconds, in fact I am out of time now. I would like to again thank you, Mr. Chairman, and thank you to all those who participated today.

We have the technological capability to solve this problem. If we aren't hampered by very powerful interest groups, both union and management interest groups, we can make a better tomorrow for Southern California. But we have got to make sure we are honest with ourselves, and we use the new technology and set high standards to protect our people, and let the technology and the innovators solve it.

Thank you very much, Mr. Chairman.

Mr. CUMMINGS. Thank you very much.

Ms. Napolitano.

Ms. NAPOLITANO. Thank you, Mr. Chair, and I certainly also add my thanks to you for taking on this issue to the local area.

Mr. Pettit, back in the last Olympics that were held in Southern California, trucking went to nighttime delivery. Remember that?

Mr. PETITT. Yes. I do.

Ms. NAPOLITANO. And a lot of pollution was cleared up. Actually, it was meant to clear transportation for tourism. And since I have been in Southern California back in the late fifties, there has been a great change in the pollution of California, and that is why we have additional taxes on our fuel. And that has helped.

Yet we continue, because of our growth, or because we have been lax in certain areas, continue to have more and more pollution. Is it enforcement? Is it political will?

One of my cities, not too long ago, was named the most polluted city in California. It had a lot of trucking companies there, and we started a program—not started, but we were able to get a program to be able to replace the engines.

What is it that can happen, that we need to—is it informing the general public? Putting pressure on state, federal agencies? Getting some of these persons who are a part of the problem, to start helping clear the problem, in other words, to be able to have the health care costs become a part of the burden of doing business, a part of cost of doing business. Would you answer.

Mr. PETITT. Yes. Thank you. I think the root of the problem that you are referring to is in growth, both population growth and in trade growth. Vehicle miles traveled or VMT, as it is often called, has been rising at a faster rate than the rise in population all throughout the country. That means there are more of us and we are driving even more than we used to.

I think a simple answer to that, I mean simple technologically, but it has been difficult to get through Congress, is to raise the CAFE standards even more than they were recently raised, and to find ways, perhaps in the new transportation bill, to incentivize people to get out of their cars and to use public transit.

And in terms of the growth in cargo, I mean we all—it has just exploded, here, on the West Coast in the last 10 years, and, you know, probably all of us are wearing, right now, something that was made in China, maybe with cotton that's raised in Texas, that is shipped over there, and then manufactured and shipped back here, cheaper than it could be manufactured and sent, you know, just down the street.

And just the volume of that, and the fact that it is transported every step of the way by outdated diesel technology, that is what, in connection, even more so I think than the increase in passenger travel, is making cities in Southern California the most polluted in the country.

And I agree with Congressman Rohrabacher, that we need technological solutions to that, and there are a lot of things that both exist right now and are on the drawing board, that can help fix that, and I just think we need the political and moral will to do it, and I am hoping that you folks can help with that.

Ms. NAPOLITANO. Well, also, if you will remember, it was found that truck driving at nighttime reduced a lot of the pollution simply because of the effect of the carcinogens, the sun hitting them and converting them quicker than at nighttime. They weren't as heavy.

Mr. PETITT. Reduced the ozone, that is right, because ozone needs sunlight in order to form.

Ms. NAPOLITANO. Correct.

Ms. Warren, in your organization, is the taxpayer, consumer represented?

Ms. WARREN. The taxpayer and consumer would be represented by us as members of the community, and members of—I mean, I am a taxpayer and I am a consumer.

Ms. NAPOLITANO. No. I am talking about rank and file, individuals who have—it is Joe Blow from the city has no position anywhere, other than he has concerns about his family or his community.

Ms. WARREN. He would be more than welcome to contact me——

Ms. NAPOLITANO. The answer is no, you do not have any.

Ms. WARREN. We are a membership-based organization, so there are membership dues. We do have a level for individuals to join. We are a relatively new organization, so no one has joined at that level yet, but we would hope that someone would be interested in doing that.

Ms. NAPOLITANO. But do you advertise it as such?

Ms. WARREN. We are—it is posted on our Web site, that there is an individual membership, on our membership dues on our Web site.

Ms. NAPOLITANO. Because if you are going to take it, the overall picture, you also have to list the taxpayer, and I'm not talking about those that pay taxes that are business people that belong to the organization. I am talking about those that are nowhere included, whether it is political, or business or labor, or anything other than a concerned citizen, in other words.

Ms. WARREN. We started off as an organization that was started by business people. They had concerns about their business, and the future of their business, and that is how we were started. Again, we are relatively new, we are just a couple of years old, so hopefully, as we grow, as our budget increases for advertising and for more outreach, we would hope to include that.

Ms. NAPOLITANO. But is that local businesses in California? Is that foreign companies?

Ms. WARREN. They are—I am sure that some of them operate overseas, but most of them are based here in California, or they do operate throughout the country.

Ms. NAPOLITANO. Okay. There are some claims that not one port-approved CEQA, environmental impact report was legal. Anybody have an answer to that. I mean, you know, things do get out of hand sometimes; but is there truth to that?

Mr. PETITT. Well, I think that is too broad a statement. I think my friend, Mr. Marquez, may have said that, and I don't totally agree with that, and, you know, at the end of the day, what is legal under CEQA is up to the judge. But we have—I mean, NRDC has challenged a number of projects under CEQA, and the one that went all the way to trial, we won, and the judge, the Court of Appeal did say that this EIR was illegal in the First China Shipping Project, and that changed a whole lot of things at the ports.

The ports are now undergoing an expansion boom. There is a lot of EIRs under CEQA coming down the road, and we are looking at all of them.

Ms. NAPOLITANO. Is there enough oversight over some of these to be able to do an effective job?

Mr. PETITT. No. In my opinion, there is not.

Ms. NAPOLITANO. Explain.

Mr. PETITT. Well, the Southern California air team at NRDC is three lawyers, myself and two of my colleagues, and there is really only so much that we can do, and in terms of the legal oversight, if you will, from community groups, of the EIRs at our ports—this may sound like bragging, but I think the fact is NRDC is pretty much the only game in town. And so if we are not doing it, it is not getting done. It would be great if we had more ability, and we could look in more depth—some of these EIRs now are 6000 pages, and, you know, you have a limited time to comment. There is only so much that a person could do.

Ms. NAPOLITANO. Thank you.

Mr. Mack, any comments?

Mr. MACK. Well, I had a couple of comments here, mainly in response to Congressman Rohrabacher. We appreciate that opportunity to negotiate contracts and do the best that we can for our members, and generally, overall, we have been pretty successful.

But what we are talking about here, for drivers, is not a program—and it has been misconstrued, and sometimes intentionally—not a program that is going to organize the port truck drivers for the Teamsters.

What we are talking about is putting a model in place that gives the drivers the right to decide whether they want to belong to a union or not. And then if they decide they want to belong, they have the right, then, to collectively bargain.

Under the Sherman Antitrust Act—I am not an attorney—one caveat—but under the Sherman Antitrust Act, two drivers, two port drivers, immigrant truck drivers, get together and talk about how they are being victimized and taken advantage of, and talk about anything that would increase or improve the rates, and then propose a stoppage to get more money, they would be in violation of the Sherman Antitrust Act.

And the only thing that changes that around is to change the model, and to allow those drivers, like almost every other driver in this country, to belong to a union.

Quite frankly, what we have in place with port trucking is a scam. It is nothing more than a scam. It is an idea that was conceived after truck deregulation to insulate the industry drivers from being organized, making them independent contractors, because then they had no power, they had no ability to bargain collectively, and it allowed the giant retailers like Walmart, Target, Lowe's, Home Depot and the rest of them, to continue to depress the transportation cost so they could maximize their profits.

When we talk about what we are doing here, is not to promote trucking alone. Hey, we will take members, obviously. But we are in league here with the environmental community and the ports. We have come to the conclusion that if we don't step up, as a labor organization, to change the environment, we are not going to be able to make the necessary changes that need to be made in our communities, and there are communities where our members live, there are communities where they work every day with those trucks, and they are subject to that kind of pollution.

So we are very interested, and very committed to this environmental approach as we go forward, cleaning up the air, making it better than it is right now.

Now for those, and the suggestion that trucks may be outdated, let me say this. The Brotherhood of Locomotive Engineers and the

Brotherhood of Maintenance of Way Employees recently affiliated with the Teamsters Union.

So now we have not only the trucks but we have got the rail too.

Ms. NAPOLITANO. Thank you. And Mr. Chairman, just not too long ago, less than 10 years ago, independent truck drivers were being scammed by the insurance industry here in the ports, because I remember several rallies and trying to get them—the insurance would issue kind of a blank number, and if they were stopped there was none existent. So it was a lot of other kind of fraud going on at the time, and so I have great concerns.

We want to be sure that they have adequate pay, so that they can not have a $1.76 left out of their pay. Thank you very much again, and thank you, gentlemen.

Mr. CUMMINGS. Let me just say to the Members of Congress who came today. I want to thank you very much. We hold these hearings all over the country and this is the best participation of Members that we have had, and I really appreciate you all being here, even the two that had to leave just a little bit early, but they stayed 95 percent of the time, and so I really appreciate that.

I also want to take a moment to thank Ms. Richardson, because without her, this hearing would not have been held. I want to thank her again for her leadership, and she may have some closing words, and then I will close out the hearing.

Ms. Richardson, I yield to you.

Ms. RICHARDSON. Thank you, Mr. Chairman. Thank you for those very kind comments, and I would also like to thank my colleagues, Mr. Rohrabacher, Ms. Solis, Ms. Napolitano, Mr. Filner, and of course you, Mr. Chairman.

People have no idea, being a Member of Congress, a lot of people talk about what we do and what we don't do, but what I would like to share with the public is in my nine short months, people have no idea how committed the Members of Congress are to do the best that we can, and that's evident by the fact that all these individuals you see here could be doing other things, we're in our district work period but they chose to discuss the most important economic issue in the nation today, and so for that, we are all very grateful.

Mr. Chairman, thank you for assisting me with Chairman Oberstar, getting this done. I think now we have a lot to report back when we go back to Washington. Many questions that have been said, I think now we will have sufficient input and information, that we can go back and be true role models and active in this whole process as it rolls out.

Also, I would like to thank the harbor commissioners who were here today. I see three of them that are still here, from the Long Beach area. We thank you for your kindness. And also to the port, both the Port of Los Angeles and Long Beach, but in particular, the Port of Long Beach for hosting us here, allowing us to be a part of this discussion and being willing to work with us.

To the T&I staff, I want to say a special thank you to Mike, Elisa, and Christie. To the port staff, Samara Domininika and Sharon and Maricella, thank you. We could not have pulled this off. The Chairman said how great it was, and he is right. This is pretty unique, to do such an incredible job, let alone the short time frame that we had.

And finally, I want to thank the staff that I work with, and I say work with. That they don't work for me, they work with me. For the short time that we have been together, Kim, my chief of staff, Matt Chiller who is here, Alex, William, Rosa, Tim, Dazha Genet and Henry—you guys have been amazing.

As I close, I brought, in the true Long Beach fashion, something that we have that is pretty significant—well, it's representative of who we are here. We have that for each of the Members.

And then finally, if you would indulge me, Mr. Chairman, I have something special for a staff member of mine. His wife is expecting in eight weeks. We had much questions of whether he would actually be able to come and participate, but as our deputy chief of staff and leg. director, he was committed and that is how strongly he felt about this issue.

So from all of us, we have a little baby outfit.

Mr. ROHRABACHER. I have got lots of extra baby outfits in my house, if he needs them.

Ms. RICHARDSON. And the baby outfit says: This is how I roll. So welcome Baby Chiller to our family. Thank you very much.

[Applause.]

Mr. CUMMINGS. Let me close out now. I just want to make sure we have put all of this in context, and I often tell the story about how I was practicing law for a while, and I had a big settlement, and I went to my father, who only had a 4th grade education, was a former sharecropper. And I said dad, I have got this big, big problem. I don't know how to solve it. He said what is the problem? I said, well, I just won this big case and I am trying to figure out whether to get an Acura or a Mercedes. And he said I wish I had your problem.

The reason why I say that is that I think we have to understand—I think Ms. Napolitano recited the history of all of this. It has taken a while for all of us to get here. But we are here. I mean, I think that is what we have got to keep in mind.

You have come a long way. And I know that she said is so true. That a lot of people, pressure was coming from here, a lot of discussions, probably people who didn't, never dreamed that you would get to this point. And I have got to tell you, that if you look at it from a football analogy, I think you are about on the 10 yard line, and you have got about 10 yards to go.

But the fact is is that you have come a long way, and the question now is is how are we going to get over the goal line. And people will differ as to how to go about it. Others will differ as to how they want to handle the issues, where the money should go and all of that.

But let us not lose sight of this is our watch. This is our watch, and we have a duty to create an environment which is better than the one that we found when we came upon this Earth, or got into the offices that we are in. That is why I was so moved by the testimony with regard to the health of people. Sometimes I think we forget about, you know, that these folks are working hard. They are working every day, and they are giving their blood, their sweat, their tears, and then they end up, sometimes at 40, 45, you know, even earlier sometimes, in terrible condition because of certain conditions.

So I think the issue here is we are trying to balance making sure our ports are viable and strong, and on the other hand, we are trying to make sure that we deal with this environment. And I am telling you, this has been an eye-opening hearing for me, and I am sure, as Ms. Richardson has said, it gives us a lot to take back.

How this will be a part, if at all, when we go in to do the new ICE-TEA bill, as Ms. Napolitano was talking about, we are not sure exactly how it will be affected by that.

But one thing is for sure. This is something that you have put on the table, and you ought to be proud of it. I don't want to see you so caught up in our trying to figure out how we are going to do everything, that we could get, that we are on the 10 yard line.

So I say that, as one who does not live in this region. And when I read the testimony, when I have read the testimony, and I have talked to my colleagues, and particularly Ms. Richardson, I tell you, I can hardly get down the hall without her talking about this issue.

But she says, over and over again, this is a very, very important issue for all of us. And it is.

So to all of you, I want to thank every single person who took up the time out of your busy schedules to be a part of this. This is what democracy is all about. This is it. This is it. People can talk about and say, oh, I want to be a part of—this is it, you are in it, and you are participating.

And so if you have comments, we welcome those comments. Unfortunately, the way the hearing structure is, basically you just have the Congress folks listening to our panelists and asking questions. But if you have things that you have heard here today, that you want to share with us, please do, and let us take them into consideration.

And to all of our witnesses, if you have additional things that you want to comment on, please get those to us too.

Thank you very much. May God bless our great country.

[Whereupon, at 6:25 p.m., the Subcommittee was adjourned.]

Opening Statement

Today, we convene the Subcommittee on Coast Guard and Maritime Transportation to consider the efforts of the Ports of Los Angeles and Long Beach to generate the financing needed to expand their infrastructure to meet the increasing demands of global trade – while working to reduce the release of the polluting air emissions that result from all aspects of the ports' operations.

The need to provide infrastructure adequate to accommodate transportation demand – while protecting our environment by reducing air emissions – are central concerns of almost every facet of transportation policy in this nation today, including maritime and freight transportation.

Because the Ports of Los Angeles and Long Beach together comprise the largest port complex in the United States – as well as the largest single source of pollution in California's South Coast Air Quality Management District – their efforts to respond to these two critical challenges are of great interest to the

Subcommittee as well as to ports throughout the nation.

I thank Congresswoman Laura Richardson, who requested this hearing to give the Subcommittee the opportunity to see these issues first-hand. I also commend her for her leadership on the Subcommittee on issues pertaining to freight transportation and for the dedication with which she represents the interests of her constituents.

In an effort to generate additional capital to finance needed infrastructure, the Ports of Los

Angeles and Long Beach will begin assessing an "infrastructure cargo" fee in 2009 that will be expended on infrastructure improvement projects intended to ease congestion around the ports. The fees are expected to be $15 in 2009 – but will fluctuate depending on the resource needs of the projects to which the funding will be directed.

Additionally, the State of California is considering legislation that would impose a fee of up to $30 per container passing through the Ports of Los Angeles, Long Beach, and Oakland.

Half of this funding would be directed to infrastructure projects that contribute to congestion relief while the other half would fund projects to mitigate air pollution.

The need to generate income to pay for port development has been a challenge for decades. In 1986, for example, Congress established the Harbor Maintenance Tax – which I note was assessed on an *ad valorum* basis – to pay for dredging projects but the application of this tax to U.S. exports was eventually declared unconstitutional under the Constitution's Export Clause.

This ruling – and rulings in related cases considering taxes and fees – are important touchstones as we consider container fees and other revenue generation mechanisms. We look forward to examining this very complex issue in more detail today.

In an effort to take decisive action to reduce emissions from port-related activities, the State of California, the Ports of Los Angeles and Long

Beach, and other partners have adopted the ambitious San Pedro Bay Ports Clean Air Action Plan.

This Plan is intended to reduce polluting emissions from all facets of port operations, including from vessels calling on the ports, trucks providing drayage services at the ports, and freight railroad and cargo handling equipment operating at the ports.

The part of the Plan that has probably received the most attention is the Clean Trucks program.

Both the Port of Los Angeles and the Port of Long Beach have adopted a Clean Trucks program and the programs have many similarities.

Both ports intend to assess a $35 fee on twenty-foot equivalency unit containers, which will then be utilized to support the replacement of virtually the entire fleet of trucks currently serving the ports with new clean trucks meeting current emissions standards.

Both ports will allow only licensed motor carriers that enter into concession agreements with the ports to provide drayage services at the ports.

However, the Port of Los Angeles will phase in a requirement over time that will allow only individuals who are employees of the licensed motor carrier concessionaires to serve that port – while the Port of Long Beach will allow licensed motor carrier concessionaires to dispatch individuals who are either employees of the carrier or owner-operators.

We look forward to the testimony of Mr. Richard Steinke [STEIN-key], the Executive Director of the Port of Long Beach, and Dr. Geraldine Knatz, the Executive Director of the Port of Los Angeles, regarding the efforts of both ports to meet their infrastructure needs and to combat air emissions. We also look forward to discussing with them the container fee programs that have been adopted at the Ports of Los Angeles and Long Beach as well as the ports' decisions to adopt different models for their Clean Trucks programs.

The witnesses who will appear on our second panel represent critical stakeholder groups affected by the ports' development and financing plans, including the International Brotherhood of Teamsters, the Natural Resources Defense Council, and the members of FuturePorts. We invited a number of other stakeholder groups to join us today – but they were unable to join due to scheduling and other conflicts. Many of these groups have submitted statements that will, without objection, be included in the hearing record.

Congresswoman Laura Richardson
Statement at Subcommittee on Coast Guard and Maritime Transportation
Field Hearing on
"Port Development and the Environment at the Ports of Los Angeles and Long Beach"
Monday, August 4th, 2008
Port of Long Beach, CA

Mr. Chairman, I want to thank you, Congresswoman Hilda Solis, Congressman Dana Rohrabacher, Congressman Bob Filner and Congresswoman Napolitano for holding this timely Field Hearing on "Port Development and the Environment at the Ports of Los Angeles and Long Beach".

Sitting here today surrounded by the United States' largest port facilities, including both the Port of Long Beach and the Port of Los Angeles, we are provided with a unique insight of the daily operational challenges associated with quickly and efficiently moving goods throughout America and abroad.

The ports' impact on the local, regional and national economies is extensive to say the least. As you will hear in the testimonies today, these two ports move 45% of our nation's with an overall value of goods moving per year through the Ports is a staggering $250 billion.

As a former Member of the City Council and State Assembly for the last six years it became blatantly obvious that the infrastructure that supports the port industries is aging, deficient and unable to meet the current demands of projected growth.

In light of these facts, both the local (through the Ports of Los Angeles and Long Beach), through state (Senator Lowenthal) and several federal proposals it seemed incumbent on me as a Member of the Transportation and Infrastructure Committee to ensure a hearing was conducted to validate the needs of a fee, understand the implications of who pays for the fee, where should the fee's be expended and what mechanisms should be put in place to maintain the public's trust.

It is of great concern to this Committee that container fee's could be applied on the local, state and federal level with no coordination and negatively impacting:

1. Goods movement in California
2. Affordability of products

Given the rising prices for fuel and the dwindling amount of revenue coming in from the federal gas tax, all levels of government, including Congress must examine new and creative ways of raising required capital to expand America's bridges, roadways and rail, while improving transportation efficiency and capacity.

As Congress, the true keeper of "interstate commerce," evaluates these new solutions in the 110th Congress and beyond, I applaud Chairmen Cummings and Oberstar for coming directly to the communities most impacted to analyze the information, obtain accurate input and provide the best transportation, infrastructure, environment and security the American people so richly deserve.

Thank you, Mr. Chairman

Subcommitte on Coast Guard and Maritime Transportation Hearing
on
"Port Development and the Environment at the Ports of Los Angeles and Long Beach"
August 4, 2008
Port of Long Beach, California
General Public Comment Form

5) Name: <Blank>
Address: <Blank>
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Subcommittee on Coast Guard and Maritime Transportation
Hearing on "Port Development and the Environment at the Ports of Los Angeles and Long Beach"
August 4, 2008
Port of Long Beach, California
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* These comments will be made part of the official record. Please hand in comments before leaving. Thank you – Congresswoman Laura Richardson.

Subcommitte on Coast Guard and Maritime Transportation Hearing

on

"Port Development and the Environment at the Ports of Los Angeles and Long Beach"

August 4, 2008

Port of Long Beach, California

General Public Comment Form

4) Name: Steve Hinds
Address: CCDOTL
6300 State University Drive, Suite 220
Long Beach, CA 90815
(562) 985-2259
E-mail Address: shinds@csulb.edu

1) Pier Pass started with 12 million containers. At this time there are 16 million. 60% daytime and 40% night. The initial benefit was a day time reduction to 7.2 million. Today it is 9.6 million. At the current rate we could expect to be at the same daytime rate (12 million) in 2-3 years. Essentially, it provided a brief period of time that should have been used to find and implement a solution. Unfortunately, that was not done. In the not too distant future, the night rate will be equivalent to the daytime at the beginning. Currently 6.2 million at night. The numbers tell the story.
2) The Trucking Engine Program is not a solution – It is a mitigation. A solution applies to the whole problem. The problem is related to 1) Throughput of containers 2) Congestion 3) Environment. The truck engine program only mitigates environment only mitigates environment and fails to accomplish anything with congestion and thoroughput. We need solution not mitigation.

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* These comments will be made part of the official record. Please hand in comments before leaving. Thank you – Congresswoman Laura Richardson.

Subcommitte on Coast Guard and Maritime Transportation Hearing

on

"Port Development and the Environment at the Ports of Los Angeles and Long Beach"

August 4, 2008

Port of Long Beach, California

General Public Comment Form

10) Name: John V. Hummer
Address: Deputy secretary for goods movement, business, transportation and housing agency state of California.
980 9th St. Suite 2450
Sacramento, Ca 95814
E-mail: jhummer@bth.ca.gov

Thank you for opportunity remarks. Please see attached printed comments.

Subcommittee on Coast Guard and Maritime Transportation
Hearing on "Port Development and the Environment at the Ports of Los Angeles and Long Beach"
August 4, 2008
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U.S. House of Representatives
Committee on Science and Technology
Subcommittee on Coast Guard and Maritime Transportation

Testimony of Mr. John Hummer
Monday, August 4, 2008
3:00 PM

My name is John Hummer; I am the Deputy Secretary of Goods Movement for the California Business, Housing and Transportation Agency, a cabinet office of Governor Schwarzenegger. I would like to extend warm regards from Secretary Dale Bonner and from Caltrans Director Will Kempton who regrets that he could not be here today for this hearing. I can assure you that the Business, Housing and Transportation Agency and Caltrans have never been more focused on goods movement, and would like to thank Congresswoman Richardson and the sub-committee for giving me the opportunity to represent the interest of the State of California at this hearing.

California is the nation's main gateway to Pacific Rim international trade. It is seeing significant freight growth, highlighted by the forecast 210 percent increase in container volumes between 2005 and 2030. Our transportation and environmental needs are huge, including an initially estimated $47 billion for goods movement projects, and $6 -to-10 billion for environmental investments.

The United States and California face a freight/goods movement challenge, which must be addressed if we are to remain a leading participant in the global economy, and if we are to provide our citizens with mobility, jobs, and a quality environment. The nation reaps significant benefits from this trade flowing through California. However, our infrastructure and our environment suffer from significant impacts due to the movement of this trade, including congestion, pollution, and reductions in our quality of life. California is also a major producer and consumer of agricultural, commercial, industrial, and other goods and materials. These domestic trade flows are also a key functional component to the national economy, but with similar significant impacts.

However, it is through our seaports that we have seen the most significant growth. The volume of containerized cargos coming through the Ports of Los Angeles, Long Beach, and Oakland has increased 67 percent, from 1999 through 2005, from 9.9 million Twenty Foot Equivalent Units (TEUs), to 16.5 million TEUs. This latter volume represented more than 43 percent of all US continental containerized cargos. In its final draft, *Growth of California Ports: Opportunities and Challenges*, the California Marine and Intermodal Transportation System Advisory Council (CALMITSAC) estimates that these volumes will increase to 40.2 million TEUs in 2020, and 51.2 million TEUs by 2030, a 210 percent increase over 2006 levels. In part, this volume reflects a change in our national economy, where international trade comprised 13 percent of the Gross Domestic Product in 1990, 26 percent in 2000, and is projected to increase to 35 percent in 2020, a tripling over in just 30 years.

This growth is resulting in a sizeable unmet transportation, environmental, and economic need. In the development of the *Goods Movement Action Plan* (GMAP), released in January 2007, the California Business, Transportation and Housing Agency and California Environmental Protection Agency identified a goods movement/trade infrastructure need of $47 billion in major projects. Looking at it from a different perspective, the CALMITSAC report estimates just port-related infrastructure needs at over $20 billion. The California Air Resources Board, in its *Emission Reduction Plan for Ports and Goods Movement in California*, estimates that current emissions from goods movement activities, primarily due to diesel emissions, contribute to approximately 2,400 premature deaths, 2,000 hospital admissions due to heart ailments, 5,100 hospital admissions due to acute lung ailments, and 62,000 cases of asthma and other serious respiratory ailments annually. Environmental and community mitigation costs are estimated at a conservative $6 to10 billion.

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Proposition 1B, the largest of the voter-approve bond measures, provides $19.925 billion for a variety of transportation programs that: reduce congestion, expand transportation infrastructure to increase mobility of people and goods, improve safety and security for travelers, and improve air quality. Proposition 1B contains twelve distinct categories of investment all of which provide some form of goods movement benefit or community and environmental mitigation. The $4.5 billion Corridor Mobility Improvement Account, the $1 billion State Route 99 program, and the $2 billion State Transportation Improvement Program are examples of programs that reduce congestion and aid the movement of goods along our state highways. Proposition 1B also has dedicated funding for to goods movement, specifically the $2 billion Trade Corridors Improvement Fund (TCIF), the $1 billion Goods Movement Emission Reduction Program, and the $100 million Port, Harbor and Ferry Terminal Account.

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Funds from the California Office of Homeland Security Port, Harbor and Ferry Terminal Account are available to California's large, medium and small ports to protect our borders and improve safety and security. The San Pedro Bay ports have received over $18 million of the $40 million distributed last fiscal year.

The Schwarzenegger Administration, working in cooperation with our state Legislature, local and regional transportation partners, business and industry leaders, and community groups has taken these early steps towards improving the efficiency and effectiveness or our goods movement infrastructure while simultaneously addressing the negative impacts of these activities on our citizens. We now look to leverage the energy of the resulting partnerships within California to present a united front and a unified message to make sure California's needs are addressed in the successor to SAFETEA-LU authorization bill.

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Overall, the State received approximately $592 million in earmarked funding that was spread over 69 goods movement project earmarks. Of this amount, $366 million was directed to three specific projects, The Alameda Corridor East ($211 million), Inland Empire Goods Movement Gateway/Norton Air Force Base ($55 million) and the Gerald Desmond Bridge ($100 million).

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Currently, there is no national mechanism to address these needs. It is almost impossible for a state to be timely in meeting growing national trade needs through the programs and processes under SAFETEA-LU. The nation needs a clear federal policy that supports its trade corridors and provides a reliable source of funding to ensure its continued economic competitiveness in the global marketplace.

California's Consensus on the Next Authorization

Now is the best opportunity to address this and other transportation issues, through the coming authorization of the next surface transportation act, which is due on October 1, 2009. My agency and the California Department of Transportation have been working with transportation stakeholders representing the State's metropolitan planning organizations, regional transportation planning agencies, other transportation agencies, the private sector, and multiple public interest groups to develop general consensus on principles for the next authorization. We have reached consensus on the following seven principles for the next federal transportation program:

- Ensure the financial integrity of the Highway Trust Fund.
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- Enhance mobility through congestion relief within and between metropolitan areas.
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- Strengthen comprehensive environmental stewardship.
- Streamline Project Delivery.

I would like to briefly highlight three of those principles that I think are of direct interest to the members of this hearing.

The first is ensuring the financial integrity of the Highway Trust Fund. The Highway Trust Fund is the nation's instrument of transportation policy, and continued, stable, and predictable federal funding at a level to meet identified needs is of paramount importance. Federal program support has been steadily declining; in California, it is now approximately 20 percent of the total highway program. State and local sources make up the remainder.

Incidentally, I would like to thank Congresswoman Richardson for her support of H.R. 6532, the Highway Trust Fund Restoration Act. I hope that the Senate will soon follow in supporting this or a similar measure so we can avoid a major shortfall, in 2009, which will cause California and many other states to delay or eliminate projects. However, the proposed transfer of general funds is only a short-term fix. In the upcoming Authorization, Congress will need to address long-term approaches and also place the nation on a path that leads to a funding mechanism that will work in an environment of multiple alternatives for fueling vehicles. Unless there is such an approach, the effectiveness of the federal program will rapidly diminish, which will severely impact our nation's economic status.

The second principle is establishing goods movement as a national priority. There is national consensus that the nation's economic future depends upon its ability to compete globally, which requires a multimodal interstate transportation system that can move goods to and from sea and ports, border crossings, and through other international gateways with a minimum of delay. It is a critical priority for the next authorization to ensure that there is a program that provides for the infrastructure, operational improvements and technology development necessary to meet the objective of unimpeded goods movement.

This should be done through a firewalled, autonomous freight program designed to enhance throughput, velocity, reliability, and efficiency. The program should be based on a mode-neutral national freight plan that establishes national priorities and identifies the best federal investments in national goods movement infrastructure. The program should include mandatory funding for the most critical national and regional infrastructure projects. In addition it should identify key regions and gateways disproportionately bearing the burdens of goods movement environmental and community impacts and provide funding for necessary environmental mitigation.

In choosing dedicated, stable sources of revenue to ensure predictable funding, Congress should consider all options to internalize a significant portion of the cost of improving and expanding goods movement infrastructure. Options include, but are not limited to: user fees, fuel taxes, dedicated percentage of customs fees, VMT system, etc. In addition, the program should include funding for data collection, modeling and simulation, as well as development of performance freight metrics so that states and regions can measure the effectiveness of their investments.

The third principle is streamlining project delivery. The Surface Transportation Policy and Revenue Study Commission determined that it takes an average of sixteen years to deliver transportation infrastructure. California's experience with project delivery mirrors the Commission's findings.

During the lengthy project development process, project costs increase due to inflation and increasing global competition for raw materials; congestion impacts continue to mount with corresponding damage to the economy through time lost to delay and decreased competitiveness, and the users of our system suffer personal loss of time and money. Because of the rapid growth in international trade through our ports, there is national urgency for freight project development, yet we have this countervailing delay, which not only drives up project costs, but also compounds a national economic cost, in a sector where we can least afford it.

There are options. California has been successful in implementing the NEPA delegation pilot program established by SAFETEA LU, to the point where we are saving as much as a half year on the process. For this reason, we are seeking continuance of the program in the next authorization as well as expansion to include freight and transit projects, and project level air quality conformity determinations. In addition, we would recommend looking at other ways to expedite the process without compromising the integrity of the intent of environmental laws.

I would like to note that the California goods movement community is supporting our principles, especially in the maritime sector. It has been endorsed by the California Marine and Intermodal Advisory Council and the Bay Planning Coalition. In addition, among other groups, they have the support of California Council of Governments, California State Association of Counties, and both The American Automobile Association of Northern California and Southern California. I expect that we will be transmitting these principles and supporting documentation to members of our congressional delegation shortly after election.

U.S. House of Representatives
Committee on Science and Technology
Subcommittee on Coast Guard and Maritime Transportation

Testimony of Mr. John Hummer
Monday, August 4, 2008
3:00 PM

My name is John Hummer; I am the Deputy Secretary of Goods Movement for the California Business, Housing and Transportation Agency, a cabinet office of Governor Schwarzenegger. I would like to extend warm regards from Secretary Dale Bonner and from Caltrans Director Will Kempton who regrets that he could not be here today for this hearing. I can assure you that the Business, Housing and Transportation Agency and Caltrans have never been more focused on goods movement, and would like to thank Congresswoman Richardson and the sub-committee for giving me the opportunity to represent the interest of the State of California at this hearing.

California is the nation's main gateway to Pacific Rim international trade. It is seeing significant freight growth, highlighted by the forecast 210 percent increase in container volumes between 2005 and 2030. Our transportation and environmental needs are huge, including an initially estimated $47 billion for goods movement projects, and $6 -to-10 billion for environmental investments.

The United States and California face a freight/goods movement challenge, which must be addressed if we are to remain a leading participant in the global economy, and if we are to provide our citizens with mobility, jobs, and a quality environment. The nation reaps significant benefits from this trade flowing through California. However, our infrastructure and our environment suffer from significant impacts due to the movement of this trade, including congestion, pollution, and reductions in our quality of life. California is also a major producer and consumer of agricultural, commercial, industrial, and other goods and materials. These domestic trade flows are also a key functional component to the national economy, but with similar significant impacts.

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Subcommitte on Coast Guard and Maritime Transportation Hearing
on
"Port Development and the Environment at the Ports of Los Angeles and Long Beach"
August 4, 2008
Port of Long Beach, California
General Public Comment Form

8) Name: Angelo Logan
Address: 764 Ohio
Long Beach, Ca 90804
E-mail: angelologan@yahoo.com

Any an all growth to both the ports and or goods movement corridor infrastructure **fa...** must not continue if it is accompanied with negative impacts to communities. The most significant impact to the public is air quality as it relates to public health. Port and infrastructure growth must only happen with a decrease of air pollution.

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Name: ANGELO LOGAN

Address: 764 OHIO LONG BEACH, CA 90804

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3) Name: Councilwoman Bonnie Lowenthal, Long Beach City Council District 1
Address:
333 W. Ocean Blvd.
Long Beach, CA 90802
E-mail Address: District_1@longbeach.gov

See Attached.

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Name: BONNIE LOWENTHAL - Long Beach City Council District 1

Address: 333 W. OCEAN BLVD. LONG BEACH CA

E-mail Address: DISTRICT-1@LONGBeach.GOV

SEE Attached

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Bonnie Lowenthal
Long Beach City Councilmember

Lowenthal Comments

Congressional Hearing in the Port of Long Beach.

- My name is Bonnie Lowenthal, Councilmember from the City of Long Beach. The POLB is in my district so I would like to welcome you to Long Beach and to the First District.

- In addition to being on the Long Beach City Council, I also represent the Gateway Cities Council of Governments which covers the southeast subregion of Los Angeles County on the Los Angeles County Metropolitan Transportation Authority Board of Directors. Gateway Cities covers the area from and including the Port of Long Beach to La Habra Heights.

- On behalf of the MTA as well as the Gateway Cities COG, I appreciate your holding this hearing today to draw attention to the infrastructure situation facing southern California. The San Pedro Bay Ports are critical to the national economy as well as to the economy of Southern California

- The Gateway Cities subregion is in the front line of impacts of goods movement from the San Pedro Bay Ports. The ICTF, Hobart and Commerce intermodal rail yards are located within Gateway Cities as well as the two critical arterials leading from the Ports to points east; the Alameda Corridor and the I-710 freeway.

Epicenter

- Alameda Corridor usage continues to grow and there is still unused capacity. The Alameda Corridor is a prime example where a multi-billion dollar infrastructure investment is functioning as envisioned by efficiently moving freight destined for other parts of the country onto trains from dockside or the intermodal yards to the final destination. The Alameda Corridor project spawned the Alameda Corridor East project which will ultimately construct over 200 critical grade separations through the San Gabriel Valley.

- The I-710 Long Beach Freeway is another matter. This freeway was built in the early fifties and was not designed to handle the level of automobile or truck traffic it currently experiences. Truck volumes are in excess of 21,000 per day. By 2030, the volumes will exceed 65,000 trucks per day. The 710 cannot sustain these levels of truck traffic and the trucks will seek alternative routes through our neighborhoods further impacting the quality of life.

- The unhealthy air quality associated with goods movement is well documented and I won't dwell on that, I will instead try and bring you up to speed on the regional activities that are underway to resolve the environmental impacts of goods movement.

- In 1999, the Gateway Cities COG, the MTA and Caltrans embarked upon a major corridor study to look at creating solutions to this problem. The major corridor study ended with a Locally Preferred Alternative and more importantly a of community based strategy for resolving the I-710 project. challenges.

- We are now eight months into an environmental process that will produce a buildable, fundable project for the movement of goods from the San Pedro Bay Ports to the mid-cities intermodal yards and beyond.

- This is a community driven project that involves 14 cities as well as the sponsoring agencies. Each city has a voice in the design of the project and will help develop mitigations to improve air quality.

- The process is governed by a requirement that air quality improve within the corridor before there are any mainline improvements. The San Pedro Bay Ports Clean Air Action Plan is the beginning of this promise.

- The I-710 corridor cities, the sponsoring agencies which includes both the Ports of Long Beach and Los Angeles, the MTA, and Caltrans are committed to cleaning up the air and improving traffic safety.

We believe this can be done by thinking outside of the box and making demands on the private sector to respond to an indentified set of community objectives.

- We believe that part of the solution to the I-710 involves the development of an alternative technology freight movement corridor that employs an envivronmentally friendly conveyance system that will utilize existing freeway rights-of-ways; utility easements and non-freeway access to supplement the existing rail service.

- The I-710 environmental process is expected to culminate in a Record of Decision in 2010. Long before we have a Record of Decision, we will be looking for project funding to improve the air quality and facilitate the movement of people and goods from the Ports.

- The cost estimate for improving the I-710 is in the $5-6 billion range, far more funding than Is available according to the financial forecasts for highway funding in the MTA's Long Range Plan. We need help from the federal government as well as from the private sector to improve this corridor.

Thank you for your consideration.

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9) Name: Jesse N. Marquez
Executive Director
(310) 834-1128
Address: Coalition for a Safe Environment
P.O Box 1918
Wilmington, Ca 90748
E-mail: jnmarquez@prodify.net

1. The port of Los Angeles and Port of Long Beach adopted container fee is inadequate to mitigate the ports and goods movement industry impacts.
2. Senator Alan Lowentals container fee is inadequate to mitigate the ports and goods movement impacts.
3. Economist John Husing study concluded that the container fee should be approximately $500.00
4. The southern California association of governments (SCAG) economic studied concluded that the container fee should be approximately $200.00. Study did not include all plastic costs
5. We support container fees to pay for all private business industry ports any good movement, environmental justice negative impacts.
6. No port expansion until all negative public and environmental justice community impacts been mitigate.
7. All project proposals must meet environmental justice community criteria first and mitigate past and current impacts first.
8. Request congressional economic study to determine accurate container fee based on all public subsidized costs.
9. We want all cargo types to have a fee such as bulk petroleum and commodities.
10. All containers and cargo fees should be based on the value of the product. Higher luxury products should have higher fees.
11. We support both a local port container and cargo fee and a national fee to mitigate interstate goods movement.
12. We recommend a minimum $300.00 per teu local fee and a minimum $200.00 per teu national fee.
13. Environmental justice organizations have identified more ports and goods movement problems than any other organization
14. Environmental justice organizations have identified and supported more solutions and alternative technologies than any other organization.
15. (See Attached)

Subcommittee on Coast Guard and Maritime Transportation
Hearing on "Port Development and the Environment at the Ports of Los Angeles and Long Beach"
August 4, 2008
Port of Long Beach, California
General Public Comment Form*

Name: JESSE N. MARQUEZ 310-834-1128
EXECUTIVE DIRECTOR

Address: COALITION FOR A SAFE ENVIRONMENT
P.O. BOX 1918 WILMINGTON, CA 90748

E-mail Address: JNMARQUEZ @ PRODIGY.NET

1. THE PORT OF LOS ANGELES AND PORT OF LONG BEACH ADOPTED CONTAINER FEE IS INADEQUATE TO MITIGATE THE PORTS AND GOODS MOVEMENT INDUSTRY IMPACTS.
2. SENATOR ALAN LOWENTHAL'S CONTAINER FEE IS INADEQUATE TO MITIGATE THE PORTS AND GOODS MOVEMENT IMPACTS
3. ECONOMIST JOHN HUSING STUDY CONCLUDED THAT THE CONTAINER FEE SHOULD BE APPROXIMATELY $500.00
4. THE SOUTHERN CALIFORNIA ASSOCIATION OF GOVERNMENTS (SCAG) ECONOMIC STUDIES CLUDED THAT THE CONTAINER FEE SHOULD BE APPROXIMATELY $200.00 STUDY DID NOT INCLUDE ALL PUBLIC COSTS.
5. WE SUPPORT CONTAINER FEES TO PAY FOR ALL PRIVATE BUSINESS INDUSTRY PORTS AND GOODS MOVEMENT ENVIRONMENTAL, PUBLIC HEALTH, PUBLIC SAFETY AND ENVIRONMENTAL JUSTICE NEGATIVE IMPACTS
6. NO PORT EXPANSION UNTIL ALL NEGATIVE PUBLIC AND ENVIRONMENTAL JUSTICE COMMUNITIES IMPACTS HAVE BEEN MITIGATED.
7. ALL PROJECT PROPOSALS MUST MEET ENVIRONMENTAL JUSTICE COMMUNITY CRITERIA FIRST AND MITIGATE PAST AND CURRENT IMPACTS FIRST

*** These comments will be made part of the official record. Please hand in comments before leaving. Thank you – Congresswoman Laura Richardson.**

8. REQUEST CONGRESSIONAL ECONOMIC STUDY TO DETERMINE ACCURATE CONTAINER FEE BASED ON ALL PUBLIC SUBSIDIZED COSTS.
9. WE WANT ALL CARGO TYPES TO HAVE A FEE SUCH AS BULK PETROLEUM AND COMMODITIES

10. ALL CONTAINER AND CARGO FEES SHOULD BE BASED ON THE VALUE OF THE PRODUCT. HIGHER LUXURY PRODUCTS SHOULD HAVE HIGHER FEES.
11. WE SUPPORT BOTH A LOCAL PORT CONTAINER AND CARGO FEE AND A NATIONAL FEE TO MITIGATE INTERSTATE GOODS MOVEMENT.
12. WE RECOMMEND A MINIMUM $300.00 PER TEU LOCAL FEE AND A MINIMUM $200.00 PER TEU NATIONAL FEE.
13. ENVIRONMENTAL JUSTICE ORGANIZATIONS HAVE IDENTIFIED MORE PORTS AND GOODS MOVEMENT PROBLEMS THAN ANY OTHER ORGANIZATION.
14. ENVIRONMENTAL JUSTICE ORGANIZATIONS HAVE IDENTIFIED AND SUPPORTED MORE SOLUTIONS AND ALTERNATIVE TECHNOLOGIES THAN ANY OTHER ORGANIZATIONS.

Congressional Subcommittee On

Coast Guard & Maritime Transportation

Ignores

Environmental Justice Communities

Ports & Goods Movement Issues

 # 1 Not One Environmental Justice Organization Is Invited To Participate

 # 2 The Largest EJ Ports & Goods Movement Organization Is Not Invit d

 # 3 EJ Organizations Represent The Most Negatively Impacted Communities

 # 4 Port of Los Angeles Is The # 1 Largest Air Pollution Source In So. California

 # 5 Port of Long Beach Is The # 2 Largest Air Pollution Source in So. California

 # 6 Ports Cause Thousands Of Public Premature Deaths Annually

 # 7 Ports Cause Tens Of Thousands Of Public Diseases & Illnesses Annually

 # 8 Ports & Goods Movement Toxic Air Pollution Public Health Care Costs Are Billions Annually – The Polluters Pay Nothing

 # 9 Not One Port Approved CEQA Environmental Impact Report Was L gal

#10 Not One US Army Corps of Engineers Approved NEPA Environmental Impact Statement Was Legal

#11 EJ Organizations Will Continue To Legally Challenge Illegally Approved CEQA EIR's & NEPA EIS's & Stop Ports & Goods Movement Expansion

Coalition For A Safe Environment
Members In Over 20 Cities In So. California
P.O. Box 1918, Wilmington, California 90748
wilmingtoncoalition @ prodigy net 310-834-1128
Jesse N. Marquez Executive Director
jnmarquez @ prodigy net 310-704-1265

Coalition For A Safe Environment

International Trade Ports

On & Off-Port Property

Environmental & Public Impacts Nexus

Toxic Air Pollution Exposure Impacts

1. Ship Diesel Fuel Exhaust - PM, NOX, SOX, ROG/VOC's
2. Train Diesel Fuel Exhaust - PM, NOX, SOX, ROG/VOC's
3. Trucks Diesel Fuel Exhaust - PM, NOX, SOX, ROG/VOC's
4. Cranes (Transtainers) Diesel Fuel Exhaust - PM, NOX, SOX, ROG/VOC's
5. Yard Hustlers Diesel Fuel Exhaust - PM, NOX, SOX, ROG/VOC's
6. Outdoor Container Fumigation Facility - Methyl Bromide, PM, NOX, SOX, ROG/VOC's
7. Container Storage Yards - Lead, Freon/HFC's, PM, NOX, SOX, ROG/VOC's
8. Container Inspection Facilities - PM, NOX, SOX, ROG/VOC's
9. Oil Company Oil, GAS & Fuel Storage Tanks - ROG/VOC's

Virus Diseases Exposure Impacts

1. Insects - West Nile Virus (Mosquitoes), Ants
2. Bacteria
3. Fungus

Toxic & Hazardous Material Exposure Impacts

1. Transportation of Toxic & Hazardous Materials - Chemicals & Substances
2. Transportation & Storage of Explosive & Flammable Chemicals & Substances
3. Transportation & Storage of Radioactive Substances & Electronic Items
4. Failure to Clean, Sanitize, Decontaminate Containers

Land Use Impacts

1. Loss of Beaches, Coastal Tidelands, Wetlands
2. Loss of waterfront property economic development
3. Loss of waterfront & ocean marine recreational use
4. Loss of industrial & commercial property development
5. Loss of residential area property development

6. Loss of community recreational property development
7. Natural Geologic Land Structure

Safety Impacts

1. Increasing public exposure to terrorist attacks
2. Increasing public exposure to explosives
3. Increasing public exposure to toxic/hazardous chemicals/substances
4. Increasing public exposure to ship accidents (Pilots Drunk, Falling Asleep & Ship Loss of Power)
5. Increasing public exposure to train derailment accidents
6. Increasing public exposure to truck accidents
7. Increasing public exposure to port & contractor car accidents
8. Increasing public exposure to disgruntle employees attacks
9. Increasing public exposure to oil pipelines explosions, breaks, leaks
10. Increasing public exposure to fuel pipelines explosions, breaks, leaks
11. Increasing public exposure to gas pipelines explosions, breaks, leaks

Truck Impacts

1. Increasing truck traffic congestion on public freeways, highways, streets and bridges.
2. Increasing truck traffic accidents.
3. Increasing public car insurance rates due to truck accidents.
4. Increasing public health care costs due to truck caused accidents.
5. Increasing truck breakdowns on freeways, highways, streets.
6. Increasing truck breakdowns on public bridges.
7. Increasing truck traffic running of street lights.
8. Increasing truck blockage of drivers views.
9. Increasing truck traffic running over sidewalks & curves while making turns.
10. Increasing truck traffic damage to freeways, highways, streets, bridges.
11. Increasing truck traffic failing to stop for residents crossing the streets.
12. Increasing illegal truck driver dumping of tires, truck parts, oil, fluids and trash.
13. Increasing illegal truck traffic through residential areas.
14. Increasing illegal truck driver usage of containers to transport personal items.
15. Increasing illegal truck parking on city streets, residential areas & public parks.
16. Increasing public costs to maintain, repair & replace transportation infrastructure.
17. Increasing truck transportation of toxic and hazardous chemicals, substances & materials.
18. Increasing truck transportation of public health hazards such as the West Nile Virus, bacteria, fungus, molds and other non-native species.
19. Failure to sanitize and decontaminate trucks & containers.
20. Truck honking at all hours of the night while stopped at train intersections.
21. Truck drivers revving their engines.
22. Excessive truck idling

Train Impacts

1. Increasing 24/7 Blocking Traffic at Public Street Intersections
2. Increasing 24/7 Loud Train whistles
3. Increasing 24/7 Loud Wheel Braking Screeching Noise
4. Increasing 24/7 Loud Squealing Noise Around Track Turns
5. Increasing 24/7 Loud Interlocking Noise of Train Cars
6. Increasing 24/7 Loud Engine Revving
7. Increasing 24/7 Train Derailments
8. Increasing 24/7 Bulk Liquid Train Cars Leaking

Ship Impacts

1. Increasing public exposure to ship accidents (Pilots Drunk, Falling Asleep & Ship Loss of Power)
2. Increasing ship horn noise.

Local School District Impacts

1. Loss of funds from children missing school due to respiratory illnesses
2. Loss of funds from unused school lunch food costs due to low attendance
3. Increased costs of maintenance due to ship PM soot, toxic, hazardous substances degradation and acid rain.
4. Loss of community land for school sites due to significant off-port property land purchases.

Water Pollution & Contamination Impacts

1. Ocean Aerial Deposition
2. Fresh Water Supply Aerial Deposition
3. Lake Aerial Deposition
4. Underground Aquifer Aerial Deposition
5. Failure to Prevent Dominguez Channel Watershed Contamination

Land Contamination Impacts

1. Public Lands
2. Residential Private & Personal Properties, Home Gardens
3. Public Properties, Parks, Schools, Businesses, Buildings

Climate Change Impacts

1. Creation & Release of Green House Gases
2. Over Saturation of Ocean Waters with Green House Gases
3. Micro Climate Change in Port & Regional Communities

Biological & Natural Resource Impacts

1. Destruction of Ocean Water Habitats & Aquatic Life
2. Destruction of Coastal Tidelands & Wetlands Habitats For Aquatic Life
3. Destruction of Coastal Tidelands & Wetlands Habitats For Mammal & Fowl Wildlife

Ocean Water Aquatic Food Resources

1. Destruction of Fish & Shell Fish Mankind Public Food Resources
2. Destruction of Plant Mankind Public Food Resources

Aesthetics

1. Loss of San Pedro Bay natural coastal vista
2. 90+% Industrialization of coastal waterfront
3. Community Blight from Port tenants and Port related business activities

Containers

1. Off-port property storage yards

Coalition For A Safe Environment

In our review of significant impacts there are numerous mitigation measures that could have been incorporated but were not. A brief summary includes:

a. A zero emissions American MagLev Technology, Inc. MagLev Train could be built on-dock and connected to the Union Pacific ICTF. The company has already volunteered to build the test facility at their own expense.
b. A zero emissions American MagLev Technology, Inc. MagLev Train could be built on-dock connected to the Alameda Corridor which can be converted to MagLev. The Alameda Corridor is already designed to be retrofitted for Electric Trains or MagLev Trains.
c. The Port could build a new supporting on-port property intermodal facility at Pier B at the Toyota Logistics Services Terminal. The Port could build a new 4-5 story import car parking structure which would open up sufficient land for a new intermodal facility and therefore not require the expansion of the Union Pacific Railroad ICTF Terminal or BNSF Railroad Southern California International Gateway (SCIG) Terminal.
d. The Port could purchase and incorporate a new IT Container Tracking Software/Hardware Technology to reduce staging and cue time. Port could require tenants to use a bar code, transmitter, GPS or other technologies to quickly identify and transport containers and cargo to destination.
e. The Port could purchase and incorporate Advanced Cleanup Technologies, Inc. – Advanced Maritime Emissions Control Systems (AMEC's) at all terminals.
f. The Port could purchase and incorporate Advanced Cleanup Technologies, Inc. – Advanced Locomotive Emissions Control Systems (ALEC's) at all terminals.
g. The Port could purchase and incorporate A Vycon Electric Regen System on all terminal RTG Cranes.
h. The Port could purchase and incorporate A Balqon Corporation fleet of Electric Trucks for local delivery drayage.
i. The Port could purchase and incorporate Clean Air Logix - Witmar Dual Multi Voltage Cold Ironing System at all terminals.
j. Construction could be spaced over more time to reduce compounded significant air quality and traffic impacts.
k. Port could finance the installation of Air Purification & Sound Prevention Systems in public schools, senior care facilities and sensitive receptor homes.
l. Port could fund comprehensive Public Health Surveys every five years to validate that the incorporated air quality mitigation measures are in fact improving public health.
m. Port could donate funds to local community health clinics and hospitals to provide local resident medical care.
n. Port could designate and donate the 80+ acres of Pier A land it owns in Wilmington for Wetlands Restoration.
o. Port could stop or limit construction on high smog alert days.
p. Port could provide financial grants to environmental justice and public health organizations to provide public education to help minimize public health impacts from air pollution, traffic congestion etc..
q. The Port could have included the preparation of a Public Emergency Notification System, Evacuation Plan & Long Term Care Program.
r. The Port could incorporate renewable and sustainable Solar and Wind Energy Technology.

Subcommitte on Coast Guard and Maritime Transportation Hearing

on

"Port Development and the Environment at the Ports of Los Angeles and Long Beach"

August 4, 2008

Port of Long Beach, California

General Public Comment Form

7) Name: Angel J. Porfa: Commissioner Human Relations city of Long Beach
Address: 4002 Torry Lynn Circle
Long Beach, Ca 90807
E-mail: angeljpereal@yahoo.com

Provide an increase to focus on resources to significantly improve the quality of the environmental conditions related to health in our local region without connecting (linking) to future expansions of LA and LA Ports which not only increase greater health related pollution! Remedial efforts need to take place before expansions! Responsible policy must change to reflect this priority issue.

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Name: ANGEL J. PEREA, Commissioner Human Relations City of LB

Address: 4002 - Terrylynn Circle
Long Beach, CA 90807

E-mail Address: angeljperea@yahoo.com

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to significantly improve the quality of the
environmental conditions related health
on our local region ~~and~~ without connecting (linking)
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not only increase economic development
but increases greater health related
pollution; Remedial effects needs to take place before
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on
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2) Name: David Reed
Address:
298 Temple Ave
Long Beach, CA 90803
E-mail Address: roundaveers@verizon.net

As I heard it, the local ports suggested an exemption based on fees they charge. It seems fair to allow local authorities an exemption rather than generate a 3rd fee structure (local, state and now the proposed federal fee).

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Subcommitte on Coast Guard and Maritime Transportation Hearing

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Port of Long Beach, California

General Public Comment Form

1) Name: Jehan Reyes
Address:
P.O. Box 714
Sunset Beach, CA 90742
E-mail Address: waveswatcher@aol.com

As an Owner of a fairly large trucking company, I do not believe that implementing any fees on trucking companies would be fair, as it is already very difficult to allow for this budget and to also comply with the Clean Air emission, new trucks, diesel, etc. very costly! The other issues we face are so many Rules and Regulations, the cost of work comp., taxes, fines, repairs, diesel etc. are causing to hire owner operators. Shippers are not willing to pay more per load. It's a never ending cycle of expense, trucking companies need help and better strategies to make profit not lost more. Thank you!

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Address: P.O. Box 714
Sunset Beach, CA 90742

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better strategies to make profit. not lose more.

Thank you!

Subcommitte on Coast Guard and Maritime Transportation Hearing
on
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6) Name: Pat Rome
Address: 25327 Pine Creek Lane
Wilmington, Ca 90744
E-mail Address: pjwrome@yahoo.com

When will we learn that economics can not be sustainable at the expense of the environment? How can we get all the different "agencies" in our government to talk to each other? Stop blaming each other!!! We have an irreplaceable asset in our port / shore – it must be cherished and protected – not exploited!!! How do cruise ships get to be registered off shore and not pay proper taxes and employee benefits? Our health should not be a cost of doing business profit. The city of Santa Monica has a solar powered car fleet- it is possible!! Why isn't more of this sustainable economics promoted? Encouraged? The ports, cities country cannot keep growing without built in sustainability. If we don't give these agencies that are supposed to "protect" us the budget to function will fail.

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Name: Pat Rome

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Wilmington, 90744

E-mail Address: pjwrome@Yahoo.Com.

WHEN WILL WE LEARN THAT ECONOMICS CAN NOT BE SUSTAINABLE AT THE EXPENSE OF THE ENVIRONMENT? HOW CAN WE GET ALL THE DIFFERENT "AGENCIES" IN OUR GOVERNMENT TO TALK TO EACH OTHER? STOP BLAMING EACH OTHER!! WE HAVE AN IRREPLACEABLE ASSET IN OUR PORT / SHORE - IT MUST BE CHERISHED AND PROTECTED - NOT EXPLOITED!! HOW DO CRUISE SHIPS GET TO BE REGISTERED OFF SHORE AND NOT PAY PROPER TAXES AND EMPLOYER BENIFITS? OUR HEALTH SHOULD NOT BE A COST OF DOING BUSINESS PROFIT! THE CITY OF SANTA MONICA HAS A SOLAR POWERED CAR FLEET - IT IS POSSIBLE!! WHY ISN'T MORE OF THIS SUSTAINABLE ECONOMICS PROMOTED? ENCOURAGED? THE PORTS, CITIES, COUNTRY CANNOT KEEP GROWING WITHOUT BUILT IN SUSTAINABILITY. IF WE DON'T GIVE THESE AGENCIES THAT ARE SUPPOSED TO "PROTECT" US THE BUDGET TO FUNTION IT WILL FAIL —

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Testimony

Of

Dr. Geraldine Knatz

Executive Director

The Port of Los Angeles

On

Port Development and the Environment
At
The Ports of Los Angeles and Long Beach

Before The

United States House of Representatives

Committee on Transportation and Infrastructure

Subcommittee

On

Coast Guard and Maritime Transportation

The Honorable Elijah E. Cummings

Chairman

August 4, 2008

Chairman Cummings, members of the Subcommittee, thank you for traveling to California to hold this important Congressional hearing today. For the Los Angeles Board of Harbor Commissioners, Mayor Villaraigosa, and the Los Angeles City Council, welcome to the San Pedro Bay Port Complex.

I appreciate your invitation to participate in this field hearing on "Port Development and the Environment at the Ports of Los Angeles and Long Beach" because we have a compelling story to tell about the steps we are taking to protect the health of our citizens by reducing emissions and other pollution, and how we are responding to record growth and incorporating the most up-to-date strategies to sustain our important role in the nation's economic vitality and the movement of goods into the American stream of commerce.

As you know, the Ports of Los Angeles and Long Beach -- which we refer to as the San Pedro Bay Port Complex -- are the two largest container seaports in the United States, and combined make the fifth busiest port complex in the world. Nearly 45% of the nation's imported containerized cargo comes through our Ports. We handle more than $260 billion a year in trade throughout California and the nation. In the Southern California region, goods movement industries connected to our Ports provide a half a million jobs and produce billions in state and local business and tax revenues. Our publication, *"America's Gateway: A National Goods Movement Corridor Economic Impact Study,"* has been distributed to every member of the Transportation and Infrastructure Committee. This Study demonstrates the significant economic impact that the Ports of Los Angeles and Long Beach have on every state in the Union. On a national basis, our Ports generate more than 3.5 million jobs and impacts at least one business in every congressional district in the U.S. that either imports or exports goods through our Port Complex.

Given the nation's current economic conditions, our trade volumes are down; however, overall international trade through our Ports has grown by roughly seven percent per y ar over the past decade. Currently, the two Ports handle 15.8 million TEUs, or twenty-foot-equivaltent units of containerized cargo, on an annual basis. The unconstrained market demand forecast projects we will handle close to 60 million TEUs by 2030. However, current capacity estimates for the year 2030 are closer to 40 million TEUs. These figures are important because close to half of the containers that move through our two Ports have origins or destinations east of the Rocky Mountains. This growth trajectory creates tremendous challenges for our Port Complex and its infrastructure.

These projections, and the commensurate impact to the environment from increased activity at the Ports, create a self-evident imperative: we must grow green. Tens of thousands of individuals live in the San Pedro, Wilmington, and Long Beach communities, and their livelihoods are directly connected to Port related operations and this area's goods movement industries. As employers and landlords, we need to ensure that we continue to operate an efficient, safe and healthy environment for those individuals, and we have a moral obligation to be responsible neighbors to communities here in the harbor, but also throughout the Southern California region.

Studies by the South Coast Air Quality Management District (SCAQMD) and California Air Resources Board (CARB) have concluded that the more than two million people who live near the Ports of Los Angeles and Long Beach face greater health risks than those who live elsewhere in the region. The South Coast Air Basin has the highest concentrations of atmospheric ozone and other pollutants in the entire U.S., and we expect that if the Ports do not take action at their own initiative, these agencies, charged with addressing regional air quality, will require the Ports to act.

If the Ports do nothing, we also significantly diminish our chances of executing successful environmental impact studies as we seek to expand terminal operations, and as we expand the Ports to attract additional business. That loss of business to the growing competition from ports in Canada and Mexico would adversely affect the costs of trade and goods movement throughout the U.S. because we handle such a high percentage of the nation's imports.

Clean Air Action Plan

While we take pride in saying that our joint Clean Air Action Plan is at its heart a local initiative, I think one of the most impressive aspects of the plan is that it illustrates our commitment to work with the U.S. Environmental Protection Agency Region 9, the California Air Resources Board, and the South Coast Air Quality Management District.

The Clean Air Action Plan is an ambitious plan that will cut overall emissions in half even while we continue to grow our operations. Two strategic principles are driving our actions with regard to the Clean Air Action Plan. First, we believe it is essential that key infrastructure projects and public health-related environmental improvements are implemented in an integrated and coordinated fashion. The State's Goods Movement Action Plan calls for "simultaneous and continuous" improvement in goods movement infrastructure and environmental mitigation. We will make this concept a reality at the San Pedro Bay Ports. In order for the Ports to realize "green growth," we will pursue a sustainable and smart strategy of investment and work with our customers to assure that this happens.

In the Los Angeles area, containers are moved primarily on three freeways and along the Alameda Corridor. To address existing transportation system deficiencies, accommodate future traffic, and reduce emissions, our Ports have expended hundreds of millions of dollars over the last ten years on critical, intermodal transportation system projects -- projects of national significance. However, this is not enough.

Second, we are aggressively pursuing a goods movement investment strategy. Like many major private and public corporations, the Ports have concluded that we must take considered, well-planned action to reduce pollution before we are forced to take more drastic steps. We have coordinated our actions with the State of California and our regional partners, the Southern California Association of Governments, the Los Angeles Metro, and other agencies -- from the Inland Empire to Orange County -- with bold initiatives aimed at improving key infrastructure needs and addressing emissions from goods movement in Southern California. Recently, our Southern California Consensus Working Group leveraged local funding resources to secure the programming by the California Transportation Commission of new State bond revenues from the Trade Corridor Improvement Fund, totaling $1.6 billion. While significant, this action by the State is only a downpayment on meeting our goods movement needs in Southern California.

We have identified nearly $3 billion in immediate infrastructure improvements that are needed in or near the Ports. These projects are Congressionally designated "projects of national & regional significance" and "high-priority projects." This $3 billion in investment is in addition to the hundreds of millions of dollars that will be spent for on-dock railyards within Port terminals that reduce truck trips and are developed with revenue from cargo terminal leases. These projects have been in development for several years, even prior to the adoption of the Clean Air Action Plan.

Infrastructure Cargo Fee

One component of our overall strategy for addressing the consenquences of extraordinary Port growth is the San Pedro Bay Infrastructure Cargo Fee. The Infastructure Cargo Fee (ICF) complements our Clean Air Action Plan because it addresses our need to improve goods movement and simultaneously reduce emissions. To further improve air quality and resolve existing transportation system deficiencies in and around the Port Complex, our two Ports are implementing several critical and nationally-significant intermodal transportation system projects.

Because these projects cannot, and arguably should not, be paid for entirely with federal and state funds -- despite their national significance -- the two Ports began studying ways to fund enhancements of our goods movement infrastructure. Approximately three years ago, the two Ports started working together on a container fee for local infrastructure. We took this on ourselves for three reasons: 1) we saw the value of having a committed stream of revenue to match bond measures devoted to goods movement; 2) if we did not do it, there were likely to be state fees, possibly on terms that we could not support; and, 3) as a self-help Port Complex, we wanted to create a model that would complement the policies and programs to be developed in the next federal transportation authorization bill. We hope this bill will provide a new dedicated federal account and program to support goods movement related infrastructure projects and environmental improvements.

What is unique about the development of our container fee is our bottoms-up approach. The fee structure is the result of a thorough technical analysis and extensive three-y ar dialogue with industry that began with an agreement on what projects should be funded. The selected projects were also endorsed by Mayor Villariagosa's Goods Movement Task Force and state and regional agencies, and they are included in the State of California Business, Transportation, & Housing Agency/CalEPA Goods Movement Action Plan. These projects were also endorsed by industry, including the Waterfront Coalition that represents shippers, the Pacific Merchant Shipping Association, and labor.

Throughout this process, we worked to address industry concerns – they only wanted to pay their fair share and wanted to see results for their investment. Consequently, we agreed that the fee would only be collected for a specific project after an Environmental Impact Report was certified for that project. These days, getting an EIR certified in Southern California is quite a feat; and I think it would be fair to say that getting to that stage actually means something as the EIRs are a primary vehicle for advancing the implementation of our Clean Air Action Plan measures.

The infrastructure fee rate was established at a level that was based upon a detailed and fair traffic nexus for each specific project. In other words, if 60% of the traffic that used a bridge was cargo related, then the container fee had to be set high enough to collect 60 percent of the cost of the bridge. At project completion, the fee associated with that project would drop to zero. Because our fee will be made up of a composite of fees for specific projects, all on different construction schedules, the fee will flucuate over time. We anticipate it starting at approximately $15 dollars per TEU and going as high as $18 per TEU based on the known list of projects. Further, with the industry share established, we then created a plan to finance each of the proposed projects which included contributions from the Ports along with a proposal for a fair-share allocation from the State Proposition 1B Trade Corridors Improvement Fund.

As such, in January 2008, our Ports adopted the Infrastructure Cargo Fee. Because of the Ports' work, our allocation of the state bond money nearly matched the Ports' financing plan. By the year 2014, our fee will support $2.9 billion dollars in funding for port-adjacent bridge, highway, freeway ramps and rail improvements.

The Ports believe that our bottoms-up approach and outreach to industry enabled us to craft the Infrastructure Cargo Fee program that would avoid litigation from industry. To date, there have been no challenges and we do not expect any. Beyond our local project-focused fee, we also recognize the need for industry fees for regional projects. In fact, our Ports considered collecting a fee for regional infrastructure, initially identifying the Alameda Corridor East Project and a major rail intersection known as Colton Crossing. We put off our regional fee in deference to the legislation being pursued by California State Senator Lowenthal, which our Mayor supports. Even though we tried to work the same strategy with industry on the regional fee -- making sure the money was used for projects industry supported -- I cannot say with certainty that we were able to develop the same support as we did for the fee to support local projects. However, the Port of Los Angeles is committed to taking up the issue of regional fees again, should it become necessary.

Chairman Cummings, we are aware the Subcommittee may examine national infrastructure fees in next year's transportation authorization bill. At one time we supported national fees, but now, from our perspective, "the ship has already left the dock," and any national container fee would be duplicative of what is in place here in California. Anticipating enactment of State Senator Lowenthal's proposed container fee, the Ports will have to reconcile this fee and the rail portion of the Ports' Infrastructure Cargo Fee. We urge the Subcommittee to ensure that port regions around the country that have taken up local initiatives to address their infrastructure and environmental needs are not penalized by the additional imposition of federally-imposed fees. Any new federal legislation that would propose container fees should also provide exemptions for independent and bold actions taken by states or regions, like the efforts we have underway here at the Ports of Los Angeles and Long Beach. In fact, Congressional legislative action should reward states and regions that have taken signifiicant responsbility for improving the efficiencies in the flow of goods through international gatewways and along trade corridors and the nation's logistcs system.

The Clean Truck Program

The Clean Trucks Program (CTP) is by far the single most challenging component of the Clean Air Action Plan as we seek to eliminate "dirty" diesel trucks from San Pedro Bay cargo terminals within five years, and replace them with a new generation of clean or retrofitted vehicles.

Although a great deal of attention has been directed toward the CTP, it is only one element of the more comprehensive Clean Air Action Plan that the Ports approved almost two years ago. That plan sought to control air pollution from all Port-related sources; trucks were not singled out. The Ports are attempting to encourage cleaner port trucking while at the same time we are taking steps to address pollution from other sources. We should not unfairly burden those other sources while trucks continue to fre ly pollute.

One key feature of the CTP is truck fleet modernization. To accelerate this fleet modernization program, we are focusing on alternative fuels and cleaner diesel. The numbers may seem daunting – 16,800 individual frequent and semi-frequent-caller trucks account for 80% of all truck visits at the Ports (an average of 7.7 visits per week per truck) – but we are committed to this effort. As has been reported in the media, this plan now faces a legal challenge from the American Trucking Association.

W designed the CTP, after much input and much deliberation, for a simple reason: we believe that the trucking system serving our Ports will not be a cleaner, safer, or more secure system without a major transformation regardless of what we may do in the near term. While the CTP offers incentives that will help us attain an immediate 80-percent reduction in truck pollution, it also encourages participation from outside operators who can provide the most sustainable long-term solution for protecting public health and safety. Equally important, the CTP offers us the opportunity to establish measures that will be necessary to address vulnerabilities in the physical security of the Ports. These vulnerabilities mean that we face the risk that our facilities could be used by terrorists or criminals. The longer these vulnerabilities remain unaddressed, the greater the risk that we will pay a steep price for inaction. Furthermore, if we fail to cultivate a responsible and financially viable port trucking system, a decade from now we will once again be throwing billions of dollars at this chronic problem.

According to an analysis performed for us by The Boston Consulting Group, the current truck drayage system imposes annual costs of between $600 million and $1.7 billion as a result of operational inefficiencies such as under-utilization, traffic congestion and the irregular utilization of drivers, through the impact on our communities from truck traffic and parking, and public health impacts. By assembling a concessionaire network of Licensed Motor Carriers that will have direct control over employee drivers, we can more effectively ensure that concessionaires address security issues, improve truck safety at the Ports and in our communities, and contribute to more effective Port operations overall. For example, concessionaires could improve drayage efficiency by having multiple employees drive a single truck. As a result, fewer trucks can pick up more containers, and the cost of adopting common trucking industry technology, such as on-board GPS tracking, would decrease, thereby allowing concessionaires to operate in the same efficient manner as today's nationwide major fleet operators.

Over the past year, both Port Commissions have approved cargo fee tariffs to accelerate the replacement of the existing truck fleet. We do this by assessing a $35 gate fee per twenty-foot container unit. The funds generated will help underwrite the replacement of the existing truck fleet. The Port of Los Angeles CTP incorporates certain fee exemptions; for example, all privately-funded 2007-compliant trucks, meeting Federal Emission Standards, will be exempted from the $35 per TEU fee. The exemptions offered by the Port of Los Angeles' CTP are intended to encourage more rapid investment in cleaner, 2007 model year-compliant trucks. The Port will buy older trucks as part of a Scrap Truck Buyback Program, to accelerate the removal of pre-1989 trucks from Port service. In addition, a Truck Procurement Assistance Program will help to ensure that concessionaries receive the best possible truck prices through volume pricing agreements.

We have continued to work cooperatively, and effectively, to make the CTP a statewide and national model. Recently, in fact, the California Air Resources Board awarded $98 million in State bond funds to the two Ports to assist in jump-starting the CTP. The Ports appreciate CARB's partnership, and expect additional funding support in the future. The watchword for all our decisions has been ***sustainability*** – we are seeking to build a sustainable program that meets not just our near-term goals, but establishes the framework we need to continue our progress in the years to come in the face of business, trade, and environmental challenges that can only be imagined now.

Mr. Chairman, I want to take this opportunity to thank you, Chairman Oberstar, and members of the Transportation and Infrastructure Committee for your collective leadership in securing enactment of "*The Maritime Pollution Prevention Act of 2008*," H.R. 802. We believe this historic legislation provides an important administrative framework for implementing MARPOL Annex VI which supports our emissions reduction efforts at the San Pedro Bay Port Complex.

Conclusion

Lastly, as *America's Port and International Gateway*, the Ports of Los Angeles and Long Beach play a critical role in the reliable movement of goods which the nation's businesses and consumers have come to rely on every day. Combined, the San Pedro Bay Ports and our region's trade corridor and logistics system have become the nation's "loading dock" and serve as an important dynamic economic engine for the country, enhancing our nation's global competitiveness.

We look forward to the next federal transportation authorization bill. It will provide a very timely opportunity for Congress to address the need for a true cost-sharing arrangement to meet the critical goods movement-related infrastructure requirements facing trade corridors and international gateways, such as the Ports of Los Angeles and Long Beach. To date, the failure of transportation policy to address goods movement funding has created an "*unfunded federal trade mandate*" for Southern California. Mr. Chairman, we stand ready to work with you and your colleagues on the Committee towards a new expanded transportation policy that includes, among other key provisions, enhanced financial resources and a new dedicated federal account to support critical goods movement-related infrastructure and environmental improvements to address emissions from diesel trucks, container ships and railroad engines.

In closing, we very much appreciate your coming to the Ports today. Thank you for your interest in the ongoing development of the Ports of Los Angeles and Long Beach, and the programs that we are implementing to ensure green growth and long-term sustainability.

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Statement of the Honorable Ronald O. Loveridge
Mayor of Riverside, California
3900 Main Street, Riverside, CA 92522
951-826-5551

Testimony Before the

Subcommittee on Coast Guard and Maritime Transportation of the House Transportation and Infrastructure Committee

Port Development and the Environment at the Ports of Los Angeles and Long Beach

August 4, 2008

Mr. Chairman and Members of the Subcommittee:

Thank you for the opportunity to testify before the subcommittee this afternoon. Goods Movement is one of the most important public policy issues facing Southern California---the state and our nation. The City of Riverside is over sixty miles inland from the Ports of Los Angeles and Long Beach, but it is one of the most negatively impacted cities by freight train traffic, as goods move from the ports to the rest of the country.

Goods Movement and the Regional Economy

California is the number one freight destination in the United States by value, and the state's freight movement is centered on the five-county Southern California region. In 2007, the Ports of Los Angeles and Long Beach handled approximately 40 percent of all of the containers entering the United States. In 2006, the Port of Los Angeles and the Port of Long Beach were the first and second busiest container ports in the country.

Consequently, rail traffic in the region is expected to increase 240 percent... from 91 million tons in 1995 to 309 million tons in 2020. *More than 75 percent of the rail freight exiting the Ports of Los Angeles and Long Beach travels through the Inland Empire to destinations in every state.*

Impact on our City

The City of Riverside, with nearly 300,000 residents and employment of over 167,000 is directly impacted by the rail traffic moving from the ports to the rest of the nation. The city is trisected by two major freight lines, the Union Pacific and Burlington Northern Santa Fe.

In 2003, 68 million tons of rail freight passed through Riverside County with less than 5 percent of that total either originating or ending locally. Our location within the Southern California goods movement network makes Riverside "ground zero" for train/automobile interaction, which creates problems unique to the city and our residents. The impact of goods movement on our mobility is a major challenge for our city and is the top quality of life concern of our residents.

On a daily basis, as many as 128 trains move through the City of Riverside. As a result, the residents of Riverside currently encounter the crossing gates down for an average of three hours per day and as long as six hours per day at each of the twenty-six priority at-grade crossings in the city.

These blockages of major thoroughfares directly impact:

- Public safety emergency response times;
- Vehicular safety;
- Air quality; and,
  Economic development.

Public Safety

Goods movement can be an issue of life or death. In our City, responding police, fire and EMT vehicles were delayed 769 times in 2007, with delays as long as 32 minutes. Just a few minutes can make a critical difference for cardiac arrest, stroke, and traffic accident victims.

Because fire grows exponentially, a delay of only a few minutes allows a fire to further intensify, causing great destruction and increasing the likelihood of injury or death.

Vehicular Safety

Between 1998 and 2007, the following incidents occurred:

- In the City of Riverside, 29 highway-rail incidents, resulting in six injuries and seven fatalities.
- In Riverside County, 53 highway-rail incidents, resulting in 10 deaths and 10 injuries. There have been 4 fatalities in Riverside County during the past two months.
- In the state of California, 1,080 highway-rail incidents, resulting in 220 deaths and 370 injuries.

As the Committee develops a comprehensive goods movement program for the next transportation bill, a safety component must be considered.

Air Quality Hazard

According to the California's Goods Movement Action Plan, goods movement is now the dominant contributor to transportation-related emissions in the State.

Adverse health impacts from pollutants include premature death, cancer risk, respiratory illnesses, and increased risk of heart disease. California Air Resource Board staff estimate that current emissions related to goods movement result in approximately 640 premature deaths per year in California. Without additional emission controls, that figure is estimated to rise to approximately 915 premature deaths per year by 2020.

Eliminating at-grade crossings will reduce the levels of pollutants released by idling cars, trucks and buses stopped for rail traffic, which now generate 45 tons annually in Riverside County. The impact would increase to 212 tons annually by 2030, as traffic is expected to back up as much as three miles each time the crossing gate goes down.

Economic Development

Addressing these at-grade crossings is paramount for the City's long-term economic development.

For example, employees at one of the city's major employment centers, Hunter Business Park, must pass through the Iowa Avenue at-grade crossing to reach the 215 freeway. The crossing gate was down for 6 hours per day in September 2007, which is already close to the 2030 estimate of 6.29 hours per day. And the gate down time will only increase as the number of trains increase to 169 per day by 2030. These delays decrease the productivity for the employees in the course of their work, as well as hinder their personal obligations as they drive to appointments or pick up their children from school.

The city is working to pull together the $32 million in local, state and federal funds needed to complete this grade separation project, and construction is scheduled to begin in early 2010.

Conclusion --- Grade Separations

The elimination of at-grade railroad crossings throughout Southern California ranks among the most critical elements of the goods movement solution, improving safety, traffic mobility and air quality.

The main challenge is funding. While the city and the county are committed to providing local funding, we need additional state and federal assistance to help pay for impacts of national goods movement in local communities.

In November 2006, Californians overwhelmingly voted for Proposition 1B, which authorized the sale of $19.9 billion in general obligation bonds to relieve local congestion, enhance safety, speed goods movement, and improve air quality. Proposition 1B will be a great stimulus for the State. In Riverside, for example, seven grade separations are under design and one is under construction. ***However, at a cost of $30-50 million per grade separation we need the federal government to be a committed partner to make a real impact in alleviating the impact of national goods movement in the region.***

Identifying new funding sources must be a primary issue in the upcoming year.

My Congressman, Ken Calvert, recently introduced the ON TIME Act. This bill is a good first step in addressing the regional impacts of goods movement, and working through the challenges of financing these important infrastructure projects.

As the Committee begins to draft the next transportation bill, I am committed to working with you to provide local perspective as the Mayor of Riverside and a national overview as the second vice president of the National League of Cities.

Thank you for the opportunity to testify before you this afternoon on these very important issues. I look forward to answering any questions that the committee members may have.

TESTIMONY
House Sub-Committee on the Coast Guard and Maritime Transportation
Field Hearing in Long Beach, California
August 4, 2008

Chuck Mack, International Vice President
International Brotherhood of Teamsters

Thank you, Chairman Cummings and members of the Sub-Committee on the Coast Guard and Maritime Transportation for the opportunity to present testimony on Port Development and the Environment at the Ports of Los Angeles and Long Beach. My name is Chuck Mack and I am an International Vice President of the International Brotherhood of Teamsters and Director of the union's Port Division.

For the past two years the Teamsters have partnered with the Natural Resources Defense Council, the Sierra Club, the American Lung Association, the Coalition for Clean Air, the Long Beach Alliance for Children With Asthma and over 30 other local, state and national organizations. We formed the Coalition for Clean & Safe Ports because the backwards economic conditions at the ports - particularly in the port trucking industry, has led to the environmental crisis we now face.

For too long, trucking companies and their shipper clients have been allowed to squeeze out more profits on the backs of over 20,000 workers across the state who keep our global economy moving. If we allow this broken system to continue, this workforce and taxpayers will continue to pay a dear price, both in dollars and with their health.

Goods movement prematurely claims the lives of over 3,700 Californians a year. In this very community we are in today, pollution from port trucks kills two people each and every week, and a broken port trucking system is to blame. Here's how it works -- trucking companies who hire drivers are currently free to skirt their responsibilities as legitimate employers, enabling them to cheat the state out of millions in payroll taxes by hiring so-called "independent contractors."

But let me be clear: Port drivers are not small business owners. They are severely underpaid workers who must sign leases that usually force them to haul for only one company, with no ability to negotiate rates, a fact that has led the attorney general to launch an industry-wide investigation. Their misclassification pins them with all the responsibility to buy and maintain trucks. They receive no health care, no social security, not even worker's compensation. They are paid only by the load, not the trip, traffic, or time, and only bring home on average $29,000 a year -- far lower when the price of diesel climbs to over $5.15 an hour as it is now.

It should come as no surprise that labor unrest is a pervasive feature of the port economy throughout North America, particularly here in southern California. In the nearly three decades since deregulation, drivers in US ports have struck, staged convoys and shut down the ports to protest their conditions related to the legal fiction that they are independent businesses, not workers. This frequent unrest adds additional costs to business, workers and the community, costing port stakeholders millions of dollars.

Los Angeles and Long Beach were the sites of two major strikes that that lasted several months in 1988 and 1995, involving thousands of misclassified drivers who halted all economic activity. With diesel costs soaring, more recently hundreds of drivers parked their trucks in protest in Oakland.

The dire economic conditions means this primarily immigrant workforce also owns the oldest and most polluting trucks. Recent emission tests conducted by the Natural Resources Defens Council showed that port drivers suffer some of the worst health effects from the dirty port trucking system because they breathe toxic fumes while idling in their trucks in line behind other dirty diesel trucks for hours to enter and exit the terminals.

People familiar with the ports describe the industry as "where old trucks go to die," because the market is so fragmented and unstable, but more literally because the average port truck in LA and Long Beach is 13 years old. Twelve percent of the current port truck fleet pre-dates 1989. The concentration of old diesel trucks in one place makes for a public health nightmare in harbor communities. A truck that is ten years old produces ten times the pollution as a new 2007 diesel truck, while a truck made before 1989 produces 60 times the amount of pollution as a model year 2007 truck. Old, ill-maintained trucks are one of the biggest culprits that make the ports the single largest stationary air pollution source in the State of California.

In order for the ports to continue to grow, officials reached a consensus that dramatic environmental mitigation measures were necessary to reduce overall emissions by 45 percent within five years. To achieve this goal as laid out in their Clean Air Action Plan, the ports are first relying on a landmark effort that will reduce emissions from port trucks by 80 percent and stabilize the workforce.

Failure to clean up port trucks will cost the region nearly $6 billion in premature deaths, hospital admissions, respiratory illnesses and lost school and workdays over the next ten years.[1] Given the history of environmental and community litigation, particularly the success of a lawsuit against a proposed China Shipping terminal expansion project, failure to achieve emissions-reduction targets could also block needed infrastructure projects like the Middle Harbor project in Long Beach from coming on line to expand the ports' capacity. In Los Angeles, the TraPac terminal expansion project was granted a green light but only on the assumption that all trucks serving both ports will meet or exceed 2007 emission standards within five years.

More simply put, its obvious that the status quo fails workers, business and the community alike. The Teamsters Union shares the belief that bold measures are critical to create livable, sustainable communities for working families of the region. That means we need to attack the root cause of the problem to solve the port trucking mess for the long term. Covering it up with a band-aid will fail all stakeholders – the Teamsters and all of our coalition partners only support a real cure will keep dirty diesel trucks off the road for good.

Several studies on port driver earnings provide statistical evidence why it is impossible for the current workforce who own trucks at the port to purchase new clean equipment. Even with subsidies financed through container fees, under no scenario can they as individuals afford the modernized fleet soon required by the Ports.

But all the statistics in the world don't tell the whole story until you put a human face to it. I would like to provide a couple of real life examples to illustrate the point.

At the end of my testimony, there is a spreadsheet titled, "Establishing a baseline for driver hourly earnings" which provides a real-life account of Lucia Dominguez who works for Land Truck at the ports of LA and LB. After subtracting all of her truck expenses from her gross income, then taking into account the number of hours she worked, her take-home pay was only $10.16 an hour. Nearly one third of her income goes towards paying for fuel. More than half of her total earnings go toward paying her truck expenses. And she does not even have a truck payment. If she had a $500 to $600 monthly truck lease payment, her hourly pay would plummet to $7.50 an hour.

Then there is Oscar Tarelo, who earns third world wages despite being born and raised in Long Beach. He is the father of three children who suffer from asthma, and has been a port driver for nine years. In 2004 Oscar opted to take clean air into his own hands and purchased a truck through Gateway Cities, a limited grant program resembling the Clean Trucks scheme recently approved by Long Beach Harbor Commissioners.

Oscar wanted to escape the diesel that permeated every aspect of his life, but soon discovered there was no way out. The debt he was left with ($700 a month on his loan) along with the soaring cost of fuel and other expenses, has made it impossible for Oscar to properly maintain his truck to keep it clean-burning. This past Spring Oscar's truck broke down. He was forced to take it to a back-alley repair shop where he could barter for parts and pay a small fraction of what a dealer would charge.

He often works up to 70 hours a week to make his monthly truck payment, and the year after he's finally paid it off, in 2010, the Port will have to shell out another $20,000 for it to be retrofitted. Further, new trucks are more expensive and difficult to maintain and keep in optimal working order.

And then what? In 2012, will he have to come up with $100,000 plus for a 2007 truck or newer? Or will he qualify for a subsidy that will give him monthly payments too steep to afford fuel and necessary, high tech maintenance? Oscar Tarelo says he's had it with half-baked schemes, he's got a different plan: "I'll go haul at the Port of LA, where they are going to make the companies pay for the trucks."

The Los Angeles Clean Trucks Program is the only comprehensive, sustainable program that economists and environmentalists agree will clean the air in the long term and will better equip the industry for today's rapidly changing global economy.

Its lasting success hinges upon a 21st century business model that no longer forces impoverished truck drivers to be in charge of cleaner commerce. Instead it requires the industry that profits take responsibility for their workforce and a new fleet. And, because of powerful incentives built in to the proposal for the purchase of alt-fuel trucks like the 100 percent exemption from a per truck cargo fee, cleaner trucks will get on the road quicker.

The caveman economics won't allow anyone to compete and will only perpetuate a race to the bottom at our ports. Now, forward-looking investors and businesses can plan for a stable, strong and capitalized port trucking industry equipped to handle projected trade increases.

Fundamentally, what the Port of LA is trying to achieve with their Clean Trucks Program is to minimize the amount of equipment and hardware by maximizing the use of labor. Only a company-based system that enables the Port to hold trucking companies accountable for their operations is capable of achieving this fundamental objective. If companies are responsible for the costs of owning and maintaining the trucks operating under their authority, they will have economic incentives to maximize the hours each truck is in service. An owner operator system prevents these efficiencies from occurring because the owner of the truck is limited in the number of hours he can work, notwithstanding that the owner operator system makes drivers akin to sharecroppers on wheels.

Minimizing the number of trucks serving the port by maximizing their hours of service will reduce the number of trucks, reduce congestions and wait times, increase operational efficiencies through more load matching. Finally, the ports need a program so they can achieve a greater level of security at the port. The Transportation Worker Identification Credential has taken years to get off the ground, and it is unclear when it will actually be operational. In the meantime, the ports need to be able to identify who the drivers are in case there is a problem. The Clean Trucks Program will enable them to register drivers and require trucking companies to be held responsible for their workforce. For example, if there is a security issue now, the port has no way of verifying who the driver is. The port could contact dozens of trucking companies and still not find out who the driver is. Conversely, if there is a security issue with a longshore worker, the port only needs to contact the International Longshore and Warehouse Union local union or one of the terminal operators to find who the worker in question is. The Clean Trucks Program will greatly enhance security because it will require trucks operating at the Port to be owned and registered by companies given a five-year permit – concession – in order to access the Port.

These concessionaires will employ truck drivers and be held accountable for ensuring that all trucks meet the requirements of the Clean Truck Program over the long run – from proper maintenance of trucks to security and licensing – a departure from the loose, independent structure without safeguards now in effect at the Port.
By fixing this broken system at the root of the Port's truck pollution problem, LA's strategy improves security and public safety at the region's most important trade center.

While the San Pedro Ports are the first ports in the United States to address the port truck pollution, they are not the first in North America to enact a license program to stabilize the industry. In 1999, the Vancouver Port Authority enacted a truck licensing program that restricts access to trucking companies that have obtained a license from the port. The Vancouver Port

Authority credits its current workforce stability to a mandatory licensing system for trucking companies doing business at the ports that hire employees. The trucking industry in Canada has accepted this business model without litigation. Further, the Port is now phasing in truck standards to clean up the fleet.

Finally, the temporary container fee that the ports enacted is a one-time subsidy to enable the port trucking industry to transition to an asset-based, clean truck operational model. Given the reluctance on the part of the big retail shippers to pay haul rates to trucking companies that would enable them to purchase new clean equipment on a regular basis, a temporary container fee is a reasonable user fee imposed on the shippers to finance this transition.

In the face of the unreasonable efforts by the American Trucking Association to block the enactment of the ports' Clean Trucks Programs, the Teamsters Union urges this Committee to provide whatever support it can to ensure the successful implementation of the Los Angeles Clean Trucks Program for the health of our communities, the workers at the ports, and for the future health of our economy.

Thank you.

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[i] "Road to shared prosperity," Los Angeles Alliance for a New Economy. 2007.

Establishing a baseline for driver hourly earnings
Lucia Dominguez, Land Trucking

Monthly Earnings/ Ganancias

$ 1,100.00	1. Por Semana/Per We k
$ 1,100.00	2. Por Semana/Per Week
$ 1,100.00	3. Por Semana/Per Week
$ 1,100.00	4. Por Semana/Per Week
$ 4,400.00	Total per month/por mes

Monthly Hours/Horas Por Mes

48	1. Hours per week/Horas por semana
48	2. Hours per week/Horas por semana
48	3. Hours per week/Horas por semana
48	4. Hourse per week/Horas por semana
192	Total per month/por mes

Monthly Expenses/ Gastos

Truck Payment/Pago de Camion		$ -
Truck Ins./ Aseguranza de Camion		$ 460.00
ROUTINE Maintenance & Service/Mantenimiento y Servicio (average over last 3 mo)		$ 100.00
MAJOR Maintenance & Service/Mantenimiento y Servicio (average over last 12 mo)		
Fuel/ Combustible	1. Por Semana/Per Week	$ 350.00
	2. Por Semana/Per Week	$ 350.00
	3. Por Semana/Per Week	$ 350.00
	4. Por Semana/Per Week	$ 350.00
	Total per month/por mes	$ 1,400.00
Parking/ estacionamiento		$ 150.00
Cell Phone/ Celular		$ 100.00
Registration/Registracion ($179-$184)		$ 184.00
Road Tax ($46)		$ 54.00
Any other Expenses		
	Total Monthly Expenses	**$ 2,448.00**

What you make per hour/Lo que ganas por hora

Total Monthly Earnings/Ganancias Mensuales		4,400
Minus/Menos		
Total Monthly Expenses/Gastos Mensuales	-	2,448
	=	1,952
Divided by Monthly hour / Dividido por horas mensuales	÷	192

What you make per hour/Lo que ganas por hora $10.16 PER HOUR/POR HORA

NRDC
THE EARTH'S BEST DEFENSE

NATURAL RESOURCES DEFENSE COUNCIL

Statement of David Pettit

Senior Attorney

Director, Southern California Air Quality Program

Natural Resources Defense Council

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Before the

Committee on Transportation and Infrastructure

Subcommittee on Coast Guard and Maritime Transportation

United States House of Representatives

August 4, 2008

Long Beach, California

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Summary

- Economic growth at the Ports of Los Angeles and Long Beach (the "Ports") depends on current, practical, well-financed solutions to the serious public health problem caused by Port-related diesel pollution. If those solutions are blocked, Port growth will not occur.
- Diesel pollution from the goods movement industry is estimated to cause 3,700 premature deaths in California every year, more than the number of homicides. This pollution also costs the California economy billions of dollars every year in lost work days and medical costs
- The Ports are embarking on multi-billion dollar expansion projects now. But, without solutions in place to the existing and future problems of diesel pollution, those projects will sit empty as cargo ships are forced to find other ports.
- The two largest sources of diesel pollution at the Ports are diesel trucks and oceangoing vessels. The Ports have in place plans to replace the 16,000 Port-serving trucks with clean, 2007 diesels. Carrying out these plans will cost several billion dollars, and without funding from Port-imposed container fees, the truck plans will fail. The Ports also have in place a temporary, voluntary program to incentivize the use of very low-sulfur marine fuel, in the expectation that state-wide rules from the California Air Resources Board (CARB) on low-sulfur marine fuel will go into effect in 2009.
- The trucking industry has sued to block the Ports' clean truck plans. The shipping industry is expected to (once again) sue CARB to block the state-wide low-sulfur marine fuel rule. If either of these lawsuits is successful, port expansion and infrastructure development will stop.

Introduction

Thank you for the opportunity to discuss Port development and the environment in Southern California. My name is David Pettit. I'm a Senior Attorney for the Natural Resources Defense Council (NRDC) and the Director of NRDC's Southern California Air Quality Program. NRDC is a national nonprofit organization of scientists, lawyers and environmental specialists dedicated to protecting public health and the environment. Founded in 1970, NRDC has more than 1.2 million members and online activists nationwide, served from offices in New York, Washington, Santa Monica, San Francisco, Chicago, and Beijing.

Mr. Chairman, as you may know, the Ports of Los Angeles and Long Beach are, collectively, the fifth largest port in the world, and handle roughly 40% of all imports to the United States. Business at these ports is predicted to triple within the next 20 years.

But this commercial success has come at a very high price to public health in Southern California. Our ports are already the biggest polluters in the most polluted region in the United States. The already high rates of asthma, lung cancer, cardio-respiratory and other diseases are rising sharply in communities near the ports and near the highways and railyards that serve the ports. An increase in Port business without addressing this public health problem would be unconscionable – and illegal.

NRDC has been working with the Ports for years, sometimes collaborating, sometimes litigating, in an attempt to clean up Port-related air pollution. In this testimony, I will describe how this is an important juncture for the Ports. The Ports can continue on a path of treating the skies as an open sewer by emitting harmful pollution and greenhouse gasses. Or, in the alternative, industry and other stakeholders can halt their unfettered opposition to efforts aimed at reducing the impacts from port operations, which will allow a more sustainable and robust goods movement system to emerge. I think the latter is the far superior path, and I will lay out several policy prescriptions that will allow the ports to reduce their impacts while concurrently allowing them to prosper economically.

Air Pollution At The Ports Of Los Angeles And Long Beach

The toxic air pollutant of most concern at the Ports is diesel particulate emissions from trucks, ships, trains, cargo handling equipment and tugs. The health problems associated with diesel particulate pollution are well known. Diesel exhaust is more than just gas. It also includes particulate matter ("PM") – tiny particles of metal, carbon and other chemicals that are many times smaller than the diameter of a human hair. These particulates can be made up in part by arsenic, cadmium, nickel, inorganic lead, antimony compounds, beryllium compounds, cobalt compounds, manganese compounds, mercury compounds, phosphorus, and/or selenium compounds. In addition, diesel PM also contains volatile organic compounds ("VOCs") and other toxic substances that are adsorbed onto the particles' surfaces. The gaseous components of diesel exhaust are also believed to be dangerous to human health. Diesel particulates have been found to be likely human carcinogens by the U.S. Environmental Protection Agency.

As the Ports themselves have recognized in their Clean Air Action Plan[1], the two biggest sources of diesel particulate emissions at the Ports are ships and trucks. In 2006, the latest year for which data are available, the Port of Los Angeles was responsible for 1,126 tons of diesel particulates, and the Port of Long Beach for 1,111. These figures show a 7

[1] The San Pedro Bay Ports Clean Air Action Plan may be found at: http://www.cleanairactionplan.org/.

% increase over the already poisonous 2005 levels.[2] Every 17 tons of diesel pollution causes one premature death and significant illness. There is no recognized safe level for these pollutants. Soot from diesel particulates is also a significant contributor to global warming.[3]

In studies by California's South Coast Air Quality Management District (AQMD) beginning in 1998, AQMD found that diesel particulates are the dominant toxic air pollutant based on cancer risk in the AQMD's jurisdiction, accounting for an estimated 84% of the risk.[4] In its most recent version of the Multiple Air Toxics Study for the South Coast Air Basin, the AQMD determined that "[m]odeling analysis shows the highest risks from air toxics surrounding the port areas, with the highest grid cell risk about 2,900 per million, followed by the area south of central Los Angeles where there is a major transportation corridor."[5] By way of example, on the next page we present a

[2] The 2005 and 2006 emissions inventories for the Port of Los Angeles may be found at: http://www.portoflosangeles.org/environment/studies_reports.asp. For Long Beach, the 2005 emissions inventory may be found at: http://polb.com/civica/filebank/blobdload.asp?BlobID=4412, and links to the 2006 emissions inventory at: http://www.polb.com/environment/air_quality/documents.asp.

[3] In the United States, toxic diesel emissions are responsible for more than half of the black carbon soot released (CARB, *Health Effects of Diesel Exhaust Particulate Matter*, 2007). A recent report funded in part by the California Energy Commission concluded that "black carbon pollution, which scientists blame for the premature deaths of more than a million people, is one of the major contributors to the retreat of the Himalayan glaciers." The potential role of black carbon in moving the earth toward a climate tipping point related to melting of glaciers or ice sheets requires serious attention. *See also* http://www.nrdc.org/globalWarming/boosting/contents.asp; Houston Chronicle, July 28, 2008 ("Scientists Find Soot Has An Even Darker Side").

[4] The AQMD has jurisdiction over an area of 6,745 square miles, with a population of over 15 million. Its jurisdiction includes the Ports of Los Angeles and Long Beach, as well as several enormous railyards and intermodal facilities.

[5] SCAQMD, Draft Multiple Air Toxics Exposure Study in the South Coast Air Basin, 6-2 (January 2008), http://www.aqmd.gov/prdas/matesIII/matesIII.html. The "major transportation corridor" referenced is one that is heavily used by diesel trucks carrying cargo containers to local railyards.

graphic showing the sensitive receptors[6] for air pollution within five miles of a proposed Port of Los Angeles expansion project at the China Shipping terminal.

Human Health Effects Of Diesel Particulate Pollution

There are many studies of the human health effects of diesel particulates, including studies on the effects on people who live and work near ports and highways that facilitate cargo movement. For example, in 2007, NRDC and the Coalition for Clean and Safe

[6] Sensitive receptors or individuals refer to those segments of the population most susceptible to poor air quality (i.e., children, the elderly, and those with pre-existing serious health problems affected by air quality). Land uses where sensitive individuals are most likely to spend time include schools and schoolyards, parks and playgrounds, daycare centers, nursing homes, hospitals, and residential communities (sensitive sites or sensitive land uses). See CARB, "Air Quality and Land Use Handbook: A Community Health Perspective," at: http://www.arb.ca.gov/ch/handbook.doc

SCHOOLS, PARKS AND HOSPITALS WITHIN 5 MILES OF CHINA SHIPPING SITE

Ports released a study on the exposure of port truck drivers to diesel exhaust at the Port of Oakland. The study, which included measurements of pollution inside the cab of trucks while drivers were working, found that average black carbon levels (an indicator for diesel PM) measured within truck cabs were at least 10 times higher than the background levels found in a working class Oakland neighborhood. The study also found that port drivers are exposed to increased health risk by up to 2,600 excess cancer cases per million people—double the level considered acceptable by the Occupational Safety and Health Administration, and up to 2,000 times greater than the level typically considered acceptable by state and federal environmental protection agencies.[7] In its Goods Movement Emissions Reduction Plan, the California Air Resources Board (CARB) noted that goods movement-related air pollution can increase all-cause mortality, cardiopulmonary mortality and lung cancer mortality in adults, infant mortality, hospital admissions for all pulmonary illnesses, chronic obstructive pulmonary disease, pneumonia, asthma, and all cardiovascular illnesses. It can also contribute to pre-term births and lower birth weight. Sensitive groups, including children and infants, the elderly, and people with heart or lung disease, can be at increased risk of experiencing harmful effects from exposure to air pollution.

CARB found that goods movement-related pollution in California causes 62,000 cases per year of asthma and other lower respiratory symptoms. A recent study by the Long Beach Alliance for Children with Asthma found that rates of childhood asthma near the

[7] The NRDC study may be found at:
http://www.nrdc.org/health/effects/driving/driving.pdf.

Ports and Port-serving freeways are 21.9%, compared to 15.6% for the Los Angeles region overall and 14.2% nationally.[8]

CARB also found that people living in communities close to the source of goods movement-related emissions, such as ports, railyards and inter-modal transfer facilities are likely to suffer greater health impacts and these impacts will likely add to an existing health burden.[9] Recent evidence also indicates that air pollution exposure can impair lung function growth in children. The long-term consequences of lower lung function can include shorter lifespan, as lung function peaks in young adulthood and declines thereafter; lung function is the most significant predictor of mortality in the elderly.[10] CARB has recently estimated that 3,700 premature deaths occur every year in California as a result of pollution from the transportation of goods,[11] this is more than the number of people who die from homicide in California every year. CARB's Goods Movement Emissions Reduction Plan estimates the cost to society of the deaths, illnesses, hospitalizations and lost work days caused by goods movement pollution as several billion dollars per year. We will describe below practical solutions for this devastating problem.

Port-serving Diesel Trucks' Contribution To Air Pollution In Southern California

The ports are where old trucks go to die. As long-haul diesel trucks end their useful lives, they tend to be shifted to short-haul work at our ports nationwide. These are, typically, the oldest, dirtiest, and worst maintained trucks in the fleet. A typical use for

[8] See the California Health Interview Survey, Lifetime Asthma Prevalence 2007, available at: http://www.chis.ucla.edu/.
[9] CARB's Goods Movement Emissions Reduction Plan may be found at: http://www.arb.ca.gov/planning/gmerp/gmerp.htm
[10] See http://www.nih.gov/news/pr/sep2004/niehs-08a.htm
[11] http://www.arb.ca.gov/Research/Health/pm-mort/pm-mortdraft.pdf

these trucks at the Southern California Ports is to transport cargo containers from the ports to intermodal railyards, the closest of which is only 4 miles away.

This problem of highly-polluting port-serving diesel trucks is exacerbated by the current economic model of port trucking. Most port truckdrivers are classified as independent owner/operators, and are paid by licensed motor carriers who contract with them on a per-trip basis without any health or other benefits. As a result, the drivers serving the Ports of Los Angeles and Long Beach typically take home less than $30,000 per year, leaving little, if anything, left to pay for expensive maintenance or repairs.[12] Moreover, a trip to the repair shop typically means that a truck will be out of service for a day or more – and the driver earns no income. These hardships are entirely unnecessary, however. The Ports can solve these problems through sustainable clean truck programs, such as that recently adopted by the Port of Los Angeles.

Oceangoing Vessels' Contribution To Air Pollution In Southern California

In 2007, the Ports of Los Angeles and Long Beach handled 15.7 million TEUs (twenty foot equivalent units) of containerized cargo, 145% of the volume they handled ten years earlier (6.4 million TEUs). Collectively, there were thousands of ship calls in these ports in 2007.

Oceangoing vessels burn the dirtiest diesel fuel in existence, called bunker fuel or residual oil. This fuel is highly contaminated with sulfur and other toxic materials, and is a solid, asphalt-like substance at room temperature; it must be heated to flow into ships' engines. Under the very loose regulations from the International Maritime Organization

[12] See the March 6, 2008 Beacon Economics presentation to the Port of Los Angeles, located at: http://www.portofoakland.com/pdf/ctmp_03.pdf. The $30,000 figure was obtained before the recent spike in diesel fuel prices.

(IMO), this fuel can contain up to 45,000 parts per million sulfur. By contrast, diesel trucks in California burn fuel with a maximum of 15 parts per million sulfur.[13] The sulfur content of diesel fuel is the most important determinant of how much diesel particulate matter will be emitted when the fuel is burned.

Unless a ship at dock is hooked up to shoreside electrical power ("cold ironing") – and few are – these huge cargo ships continue to burn diesel fuel while running their auxiliary engines 24/7 while at dock. In the time it takes to unload and load a large container ship, that ship will emit as much pollution as 1 million cars. Diesel particulate pollution tends to fall to earth relatively near its source. Thus, as AQMD and others have found, the health risks from this pollution are greatest near the Ports and the cargo routes from the Ports.

Port Infrastructure Needs And Green Growth

Although imports at the Ports are currently below last year's, it is widely expected that import growth will return to the high growth rates that have been experienced over the last decade. The current infrastructure at the Ports is incapable of handling growth of that magnitude, and as a consequence a number of expansion projects are under way. These include:

- The TraPac terminal expansion project at the Port of Los Angeles. This project alone will add the throughput of the Port of Houston to the Port of Los Angeles.

[13] In 2006, CARB enacted a rule requiring oceangoing vessels to use 5,000 parts per million sulfur fuel in their auxiliary engines within 24 miles of the California coast. The shipping industry successfully enjoined implementation of the rule. In July, 2008, CARB enacted a new rule requiring low-sulfur fuel in the main engines, auxiliary engines and boilers of oceangoing vessels within 24 miles of the coast. It is expected that industry will sue to invalidate this rule also.

- The China Shipping Phases II and III terminal expansion project at the Port of Los Angeles. This is another huge, multi-billion dollar expansion project to handle additional containerized freight.
- The Middle Harbor Project at the Port of Long Beach. This huge project will enable Long Beach to surpass Los Angeles in container throughput.
- Doubling in size of the Union Pacific ICTF intermodal railyard in West Long Beach, four miles from the Ports. The number of container "lifts" at ICTF is projected to double, from 750,000 per year to 1,500,000.[14] Every one of these containers is planned to be carried to the ICTF facility from the Ports by diesel truck.
- A new Burlington Northern Santa Fe intermodal yard, also in West Long Beach, designed to have 1.5 million "lifts" per year. As with the UP facility, every one of these containers will be carried by diesel truck.
- Building a "truck freeway" on SR 47 to connect the ports to the intermodal yards in West Long Beach.
- Rebuilding the Vincent Thomas Bridge, connecting San Pedro with Terminal Island, so that larger container ships can pass under it.
- Expanding the dangerous, congested I-710 freeway to handle increased truck traffic carrying cargo containers to railyards near downtown Los Angeles.

Los Angeles Mayor Villaraigosa, Long Beach Mayor Foster, officials from both Ports, and NRDC agree that these project must grow "green," or not at all. What this means to

[14] A container "lift" is a movement that takes a cargo container, usually weighing over 50,000 lbs, from a truck and places it on a train.

NRDC is that there must not be any additional health risk to the community – the current health risk is already unacceptable.

The Ports, under pressure from NRDC and other environmental and community groups, have begun to take steps to make sure that port growth is "green." In particular, both Ports have enacted programs to clean up the diesel trucking fleet, to encourage "cold ironing" when ships are at dock, to incentivize ships to use much cleaner diesel fuel within 40 miles of the coast, and to use the cleanest possible construction equipment in the Port expansion project. In addition, the Port of Los Angeles, with the AQMD, has funded the development of a working electric truck.[15] The clean trucks programs are to be funded by a combination of container fees and State bond funds. The marine fuel plan is currently voluntary, with the Ports funding the difference in cost between bunker fuel and the much cleaner distillate fuel. An example of the success of these steps is the recent Port of Los Angeles TraPac project, which was stalled until a coalition of environmental, community and labor groups worked with City and Port officials to craft an agreement that increased community protection from the effects of the project.

In contrast, without meaningful, effective, well-funded plans in place to clean up port trucking and to move to non-fossil fuels for the transport of cargo containers from the ports, to clean up marine fuel emissions, and to clean up port-serving construction equipment, there is no possibility that the Ports can grow "green." In particular, if the lawsuit by the trucking industry filed on July 28, 2008 against both Ports is successful in its goal of killing the Ports' clean trucks programs, Port and infrastructure expansion

[15] See http://www.portoflosangeles.org/newsroom/2008_releases/news_051608_et.asp. A video of the electric truck in operation is at: http://www.youtube.com/watch?v=0f1AlrG8gVU.

will come to a halt. The same will be true if the retail industry kills the container fees that fund the clean trucks programs, or if the shipping industry kills the very recent CARB clean marine fuel rule and the Ports decide to stop subsidizing the industry. These fees and plans are interdependent, and if one falls, they all do. We will discuss below in more detail the Ports' container fees and clean trucks programs.

The Ports' Container Fees

Both the Port of Los Angeles and the Port of Long Beach have enacted a $35 per TEU fee on loaded cargo containers at their ports.[16] The fees are to be charged to cargo owners and collected by marine terminal operators. Money provided by these fees will help fund the Ports' clean trucks programs. A study led by a well-known expert in international shipping, James Corbett of the University of Delaware, found that fees of this magnitude would not cause cargo traffic to be diverted from the local Ports.[17] The fees are expected to raise roughly $3 billion for the funding of the Ports' clean trucks programs.

A cargo container may hold 50,000 pounds or more. Doing the math, a $35.00 increase in cost per container works out to less than one-tenth of one cent per pound. For a 6-pound laptop computer, that is less than a penny. For a 70-pound big screen TV, the increase is roughly 5 cents. Accordingly, claims by the retail industry that these fees are oppressive are clearly unfounded.

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[16] See http://www.portoflosangeles.org/environment/cif.asp regarding the Port of Los Angeles container fee, and http://www.polb.com/civica/filebank/blobdload.asp?BlobID=4708 regarding Long Beach.

[17] The Corbett report may be found at: http://www.coalitionforcleanair.org/pdf/reports/cca-cargo-on-the-move-through-california-report.pdf

Without the container fees in place, the Ports' clean trucks plans cannot be funded. New, 2007-compliant diesel trucks cost upwards of $150,000. There is simply no way that port truckers taking home $30,000 per year or less can afford a vehicle that costly – and no way that a bank would finance one in those circumstances.[18]

Legality Of The Container Fees

The Ports' container fees are valid under the Commerce Clause of the United States Constitution and under the General Agreement on Tariffs and Trade (GATT).

Preliminarily, the container fees are not taxes within the meaning of the Constitution. They are imposed on the shipment of containers precisely to defray the cost of shipping those containers by truck, an indispensible part of container movement as of 2008. They are not imposed, for example, to provide funds for general public purposes such as police protection. *See, e.g., Union Pacific R. Co. v. Public Utility Com'n of State of Oregon*, 899 F.2d 854, 859 (9th Cir. 1990) (Oregon levy on railroads is not a tax within the meaning of the federal Railroad Revitalization and Regulatory Reform Act because it "is designed to recoup the costs of a regulatory program from members of the industry regulated, rather than to raise general revenues"); *see also San Juan Cellular Telephone Company v. Public Service Commission of Puerto Rico*, 967 F.2d 683 (1st Cir. 1992) (reviewing the caselaw).

[18] The Port of Long Beach recently invited finance companies to indicate their interest in funding the 20 percent of the cost of a new truck that the container fees will not cover. Of the three companies that responded, two declined to take on the entire Long Beach program, and the one company that did estimated a 40% default rate and touted its expertise in repossessing trucks.

The container fees will not violate the Commerce Clause because they will facilitate, not burden, interstate commerce, because they will not discriminate against foreign as opposed to domestic commerce, and because the amount of the fees is not excessive in comparison to the cost of cleaning up the Port trucking fleet. *See, e.g., Evansville-Vanderburgh Airport Authority District vs. Delta Airlines*, 405 U.S. 707 (1972). Moreover, the Ports, as landowners, are largely protected against Commerce Clause challenges by the market participant doctrine. *Cf. Engine Manufacturers Association v. South Coast Air Quality Management District*, 489 F.3d 1031 (2007).

Likewise, the container fees will not violate GATT because, under Article VIII of GATT, the container fees are limited to the approximate cost of the services to be rendered, and are not an indirect protection of domestic products or a general tax. The container fees are also allowed by Article XX of GATT which permits measures "necessary to protect human, animal or plant life or health."

The Ports' Clean Trucks Programs

Both the Port of Los Angeles and the Port of Long Beach have enacted Clean Trucks Programs, funded by the $35 per TEU container fees and from State of California bond proceeds. Both plans phase out older trucks beginning in October, 2008, with the goal of replacing all 16,000 trucks in the current fleet with much cleaner, 2007-compliant trucks within five years.[19] Both plans require, as a condition of entry onto Port property, that the drivers or trucking companies agree in a "concession agreement" to abide by certain

[19] The schedule for the progressive ban is: pre-1989 trucks are prohibited as of October 1, 2008; pre-1994 trucks are prohibited as of January 1, 2010; non-retrofitted 1994-2003 trucks are prohibited as of January 1, 2010; and pre-2007 trucks are prohibited as of January 1, 2012. 2007 model trucks are over 60 times cleaner than pre-1989 trucks.

rules concerning the upkeep and safety of the trucks, consent to searches, data collection and related matters.[20]

One significant difference between the two programs is that the Los Angeles program requires a phase-out of individual owner/operators in favor of trucking companies that own the trucks and employ the drivers. This is the environmentally superior alternative because well-capitalized trucking companies are better able to buy, maintain and replace expensive new trucks than low-income drivers are. In addition, a company-based system will allow for improvements in logistics so that trucks are not "deadheading" with empty containers, and allow a decrease in idling time through better scheduling.

By contrast, the Long Beach program continues to rely on owner/operators to fund the purchase of expensive new trucks. The Port of Long Beach has said that it would pay for maintenance for new trucks purchased under its Clean Trucks Program, but no details have been made public about the scope or duration of this promise. In addition, the Long Beach program is a one-shot plan, such that when the 2007-compliant trucks wear out, there will be no money to replace them.

Although there have been industry complaints in the press about the Los Angeles plan, it is important to note that the Federal Maritime Commission, on June 13, 2008, gave the green light to both the Los Angeles and Long Beach truck plans, finding that "there was no basis at this time to determine that the Agreement [to cooperate on their clean truck

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[20] The concession agreements can be found at . http://www.polb.com/civica/filebank/blobdload.asp?BlobID=5298 (Port of Long Beach) and http://www.portoflosangeles.org/newsroom/2008_releases/news_071808ctp.asp (Port of Los Angeles).

plans] is likely to result in an unreasonable increase in transportation costs or decrease in services."

Legality Of The Clean Trucks Programs

Industry has claimed that the Clean Trucks Programs violate the Commerce Clause of the United States Constitution and the Federal Aviation Administration Authorization Act (FAAA). This argument ignores the fact that the Ports have powers as landlords that governmental bodies would not have as regulators, and that those powers include the ability to choose which trucks can do business on Port property. This is commonly known at the market participant doctrine, which applies in both Commerce Clause and FAAA contexts. See, e.g., *Engine Manufacturers Association v. South Coast Air Quality Management District*, 489 F.3d 1031 (2007) (Commerce Clause); *Independent Towers of Washington v. Washington,* 350 F.3d 925, 928 (9th 2003) (FAAA).

Nonetheless, on July 28, 2002, the trucking industry filed suit in federal district court in Los Angeles to kill both Ports' Clean Trucks Programs, arguing that the programs violate the FAAA and the Commerce Clause.[21] NRDC, the Coalition for Clean Air, and the Sierra Club will ask the court for permission to intervene as defendants to help uphold these important programs. If industry's suit is successful, there will be immediate, negative effects on public health in the ports area, and on the ability of the Ports to expand, or even to do business as usual.

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[21] *American Trucking Association v. City of Los Angeles, et al.*, United States District Court for the Central District of California, Case No. CV-08 04920 CAS(CTx).

Conclusion

Too many people in California suffer serious health impacts from port related pollution, in the name of cheap goods that line store shelves here in California, as well as inland. There are many feasible, cost-effective and readily available solutions to clean up this pollution and improve public health. Millions of impacted residents have been waiting for ports and businesses that benefit from the ports to step up, finance and implement these basic measures. Container fees are the most effective, efficient means to ensure that the necessary measures outlined here are achieved in California and that the staggering health toll from port pollution is addressed. We must work together to clean up the thousands of trucks and ships blanketing communities throughout the state with toxic soot. The Clean Truck Programs and Container Fees supporting these programs are on solid legal and technical ground to accomplish this important task.

I want to thank the Subcommittee for the opportunity to present testimony on this very important subject. I also want to thank my NRDC colleagues Adrian Martinez, Diane Bailey and Isaac Steinmetz for their help in preparing this testimony. I hope that the Subcommittee's work can help our local ports grow green so that public health and commerce can improve together.

The Port of LONG BEACH

The Written Statement of
Richard Steinke
Executive Director
Port of Long Beach

Before the
House Committee on Transportation and Infrastructure
Subcommittee on Coast Guard and Maritime Transportation
United States House of Representatives
"Port Development and the Environment at the Ports of Los Angeles and Long Beach"

August 4, 2008

Mr. Chairman, Members of the Committee. Thank you for the opportunity to speak before the Committee today and for holding this important hearing at the Port of Long Beach. My name is Richard Steinke and I am the Executive Director for the Port of Long Beach. The Port of Long Beach is the second largest seaport in the United States and combined with our neighbor, the Port of Los Angeles, we are the fifth largest port complex in the world. In 2007, the Port of Long Beach handled more than 7.31 million containers, also known as Twenty Foot Equivalent Units (TEUs). Combined with Los Angeles, both ports handled over 15.7 million TEUs, which represented over 40% of all containerized goods entering United States ports.

The ports of Long Beach and Los Angeles, also known as the San Pedro Bay Ports, are the leading gateways for trade between the United States and Asia. Port operations support approximately 1.4 million jobs nationally and provide consumers and businesses with billions of dollars in goods each year. About $4 billion a year is spent in the U.S. for port-industry services and trade valued annually at more than $100 billion moved through the Port of Long Beach in 2007.

Due to the geographic location of the port complex, the ports of Long Beach and Los Angeles are well positioned in relation to the transportation and rail infrastructure system that transports products throughout the region and the country. Both ports are expected to meet the growing demand for international cargo which is estimated to more than double, from 15.7 million TEUs in 2007 to over 35.3 million TEUs by 2020.

In an effort to reduce emissions related to current and future trade demands, the Port of Long Beach has adopted aggressive environmental mitigation programs to help improve air quality. The Port's initial environmental mitigation plan, the Green Port Policy, was adopted by the Board of Harbor Commissioners in 2005 to protect the community from harmful environmental impacts related to Port operations, promote sustainability and employ the best available technologies to avoid or reduce environmental impacts.

In 2006, the Port of Long Beach worked with the Port of Los Angeles, the United States Environmental Protection Agency (USEPA), the California Air Resources Board (CARB) and the South Coast Air Quality Management District (AQMD) to develop the innovative Clean Air

Action Plan (CAAP). The Long Beach and Los Angeles Boards of Harbor Commissioners jointly approved the Clean Air Action Plan in November 2006, a Plan that seeks to reduce emissions associated with port operations by more than forty five percent over five years. The CAAP is expected to cut particulate matter pollution, nitrogen oxide and sulfur oxides from source categories that include ocean going vessels, harbor craft, cargo handling equipment, railroad locomotives and heavy-duty trucks.

A key component of the San Pedro Bay Ports' CAAP is the implementation of a Clean Truck Plan (CTP) which was adopted by our Board of Harbor Commissioners on November 5, 2007. The landmark Clean Trucks Plan will dramatically modernize the port trucking industry and significantly reduce truck-related air pollution. This Plan requires all heavy duty trucks operating at the San Pedro Bay Ports be replaced or retrofitted to meet the USEPA 2007 emissions standards by 2012. It is estimated that drayage trucks account for approximately 25 percent of the air pollution from port-related sources, including diesel particulate matter and nitrogen oxides, which pose significant health risks. That is why the CTP calls for all drayage trucks serving the ports be replaced with newer, cleaner trucks, which will result in truck-related air pollution reductions of approximately 80 percent. Although the ports do not own or operate the drayage trucks that serve port terminals, the ports have determined that a progressive ban on dirty trucks is the most direct way to cut air pollution and reduce public health risks posed by dirty diesel trucks, on a time frame that meets the needs of our local communities.

The Clean Trucks Plan calls for drayage truck owners to also scrap their older diesel powered trucks working at the ports, which will greatly benefit the region because those trucks will be off the road completely. Specifically, the Plan also includes a Clean Truck Fee imposed on Port cargo and truck concession requirements to identify clean trucks, ensure reliable short-haul service, and improve air quality, security and safety.

On December 17, 2007, the Board of Harbor Commissioners at the ports of Long Beach and Los Angeles approved a cargo tariff, the Clean Truck Fee, to help finance retrofits or replacement of banned trucks. The fee, to be charged to cargo owners, will place a $35 fee on every loaded TEU cargo container entering or leaving any terminal beginning August 2008. This fee will not apply to containers entering or leaving the ports by train and is expected to generate $1.6 billion, in addition to the $143 million that has been committed by the ports of Long Beach and Los Angeles. The ports are also expecting to receive $98 million from the state

Proposition 1B bond which California voters approved in 2006 to help pay for major transportation and air quality improvement projects. In total, the Clean Trucks Plan is expected to cost $2.2 billion.

In an effort to encourage industry leaders to purchase "cleaner" trucks sooner, the Port of Long Beach will exempt or partially exempt cargo owners from paying the $35 per loaded TEU Clean Trucks Fee if they use private funding to purchase trucks that meet our requirements. Cargo owners are 50 percent exempt from the Clean Trucks Fee if their merchandise is drayed by privately LNG or alternative-powered trucks that meet the 2007 federal emission standards. In addition, cargo owners are 100 percent exempt from the Clean Trucks Fee if their 2007 compliant diesel-fueled trucks were purchased with private funding before October 1, 2008.

In order to quickly remove the older, polluting trucks that would remain on the public roadways for many years, the Port will offer financial subsidies to help replace and retrofit heavy duty trucks. The Port will offer three financing plans which include a lease-to-own program, an up-front grant for purchase of a new clean truck and an up-front grant for retrofit.

The lease-to-own option will allow an applicant to exchange an older truck for a pre-approved new truck under a seven-year lease agreement. The monthly lease payment for the lease-to-own program will be $300 to $600 for the driver and the Port will augment the lease payments with Port monthly payments on average of $800 to $1,400, depending on the cost of the clean truck. Prepaid maintenance to be covered by the port will be included in the cost of the truck and at the end of the lease term, the Port will provide an additional 50 percent ($7,000 - $15,000) subsidy towards the purchase of the truck for the lessee. As a result, with a new truck, operators are expected to save on maintenance and fuel.

Another option under the Port's CTP is an up-front grant for purchase of the heavy duty vehicle. An applicant can exchange an older truck for a pre-approved new truck with a Port grant of $60,000 to $75,000 for a clean diesel truck, $90,000 to $120,000 for Liquefied Natural Gas (LNG) or other alternative fueled truck. The grant applicant will provide the remaining costs and prepaid maintenance will also be included as part of the up-front grant. The third option for the CTP is the up-front grant for retrofit. The Port will provide a one-time grant, as much as $20,000 towards the purchase of retrofit equipment for model year 1994 to 2003 trucks in 2008 and 2009. Retrofit applicants may be eligible later for purchase grants or leasing subsidies, if funding is available.

As part of the San Pedro Bay Clean Trucks Plan, only Port-permitted concession trucks will be allowed to work at the San Pedro Bay Ports. The concession system provides oversight and accountability for the trucking industry and ensures that our Ports' aggressive clean-air goals are being met.

Although the Ports of Long Beach and Los Angeles jointly adopted the Clean Trucks Plan and progressive ban on trucks, our respective Board of Harbor Commissioners have taken a different approach to the concession system for the Plan. The CTP at both ports require LMCs to: be in good standing with a valid license; operate clean trucks consistent with CTP and Tariff; comply with on-street parking ordinances; adhere to truck routes specified by local and state authorities or the ports; implement technology required for the Concession or CTP; post placards on the vehicle providing the public with a phone number to report concerns; provide an appropriate maintenance plan; comply with regulatory safety standards; comply with applicable security requirements and regulations; use drivers that meet security requirements including enrollment in the federal Transportation Worker Identification Credential program; maintain required insurance levels; and give preference to drivers with previous service at ports; and participate in workforce development.

However there remain some differences between the programs. Specifically, the Port of Long Beach concession system allows LMCs to use employee drivers, independent contractor drivers or a combination of employee and contractor drivers – as they do now. Choice in the drayage industry is important and under the Port of Long Beach Plan, drivers can choose to be an employee or be their own boss, while accomplishing the real goal of the Clean Trucks Plan - cleaning the air. As part of the concession system, the Port of Long Beach also requires LMCs to offer health insurance to all drivers, a provision that is not a requirement in the Los Angeles plan. In addition, the Port will grant five-year concessions to Licensed Motor Carriers who pay a one-time application fee of $250 versus a fee of $2,500 at the Port of Los Angeles, and a concession fee of $100 per truck each year is charged by each Port for administration.

In addition to the Clean Trucks Fee, on January 14, 2008, the Port of Long Beach approved a tariff, Infrastructure Cargo Fee (ICF), to help finance local port-related goods movement infrastructure. The money generated by this fee will be used to augment and compliment funding received from federal and state sources. The ICF will provide funds for upgrades to aging infrastructure that would reduce congestion, expedite goods movement, and improve air quality. This fee that is separate and distinct from the Clean Trucks Fee. The Infrastructure Cargo Fee will raise revenue directly from the goods movement industry to pay for about half of the costs of the approved list of harbor area projects. This Fee will be charged to cargo owners and will place a $15 fee on every loaded TEU cargo container entering or leaving any terminal by truck or train beginning January 1, 2009 and will generate an estimated $1.4 billion.

Direct industry user fees are needed at the San Pedro Bay Ports due to limitations in federal, state, local, and port funding for high-priority projects. The revenues from the fee program will provide the "private" component of a public-private partnership. Funds generated by the ICF will be used to match Proposition 1B bond funds to help pay for major transportation and air quality improvement projects, and will sunset after the projects are completed and paid in full. Local highway improvements include: replacement of the Gerald Desmond Bridge from Long Beach to Terminal Island and construction of an interchange to allow the removal of a traffic light at Navy Way and Seaside Avenue. The fee will also help to improve access from the Harbor Freeway to the Port of Los Angeles, and replace the Schuyler Heim drawbridge on the Terminal Island Freeway by building a four-lane, elevated expressway between Ocean Boulevard and Alameda Street at Pacific Coast Highway. Also ICF will improve a highway-railroad grade separation in south Wilmington. According to a directive from Mayor Bob Foster and the Board of Harbor Commissioners, projects identified to be funded through the ICF will not move forward before the Port moves forward on implementation of environmental projects.

The ICF will allow the ports to raise funds to pay for the projects as they progress and the ICF establishes a way for the goods movement industry to pay for a share of the needed infrastructure improvements. In total, the ICF and Proposition 1B funds will finance about $3 billion in improvements. In addition to environmental and traffic benefits, these projects will help support the economy and jobs by ensuring the continued efficient movement of cargo. The ICF and other user fees will help ensure that the users of the Port provide their fair share toward critical infrastructure and air quality improvements.

In order to improve air quality and to move goods more efficiently from the San Pedro Bay Ports to regions across the nation, additional investments will need to be made to fund environmental and infrastructure programs at the nation's ports. The Port of Long Beach looks forward to working with the Committee and other key stakeholders to develop progressive environmental policies and on the upcoming transportation authorization bill to develop a list of critically needed infrastructure projects that will allow goods that fuel our economy to continue moving.

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HOUSE TRANSPORTATION AND INFRASTRUCTURE SUBCOMMITTEE ON COAST GUARD AND MARITIME TRANSPORTATION:

"PORT DEVELOPMENT AND THE ENVIRONMENT AT THE PORTS OF LOS ANGELES AND LONG BEACH."

WITNESS TESTIMONY
August 4, 2008

Good afternoon. My name is Elizabeth Warren, and I am the Executive Director of FuturePorts. Thank you for the opportunity to address the sub-committee this afternoon. FuturePorts, a membership-based advocacy group based in this area, has over 40 member companies and over a dozen strategic partnering organizations. Our members and partners combined represent tens of thousands of employees throughout Southern California.

Our members include industries throughout the entire goods movement supply chain. They provide jobs that are directly related to the ports, such as marine terminal operators, railroads, warehouses and distributions centers. Our members also provide jobs indirectly related to the trade and logistics industries, including civil engineers and environmental consultants; construction companies and labor unions; attorneys and public relations firms, just to name a few.

Most of our members have an office within a 5-mile radius of the ports; however many have multiple offices throughout California and beyond. But all of our members have at least two things in common. One is a vested interest in the economic performance of our San Pedro Bay Ports of Los Angeles and Long Beach. The other is that we all agree and believe in the need for cleaner air.

FuturePorts believes that by growing our ports, we can advance economic performance while concurrently improving our environment. No one in this room will deny that clean air is important to each one of us, and no one said achieving this goal would be easy or inexpensive. However, how we achieve this goal and how we pay for it in an equitable and economically sustainable manner is where the discussion and dialogue needs to occur. *We firmly believe that doing nothing is not an option, and to clean our ports we must simultaneous and continuously grow, while growing green.*

Companies are incented to invest in green technology when presented with opportunities to grow their business, which provides the resources necessary to fund conversion to the new technologies. Thus, we have an opportunity to achieve both port expansion and port emissions reduction. These goals are complementary. In fact, it is precisely by modernizing terminals—by replacing outmoded, high-emissions equipment and increasing the efficiency of operations—that we can achieve this result. The ports recognize this and have offered a variety of programs to facilitate this outcome through standards and technology incentives.

The port can simultaneously increase jobs, expand trade and reduce emissions. Projects that achieve environmental benefits, increase port capacity and generate jobs must proceed as quickly as possible and not be over-burdened by uncertainty and expense.

EMISSION REDUCTION INITIATIVES AT THE SAN PEDRO BAY PORTS

I would like to summarize some of the many efforts underway to reduce emissions from port-related emission sources. Recently, the ports released their 2006 emissions inventories, and although there were increases in emissions over 2005 levels, emissions on a per TEU basis went down. In fact, the benefits of many adopted programs, which were not in existence in 2006, are being realized.

For example, as you know, rail is the most environmentally friendly way to move freight over land. Rail is two to three times more efficient than trucks, and one double stack container train can replace up to 280 trucks. Nonetheless, in California's South Coast Air Basin, rail in 2008 will make up 0.8% and 3.4%, respectively of PM and NOx. In order to assist in lowering Basin emissions, the railroads have undertaken numerous steps to reduce pollution in the South Coast Air Basin. In fact, the California Air Resources Board (ARB) staff estimates, by 2010, emissions around rail yards will be reduced about 65% from 2005 levels as a result of state regulations already adopted, the two railroad Memorandums of Understanding and some additional future investments from the Moyer or other programs. I have attached to my written testimony an ARB fact sheet summarizing these initiatives.

Voluntary and incentive based programs like the PierPASS off-peak program have been particularly effective to reduce emissions and congestion at the ports. The success of these voluntary programs to cut pollution is highly encouraging. PierPASS has successfully moved 45% of the daytime traffic to off peak hours. It shows that when the ports and business work together on air pollution problems from specific sources, we see dramatic results.

In addition, industry has accomplished significant reduction in emissions from cargo handling equipment. Particulate emissions from cargo handling equipment were reduced at the Port of Los Angeles by 10% between 2001 and 2006 and NOx emissions were reduced by 47%, even with a 63% growth in cargo. These emissions reductions are primarily the result of voluntary programs which provided incentives to terminal operators to install retrofit devices on their equipment and use cleaner fuels. In addition, the terminal operators proactively replaced their older equipment with equipment using on-road engines, which meet a cleaner standard. Other voluntary programs include the use of cleaner fuels, reduced vessel speed and use of shore power. The success of these voluntary

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programs to cut pollution is highly encouraging. Again, when the ports and business work together on air pollution problems from specific sources, we see results.

PORT CLEAN TRUCK PROGRAMS

With respect to trucks, we have urged the ports and elected officials to focus on implementing a truck plan that took into consideration the legal implications of the ports' actions to mandate certain restrictions on the trucking industry.

We need to place the highest emphasis on air quality improvements that can be implemented in a timely manner, such as the truck replacement program.

Businesses and industry are not opposed to organized labor; however, we believe our first priority is to implement a sustainable air-quality improvement program. Business can not function with the level of uncertainty that is occurring because of this issue.
Businesses have proven that they will make the investment in clean equipment, but they can not be pushed into making unsound business decisions that will only continue to delay the truck replacement program.

CONTAINER FEES

We are aware of the many container fees that are currently in place and also being proposed at the local, state, and federal level. We have many concerns about how these fees are being proposed and implemented, and the potential unintended consequences of these fees.

I do not mean to say industry opposes all fees. There are several examples where negotiated project fees have provided industry benefit. For example, the PierPASS off-peak program was negotiated by shippers and terminals to levy a $100 fee (per FEU) for peak-period gate moves. Similarly, the railroads negotiated the Alameda Corridor fee because the Corridor provided efficiency benefits. But these user fees should be distinguished from legislated fees.

If fees are levied, specific projects should be identified for funding, the account must be firewalled or protected to use for the specific project or projects for which it was intended, and there should be a sunset once the projects are complete. Projects funded by fees should allow industry to see a return on that investment. Priority projects are those that will increase efficiencies while reducing emissions creating a win-win situation for everyone – ports, businesses and the community.

We are also concerned that not enough analysis has been given to the overall number of local and state fees and total amount being levied against the shippers. A summary of the various adopted and proposed fees is attached. Studies have shown that there is a threshold that will drive business away, creating unintended consequences: inefficiencies, emission increases, loss of jobs, and economic harm.

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UNCERTAINTY

We used to think that the volume of cargo at our ports could never be diverted in the numbers that it is today. However, we are seeing significant declines in our cargo volume, and our concern is that once the cargo is gone, it will never return. Cargo is just like water it travels on – it will seek and find the path of least resistance.

Billions of dollars of investment in new, green terminals are going to Houston, Jacksonville, and Canada because of the uncertainty facing our industry. Those billions of dollars could have been invested here – creating state of the art terminals that operate more efficiently, providing thousands of good jobs, and pumping up the local and regional economy. One of the world's largest retailers used to ship millions of containers of goods through our ports. Now, those containers and all of the jobs that go with it are going through the Panama Canal and to the Gulf Coast ports.

The twin San Pedro Bay ports are no longer any shipper's first or only choice. We are one of many choices, and more often we are coming in as the last choice because of uncertainty and cost.

To give an historical perspective, fifty years ago San Pedro was a fishing town – the docks were lined with fishing boats and canneries. Granted those times are long gone, but no one back then ever thought fishing would leave the harbor area. Thirty years ago, my mom and dad and a lot of other folks, worked in the aerospace industry in Southern California. No one ever thought aerospace would leave the region, but it did. The auto industry is not the industry in Detroit like it used to be, leaving behind a city full of unemployment, crime and foreclosures.

We are being penny wise and pound foolish if we dare to think that twenty years from now, we will have the same port industry as we do today. If business is not allowed to make the investment with a level of certainty that they will have a reasonable return on their investment, then they will take their business, and the jobs and technology, elsewhere.

Port transportation providers can continue to help reduce emissions while improving the state's economy and quality of life, but they can't do it unless we can continue to efficiently and safely deliver goods to and from California's ports, rail yards, and borders. Patchwork regulations by local districts, cities, or counties threaten the economy and, in fact, may result in unintended consequences, including increased emissions by diverting goods to less efficient modes or routes. Uniform federal regulation and policy is critical to provide consistency and certainty for transportation providers.

JOBS

The San Pedro Bay Ports, the busiest in the United States, are a national asset and critical component of the LA regional and U.S. economy. Combined, the ports of Los Angeles and Long Beach comprise the largest port complex in the U.S. and the fifth largest port in the world and represent $350 billion in trade each year. The ports are the largest source of

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employment in the greater Southern California Region and provide good wages - averaging above manufacturing sectors.

The point has been made that growing our ports in a clean, responsible manner is critical to growing the Southern California and national economies. However, more importantly it is critical to improving our air quality. More of what we have now, and doing nothing, is not an option. It's been seven years since we've had a major infrastructure project, we must start now.

Los Angeles County is not only in a crisis mode with our air quality and traffic congestion, we're also in crisis with killings and gun violence. We have more gang members per capita than any other city in the country – maybe even the world. More people – young people, our future – are killed in Los Angeles County every year than are in Iraq. And where is the outrage from us as a community on this statistic?

You've heard me and others say that quality of life begins with a job. Community leader Father Boyle from Homeboy Industries needs to be quoted – "nothing stops a bullet like a job."

The fact, which can not be stressed enough, is that the Ports of Long Beach and Los Angeles are the centerpiece of Southern California's $350 billion trade and logistics sector, supporting approximately 500,000 regional jobs with annual wages in the tens of billions of dollars. This is the main industry in Southern California. Hollywood is a drop in the bucket compared to the trade and logistics industry.

A majority of trade and logistics jobs are high-wage jobs with built-in career ladders for workers and job seekers at all education and skill levels. Across the industry, annual salaries average about $45,000 per year versus only about $29,000 per year for retail jobs. One new project will create hundreds of construction jobs, and probably several thousand permanent new direct and indirect jobs. We have many construction projects waiting to be approved that would provide the boost to the economy that we need, and will clean the air.

CONCLUSION

Thank you again for the opportunity to address the sub-committee today. We hope that you will take our concerns into consideration. We look forward to continuing the dialogue with you and welcome your questions.

Sincerely,

FuturePorts

Elizabeth Warren

Elizabeth Warren
Executive Director

Fact Sheet

February 2008

California Environmental Protection Agency
Air Resources Board

Strategies to Reduce Locomotive and Associated Railyard Emissions

The Air Resources Board (ARB) has developed a comprehensive approach to reduce locomotive and railyard emissions through a combination of air pollution control measures and strategies:

- **South Coast Locomotive Oxides of Nitrogen (NOx) Fleet Average Agreement:** Signed in 1998 between ARB and both Union Pacific Railroad (UP) and BNSF Railway (BNSF), it requires the locomotive fleets that operate in the South Coast Air Quality Management District to meet, on average, the United States Environmental Protection Agency's (U.S. EPA) Tier 2 locomotive emissions standards by 2010. Tier 2 locomotives became commercially available in 2005 and provide a 65% reduction in NOx and 50% reduction in diesel particulate matter (PM) emissions. This Agreement will provide locomotive fleet benefits in southern California 20 years earlier than the rest of the country.

- **Statewide Railroad Agreement:** ARB and both UP and BNSF signed a voluntary statewide agreement in 2005 that resulted in measures that have achieved a 20% reduction in locomotive diesel PM emissions in and around rail yards since its adoption in June 2005. The measures in the Agreement include:
  - Phase-out of non-essential idling on all locomotives without idle reduction devices (60 minute limit, fully implemented);
  - Install idling devices on 99% of the 450 California-based locomotives by June 30, 2008 (15 minute limit, 95% implemented);
  - Identify and expeditiously repair locomotives with excessive smoke and ensure that at least 99% of the locomotives operating in California pass smoke inspections (fully implemented);
  - Require all locomotives that fuel in the state to use at least 80% ultra low sulfur (15 parts per million) diesel fuel by January 1, 2007 (six years prior to federal requirement);
  - Prepare new health risk assessments for 16 major railyards, based on the UP Roseville Railyard health risk assessment (completed in 2004) and Office of Environmental Health Hazard Assessment guidelines (nine of 16 finalized in November 2007); and
  - Identify and implement future feasible mitigation measures based on the results of the railyard health risk assessments.

- **ARB Diesel Fuel Regulations Extended to Intrastate Locomotives:** Approved in 2004, the regulation requires intrastate locomotives that operate 90% of the time in the state to use only California ultra low sulfur (15 parts per million) diesel fuel. ARB lower aromatics diesel's provides on average a 6% reduction in NOx and 14% reduction in diesel PM emissions as compared to U.S. EPA ultra low sulfur onroad diesel fuel. The regulation took effect on January 1, 2007.

- **ARB Cargo Handling Equipment Regulation:** Approved in 2005, the regulation requires the control of emissions from more than 4,000 pieces of mobile cargo handling equipment, such as yard trucks and forklifts that operate at ports and intermodal rail yards. This regulation, which took effect on January 1, 2007, is expected to reduce diesel PM and NOx emissions by up to 80% by 2020.

- **Heavy Duty Diesel New Truck Regulations**: Both ARB and U.S. EPA have adopted emission standards for 2007 and subsequent model year heavy-duty diesel engines. These standards represent a 90% reduction of NOx emissions, 72% reduction of non-methane hydrocarbon emissions, and a 90% reduction of PM emissions compared to the 2004 emission standards.

- **ARB Statewide Diesel Truck and Bus Regulation:** The ARB is developing a regulation to reduce diesel PM and NOx emissions from on-road heavy-duty diesel-fueled vehicles. This measure will cover long and short haul transport trucks, and other diesel-powered trucks with a gross vehicle weight rating of 14,000 pounds or greater. The goals of this effort are:

- By 2014, emissions are to be no higher than a 2007 model year engine with a diesel particulate filter,
- By 2021, emissions are to be no higher than a 2010 model year engine.

- **ARB Regulation for Port and Intermodal Railyard Drayage Diesel Trucks:** The ARB developed a port truck fleet modernization program that will reduce diesel PM by 86% by 2010, and NOx by nearly 56% by 2014. There are an estimated 20,000 diesel trucks operating at California ports and intermodal railyards. These trucks are a significant source of air pollution, with about 3 tons per day of diesel PM and 61 tons per day of NOx in 2007. These trucks often operate in close proximity to communities. The ARB Board approved the regulation in December 2007.

- **ARB Tier 4 Off-Road Diesel-Fueled New Engine Emission Standards**: In 2004, the ARB and U.S. EPA adopted a fourth phase of emission standards (Tier 4). New off-road engines are now required to meet aftertreatment-based exhaust standards for PM and NOx starting in 2011. The Tier 4 standards will achieve over a 90% reduction over current levels by 2020, putting off-road engines on a virtual emission par with on-road heavy duty engines.

- **Transport Refrigeration Unit (TRU) Air Toxics Control Measure (ATCM):** This ATCM is applicable to refrigeration systems powered by integral internal combustion engines used on trucks, trailers, railcars, and shipping containers. TRUs may be capable of both cooling and heating. Diesel PM emission factors for TRUs and TRU gen-set engines will be reduced by approximately 65% in 2010 and 92% in 2020. California will also experience benefits from reduced NOx and hydrocarbon emissions. The ATCM became effective on December 10, 2004, and implementation will be phased-in beginning on December 31, 2008.

- **U.S. EPA Locomotive Emission Standards:** Under the Federal Clean Air Act, U.S. EPA has sole authority to adopt and enforce locomotive emission standards and this preemption also extends to the remanufacturing of existing locomotives. In April 2007, U.S. EPA released a proposed locomotive rulemaking that would reduce Tier 0 locomotive NOx emissions by 20% and Tier 0-3 remanufacture and new standards to reduce PM only by 50%. The ARB is relying on U.S. EPA to expeditiously require the introduction of the next generation or Tier 4 locomotive emission standards that requires Tier 4 locomotives built with diesel particulate filters and selective catalytic reduction. Combined, these exhaust aftertreatment devices are expected to provide up to a 90% reduction in PM and NOx emissions beginning in 2015 and 2017, respectively. The final U.S. EPA locomotive regulations are scheduled for approval in early 2008.

- **ARB Goods Movement Emission Reduction Plan:** Approved in 2006, this plan forecasts goods movement emissions growth and impacts. It contains a comprehensive list of proposed strategies to reduce emissions from ships, trains, and trucks and to maintain and improve upon air quality. When fully implemented, plan strategies would reduce locomotive NOx and diesel PM emissions by up to 90% by 2020.

- **California Yard Locomotive Replacement Program:** Yard locomotives represent about 5% of the statewide locomotive NOx and diesel PM emissions, but often occur in railyards located in densely populated urban centers. Multiple nonroad engine (gen-set) and electric-hybrid yard locomotives have demonstrated a reduction of NOx and diesel PM emissions by up to 90% as compared to existing locomotives. By 2008, UP had deployed 60 gen-set and 12 electric hybrid yard locomotives in Southern California. BNSF has been operating four liquefied natural gas yard locomotives in downtown Los Angeles since the mid-1990s. UP and BNSF have ordered more gen-set locomotives for use in Northern California in 2008.

For Information on California's locomotive emission reduction strategies and emission control technologies, please visit: http://www.arb.ca.gov/railyard/ & http://www.arb.ca.gov/msoffroad/locomotive/locomotive.htm. For information on the Goods Movement Emission Reduction Plan, please visit: http://www.arb.ca.gov/gmp/gmp.htm.

You may obtain this document in an alternative format by contacting ARB's Americans with Disabilities Act Coordinator at (916) 323-4916 (voice); TTY/TDD/Speech-to-Speech users may dial 7-1-1 for the California Relay Service.

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A Sampling of Cargo Fees and Taxes

Not every international shipper or cargo owner will pay every fee listed below. The list is offered as an example of how costs get passed along to the shipper/cargo owner, and how cargo owners do pay for the port and transportation facilities they use.

Direct Commercial Fees:

Not every shipper pays these fees. Sometimes these fees are included in the base rate a shipper pays. Often they are separately stated as surcharges. All of these fees are subject to rate negotiation between the carrier and the shipper.

- **"Peak Season" Charges:** Ocean carriers as part of the *Trans-Pacific Stabilization Agreement (TSA)* often charge fees of as much as $400 per FEU on west-bound containers terminating at West Coast ports.
- **Fuel Price Surcharges:**
  - Bunker Adjustment Factor (BAF)**:** Compensates for wide fluctuations in marine bunker fuel and diesel oil at key load ports. Such surcharges, added onto base freight rates, help offset rising marine bunker fuel and diesel oil prices. The formula managed by TSA tracks world bunker fuel prices and then applies a weighted average formula to recover the cost impact of price fluctuations on carrier operations. The formula reflects fuel consumption patterns across the TSA membership (where fuel is purchased and loaded, vessel size, route configurations, sailing speed and transit time, linehaul and feeder ship fuel costs, cargo mix, etc.). The charge is allowed to float with fuel prices, and is adjusted on a monthly basis.
  - Other Fuel Surcharges**:** Intermodal rail shippers will also sometimes be charged a fuel adjustment factor that is separate from the base freight rate. Similarly, trucking companies also sometimes impose fuel surcharges.
- **Terminal Use Fees:** Longstanding business practices allow carriers to pass along terminal operating expenses to shippers through terminal use fees. These fees for the use of the terminal are sometimes separately stated from the ocean carriage rate. In addition to these charges, other fees may be charged:
  - Demurrage Charges are assessed on containers that fail to move off terminal within a specific period of time—usually three or four days. The purpose behind these charges is to ensure that port facilities are not used as warehouses for cargo owners and shippers. The shipper has a significant incentive to move containers quickly to avoid these penalties.
  - Detention Charges are fees imposed on intermodal equipment such as chassis. If a shipper keeps a chassis or a container for longer than a specific period of time, fees accrue. The fees are there to encourage shippers to return equipment quickly. After the 2002 labor dispute that closed West Coast ports for more than a week, a critical shortage of chassis developed further impeding the flow of commerce. .

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- **Security-related charges:** As of 2003, many carriers include security related surcharges to their freight rates in order to offset higher regulatory costs associated with port and carrier security mandates included in several federal laws.
    - Port Security Fees: Ports have raised their tariffs to cover the cost of compliance with the Marine Transportation Security Act of 2002 and the imposition of international standards on ports developed by the International Maritime Organization and enforced by the U.S. Coast Guard. The ports of California increased their tariffs by 5% in 2005 to cover the cost of added security infrastructure. Carriers may pass along a portion of this cost for this infrastructure to shippers in the form of per-container security surcharges, or directly in the shipping rate.
    - Manifest Fees: Many carriers have imposed a new Advanced Manifest Fee, which is assessed on a Bill of Lading basis to pay the cost of compliance with the provisions of the Trade Act of 2002 and the U.S. Customs requirement to provide manifest information 24-hour in advanced of lading.
    - Inspection fees: Importers have to pay the government for the expense of inspecting their cargo, if the container is pulled aside for an intensive exam.
    - C-TPAT Expenses: Although not a charge, *per se*, shippers who participate in the Customs-Trade Partnership Against Terrorism incur a number of business expenses related to ensuring the security of the supply chain. These expenses include on-site monitoring of overseas factories, overseas scanning, and managing compliance audits. Congress has recently considered asking shippers to pay a separate fee for compliance assessments conducted by third-parties.
- **Alameda Corridor Fee:** Containers moving on the Alameda Corridor pay fees of $18/TEU, $36/FEU, and $40/ 45-foot container for the use of the infrastructure. Some containers drayed from the ports of Los Angeles and Long Beach to other rail facilities in Southern California will also pay the corridor fee, even though they merely bypassed the corridor. The fee is paid by the railroads and passed along to carriers who usually charge the shipper either in the rate or as a separate charge.
- **PierPass Traffic Mitigation Fee:** Containers drayed from the Los Angeles and Long Beach ports during daylight hours are subject to a privately-imposed traffic mitigation fee of $100 per FEU. Intermodal rail containers do not pay this fee. The fee is collected directly from the shipper.
- **Ports' Infrastructure Cargo Fee:** Adopted for implementation in January 2009, this fee will be paid by the Beneficial Cargo Owner (BCO) (shipper), and will impact trucks and trains. Charges levy on each loaded import or export container moved by truck or rail. Fee will fluctuate, based on that calendar year's funding needs for the list of approved projects. Fee collection will begin at $15 per loaded TEU (or $30 per FEU), and will range over a period of seven years from $10 to $18 per TEU. Fee will pay for about 1/2 of the costs of the projects. No fee is assessed on containers moved between two terminals within the ports.

Direct U.S. Government Compliance Fees:

- Harbor Maintenance Fee, collected by the Department of Homeland Security, Customs and Border Protection (CBP), is charged only on importers and is a percentage of the value of the merchandise. The fee is used to support dredging of ports nationwide. The Port of Oakland recently benefited from these fees as part of its channel deepening efforts.

- Merchandise Processing Fee, collected by CBP, is assessed up to a certain amount on the value of the merchandise imported. The fee collects $1 billion in revenues each year and is supposed to be used to offset the cost of customs processing. However, until recently, the fee was not "fire-walled" and went directly into the general treasury.

- Import Duties, collected by CBP, are assessed ad valorem on the value of imported merchandise. However, there are some imports that are not required to pay no import duties, either because the duty rate is set at zero, or the import qualifies under one of the U.S. Free Trade Agreements. Other imports, such as footwear and apparel, pay very high duties. Duties are imposed to "protect" domestic industry from foreign competition, and thus fall quite unevenly across industry segments, and not at all on exporters. Duties raise approximately $21 billion each year that goes into the general revenues of the United States. Almost half of this revenue is collected as duties on imports of footwear and wearing apparel—a hidden, regressive tax that harms working American families. The Bush Administration has called for the elimination of all tariffs on industrial goods as part of the agenda for the Doha Round of Trade Talks. For this reason import duties are not a good candidate as a source of federal revenue for trade-related infrastructure.

Other Indirect Compliance Fees:

- **ISPIS Surcharges:** The International Ship and Port Facility Security Code (ISPS) went into effect in 2005. This IMO standard is enforced in the Untied States by the U.S. Coast Guard. All ports in the U.S. must meet these security standards or they will be shut down. Cargo coming from non-ISPS compliant ports can be denied entry into the United States. Many foreign governments have imposed fees, taxes and charges on ocean carriers to raise the resources necessary to meet this world-wide standard. Shippers may have to pay these fees as surcharges from ocean carriers.

- **Ports' Clean Truck Fee:** This fee's start date is October 2008, and will impact trucks. Charges levy on all loaded containers moving in and out of the ports by truck. Fee will support ports' Clean Trucks Program which will ban pre-'89 trucks by October 1, 2008; ban pre-'94 trucks by January 1, 2010; and ban pre-2007 trucks by January 1, 2012. Must also register trucks with the ports and be fitted with RFID by June 30, 2008. POLA Exemptions from the fee: any privately funded 2007 clean diesel truck; LNG/Alt fuel trucks and electric/hybrid trucks. POLB Exemptions from the fee: Privately funded LNG/Alt fuel trucks. POLB partial exemption from fee: any 2007 Clean diesel truck pays $17.50/TEU. This fee is paid by the BCO (shipper). The fee is $35 per TEU and $70 per FEU.

- **Port Community Mitigation Trust Fund (POLA Only):** This fee was adopted on April 3, 2008. The impacted modes are not specified. POLA MOU with TRAPAC EIR Appellants establishing a Port Community Mitigation Trust Fund to be paid by POLA at a rate of $2 or $3.50 per TEU from port various expansion projects. It is unclear if POLA will create new fees or tariffs to cover these new port costs. The fee is paid by POLA, and will be from $2.00 or $3.50 per TEU, or $4.00 or $7.00 per FEU.

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Proposed Fees:

- **Lowenthal Ports Fee:** This fee's proposed start date is July 2009, and will impact trucks and trains. Requires POLA, POLB, Port of Oakland to collect fees. Creates Congestion Relief Trust Funds (managed by CTC) and Ports Mitigation Relief Trust Funds (managed by ARB) for both San Pedro Bay Ports and Oakland Port. 1/2 money collected would go to each Trust Fund. The fee, paid by the BCO (shipper), $30 per TEU and $60 per FEU.
- **SCAG RTP Railroad User Fee:** This fee's proposed start date is not specified. It will impact trains. The charge will be imposed on containerized cargo moving through the Ports of LA/LB by train. Fee would be used to support Railroad Container Fee Revenue Bonds which would be used to 1) pay to increase rail capacity in southern California, and 2) pay for a portion (7%) if the cost of grade crossings. The fee will be paid by the railroads and is $15 per TEU and $30 per FEU.
- **ON TIME Act (Our Nation's Trade Infrastructure, Mobility and Efficiency Act):** This proposed fee was adopted on April 3, 2008, but the impacted modes is not specified. Proposed by U.S. Representative Calverts: Nationwide Fee imposed at all 320 ports. Fee = 0.075% of the value of the shipment not to exceed $500 per container. Money generated would go to transportation projects within 300 miles of the port where the fee is collected (Long Beach to Las Vegas). Locals have to come up with 20% of the cost. The fee is paid by the BCO (shipper).

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August 4th, 2008

Written Statement of Hubert Wiesenmaier,
Executive Director, American Import Shippers Association

Before the Subcommittee
on Coast Guard and Marine Transportation

Port Development and the Environment
At the Port of Los Angeles and Long Beach

My name is Hubert Wiesenmaier. I am the Executive Director of the American Import Shippers Association (AISA). AISA is a not-for-profit member association organized under the Shipping Act of 1984 to negotiate ocean transportation contracts on behalf of its members for the shipment of products between foreign countries and the United States. I have served as the Executive Director of AISA since it was founded in 1987.

AISA's membership is comprised of about 150 U.S. companies - predominantly small and medium sized - which import apparel and related fashion items from countries in the Far East, the Indian subcontinent, Africa, and the Middle East.

Collectively, AISA members ship almost 50,000 twenty-foot container equivalent units (TEU) annually under so called service contracts which are negotiated by AISA with a number of ocean carriers. The majority of AISA members' containers are routed through the Ports of Los Angeles and Long Beach for distribution to California markets, and for intermodal transport to points throughout the United States.

We welcome the Subcommittee's examinations of port and infrastructure development and the environment impact these developments have on the port communities of Ports of Los Angeles and Long Beach.

At the same time we hope that the Subcommittee's insights gained from examining these two major ports will serve to focus on the need for the development of national policies and guidelines to states and localities for addressing infrastructure and environmental issues at the nation's major ports, in close collaboration between industry stakeholders, government agencies, and the concerned public.

AISA members have to be extremely sensitive about keeping their total transportation and distribution cost at lowest levels to meet the demands of the highly competitive U.S. retail industry and consumers which are demanding ever lower prices. At the same time, the reliability of the international freight transportation network is of the utmost importance, as retail sales of apparel and related consumer products are highly seasonal and timely delivery of these products to retailers, therefore, is critical.

Association members are keenly aware that the capacity of Southern California ports, and their intermodal connections to road and rail, have been stretched to the limits – and that ever increasing cargo volume moving through the ports has accelerated the need for finding solutions to improve systemic problems in port infrastructure and intermodal transportation, and the need to meet environmental challenges faced by the local port communities.

We believe, however, that a hodgepodge of regional and state environmental initiatives, however well intentioned, is likely to be costly and ineffective, particularly when they are viewed by key stakeholders as imposing a disproportionate cost on them.

The Los Angeles and Long Beach clean truck programs are cases in point. No one questions the need to reduce truck pollution associated with freight movements to and from these ports. As structured, however, these programs have targeted shippers of containerized cargo only to pay for the program, and unnecessarily structured the program in ways that are potentially quite detrimental to the needs of these shippers for adequate, reliable and cost-effective trucking. The result is litigation that benefits no one, that creates uncertainty for shippers, and that delays the very environmental improvements the programs intend.

As the Members of the Subcommittee are well aware, our economy has become more interdependent with the global economy. As our economy has grown, all major U.S. ports and intermodal systems are facing a capacity crunch. Port development and improvement of intermodal transportation for the movement of international freight are inextricably intertwined, and are part of the larger issue of improvement of U.S. transportation infrastructure required for the movement of freight and people. Therefore, decisions relating to Port development require a system-wide perspective to ensure the entire marine transportation system develops in a coherent and efficient manner to minimize disruptions and the cost of international freight movements and to take into account broader transportation needs.

AISA and its members recognize the associated environmental costs of Port development and increasing international freight movements that need to be addressed, and also recognize that shippers and other beneficiaries of the international freight transportation system must share in these costs.

In sum, we believe strongly that the Federal Government must play a lead role to insure that the implementation of policies and decisions at the regional, state, and federal level fully take into account the complex needs of all stakeholders in port and infrastructure development, and to insure that environmental concerns and costs are addressed within the larger framework of which they are a part of.

AISA welcomes the Subcommittee's interest and is prepared to work with the Subcommittee in these areas.

Coalition for America's Gateways and Trade Corridors

Written Submission of

Coalition for America's Gateways and Trade Corridors
Sharon Neely, member

Before the

Subcommittee on Coast Guard and Maritime Transportation of the House Transportation and Infrastructure Committee

On

Port Development and the Environment at the Ports of Los Angeles and Long Beach
August 4, 2008

We thank you for the opportunity to submit written testimony for the Subcommittee's consideration. The Coalition for America's Gateways and Trade Corridors is a national advocacy organization, dedicated to the needs of the nation's multi-modal freight network. Formed in 2001, our membership is geographically varied and spans both the breadth of the transportation industry. Despite the enormous diversity in our membership, the Coalition is able to forge progressive, innovative goods movement policies and forge consensus within our organization.

Our nation's gateways, whether they are ports, bridges or land crossings, handle all the international cargo coming into and out of the country. For example, the ports where you conducted the hearing are members of our Coalition. They alone handled 9.2 million TEUs carrying international cargo in 2005. Those volumes are having a tremendous impact on our nation's economy at and at the same time, the region with worsening congestion, health and community impacts.

500 New Jersey Avenue, NW Suite 400 Washington, DC 20001
202-828-9100 phone 202-638-1045 fax www.tradecorridors.org

Documentation is attached that provides more detail regarding the impacts of significant increases in trade worsening congestion, environmental and health impacts along the trade corridors of the nation. These issues serve as a trade barrier to future national economic growth as well. Manufacturers and agricultural producers across the nation depend on this infrastructure to get their products to international markets. American businesses and families rely on the goods movement system to bring products to their shelves and homes.

There is no national freight plan or a coherent program to document, anticipate and provide for our economy's goods movement needs. Infrastructure that was adequate in the first half of the twentieth century is still being relied on today, with some facilities utilized well beyond design capacity, while others are no longer as useful in today's economic trade patterns. State Departments of Transportation and regional transportation planning authorities are scrambling simply to meet the maintenance demands of our existing system, while the declining federal funding source – the motor fuels tax – will fail to cover currently authorized spending as early as 2009.

Before a solution can be developed, we have to think about the problem differently, as a nation. It is not merely the highways that trucks drive on – though those do play a very important role. It is also the ports and border crossings, the rail lines, the intermodal connectors, and the local roads that handle the final delivery of goods to market. We must focus on the system as a whole, rather than viewing the nation's transportation infrastructure as several different systems that occasionally interact. We must see the entire network, interacting and interdependent. Only then can we begin to discuss real solutions to the issues this nation faces.

Critical to any effective solution to the goods movement problem is a federal freight policy with the establishment of a dedicated federal fund, such as a Freight Trust Fund (FTF) or similar *dedicated* account, whose revenues are predictable, sustained, firewalled from other uses, and committed to infrastructure that enhances the movement of goods. Although the Coalition continues to refine recommendations on how such a fund would be implemented, I would like to identify the principles that should drive decisions about the FTF, some thoughts as to how funds might best be used, and some suggestions about the potential sources of revenues.

The FTF should be comprised of existing and new revenue sources. While some of the traditional Highway Trust Fund sources might be allocated, additional monies should come from beneficiaries of freight infrastructure improvement and be based on the following principles:

- The price of goods should support and internalize some portion of the cost of expanding related infrastructure, such that growth in demand for moving goods delivers proportional funding for related infrastructure improvement.
- All potential funding mechanisms and sources should be considered and fees assessed on user benefit.
- FTF revenue sources should be predictable, dedicated and sustained.
- The FTF should be financed from a wide variety of user fees, so that no one user group is disproportionately affected, with the recognition that the consumer is the ultimate beneficiary.
- Funds should be available to support projects of various size and scope, but with special priority for projects of national significance.
- Funds should be available to support multi-jurisdictional and multi-state projects selected on the basis of their contribution to national freight efficiency.
- While the current federal gasoline tax should continue to be dedicated to the traditional core programs, a small percentage of any future increase in the gas tax should be dedicated to the FTF, reflecting the real benefit to the driving public from freight projects that relieve highway congestion. Certainly, the federal fuel taxes should not be reduced.
- Fund distribution should be based on objective, merit-based criteria, with higher-cost projects subject to more stringent evaluation than lower-cost efforts.
- Long-term funding should be made available in a manner similar to the current Transit Full Funding Grant Agreements to ensure that once a project is approved, funds will flow through to completion.

In practice, the FTF should be established either as a separate entity or as a dedicated, firewalled freight account within the HTF to collect fees, retain unexpended balances and liquidate annual appropriations, in order to give assurance to those who pay into the fund that it will be fully used for the *designated* purposes.

Overall, FTF funds for support of major freight investments should be distributed in a manner consistent with the process and procedures detailed by the Congress in SAFETEA-LU for Projects of National and Regional Significance (PNRS). Assuming Congress keeps the PNRS program in the next reauthorization and does not earmark the funds, the PNRS criteria, currently the subject of an administrative rulemaking, could serve as a formula for discretionary allocation.

With respect to sources of funding, FTF contributions should come from a variety of independent new sources to supplement existing revenues in a way that will fairly share the burden of cost for system development and maintenance among users/beneficiaries commensurate with their use of facilities. All users of the freight transportation system should be required to contribute to the FTF. Revenue streams should also be as diverse as practicable to ensure FTF income is resistant to economic cycles and will grow to keep pace with demand for infrastructure and inflation. At least four types of revenue sources should be considered to provide the equitable, diverse and stable revenue stream necessary:

- **Motor fuel user fees** – gasoline, diesel, alternatives including gasohol, biofuels, and railroad fuels;
- **Direct vehicle fees**, such as new registration, use and sales;
- **Indirect user fees,** such as dedicated national sales taxes and proxies based on cargo weight or value such as bill of lading, cargo facility charges or freight consumption fees; customs fees are generated by trade and applying a portion of these monies to support the infrastructure necessary to conduct that trade is a logical and fair use; and,
- **Longer term fees** established to offset reductions in fuel taxes as consumption moves away from gasoline and diesel, including carbon emission fees, weight distance taxes of all surface-based vehicles and other vehicle mileage taxes.

While the FTF would provide a dedicated source for freight project funding, participation in this program should not preclude projects from seeking funding from existing sources, reflecting the multiple benefits they can provide to local communities as well as to national freight movement.

Looking beyond the financing mechanisms immediately available, additional sources made possible by the phasing in of new technologies into America's transportation fleet may offer long-term solutions. Chief among these are ton-based fees and ton-mile taxes which have the added benefit of improved cost allocation.

These new revenue sources could effectively measure "freight consumption" in small increments and be incorporated in the consumer price of goods, reducing public opposition while concurrently removing modal biases and state-by-state equity issues.

At the state and local levels, federal policies should provide transportation planners with the largest toolbox of financing options possible to enable them to move freight projects forward as quickly and efficiently as possible. This is vital to support the development of local projects and connectors, in addition to the necessity of raising funds to match federal FTF monies.

Among the tools federal policy should enable are tolling of new facilities, innovative financing, private investment and public-private partnerships. Creative solutions are needed to increase capital sources. In addition, general fund allocations are an important tool at the state and local levels and federal FTF funding should be structured to incentivize and reward state and local investment.

Sustainable goods movement lies at the center of our quality of life, not only for the availability of consumer products, but because of transportation's impact on land use, energy consumption and environmental quality. Improvements to freight infrastructure can result in reduced congestion, better air quality, and less time and fuel wasted.

The anticipated acceleration of trade, combined with domestic growth, has created millions of new job opportunities and a higher standard of living for Americans. But these benefits will last only if we are able to keep goods moving.

Thank you for the opportunity to submit written comments on this important federal transportation matter.

Coalition for America's Gateways and Trade Corridors

ACS State and Local Solutions
Alameda Corridor-East Construction Authority
American Standard Companies
Chicago Metropolis 2020
City of Chicago
Delaware River Maritime Enterprise Council
Delaware Valley Regional Planning Commission
DMJM-Harris
FAST Corridor Partnership (Seattle-Tacoma-Everett)
Florida East Coast Railway
Florida Ports Council
Florida Trade and Transport Council
Gateway Cities Council of Governments
Hatch Mott MacDonald
HELP, Inc
HERZOG
HNTB
Illinois State Department of Transportation
Jacobs Carter Burgess
Los Angeles County Metropolitan Transportation Authority
Los Angeles Economic Development Corporation
Majestic Realty Co.
Memphis Chamber of Commerce
Mi-Jack Products, Inc.
Mississippi State Department of Transportation
Moffatt & Nichol Engineers
National Association of Industrial & Office Properties

The Challenge

The rapid and inexpensive movement of goods throughout the U.S. supply chain, particularly through our ports and critical trade corridors, is key to securing America's economic future and maintaining our competitiveness in world markets. Trade, as a percentage of the U.S. GDP, has been steadily increasing during the past quarter century, rising from just over 12% in the early 1970s to approximately 25% in the mid-1990s.

Explosive growth over the last ten years, improvements in manufacturing processes and new technology are continuing this trend and placing ever-greater strain on the capacity of our trade gateways. The U.S. DOT estimates that freight traffic will nearly double in the next 20 years. Will we be prepared to meet that challenge?

Import and export freight movements, whether by rail, truck, ship or air, are a crucial link in the $7 trillion commodity flow fueling the U.S. economy today. Increasingly, these goods travel by multiple modes to arrive at their destination, with intermodal transport now reaching nearly $1 trillion dollars annually on more than 10 million loadings, up from only 500,000 in 1957. Shippers need predictability, and are less and less interested in how freight moves as compared with the speed and reliability of when it moves.

The domestic and international freight capacity of our ports, waterways, transfer facilities, and highway and rail connectors will greatly determine whether we maintain our international edge and the quality of our economic life. Failure of trade gateway infrastructure to keep pace with growth in demand will increase private and public costs, hold back expansion and prosperity in coming years and impose economic and social burdens on our communities.

Even more pressing, perhaps, is the need to adapt these key facilities to serve our national security needs. Ports and their connectors have always been the point of embarkation for defense materials, and this role is even more important as our global strategy emphasizes flexible response.

The Importance of a National' System

Success in funding projects and technology that support goods movement is largely dependent upon the recognition of, and support for, a program that adequately funds projects whose benefits reach beyond the borders of the stat in which the project resides. The cost for these projects should be shared by all the beneficiaries, regardless of state borders.

Until there is universal understanding of the need for a nationally interconnected system, hope to adequately fund goods movement will be in vain.

National Association of Regional Councils
National Corn Growers Association
National Railroad Construction and Maintenance Association, Inc.
OnTrac
Orange County Transportation Authority
Parsons
Parsons Brinckerhoff
Port Authority of New York/New Jersey
Port of Cleveland
Port of Long Beach
Port of Los Angeles
Port of Oakland
Port of Pittsburgh
Port of Seattle
Port of Stockton
Port of Tacoma
RAILCET
River of Trade Corridor Coalition
Riverside (Calif.) County Transportation Commission
San Bernardino Associated Governments
San Gabriel Valley Economic Partnership
Seattle Department of Transportation
Southern California Association of Governments
Spokane Regional Transportation Council
Tennessee Department of Transportation
Washington State Department of Transportation
Wilbur Smith Associates

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202-828-9100 phone 202-638-1045 fax www.tradecorridors.org

COALITION FOR
CLEAN
& SAFE
PORTS

August 4, 2008

Hon. Elijah Cummings
Chair
Subcommittee on Coastguard and Maritime Transportation
U.S. House of Representatives
Washington, DC 20515

Re: Comments in support of Los Angeles Clean Truck Program for field hearing of Subcommittee on Coastguard and Maritime Transportation

Dear Congressman Cummings:

On behalf of the Coalition for Clean and Safe Ports, I write to express our support for the Clean Trucks Program (CTP) adopted by the Los Angeles Board of Harbor Commissioners on March 20, 2008 and subsequently ratified by the Los Angeles City Council and Mayor.

The Coalition for Clean and Safe Ports is made up of over 30 local organizations, including labor, environmental, public health and faith-based organizations. The Coalition stands in full support of the Port of Los Angeles' CTP as the first substantive portion of the Clean Air Action Plan (CAAP) which aims to reduce port emissions by 45% over five years.

We strongly support the concession model coupled with employee status for drivers. This model — along with community-related provisions and financial incentives to expedite getting cleaner trucks on the roads — is the key element to ensure both a near- and long-term plan to clean up the air in Los Angeles. This approach gives us confidence that the Port will act as a responsible leader with its customers, its neighbors, and those who work at the Port. The CTP responds to the key principles that have guided our critique and suggestions for improving the dysfunctional drayage market. Specifically, we are pleased that the CTP is comprehensive (in addressing the full range of issues affecting port trucking), sustainable (in providing a transition that allows market forces — rather than continued subsidies — to guide this fleet modernization effort), and accountable (in creating meaningful Port oversight). No other approach that we have examined meets these standards.

The Port of LA's Clean Truck Program also has the support of Senator's Obama and Boxer, Speaker Pelosi, and other members of Congress (see attached). .

If you have any questions, please contact me at (310) 890-3661.

Sincerely,

Director, Ports Program, Los Angeles Alliance for a New Economy
Chair, Coalition for Clean & Safe Ports

Congress of the United States
Washington, DC 20515

June 9, 2008

The Federal Maritime Commission
800 North Capitol Street, N.W.
Washington, DC 20573-0001

Dear Federal Maritime Commissioners:

We are writing to express our support for the Clean Trucks Program, a groundbreaking green growth initiative approved by the Port of Los Angeles on March 20. This program will produce sustainable environmental and public health improvements, enhance the efficiency and productivity of port trucking, and reduce congestion, while appropriately placing the financial responsibility for operating and maintaining a fleet of clean trucks on the trucking companies that negotiate haul rates instead of on the truck drivers who are trying to make ends meet. For these reasons, we are encouraging the Federal Maritime Commission (FMC) to give this important clean-air proposal full and fair consideration as it moves towards implementation.

We are aware that the FMC has traditionally limited its consideration of port plans to the question of whether it would decrease the supply of transportation services or increase the costs to shippers. However, as our country grapples with unprecedented new environmental, public health and homeland security challenges, we believe the FMC must also prioritize the public health effects and the security of port operations.

In 2007, the Port of LA was responsible for over 22 percent of all containerized cargo brought into the U.S. by ship, with an estimated value of over $100 billion, and this trade is expected to more than double by the year 2020. An upcoming National Geographic Society series on the Port of LA appropriately describes it as "America's Port" because of the vital role it plays in our nation's economy.

Over the past decade, the Port of LA has had difficulty increasing its capacity due to legal challenges based on environmental and public health concerns. Port officials have worked diligently to address air pollution problems in order to move forward with delayed infrastructure projects to increase capacity and port throughput. The Clean Trucks Program is a critical piece of this puzzle. In fact, its passage played a vital role in clearing the environmental challenges that had delayed TraPac, the largest terminal expansion project in years, which will now finally be able to move forward.

The California Air Resources Board (CARB) estimates that particulate matter air pollution in the South Coast area causes approximately 5,400 premature deaths, 980,000 lost work days, 2,400 hospitalizations, 140,000 asthma and lower respiratory cases and a significant increase in cancer risks. CARB also has found that port activity will be responsible for about one-third of the South Coast particulate matter pollution in 2014, and nearly half of this air pollution by 2020 statewide. CARB estimates that air pollution costs $2.3 billion in health care costs annually. The LA Clean Truck program will help decrease pollution in the South Coast area which will have a positive affect on the environment and health of people living and working near the port.

In order to achieve these environmental and public health improvements, a substantial investment will have to be made. Cleaning up port trucking is a $2 billion problem that requires a sustainable solution so this effort does not have to be repeated in ten years when these 16,000 trucks will need to be replaced again. The LA Clean Truck Program will help ensure that the trucking sector is capable of maintaining a clean fleet of trucks without public subsidies.

Currently five out of six drivers only work for one trucking company at a time and nearly nine in ten drivers own only one truck. These drivers are dependent on the trucking companies for work and after expenses, fuel and insurance, they take home roughly $29,000 per year and struggle to afford routine repairs and upgrades. This business model would make it hard for these drivers to keep up with the technology updates needed to reduce pollution and improve the environment and public health situation near the port.

We believe that changes to the port trucking system are vital to creating a sustainable clean truck program. A critical component is the transition away from relying on trucking companies that act as brokers, and to licensed motor carriers which take full responsibility for their vehicles and their workers by hiring them.

The LA Clean Trucks program will actually strengthen competition within the port trucking industry as well as between port trucking and their retail clients. Since port trucking costs are a relatively small component of overall transportation costs, the increased operational costs required by this program will be far outweighed by the overwhelming public benefits.

As the FMC moves forward in its review of the LA Clean Trucks Program, we hope to work with you to ensure we avoid the huge economic, environmental, and public health costs that would result if this vital program is delayed.

Thank you for your consideration.

Sincerely,

Loretta Sanchez
Member of Congress

George Miller
Member of Congress

Barbara Lee
Member of Congress

Bob Filner
Member of Congress

Linda T. Sánchez
Member of Congress

Jane Harman
Member of Congress

Lucille Roybal-Allard
Member of Congress

Joe Baca
Member of Congress

Sam Farr
Member of Congress

Howard L. Berman
Member of Congress

Hilda L. Solis
Member of Congress

Anna Eshoo
Member of Congress

Lynn Woolsey
Member of Congress

Henry A. Waxman
Member of Congress

Ellen O. Tauscher
Member of Congress

Diane E. Watson
Member of Congress

Zoe Lofgren
Member of Congress

Maxine Waters
Member of Congress

Mike Thompson
Member of Congress

Adam Schiff
Member of Congress

Doris Matsui
Member of Congress

Laura Richardson
Member of Congress

Dennis A. Cardoza
Member of Congress

Xavier Becerra
Member of Congress

Michael M. Honda
Member of Congress

Jim Costa
Member of Congress

Jackie Speier
Member of Congress

Brad Sherman
Member of Congress

Grace Napolitano
Member of Congress

Susan A. Davis
Member of Congress

Lois Capps
Member of Congress

NANCY PELOSI
8TH DISTRICT, CALIFORNIA

SPEAKER OF THE HOUSE

235 CANNON HOUSE OFFICE BUILDING
WASHINGTON, DC 20515–0508
(202) 225–4965

Congress of the United States
House of Representatives
Washington, DC 20515–0508

DISTRICT OFFICE:
FEDERAL BUILDING
450 GOLDEN GATE AVENUE
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(415) 556–4862
sf.nancy@mail.house.gov
www.house.gov/pelosi

April 18, 2008

Harold J. Creel, Jr., Commissioner
Federal Maritime Commission
800 North Capitol St. NW
Washington, DC 20573

A. Paul Anderson, Commissioner
Federal Maritime Commission
800 North Capitol St. NW
Washington, DC 20573

Rebecca F. Dye, Commissioner
Federal Maritime Commission
800 North Capitol St. NW
Washington, DC 20573

Joseph E. Brennan, Commissioner
Federal Maritime Commission
800 North Capitol St. NW
Washington, DC 20573

Dear Commissioners:

I write to express my support for the Clean Trucks Program, a groundbreaking initiative approved by the Port of Los Angeles on March 20.

In 2007, the Port of Los Angeles was responsible for over 22 percent of all containerized cargo brought into the country by ship. Over the past decade, as imports have skyrocketed, the Port of Los Angeles has struggled to increase its capacity due to legal challenges based on environmental and public health concerns. Port officials have worked to address air pollution problems in order to move forward with long-delayed infrastructure projects to improve capacity, and the Clean Trucks Program is a critical part of the solution.

This innovative program places the financial responsibility for operating and maintaining a cleaner fleet of trucks on the trucking companies that negotiate haul rates, instead of on the truck drivers, who currently earn meager incomes as independent contractors. As a result, the program will reduce air pollution, improving public health locally—where workers and residents suffer from disproportionately higher rates of asthma and cancer—as well as regionally. The program will also increase the productivity of port trucking, reduce congestion, and strengthen port security and safety, while creating good middle-class jobs.

Since port trucking costs are a relatively small component of overall transportation costs, the increased operational costs required by this program will not be unreasonable or burdensome and will be far outweighed by the overwhelming public benefits.

The FMC has traditionally limited its consideration of a port plan to the question of whether it would decrease the supply of transportation services or unreasonably increase the costs to shippers. As our country grapples with new environmental, public health, and homeland security challenges, it is important for the FMC to consider the broader effects on public health and safety of port operations.

Thank you for giving the Clean Trucks Program your full and fair consideration as it progresses towards implementation. Please keep me informed of your actions regarding this program.

Sincerely,

Nancy Pelosi

NANCY PELOSI
Speaker of the House

NP:ll

BARBARA BOXER
CALIFORNIA

COMMITTEES:
COMMERCE, SCIENCE, AND TRANSPORTATION
ENVIRONMENT AND PUBLIC WORKS
FOREIGN RELATIONS

United States Senate

HART SENATE OFFICE BUILDING
SUITE 112
WASHINGTON, DC 20510-0505
(202) 224-3553

March 19, 2008

Honorable Antonio Villaraigosa
Mayor
City of Los Angeles
200 North Spring Street, Room 303
Los Angeles, CA 90012

Dear Mayor Villaraigosa:

I write to express my support for the efforts underway by the Port of Los Angeles to implement a clean trucks plan that will dramatically improve air quality and the health of our communities in Southern California. I thank you for your leadership on this urgent environmental and public health issue.

I believe the Port of Los Angeles Clean Truck Program will help clean up the air quickly and sustainably – reducing congestion, improving working conditions and labor standards for port truck drivers, and strengthening port safety and security.

As you know, the Ports of Los Angeles and Long Beach handle nearly 45 percent of the containerized cargo imported into the U.S., with an estimated value of nearly $200 billion, and this trade is expected to more than double by the year 2020. The Ports of Los Angeles and Long Beach are critical to our entire nation's manufacturing and retail industries, providing jobs and economic benefits.

Over the past decade, however, the Ports of Los Angeles and Long Beach have had difficulty increasing their capacity due to environmental and public health concerns. In Southern California, port activities are major contributors to smog and soot pollution. Soot pollution alone is responsible for 5,400 premature deaths, 2,400 hospitalizations, 140,000 incidences of asthma and respiratory problems, and nearly one million lost work days each year in the area, according to the South Coast Air Quality Management District. And the effects of air pollution are most harmful to those most vulnerable: our children, our elderly, and people with asthma or other diseases. I share your belief that we must act decisively to address this public health crisis.

Furthermore, port-related congestion costs hundreds of millions of dollars in lost productivity and additional infrastructure costs. So there is not only an urgent environmental and public health cost to inaction, but a financial toll as well. We need a comprehensive approach to cleaning up the air at our ports that makes the health, safety and well-being of the millions of people who live and work in the port district a top priority.

As Chairman of the Senate Environment and Public Works Committee, I have introduced the Marine Vessel Emission Reduction Act, a bill which requires oceangoing vessels visiting U.S. ports to use cleaner fuel and cleaner engines, whether they are flagged in the U.S. or elsewhere.

My bill would require oceangoing vessels to dramatically lower the sulfur content of the fuel they use as they travel to and from our ports. It would also significantly reduce emissions from both new and existing engines beginning in 2012 by requiring the use of the most advanced technologies. Local air officials estimate that our legislation would save 700 lives a year in Southern California, and many more lives nationally each year.

But we can and must do more. That is why I am so pleased that the Los Angeles Board of Harbor Commissioners is voting on the final piece of the Clean Trucks Program and I pledge to work with you to further the goals of this plan to safeguard the health of California's families.

Sincerely,

Barbara Boxer

Barbara Boxer
U.S. Senator

Barack Obama

November 2, 2007

Mayor Antonio Villaraigosa, City of Los Angeles
Mayor Robert Foster, City of Long Beach
Mayor Ron Dellums, City of Oakland

Dear Mayors Villaraigosa, Foster, and Dellums:

I write to express my support for the efforts you are making to ensure that our ports are environmentally sound, secure, and supporting middle class living standards for those working there. Americans are anxious about increased trade, its relationship to middle class jobs available in America, and what that economic activity – both as a matter of production and transport of goods -- is doing to the environment. Those concerns and challenges come to a head at the ports in your cities and I commend your leadership in addressing them.

In particular, the Clean Trucks Program recognizes trade, labor, and the environment are not separate, but linked issues. The program sets up tough standards to clean up truck diesel emissions and provides generous subsidies for vehicle purchase and retrofit. And it also recognizes that responsibility for investing in higher standards is best borne by firms rather than the individual truck drivers fighting to make a living with little leverage to negotiate for better pay.

Because the trucking companies that operate at the ports have adopted the strategy of holding down costs by classifying their personnel as independent contractors, each individual driver is today responsible for his truck and its environmental impact. But most are independent only in the sense that they own the truck they operate and are struggling to pay it off. Many of these truckers may be legally misclassified. Worker misclassification is an issue I have worked on at the federal level to remedy because it hurts workers and costs the taxpayer billions in uncollected taxes. In this case, whether they are misclassified or not, the dependence on poorly paid truckers is leading to the use of trucks ill equipped to minimize the impact on the environment.

According to a recent survey of truckers at the ports, five out of six drivers only work for one trucking company at a time and nearly nine in ten own only one truck. They are dependent on the trucking companies for work. Those companies and the big box retailers reap the rewards of increased imports while the truckers who transport those goods are paid poorly and receive few benefits. After expenses, fuel and insurance, they take home roughly $29,000 per year and struggle to afford routine repairs and upgrades. That has repercussions for the drivers and the environment.

Adopting the Clean Trucks Program will make it possible to ensure that the pollution these trucks are creating and the low compensation truckers receive are reversed. I support your efforts to work with the Harbor Commissioners in your respective cities to adopt a strong Clean Trucks Program promoting the cleanest available technology and a transition away from ports relying on trucking companies that act as brokers to ones that treat their personnel as employees. Both steps are necessary to meet emissions reductions targets and ensure that jobs at our ports are middle class jobs.

Sincerely,

Barack Obama

CC: David Freeman, President
Los Angeles Board of Harbor Commission
Mario Cordero, President
Long Beach Board of Harbor Commission
Anthony Batarse, Jr., President
Harbor Commissioners, Port of Oakland

Obama'08

Written Statement for the Record

of

Curtis Whalen
Executive Director
Intermodal Motor Carriers Conference

of the
American Trucking Associations

before the

Subcommittee on Coast Guard and Maritime Transportation

House Committee on Transportation and Infrastructure

U.S. House of Representatives

Field Hearing on

Port Development and the Environment at the Ports of Los Angeles and Long Beach

Port of Long Beach Administration Building
Long Beach, CA 90802

August 4, 2008

Curtis Whalen
American Trucking Associations
950 N. Glebe Road Suite 210
Arlington, VA 22203-4181

Mr. Chairman, members of the Subcommittee, my name is Curtis Whalen, and I am the Executive Director of the Intermodal Motor Carriers Conference (IMCC) of the American Trucking Associations, Inc. (ATA). ATA, the national trade association for the trucking industry, is a federation of affiliated state trucking associations, conferences and organizations that includes more than 37,000 motor carrier members representing every type and class of motor carrier in the country. The IMCC is an affiliated conference within the ATA and is open to ATA member companies engaged in intermodal truck transportation or businesses and services supporting intermodal transportation.

As is the case with many national issues, activities in California often serve to both initiate and shape state and federal programs and polices throughout our nation. For that reason, the debate and now legal action surrounding the Ports' adoption of their Clean Truck Programs (CTP) is of utmost importance to motor carriers, shippers, retailers, other port stakeholders, and consumers everywhere who depend on our maritime freight transportation system.

I am sure that the port officials who are scheduled to appear at today's hearing will provide you with the overall details of their respective CTPs. From the local intermodal motor carriers' potential impacts perspective, however, I note for the record that there are approximately 1,300 motor carriers that regularly serve the combined Ports complex. Those companies collectively deploy nearly 17,000 trucks that regularly service the Ports during an annual period. In addition, a larger number of trucks (as many as 25,000) perform infrequent Port drayage operations during each annual period.

The vast majority (Port study indicates 85%+, IMCC members estimate 98%) of the trucks that regularly service the Ports are not owned by the motor carriers. Instead, the trucks are owned by Independent Owner Operators (IOOs) that contract with the motor carriers for port – container transport services. Many IMCC members in fact use only IOO drivers—they have no employee drivers. From a national perspective, it is important for Subcommittee members to understand that it is a fundamental characteristic of the IOO/motor carrier relationship that IOOs provide the power unit truck tractors – this is not a situation unique to port drayage.

In order to qualify as an independent contractor, owner-operators must have a substantial investment in their businesses, which generally comes from their ownership interest in their power-unit tractors. Indeed, it is this interest that allows owner-operators to command significantly higher overall compensation than that of employee drivers. It is customary in the trucking industry that owner-operators procure that ownership interest in their tractors via lease/purchase arrangements that allow them to own and operate relatively expensive equipment without being forced to bear the entire financial burden up front. Therefore, the Port's recent selection of Daimler Truck Financial as their program funds administrator creates a lease/purchase mechanism entirely consistent with the traditional manner in which owner-operators procure their tractors. By utilizing Daimler's well-honed lending process evaluation, selection procedures, and safeguards, only financially capable IOOs or motor carriers will be selected for the program and the

Ports' clean air efforts will be advanced without the need for the intrusive Concession Plans.

Moreover, again from a national perspective, it is also important for Subcommittee members to note that since passage of the Motor Carrier Act of 1980, motor carrier transportation has operated under a deregulated, highly competitive, smaller sized, open-entry business model. According to statistical analyses undertaken by the ATA of motor carrier data released recently by the Department of Transportation, the vast majority of motor carriers in the U.S. (87.3 percent) operate six or fewer trucks and 95.9 percent of the fleets have twenty or fewer trucks. Only 4.1 percent of carriers operate more than twenty trucks. Since the inception of the national trucking industry, motor carriers' decisions as whether to operate with trucks owned and driven by IOOs as subcontractors or with company-owned trucks and employee drivers (or a combination of both) has been a free-market business choice not subject to federal, state or local official control.

The Port of Los Angeles' attempt to eliminate IOOs, if successful, would be the first time in the history of this nation's trucking industry that the well-established IOO/motor carrier business model has been outlawed by government fiat. Even the attempt illustrates that the Ports' lack a basic understanding of how the motor carrier industry works and the far-reaching detrimental impact such action would have on the trucking industry and the movement of goods in this nation.

On July 28, ATA was forced to file a lawsuit in the U.S District Court, Central District of California against the Concession Plan components of the Ports' CTPs. (complaint without attachments attached). It is again extremely important to understand that the trucking industry supports the clean air goals of the Ports' CTPs. Specifically, the Ports' approved clean truck tariffs, by establishing mandatory truck retirements beginning this October for pre-1989 trucks and ending in 2012 when all port trucks must be 2007 engine compliant), have been and are supported by our motor carrier members. Considering that these soon to be retired trucks are and will continue to be "legal" in the other 49 states illustrates the support of the industry for efforts to improve air quality in the region.

However, as we explain in our complaint, the intrusive regulatory oversight associated with the Concession Plan mechanisms, are not needed to support the truck retirement and replacement program with its associated clean air benefits. Those Concession Plans, which unlawfully re-regulate the port trucking industry to the detriment of motor carriers, shippers, other port stakeholders and the businesses and consumers, serve only to disrupt port operations and add billions of dollars of unnecessary cost to transportation operations involving the Ports.

The ATA litigation, which is specifically structured so as to not interfere with the ports' clean air truck retirement and new truck funding efforts, focuses only on Concession Plans. Under 49 U.S.C. § 14501(c)(1), a political subdivision of a state "may not enact or enforce a law, regulation, or other provision having the force and effect of law related to a price, route, or service of any motor carrier." The Ports' Concession Plans control access into the Port markets and will have a major impact on motor carrier rates and services. In addition, the LA plan to ban owner operators and require employee-only/company-owned trucks will greatly exacerbate concession impacts for motor carriers operating in both ports.

The Complaint further alleges that this is the type of interference with competitive market forces that the U.S. Supreme Court (*Rowe v. New Hampshire Motor Transport Association*, No. 06-457 (U.S. S.Ct. Feb. 20, 2008) recently identified as the target of the federal preemption provision. The 9-0 decision reiterated the broad scope of federal preemption, noting in particular that state requirements are preempted if they "have a connection with, or [make] reference to carrier rates, routes, or services." The Court described Congress' purpose behind the preemption provision as ensuring that motor carrier rates, routes, and services "reflect 'maximum reliance on competitive market forces,' thereby stimulating 'efficiency, low prices,' as well as 'variety' and 'quality'." The Court further noted that the preemption provision was designed to eliminate "a State's direct substitution of its own governmental commands for 'competitive market forces' in determining (to a significant degree) the services that motor carriers will provide."

In the litigation, we are also asking the Court for a preliminary injunction against the Ports' enforcing the October 1, 2008 commencement date of the Concession Plans. We are also seeking an expedited schedule for hearing the ATA request for injunctive relief and hope the court will make a ruling on that request in advance of the scheduled October 1 implementation date.

Finally, as Subcommittee members review the testimony and consider the clean air and transportation impacts of the Ports' CTP plans, you should also consider that under regulations adopted by the California Air Resources Board (CARB) on December 7, 2007, drayage trucks serving California's ports and intermodal rail yards must also meet clean air objectives mirroring the ports' plan but with a final goal of requiring all port diesel trucks to meet 2007 standards by December 31, 2013, not 2012 as required under the CTP. Unlike the Ports approach, however, the CARB state program does not interfere with port trucking operations and contains no employee mandate.

Thank you.

COPY

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CENTRAL DIST. OF CALIF.
LOS ANGELES
BY ______

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

AMERICAN TRUCKING ASSOCIATIONS, INC.,

Plaintiff,

vs.

THE CITY OF LOS ANGELES, THE HARBOR DEPARTMENT OF THE CITY OF LOS ANGELES, THE BOARD OF HARBOR COMMISSIONERS OF THE CITY OF LOS ANGELES, THE CITY OF LONG BEACH, THE HARBOR DEPARTMENT OF THE CITY OF LONG BEACH, and THE BOARD OF HARBOR COMMISSIONERS OF THE CITY OF LONG BEACH,

Defendants.

Case No. CV08-04920 CAS (CTx)

COMPLAINT FOR DECLARATORY JUDGMENT AND INJUNCTIVE RELIEF

INTRODUCTION

1. Plaintiff American Trucking Associations, Inc. ("ATA") brings this suit to declare void and to permanently enjoin the enforcement of two "Concession Plans," separately promulgated and approved by the City of Los Angeles and the City of Long Beach, through their respective Harbor Departments and Boards of Harbor Commissioners, that would unlawfully re-regulate the federally-deregulated trucking industry and, effective October 1, 2008 bar more than one thousand licensed motor carriers from continuing to enter and service routes in interstate commerce directly to and from the ports of San Pedro Bay. Defendants adopted these regulatory plans in clear violation of the Federal Aviation Administration Authorization Act of 1994 ("the FAAA Act," Public Law 103-305, section 601, codified as 49 U.S.C. § 14501(c)). That Act, to promote uniform federal regulation of motor carriers such as ATA members, directs that "a political subdivision of a state ... may not enact or enforce a law, regulation, or other provision having the force and effect of law related to a price, route, or service of any motor carrier" of property. Because Congress prohibited municipalities and ports from asserting such regulatory powers over motor carrier routes and services in interstate commerce, the Defendants' Concession Plans are preempted by the FAAA Act under the Supremacy Clause of the United States Constitution and cannot stand. This Court has jurisdiction to hear this Complaint under 28 U.S.C. § 1331 (federal question) and 28 U.S.C § 2201 (declaratory judgments).

2. The Concession Plans further violate the right and ability of Plaintiff's members to be free of unreasonable burdens on interstate commerce. The Concession Plans would impose invasive regulatory requirements upon virtually all aspects of the business of a federal motor carrier, including truck maintenance, on-street and off-street parking, employee wages, employee benefits, hiring practices, truck signage, recordkeeping, auditing, frequency of service to the Ports, and even upon sale or transfer of the motor carrier's business. All such impositions

are deemed unreasonable burdens on interstate commerce under both the Commerce Clause of the U.S. Constitution and 49 U.S.C. § 14504a.

3. Perhaps the clearest demonstration of the unlawful and onerous burdens the Concession Plans wreak upon interstate commerce is that the two Defendant cities operate a single contiguous port complex, but have adopted different regulatory schemes. The Port of Los Angeles *prohibits* motor carriers' use of more than 10,000 independent owner-operators of trucks on *their side* of the city line that bisects the San Pedro Bay port complex, while the Port of Long Beach *permits* such subcontracting on *its side* of the line — a text-book case of the need for federal preemption to prevent a patchwork of service-determining laws, rules, and regulations from disrupting the motor carriage of property in interstate commerce.

4. Although unconstitutional state or municipal interference with exclusive federal powers over interstate commerce cannot be upheld on any grounds, the Defendants cannot justify forcing trucking companies and thousands of independent owner-operator truck drivers to fundamentally change their business models or stop servicing the Ports altogether under the halo of a "Clean Trucks" plan. ATA would favor a plan ***truly*** dedicated to funding replacement of older trucks with new lower-emission trucks, and ATA does ***not*** challenge the Ports' truck engine-retirement programs. However, the Defendants have adopted Concession Plans laden with extraneous, burdensome regulations regarding wages, benefits, truck ownership, preferences for certain types of trucks, and frequency of service to the Ports, which have no material environmental impact (and are preempted under federal law). Indeed, both Concession Plans would prevent every non-concessionaire truck from entering the Port regardless if it were a brand new diesel or natural gas-powered truck that exceeded the clean air standards of the California Air Resources Board ("CARB"). The Los Angeles plan further would deny independent owner-operators funding necessary to acquire replacement

trucks that comply with the CARB clean air standards – funds that, according to CARB Guidelines, were to be awarded on a nondiscriminatory basis also to independent owner-operators.

5. Plaintiff American Trucking Associations and its Intermodal Motor Carriers Conference includes among its members trucking companies that currently serve the ports of San Pedro Bay and rely extensively on the ability to retain the services of independent owner-operators for a substantial portion of their motor carriage service capacity. Unless enjoined by this Court, the Concession Plans unconstitutionally will interfere with and work irreparable harm to the right of these ATA members to service the ports of San Pedro Bay and all routes to and from the ports.

6. Wherefore, pursuant to Federal Rules of Civil Procedure 7 and 8, Plaintiff American Trucking Associations states for its Complaint the factual allegations set forth below, and requests the Court to enter an Order granting:

(a) A declaratory judgment that the Defendants' Concession Plans are preempted by the FAAA Act;

(b) A permanent injunction prohibiting the Defendants from enforcing any Concession Plan or other requirement that has the effect of regulating the prices, routes, or services of motor carriers serving the Ports of San Pedro Bay, including but not limited to conditioning the entry into the Ports upon the signing of a Concession Agreement or other contract that regulates prices, routes, or services;

(c) A declaratory judgment that the Los Angeles Defendants' Concession Plan, which precludes independent owner-operators of licensed motor carriers from entry into the Ports and conditions the award of financial assistance under Defendants' "clean trucks" program on the recipient being a holder of a Concession Agreement, is preempted by the FAAA Act ; and

(d) A permanent injunction prohibiting the Defendants from enforcing any Concession Plan or other requirement that has the effect of precluding licensed motor carriers, including independent owner-operators and those who subcontract with independent owner-operators, from entry into the Ports.

PARTIES TO THIS ACTION

7. Plaintiff American Trucking Associations, Inc. ("ATA") is the non-profit national trade association for the trucking industry established under the laws of the District of Columbia as a federation of affiliated state trucking associations, conferences and organizations that includes more than 37,000 motor carrier members representing every type and class of motor carrier in the country. Its principal place of business is 950 North Glebe Road, Arlington, Virginia, 22203. Intermodal Motor Carriers Conference ("IMCC") is an affiliated conference of the ATA. The IMCC provides educational and training services to the intermodal (land-sea) motor carrier members of the ATA, as well as representing the interests of these members in a broad range of federal, state, local and industry policy forums. Several IMCC members are motor carriers under federal and California law that provide drayage trucking services to and from the Ports of Los Angeles and Long Beach and would be directly and adversely affected by the actions of Defendants as set out in this Complaint. The relief sought by this Complaint is intended to advance the interests of the members of the IMCC, and the filing of this Complaint has been authorized by the appropriate governing bodies of the IMCC and the American Trucking Associations. Plaintiff ATA thus has "associational standing" to pursue this Complaint on behalf of its members.

8. Defendant City of Los Angeles is a municipality established under Article XI of the Constitution of the State of California and is a political subdivision of that state. Defendant Harbor Department of the City of Los Angeles is vested with responsibility to administer the "Harbor District" of the Port of Los

Angeles. Defendant Board of Harbor Commissioners controls the assets and facilities of the Harbor Department and promulgates rules and regulations governing the maintenance, operation and use of the Harbor District. Collectively, these defendants are referred to in this Complaint as the "Los Angeles Defendants."

9. Defendant City of Long Beach is a municipality established under Article XI of the Constitution of the State of California and is a political subdivision of that state. Defendant Long Beach Harbor Department is vested with responsibility to administer the "Harbor District" of the Port of Long Beach. Defendant Long Beach Board of Harbor Commissioners controls the assets and facilities of the Harbor Department and promulgates rules and regulations governing the maintenance, operation and use of the Harbor District. Collectively, these defendants are referred to in this Complaint as the "Long Beach Defendants."

JURISDICTION AND VENUE

10. This action arises under the Constitution and Laws of the United States, including the Supremacy Clause of the Constitution, Article VI, clause 2; the Commerce Clause of the Constitution, Article I, Section 8, Clause 3; the Federal Aviation Administration Amendments Act of 1994 as re-enacted by the Interstate Commerce Commission Termination Act of 1995, Public Law 104-88 , as amended, (49 U.S.C. §§ 14501(c), 14504a(c), 14506); 42 U.S.C. § 1983; and the All Writs Act, 28 U.S.C. § 1651. Accordingly, this Court has jurisdiction under 28 U.S.C. § 1331 (federal question) and 28 U.S.C § 2201 (declaratory judgments). This proceeding for declaratory and injunctive relief presents an actual case and controversy within the Court's jurisdiction.

11. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b). The claims asserted in this Complaint are based on conduct occurring in this district and each of the Defendants maintains its offices and performs its duties within this district.

FACTUAL BACKGROUND

Plaintiff American Trucking Associations states the following facts, as to itself, upon personal knowledge and, as to others, upon information and belief:

12. The port area of San Pedro Bay, including Terminal Island, geographically comprises a single contiguous port area bisected by the Los Angeles-Long Beach city boundary. The Port of Los Angeles comprises that portion of the port area of San Pedro Bay within the boundaries of the City of Los Angeles; and Port of Long Beach comprises that portion of the port area of San Pedro Bay within the boundaries of the City of Long Beach. The Ports of Los Angeles and Long Beach are located in Los Angeles County. The respective Harbor Boards of the Ports of Los Angeles and Long Beach (collectively, "the Boards") may collaborate on matters of common concern.

13. The Port of Los Angeles is the most active container port in the United States and, collectively with the Port of Long Beach, comprises the fifth most active container port complex in the world. Together the Ports handle more than 40% of all full international container traffic in the United States.

14. Cargo containers transiting the Ports remain in the continuous flow of the interstate and international commerce of the United States. Cargo containers unloaded from a container ship are loaded onto truck trailers, then "drayed" by motor carriers from the Port directly to customers, to off-dock terminals, or to railheads where containers may be changed onto different trucks or may be resorted if not all destined for a single customer. The process occurs in reverse in case of exports. These movements may occur under contract with end users, or under contract with ocean carriers in which the motor carrier serves as the other carriers' agent or subcontractor for the delivery, receipt, or in-transit transfer of cargo containers.

15. Because cargo containers remain in the continuous flow of the interstate and foreign commerce of the United States, the drayage of cargo containers to and from the Port constitutes "interstate commerce" under the Constitution and laws of the United States. For this reason, among others, motor carriers serving the Port, including the members of Plaintiff ATA and its IMCC, often are registered motor carriers under the federal Motor Carrier Act, 49 U.S.C. chapter 139, as well as holders of Motor Carrier of Property Permits under the laws of the state of California.

The Role Of Independent Owner Operators in Serving the Ports

16. Licensed motor carriers historically have operated under various business models. Motor carriers may provide port drayage services by using employees of the motor carrier, or by contracting with other operators who are paid per trip, or by combining employee drivers and contract operators.

17. One type of contract operator is the "independent owner-operator." Under California Vehicle Code, section 34624, independent owner operators ("IOOs") are eligible for their own permits as motor carriers of property and are defined as operators with valid commercial drivers licenses who own no more than one tractor and three trailers. Approximately 1,300 motor carriers provide drayage services to the Ports, using the services of approximately 17,000 owner operators. ATA members include in its Intermodal Motor Carriers Conference motor carriers that rely primarily or almost exclusively upon the use of subcontractor IOOs to service the Ports of Los Angeles and Long Beach.

18. At present, any motor carrier may provide drayage services moving cargo containers to and from the Ports of San Pedro Bay, including through the use of independent owner-operators as subcontractors.

Defendants' Unlawful Concession Plans

19. On March 20, 2008, the Los Angeles Harbor Board adopted an Order requiring that only drayage trucks operated under the authority of a motor carrier

holding a Concession Agreement with the City of Los Angeles be permitted to enter the Port:

> Beginning October 1, 2008, at 8:00 am, no Terminal Operator shall permit access into any Terminal in the Port of Los Angeles to any Drayage truck unless such Drayage Truck is registered under a Concession from the Port of Los Angeles....

In approving these requirements, the Board reserved the right to amend Concession requirements at any time, and stated that neither its ordinance nor the grant of a Concession created any property interest in a Concessionaire.

20. On July 18, 2008, Defendant Los Angeles Harbor Board released in final form a Concession Plan (Exhibit A to this Complaint) including an agreement that must be signed by any motor carrier wishing to serve the Port. To be eligible to sign a Concession agreement, a motor carrier must submit an Application that, among other elements, requires an applicant to demonstrate, to the satisfaction of the Port's Executive Director, its financial capability to fulfill its obligations under the Concession Agreement, including a three-year business history, "information pertaining to the company, its principals, and the management and administrative staff," as well as financial data. Applications should be filed by September 1, 2008. The Agreement requires concession holders serving the Ports to use only employee drivers (after a transition period beginning in 2009) and to comply with numerous operational, financial, and employee hiring rules, as well as compliance with various audit and financial responsibility requirements. These include preparation, maintenance, and/or submission for review by the Ports and their agents of:

a. Maintenance plans and schedules for each truck that may enter the Ports;

b. Plans requiring off-street parking for each truck that may enter the Ports;

c. Financial qualifications of each concessionaire;

d. Financial and operational records to determine whether the Concessionaire and each truck that may enter the Ports remain in compliance with all concession requirements;

e. Inspections and audits of a Concessionaire's property, equipment, and offices;

f. Requests to transfer a Concession to a new owner (which may be subject to a reissuance of the Concession under such terms and conditions as may be in effect at that time); and,

g. Placards on each truck that identify the concession holder.

Each Concessionaire also must submit to comprehensive default, enforcement, and remedy provisions imposed by the Ports, including termination of the Concession.

21. Under the Los Angeles Concession Plan Agreement, a concessionaire must comply with additional wage, employment, development, and employee benefits requirements applicable to vendors to the City. These include obligations to:

a. Permit access to and, upon request, provide certified copies of all of its records pertaining to its benefits policies and its employment policies and practices to the city, for the purpose of investigation or to ascertain compliance with the Equal Benefits Ordinance;

b. Comply with all lawfully served Wage and Earning Assignment Orders and Notices of Assignments and certify that the principal owner(s) are personally in compliance;

c. Ensure that all subcontractors similarly comply with all lawfully served Wage and Earning Assignment Orders and Notices of

Assignments and certify that the principal owner(s) are personally in compliance;

d. Perform outreach to and utilize certified small businesses, sign affidavits prior to the hiring of subcontractors, and register itself and any subcontractors with the city's e-DiversityXchange database;

e. Certify that they are not aware of any financial or economic interest of any public officer or employee of the city relating to this agreement;

f. Comply with the city's health care spending mandates and wage requirements; and,

g. Comply with all affirmative hiring provisions of the city's administrative code, including those that requiring the motor carrier to:

i. Permit access to and require provision of certified copies of all of its records pertaining to employment and to its employment practices by the awarding authority or the Office of Contract Compliance, for the purpose of investigation to ascertain compliance with the affirmative action program provisions;

ii. Ensure that all subcontractors similarly comply with all such obligations, and be subject to penalties including termination of the motor carrier's contract with the City for failure of any subcontractor to meet these obligations;

iii. Submit an affirmative action plan which shall meet the requirements of this chapter at the time it submits its bid or proposal or at the time it registers to do business with the City. The plan shall be subject to approval by the Office of Contract Compliance prior to award of the contract. The awarding authority may also require motor carriers and suppliers to take part in a pre-registration, pre-bid, pre-proposal, or pre-award conference in order to develop, improve or implement a qualifying affirmative action plan;

iv. Certify on an electronic or hard copy form, to be supplied, that the contractor has not discriminated in the performance of City contracts against any employee or applicant for employment;

v. State, in all solicitations or advertisements for employees placed by or on behalf of the contractor, that all qualified applicants will receive consideration for employment; and,

vi. Agree that the failure to comply with the affirmative action program provisions of City contracts may result in the motor carrier's Concession Agreement being cancelled, terminated or suspended, in whole or in part, by the awarding authority, and all monies due or to become due may be forwarded to and retained by the City of Los Angeles. In addition, such breach may be the basis for disqualifying the motor carrier from being awarded a contract with the City of Los Angeles (apparently including another Concession Agreement) for a period of two years.

Thus, Defendant Harbor Board unlawfully imposed additional regulatory conditions upon licensed motor carriers that meet all applicable federal and state requirements and by law are entitled to service the Ports in interstate commerce.

22. On February 19, 2008, the Defendant Long Beach Harbor Board approved a plan requiring that only drayage trucks operated under the authority of a motor carrier holding a Concession Agreement with the City of Long Beach would be permitted to enter the Port beginning on October 1, 2008.

23. On July 18, 2008, Defendant Long Beach Harbor Department released the specific Concession Plan Agreement (Exhibit B to this Complaint) that must be signed by any motor carrier wishing to serve the Port. To be eligible to sign a Concession Agreement, a motor carrier must submit an Application that differs

from Los Angeles in that Long Beach requires that only motor carriers obtaining operating authority after June 1, 2008, need demonstrate their financial viability. The Long Beach Applications also should be filed by September 1, 2008. The Concession Agreement also is substantially similar to that adopted by Los Angeles, except that the Agreement: (a) permits Concessionaires to use independent owner-operators as subcontractors; and (b) allows the required parking plan for each drayage truck to include provisions for parking at any legal parking space, not just an off-street space. Because the agreement required by the Long Beach Concession Plan also is treated as a procurement contract with Defendant City of Long Beach, a Concessionaire must comply with additional requirements applicable to vendors to the City. Thus, Defendant Harbor Board unlawfully imposed additional regulatory conditions upon licensed motor carriers that meet all applicable federal and state requirements and by law are entitled to service the Ports in interstate commerce.

The Prohibition Against Use of Independent Owner-Operators in the Los Angeles Concession Plan, and Its Impact on Service to the Port of Long Beach

24. The language of the Ports' respective Concession Plans diverge in one primary respect. The Los Angeles Concession Plan adopts an express mechanism that prohibits use of independent owner-operators and requires use only of employee-drivers (after a phase-in). The Long Beach Concession Plan, on its face, permits a concession holder to use employee-drivers or independent owner-operators as subcontractors.

25. In reality, however, permission for an independent owner-operator to service the Port of Long Beach is meaningless when shackled by a prohibition against serving the Port of Los Angeles. It generally is commercially impractical, if not infeasible, for a motor carrier to provide drayage services only on the Port of Long Beach and not also to the Port of Los Angeles. For example, agreements among shippers may route cargo initially destined for the Port of Long Beach to

the Port of Los Angeles, and may require emptied containers from cargo initially drayed from the Port of Long Beach to be returned to a terminal on the Port of Los Angeles. Further, under "Vessel Sharing Agreements" entered into among ocean common carriers, a contract for the trans-Pacific movement of cargo containers between a shipper and an ocean carrier with a terminal facilities at one San Pedro Port may actually be fulfilled by moving the container on the ship of another ocean carrier that docks at the other Port. As a result, a Concession Plan that prohibits subcontracting independent owner-operators to provide drayage services at the Port of Los Angeles also precludes any practical ability of motor carriers relying on the services of independent owner operators to serve the Port of Long Beach, and, therefore, to enter into short or long term drayage contracts with shipping companies, ocean carriers, or cargo owners.

"Clean Truck" Programs Of The State Of California And Of The Defendants

26. On December 7, 2007, The California Air Resources Board ("CARB") adopted rules expressly directed at limiting emissions from heavy duty diesel trucks providing drayage services at California's ports (including the Port of Los Angeles) and intermodal rail yards. The CARB regulations imposed limits on drayage diesel trucks in two phases:

a. By December 31, 2009, all drayage trucks must be equipped with either: (i) a 1994-2003 model year engine with specified emissions-reduction equipment; (ii) a 2004 model year engine meeting federal or California standards; or (iii) a 1994 or newer model year engine that meets or exceeds 2007 emissions standards; and

b. By December 31, 2013, all drayage trucks must be equipped with a 1994 or newer model year engine that meets or exceeds 2007 emissions standards.

27. On November 6, 2006, the voters of California approved a bond-funding program known as Proposition 1B that, among other things, authorized $1 billion in bonds to reduce emissions associated with the movement of freight along California's trade corridors, and the legislature adopted necessary funding authority.

28. On November 20, 2006, the Los Angeles Board of Harbor Commissioners and the Long Beach Board of Harbor Commissioners jointly approved the San Pedro Bay Ports Clean Air Action Plan ("CAAP"). One of CAAP's stated goals was to eliminate older trucks from the San Pedro Bay terminals within 5 years.

29. In September 2007, the Harbor Boards of both Ports adopted "Clean Truck" standards as amendments to their respective harbor tariffs that would:

a. Ban pre-1989 trucks from Port service by 10/1/2008

b. Ban 1989-1993 trucks from Port service by 1/1/2010

c. Ban unretrofitted 1994-2003 trucks from Port service by 1/1/2010

d. Ban trucks not meeting 2007 emissions standards from Port service by 1/1/2012.

30. On February 28, 2008, CARB approved Guidelines for the awarding of Proposition 1B funds used to retrofit or replace drayage diesels *in advance* of the deadlines established by the CARB drayage diesel regulations. The Guidelines specifically contemplate these CARB funds would be made available to independent-owner operators, and requires that independent owner-operators receiving funds must purchase replacement trucks to be operational at least two (2) years prior to the ordinary regulatory requirement. Thus, for example, if a drayage diesel needs funding assistance to meet the Phase II December 31, 2013 requirement of 2007 standard trucks, funding assistance for replacement would be available only if the compliant truck is put in service by December 31, 2011 for independent owner-operators.

31. On April 4, 2008, the Ports jointly submitted a proposal to CARB to award $211 million in Proposition 1B funds to replace older drayage diesel trucks with ones that would be in compliance with regulations adopted by CARB and the Ports (the "Joint Application"). The Joint Application emphasized that their administration of the grant funds would not restrict funding availability to a preferred individual, company, business entity, or other group of equipment owners, and that it would involve outreach to, and participation of, independent owner-operators.

32. In disregard of its explicit commitments to CARB to fund independent owner-operators, the Joint Application indirectly sought to reserve authority to refuse funding to any motor carriers that did not enter into a Concession Agreement with the Ports. Thus, although the Ports professed compliance with CARB Guidelines requiring that Proposition 1B funds be available to replace independent owner-operator trucks, the Port of Los Angeles in fact intended to deny support to independent owner operators themselves and to the many motor carriers that rely on the services of independent-owner operators as contractors.

33. On May 22, 2008, CARB approved the Ports' funding request in the reduced amount of $98 million.

The Federal Aviation Administration Authorization Act and Its Preemption Of State And Local Trucking Regulation

34. The Federal Aviation Administration Authorization Act of 1994, section 601(c), codified at 49 U.S.C. § 14501(c), states:

> [A] State, political subdivision of a State, or political authority of 2 or more States may not enact or enforce a law, regulation, or other provision having the force and effect of law related to a price, route, or service of any motor carrier … with respect to the transportation of property.

The statute was based on Congressional Findings that:

> (1) the regulation of intrastate transportation of property by the States has-

(A) imposed an unreasonable burden on interstate commerce;

(B) impeded the free flow of trade, traffic, and transportation of interstate commerce; and

(C) placed an unreasonable cost on the American consumers...

Public Law 103-305, section 601(a).

35. 49 U.S.C. § 14506(a), as added by Public Law 109-59, states:

> No State, political subdivision of a State, interstate agency, or other political agency of two or more States may enact or enforce any law, rule, regulation standard, or other provision having the force and effect of law that requires a motor carrier ... to display any form of identification on or in a commercial motor vehicle ... other than forms of identification required by the Secretary of Transportation....

36. As political subdivisions of the state of California and their proprietary departments, the Defendants are subject to the FAAA Act preemption.

COUNT I

PREEMPTION OF DEFENDANTS' CONCESSION PLANS UNDER THE SUPREMACY CLAUSE AND THE FAAA ACT

37. Plaintiff incorporates by reference paragraphs 1 through 36 as though set forth fully herein.

38. The Concession Plans adopted by the Defendants impose restrictions on the routes and services of motor carriers providing the intermodal transportation of property in interstate commerce. Specifically, the Concession Plans condition entry onto the Ports of San Pedro Bay and, therefore, the ability to serve routes to and from the Ports, upon acceptance by motor carriers of terms that affect the methods by which motor carriers may provide service to the Ports. These terms, set forth in Exhibits A and B to this Complaint, include regulation of wages and benefits offered by motor carriers to their employees or subcontractor independent owner-operators, the frequency with which motor carriers serve the Ports, licensing

and signage that must be displayed by a motor carrier serving the Ports, and even the ability of motor carriers to use on-street parking.

39. Moreover, the Port of Los Angeles has adopted an onerous Concession Plan requirement requiring compliance with different regulatory terms than those imposed by the Port of Long Beach Concession Plan. Consequently, a motor carrier that obtains a concession from Long Beach but not from Los Angeles can only serve drayage customers whose containers arrive on ships that dock on the Long Beach side of the Los Angeles-Long Beach city line.

40. The requirement to sign a Concession Agreement, and the specific additional conditions imposed by each Concession Plan, constitute regulation of the routes and services of a motor carrier.

41. 49 U.S.C. § 14501(c), prohibits the Defendants from enacting or enforcing any law, regulation, or other provision having the force and effect of law related to a route or service of any motor carrier with respect to the transportation of property.

42. 49 U.S.C. § 14506(a), prohibits the Defendants from enacting or enforcing any law, regulation, or other provision that requires a motor carrier to display any form of identification on or in a commercial motor vehicle, other than forms of identification required by the Secretary of Transportation.

43. Article VI, clause 2 of the U.S. Constitution (the "Supremacy Clause") provides: "This Constitution, and the Laws of the United States which shall be made in Pursuance thereof ...shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding."

44. Defendants' use of contractual Concession Plans to regulate access to the Port of Los Angeles by motor carriers engaged in port drayage, violates the FAAA Act.

45. The Concession Plans are preempted under the Supremacy Clause.

46. Plaintiff's members will incur irreparable harm from this constitutional violation.

47. Plaintiff is entitled to a declaratory judgment and a permanent injunction prohibiting the Defendants from conditioning the intermodal transportation by motor carriers of cargo containers in interstate and foreign commerce on compliance with their respective Concession Plans or on the signing of a Concession Agreement or similar contract.

COUNT II

PREEMPTION OF THE LOS ANGELES DEFENDANTS' CONCESSION PLAN UNDER THE SUPREMACY CLAUSE AND THE FAAA ACT

48. Plaintiff incorporates by reference paragraphs 1 through 47 as though set forth fully herein.

49. By prohibiting motor carriers providing drayage services from using subcontractors to provide those services, the Los Angeles Defendants are regulating fundamental elements of Plaintiff's members' drayage services.

50. By preventing independent owner-operators—who are licensed motor carriers of property under California law—from serving as subcontractors to motor carriers providing drayage services in interstate commerce, the Los Angeles Defendants directly are regulating the routes those motor carriers may service as well as the services those motor carriers may provide.

51. The regulation of routes and services by the Los Angeles Defendants is prohibited by the FAAA Act, 49 U.S.C. § 14501(c).

52. The Supremacy Clause preempts the Los Angeles Defendants' Concession Plan restrictions on the use of subcontractors by motor carriers providing drayage services at the Port of Los Angeles.

53. The Concession Agreement adopted by the Los Angeles Defendants is preempted by the FAAA Act and the Supremacy Clause, and is therefore void and unenforceable.

54. Plaintiff's members will incur irreparable harm from this constitutional violation.

COUNT III

UNDUE BURDEN AND DISCRIMINATION AGAINST RIGHT OF PLAINTIFF'S MEMBER MOTOR CARRIERS TO ENGAGE IN INTERSTATE COMMERCE (VIOLATION OF 42 U.S.C. § 1983)

55. Plaintiff incorporates by reference paragraphs 1 through 54 as though set forth fully herein.

56. 42 U.S.C. § 1983 protects the right, established by the Commerce Clause of the Constitution, Article I, Section 8, Clause 3, to engage in interstate commerce free of undue burdens and discriminations by state governments and their political subdivisions.

57. 49 U.S.C. § 14504a(c) further provides:

> [I]t shall be considered an unreasonable burden upon interstate commerce for any State or any political subdivision of a State, or any political authority of two or more States—
>
> > to enact, impose, or enforce any requirement or standards with respect to, or levy any fee or charge on, any motor carrier or motor private carrier providing transportation or service subject to jurisdiction under subchapter I of chapter 135 (in this section referred to as an 'interstate motor carrier') ... in connection with--
> >
> > (D) the annual renewal of the intrastate authority, or the insurance filings, of the motor carrier or motor private carrier, or other intrastate filing requirement necessary to operate within the State if the motor carrier ... is—
> >
> > (i) registered under section 13902 or section 13905(b); and

> (ii) in compliance with the laws and regulations of the State authorizing the carrier to operate in the State in accordance with section 14501(c)(2)(A) …

58. The Concession Plans establish requirements that unlawfully condition the right of motor carriers registered under the laws of the United States and the State of California to engage in the movement of cargo containers in interstate commerce.

59. The Concession Plans deprive Plaintiff's members of the right to engage in interstate commerce free of unreasonable burdens, as protected by the Commerce Clause, including unreasonably burdening the ability of Plaintiff's members who engage in the movement of cargo containers in interstate commerce at one of the San Pedro Bay Ports from engaging in the interstate movement of cargo containers at the other Port.

60. The Concession Plans have the purpose and effect of discriminating against and unreasonably burdening Plaintiffs' members and other incumbent motor carriers, and denying them their right to service the Ports of San Pedro Bay using independent owner-operators.

61. By adopting the Concession Plans, the Defendants have deprived Plaintiff's members of the right to engage in interstate commerce free of unreasonable burdens and discrimination, as protected by the Commerce Clause.

62. The Los Angeles Defendants have acted, and continue to act, in concert and conspiracy with the Long Beach Defendants to carry out this unlawful scheme.

63. Defendants have engaged in this conduct and have adopted their Concession Plans under color of state law.

64. Defendants' Concession Plans are unlawful, and are void and unenforceable pursuant to 42 U.S.C. § 1983 and the Commerce Clause of the Constitution as unreasonable burdens on interstate commerce.

65. Defendants' Concession Plans unreasonably discriminate against incumbent motor carriers providing drayage services to the Port of Los Angeles, in violation of the Commerce Clause of the Constitution.

66. Plaintiff's members will incur irreparable harm from this constitutional violation.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff American Trucking Associations, on behalf of its Intermodal Motor Carriers Conference and its members, prays that this Honorable Court find in favor of Plaintiff on its Complaint and grant the following relief:

I. A declaratory judgment finding Defendants to be in violation of the Supremacy Clause of the United States Constitution, on the grounds set forth in each of Counts I and II;

II. A permanent injunction to remedy and prevent Defendants' violation of the Supremacy Clause, on the grounds set forth in each of Counts I and II;

III. A declaratory judgment finding the Defendants' Concession Agreements void and unenforceable as an unlawful burden upon interstate commerce under finding to 42 U.S.C. § 1983, on the grounds set forth in Count III;

IV. A permanent injunction against enforcement of those agreements, on the grounds set forth in Count III;

V. An award under Count III of such other relief as may be appropriate, including attorneys' fees, authorized by 42 U.S.C. § 1988; and

VI. Such further relief as to which the Court may find Plaintiff to be entitled.

Respectfully submitted,

Dated: July 28, 2008

SCOPELITIS, GARVIN, LIGHT,
HANSON & FEARY, LLP

By: ______________________
Christopher C. McNatt, Jr.
Attorneys for Plaintiff
American Trucking Associations, Inc.

TESTIMONY OF JOE RADISICH

INTERNATIONAL VICE PRESIDENT
INTERNATIONAL LONGSHORE AND WAREHOUSE UNION

BEFORE THE

HOUSE SUBCOMMITTEE ON COAST GUARD AND MARITIME TRANSPORTATION

FIELD HEARING
"PORT DEVELOPMENT AND THE ENVIRONMENT AT THE PORTS OF LOS ANGELES AND LONG BEACH"

AUGUST 4, 2008

KW / O P.E I.U. Local 29 – AFL-CIO

Mr. Chairman and members of the Committee, thank you for inviting me to submit written testimony on behalf of the International Longshore and Warehouse Union (ILWU). My name is Joseph Radisich. I serve as the ILWU International Vice President and am in charge of the union's political and legislative efforts in California. I would like to particularly thank Congresswoman Laura Richardson for her diligence in fighting for investments in our transportation infrastructure and for representing the interests of thousands of longshore workers who live in her district.

As you know, the Ports of Los Angeles/Long Beach are by far the largest port complex in the country. Almost 40 percent of the goods imported in the United States are moved through these ports. There are 8 million direct and indirect jobs related to the movement of goods through the west coast. This port complex is an economic boon to Southern California and our work here benefits the entire nation.

The needs of the marine transportation system are immense. The prosperity of the nation depends on the marine transportation system. Therefore, it is essential to have a marine transportation network that includes ports, railroads, highways, and other facilities and services that move freight to and from our nation's harbors.

Studies by the South Coast Air Quality Management District attribute 70 percent of the estimated cancer burden to exposure to diesel particulate matter. Emissions from ships in the ports make up the largest part of that pollution. This is an astronomical and tragic statistic. We must address the environmental problems for the health and welfare of the American people. The pollution problems are not unique to our ports in Los Angeles and Long Beach. This is a nationwide problem and must be addressed at the federal level. Infrastructure development and environmental clean up must be integrated into one common transportation policy.

Our Southern California region faces huge infrastructure, health, and environmental challenges that must be addressed. The ILWU believes these two great challenges can be met at the same time by growing green.

As you know, Senator Lowenthal authored a bill that would create a fee of up to $60 per shipping container processed at the Ports of Los Angeles, Long Beach, and Oakland to fund congestion relief and air pollution mitigation projects. After much deliberation, the ILWU made the decision to oppose this bill because we are concerned that an additional fee on containers will drive business out of California. This is especially important because the Ports of Los Angeles and Long Beach already charge a fee for environmental mitigation.

It is necessary to find a federal solution modeled on Senator Lowenthal's approach. The funds collected should be used for clean air and infrastructure needs in port areas only. In order to keep the environment clean and continue to grow our industry, funds collected must not mask the deficit, similar to the diversion of Harbor Maintenance Tax funds. Southern California must be allotted a proportional share of the funds collected due to its unique position as an import gateway. Additionally, the Port should continue to collect the environmental fee until a federal plan is implemented to help alleviate the worst environmental impacts as quickly as possible.

Furthermore, in order to prevent diversion of cargo to Canada or Mexico, I would urge you to implement an equal fee for container cargo arriving through our land borders that originated from a foreign seaport.

In a white paper written in November, 2003 by the California Intermodal Transportation security Advisory Council, the funding needs of recommended MTS projects in California is $23.7 billion ($7.2 billion in Northern California and $16.5 billion in Southern California). However, the cost of the needed projects has almost doubled since this report came out. This, of course, does not include the billions more needed for all other seaports or distribution systems further inland.

As you work on legislation next year to rebuild our transportation infrastructure, we urge you to look at seaport areas, particularly Southern California, as an area of national priority. The economic benefits of our work here affect the entire nation. I urge you to focus on providing an efficient, systematic means to transfer this cargo to the rest of the nation through investment in harbor improvements, navigation channels, rail, and truck access to the ports.

<u>Supplemental Testimony</u> Before the

Subcommittee on Coast Guard and Maritime Transportation of the House Transportation and Infrastructure Committee

Port Development and the Environment at the Ports of Los Angeles and Long Beach, August 4, 2008

Joint Agency Statement of:

- **Roger Snoble, Chief Executive Officer, Los Angeles County Metropolitan Transportation Authority (LACMTA)**
  Arthur T. Leahy, Chief Executive Officer, Orange County Transportation Authority
- **Anne Mayer, Executive Director, Riverside County Transportation Commission**
- **Deborah Barmack, Executive Director, San Bernardino Associated Governments**
- **Hasan Ikhrata, Executive Director, Southern California Association of Governments**
- **Darren Kettle, Executive Director, Ventura County Transportation Commission**

Honorable Chairman and Members of the Subcommittee:

Thank you for the opportunity to allow our agencies to transmit supplemental testimony before the Subcommittee. We applaud your interest in allowing additional information to be submitted to the Subcommittee about the impacts of goods movement in Southern California.

Our staff attended the hearing and heard the Member's comments and questions concerning information available on regional goods movement priorities, costs of improvements, and federal role. Recognizing the need for a coordinated approach to this issue, we have jointly funded, and our

Boards have recently approved, a comprehensive goods movement analysis looking at the Southern California trade corridor impacts and benefits. We have attached the Executive Summary of the report for your consideration.

Challenges of Goods Movement in the Region

The Multi-County Goods Movement Action Plan Report (MCGMAP) outlines a $50 billion need for an increased federal investment to effectively and efficiently address the overwhelming goods movement challenges facing the 21 million Southern Californians who live and work in the Southern California region represented by our transportation and planning agencies.

The recently completed MCGMAP report, which our agencies (Caltrans, LACMTA, Orange County Transportation Authority, Riverside County Transportation Commission, San Bernardino Associated Governments, Southern California Association of Governments, Ventura County Transportation Commission, and San Diego Association of Governments) jointly prepared, documents a regional solution, establishes priorities with documentation of need for over $50 billion over the next 25 years to ensure continued economic growth, enhanced mobility and improved air quality for your constituents and our entire region.

Collectively, the Southern California trade corridor hosts the nation's largest port complex, the busiest intermodal rail hub in the nation and the busiest border crossing between the United States and Mexico. Clearly the region serves a vital role as the nation's premier gateway for trade. These huge volumes of international goods cross our ports and borders and become part of the domestic supply chain. International trade brings much needed jobs and other economic benefits to our region and to the rest of the nation.

But the concentrated movement of goods also brings serious local challenges.

- Estimates of health impacts to the Southern California region cite 1,200 premature deaths per year due to the effects of pollution generated by the goods movement industry. Equally troubling, health experts have estimated that 80% of Californians who are exposed to dangerous levels of diesel emissions reside in Southern California.

- Modeling for the region forecasts that truck vehicle miles of travel (VMT) will increase by over 110% by 2030, growing from a level of 22.4 million VMT in 2000 to 48.4 million VMT by 2030. Some freeways in the region currently handle up to 40,000 trucks per day, and it is projected that these freeways may have to handle up to 80,000 trucks per day by 2025. As a result of the growth in passenger and truck traffic, the highway system's performance will deteriorate significantly. In fact, by 2030 passenger and freight traffic will experience 5.4 million hours of delay daily. Furthermore, freight rail volume is projected to increase from 112 trains per day in 2000 to 250 trains per day in 2025 along the BNSF and Union Pacific mainline rail network. Taken together, this results in a combined gridlock of our freeway and freight system.

- Over 700,000 jobs in California are supported by trade traffic flowing in and out of Southern California's ports. According to the Los Angeles County Economic Development Corporation, this employment figure will rise to 1,000,000 jobs by 2030. Continuing regional economic viability is essential and should not be overlooked in solving the complex national freight goods movement federal infrastructure investments.

Local Efforts to Date

To support both the need for mitigation and to improve essential goods movement infrastructure, California has taken independent steps towards dealing with the freight issues it faces. The Proposition 1B bond issue was strongly supported by California voters in November 2006. In particular, a portion of Proposition 1B, the Trade Corridor Improvement Fund (TCIF) dedicated $2 billion for highway, freight rail, seaport, airport, and border access infrastructure improvements along corridors that have a high volume of freight movement. Another $1 billion was allocated to address air quality and other environmental impacts from goods movement. This represents a small but significant step towards increased resources necessary to improve our infrastructure and reduce negative environmental and congestion impacts to our communities.

Summary

The attached report breaks out critically needed short term, intermediate and long term improvements necessary to ensure the flow of goods to the rest of the nation while mitigating community impacts. The report also recommends funding strategies necessary to successfully ensure a strong and reliable goods movement system.

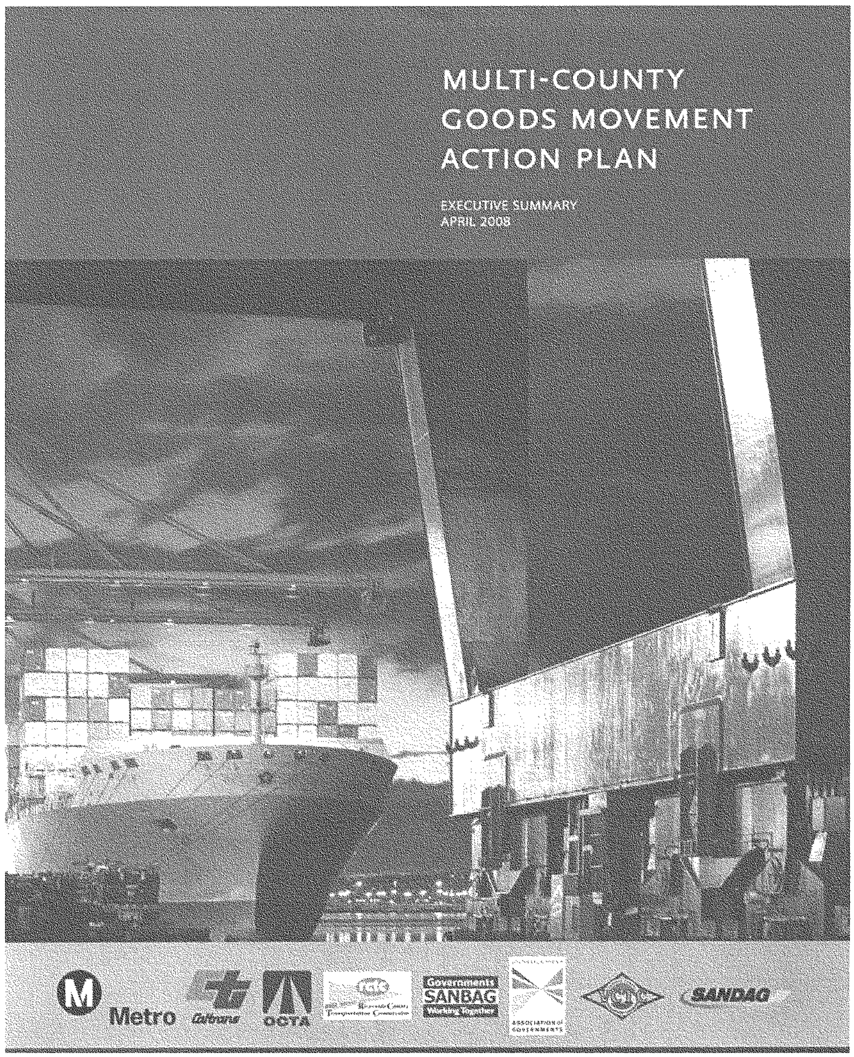
Specifically, we respectfully request that the Subcommittee consider a more proactive federal role in:

1. Developing clean air guidelines and international agreements that regulate vessels (and other stationary sources of diesel emissions) used for transporting goods to and through U.S. ports.
2. Supporting clean lease arrangements made by the ports for reducing ship emissions.
3. Identifying more aggressive goods movement initiatives that assist with achieving regional air quality attainment, including the identification of sources of funding to accelerate environmental cleanup.
4. Establishing a federal dedicated goods movement trust fund to assist with implementation of projects and programs. Towards that end, our agencies are working collaboratively with other corridors similarly impacted throughout the nation to provide a predictable and reliable goods movement federal funding source.

For more detail, this report may be downloaded at: **www.metro.net/projects_studies/mcgmap/action_plan.htm**.

Conclusion - As the Subcommittee begins to draft the next transportation re-authorization bill, our agencies are committed to working with members of the House Transportation & Infrastructure Committee in providing additional information concerning goods movement economic, employment, health, air pollution, and congestion reduction related issues.

Thank you for the opportunity to submit supplemental testimony.


MULTI-COUNTY
GOODS MOVEMENT
ACTION PLAN
EXECUTIVE SUMMARY
APRIL 2008
Metro
Caltrans
OCTA
SANBAG
Working Together
SANDAG

Prepared for:

Los Angeles County Metropolitan Transportation Authority (Metro)

Orange County Transportation Authority (OCTA)

Riverside County Transportation Commission (RCTC)

San Bernardino Associated Governments (SANBAG)

Ventura County Transportation Commission (VCTC)

California Department of Transportation (Caltrans) Districts 7, 8, 11 & 12

San Diego Association of Governments (SANDAG)

Southern California Association of Governments (SCAG)

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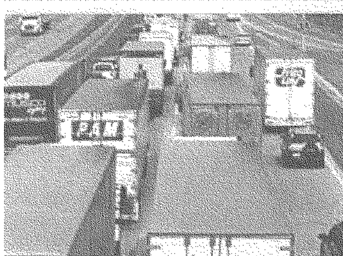
Introduction



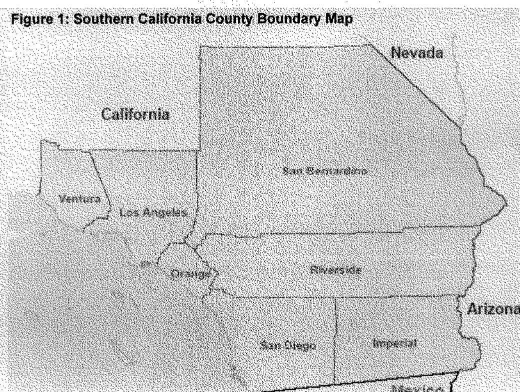
Purpose

The Multi-County Goods Movement Action Plan (MCGMAP or Action Plan) represents an unprecedented partnership between county, regional, and state transportation agencies to address the goods movement challenge faced by the Southern California counties of Los Angeles, Orange, Riverside, San Bernardino, San Diego, Ventura, and Imperial (See Figure 1). Collectively, these counties comprise the United States' premiere international commerce gateway, handling 44 percent of the Nation's containerized imports. This preeminence reflects Southern California's competitive advantage derived from its unique combination of large deep-water ports, the California/Mexico border crossings, the West Coast's largest population concentrations, one of the Nation's largest densities of transloading, consolidation, and distribution warehouses, and intermodal facilities. The region also has unparalleled connectivity by all-weather Interstate freeways and transcontinental rail lines to all points within the United States.

However, the rising tide of goods moving through the region imposes multiple mobility, environmental, and community impacts that degrade the region's quality of life and threaten the continued growth of the Southern California freight movement industry on which most of the nation relies. The MCGMAP identifies actions to be undertaken by the partner agencies, together with state and federal agencies and the private sector, to maintain Southern California's role as a center for international trade, commerce and manufacturing by planning for freight growth while simultaneously and aggressively mitigating environmental and local community impacts. The Action Plan sets forth a way to structure and understand the issues and defines actions that should be taken to address infrastructure needs, environmental concerns, and community impacts within the context of that structure. It incorporates and builds on existing studies and initiatives already in progress, and from them develops an integrated, comprehensive, regional approach.

This Executive Summary provides an overview of the region's goods movement challenges, the MCGMAP vision, principles, plan approach, and recommended actions. Also included are the lists of goods movement projects needed to maintain mobility in the face of forecasted demand. Specific and detailed information is contained within the topical chapters of the Action Plan. Additional information is also provided within the contents of technical appendices and memoranda (Tech Memos) prepared throughout the course of this effort, which are available on the project website (http://www.metro.net/mcgmap).

Figure 1: Southern California County Boundary Map



MCGMAP - The Master Plan for Goods Movement in Southern California

The Action Plan is the master plan for goods movement in Southern California and is intended to be used as a guide in preparation of state, regional, and local transportation plans. The objectives of the MCGMAP are to develop strategies that: 1) address the goods movement infrastructure capacity needs of the region; 2) reduce goods movement emissions to help achieve air quality goals; and 3) improve the quality of life and community livability for Southern California residents. The Action Plan is regional in scope, so that the Plan's analyses of potential strategies and investments are at a corridor rather than a local or project-specific level. While detailed project-level analyses were not part of this effort, they are nevertheless critical and will be conducted as part of subsequent project development efforts. The MCGMAP is intended to be a living document that will be revised and updated when major changes occur and if resources are available.

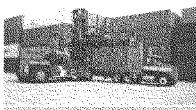
MCGMAP Partner Agency Roles

Goods movement is a diverse industry with a broad and disparate group of public and private sector stakeholders, each with its own roles and responsibilities. The MCGMAP partners are the transportation and planning agencies that co-manage the development of the Action Plan: Los Angeles County Metropolitan Transportation Authority, Orange County Transportation Authority, Riverside County Transportation Commission, San Bernardino Associated Governments, San Diego Association of Governments, Southern California Association of Governments, Ventura County Transportation Commission, and Caltrans Districts 7, 8, 11, and 12. The MCGMAP partners plan, fund, maintain, operate, construct and implement multi-modal transportation projects and influence the goods movement system through the regional planning and programming of funds to transportation projects.

Other organizations, such as the Ports of Los Angeles and Long Beach, have authority to plan and construct transportation and facility improvements within the Ports' jurisdiction, while the South Coast Air Quality Management District (AQMD) develops and implements plans to improve the region's air quality. Decisions regarding land use, arterial improvements and the permitting of warehouses and transloading centers are made by local municipalities.

Regional, state, and federal agencies have varying regulatory authorities over the trucking and rail industries, but the MCGMAP partners have little ability to regulate the operations, business practices, or pollutant emissions of the private sector goods movement operators, and no authority to regulate shippers and ocean carriers. As a result, the MCGMAP partners have focused primarily on goods movement infrastructure while acknowledging the essential roles to be played by the regulatory agencies, the Ports Clean Air Action Plan (CAAP), and public or private technology initiatives.

Given their defined roles and responsibilities, the MCGMAP partners cannot fully implement many of the plan's recommended strategies on their own. Therefore, to fully realize the benefits of this plan, continued collaboration and consensus building among the MCGMAP partners and other public and private sector stakeholders will be critical.



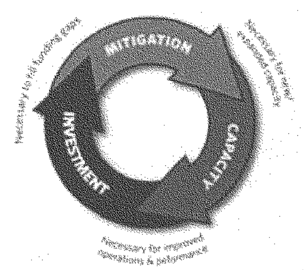
MCGMAP - The Master Plan for Goods Movement in Southern California

"The Action Plan is the master plan for goods movement in Southern California and is intended to be used as a guide in preparartion of state, regional, and local transportation plans."

Simultaneous and Continuous Improvement - An Overarching Strategy

The vision of the Action Plan - a cleaner and healthier environment, alternative mobility strategies, and fair-share investment approaches - must be implemented through simultaneous and continuous improvement of the environment and infrastructure. Figure 2 depicts the concept and importance of a simultaneous and continuous approach. Environmental mitigation, including significant cleanup of emissions from ships, trains, and trucks, is critical to reduce the impact of existing and increased freight flows and to reach the region's air quality attainment targets. Expanded marine terminals, and inter-modal, rail, and highway infrastructure are needed to accommodate the growing freight volume. The freight growth that is accommodated through these actions provides the economic base for public and private investment in infrastructure and the environmental cleanup. The vision of the MCGMAP is to implement these elements in parallel - capacity, investment, and mitigation - each of which is necessary for the other to succeed.

Figure 2: MCGMAP Simultaneous and Continuous Approach



Core Mandates and Implementation Principles

The project partners developed four core mandates and six implementation principles to provide the guiding framework for the development of the MCGMAP.

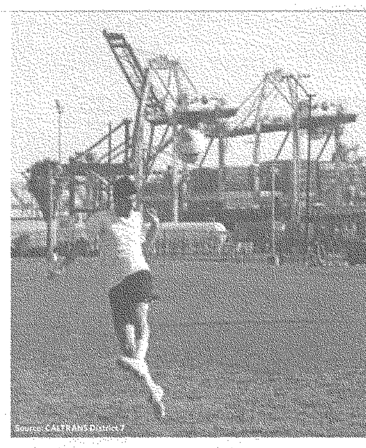
CORE MANDATES

ENVIRONMENT: **Avoid, Reduce, and Mitigate Environmental, Community, and Health Impacts**
Environmental and community impacts must receive equal attention in the implementation of solutions.

MOBILITY: **Promote the Safe and Efficient Movement of All Transportation Modes and Reduce Congestion**
Existing and projected traffic growth will result in the significant deterioration of the region's highway and rail system's performance capabilities. The region's transportation system presents significant safety concerns for the public, particularly at-grade crossings and truck accidents, and increasing truck traffic in neighborhoods.

ECONOMY: **Ensure the Economic Well-Being of the Region and the State**
Goods movement is an important segment of the MCGMAP region and the U.S. trade economy. Goods movement and the associated industries (e.g., logistics) provide direct and indirect benefits to the region's economy. Each new logistics job supports two new jobs in the economy.

FUNDING: **Secure the Region's Fair Share of Public and Private Funds for Investment in the Freight Transportation System**
Although the region's goods movement system serves markets within and outside of California, these markets and associated system users are not paying their fair share to offset the costs of regional freight congestion and related health impacts. While still advocating for dedicated federal and state funding sources, user-based public-private funding arrangements must be a major component of the financing for critical projects.



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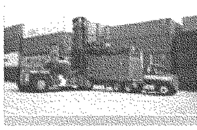


Core Mandates and Implementation Principles

IMPLEMENTATION PRINCIPLES

The MCGMAP builds upon the principles set forth in the Statewide Goods Movement Action Plan (January 2007). The following represent implementation principles specific to MCGMAP:

1. **Guideline:** The Action Plan is the master plan for goods movement in Southern California and is intended to be used as guidance in the preparation of state, regional, and local transportation plans. The Action Plan can also be a tool for local jurisdictions to make informed land use decisions.

2. **Investment:** Investments in goods movement infrastructure will be implemented on a simultaneous and continuous basis with investments in environmental/community mitigation.

3. **Cost Distribution:** A fair share of the cost of the impacts of goods movement on transportation infrastructure, environment, and communities must be borne by those benefiting from it.

4. **Management:** The need for institutional mechanisms for financing or implementing projects, will be defined as such needs are clearly identified.

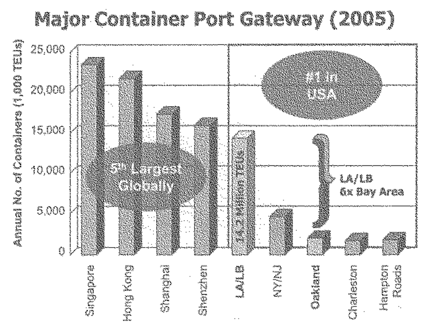
5. **Public Benefit:** Projects supported by public/private partnerships and private projects supported by public funding should demonstrate a clear public benefit.

6. **Land Use Compatibility:** Partner agencies shall encourage land use decisions that will result in buffers - both open and developed - that separate goods movement infrastructure and sensitive receptors such as residential areas, schools, and hospitals.

CHALLENGES FOR THE NATIONAL TRADE GATEWAY

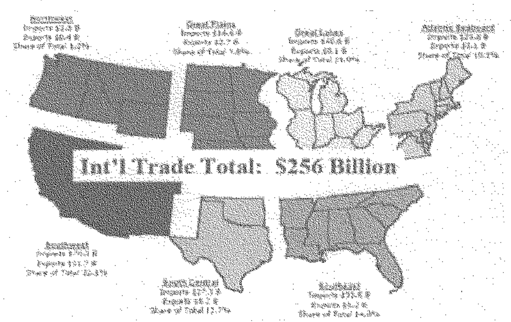
Currently, the Ports of Long Beach and Los Angeles (San Pedro Bay ports) accommodate more than 40 percent of all international containerized cargo into and out of the U.S. and were ranked 5th in the world in 2005 (see Figure 3). All indications point to a future demand in international freight flows that will exceed even the most aggressive efforts by the ports, railroads, and transportation agencies to accommodate it. Container volumes through the San Pedro Bay ports are projected to nearly triple from **15.7 million TEUs** (twenty-foot equivalent units) in 2006 to **42.5 million TEUs** by 2030. These forecasts are constrained by anticipated port capacity at a level significantly below the TEU demand projected for the ports in federally sponsored analyses. A large portion of this trade is simply "through-traffic," degrading air quality and impacting the region's quality of life, while providing limited economic benefit to the region. Approximately 77% of the container-based goods handled by the San Pedro Bay ports are consumed outside the Southern California region. Only 23% are consumed within the region. Freight flowing through the Ports of Los Angeles and Long Beach, which totaled $256 billion in 2005, reaches every state in the continental U.S. as shown in Figure 4.

Figure 3: Major Container Port Gateways

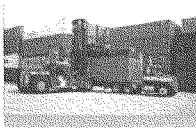


Trucks traversing the California/Mexico border crossing area utilize three primary ports of entry (POE) - Otay Mesa, Tecate, and Calexico East. Mexico is California's number one export market and the fastest expanding component of the San Diego regional economy. The Otay Mesa-Mesa de Otay Port of Entry is the busiest commercial border crossing between California and Mexico, handling more than 1.4 million trucks and $28.6 billion worth of goods in both directions in 2006. This trade represents the third highest dollar value of trade among all land border crossings between the United States and Mexico. Another $1.2 billion in merchandise and more than 140,000 trucks crossed at the Tecate-Tecate POE. For Imperial County, the Calexico East/Calexico II POE processed $11.3 billion in goods and 614,000 trucks in 2006. Nearly 80% of these truck trips stay within the state.

Figure 4: Total Value of Containerized Trade Moving through the Ports of Los Angeles and Long Beach, 2005



Source: Port of Los Angeles, Port of Long Beach, and Alameda Corridor Transportation Authority



The Crisis

The region is faced with multiple mobility, environmental, community impact, funding, and economic challenges:

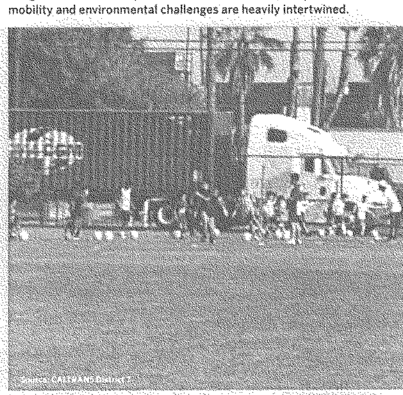
Mobility Challenge - The study area's ports, airports, rail lines and inter-modal terminals have existing capacity constraints that undermine the efficiency and productivity of the system as a whole. Furthermore, the existing roadway and rail networks are reaching capacity. As a result, the system today is susceptible to disruptions to the movement of goods, causing delays that reduce the quality of services and increase costs to consumers. The mobility challenge is further exacerbated by the fact that the roadways, and rail networks that accommodate the movement of goods are often the same as those utilized by motorists and passengers for the movement of people.

Modeling for the SCAG region (defined as Los Angeles, Orange, San Bernardino, Ventura, Riverside, and Imperial Counties) forecasts that truck vehicle miles of travel (VMT) will increase by over 110% by 2030, growing from a level of 22.4 million VMT in 2000 to 48.4 million VMT by 2030. Some freeways in the region currently handle up to 40,000 trucks per day, and it is projected that these freeways may have to handle up to 80,000 trucks per day by 2025. As a result of the growth in passenger and truck traffic, the highway system's performance will deteriorate significantly. In fact, average speeds will drop from 35.9 mph in 2005 to 31.9 mph in 2030, resulting an average of 5.4 million hours of delay daily for all traffic. Furthermore, freight rail volume is projected to increase from 112 trains per day in 2000 to 250 trains per day in 2025 along the BNSF and Union Pacific mainline rail network. The current and future mobility challenges for the region are daunting and require immediate action as well as proactive steps to address future needs.

Environmental and Community Challenges - The goods movement system directly affects quality of life. This includes traffic congestion, truck intrusion into neighborhoods, safety, land use incompatibility, poor air quality and related health impacts, restricted mobility and delay at rail crossings, noise and vibration impacts, and visual impacts.

The dimensions of these impacts are staggering when viewed within the context of Southern California's designation as a non-attainment region for air quality. The use of bunker and diesel fuels, predominantly for the transport of freight by ocean going vessels, is a large contributor to the deterioration of the region's air quality. Furthermore, new health studies are drawing ever stronger conclusions about the association of air pollution with public health effects such as asthma, reduced lung function, and cancer risk that target the most vulnerable in the port communities and around other logistics centers - children. Implications of these findings are reflected in the estimated public health impacts summarized by California Air Resource Board (CARB) in Table 1.

Solving the challenge of moving freight is greatly complicated by the knowledge that failure to convert large proportions of the railroad engines and truck fleet to low-emitting or zero-emitting engines in the near future will result in missing the regional emission reduction targets needed by 2014 to meet the federal annual PM 2.5 standard, and by 2019 to meet the federal 24-hour PM 2.5 standard. Failure to meet the budget for the State Implementation Plan for air quality could result in a cessation of the flow of federal funds for highway projects. Thus, mobility and environmental challenges are heavily intertwined.



Source: CALTRANS District 7

Table 1: CARB Annual (2005) Health Effects of PM and Ozone Pollution

Annual (2005) Health Effects of PM and Ozone Pollution from Freight Transport in California

Health Outcome	Cases per Year	2005 Valuation ($ Millions)
Premature Death[A]	2,400	19,000
Hospital Admissions (respiratory causes)	2,000	67
Hospital Admissions (cardiovascular causes)	830	34
Asthma and Other Lower Respiratory Symptoms	62,000	1.1
Acute Bronchitis	5,100	2.2
Work Loss Days	360,000	65
Minor Restricted Activity days	3,900,000	230
School Absence	1,100,000	100
Total	**NA**	**19,499**

Source: California Air Resources Board, March 2006

A Does not include the contributions from particle sulfate reformed from SOx emissions, which is being addressed with several ongoing emissions, measurement, and modeling studies.

B Includes cardiopulmonary- and lung cancer-related deaths.

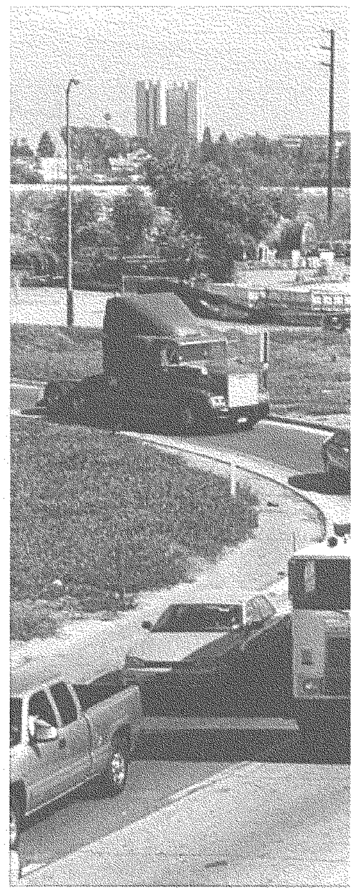
The Crisis

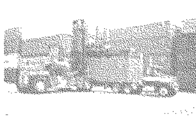
Funding Challenges- The goods movement system is significantly underfunded. Projects and programs identified in this Action Plan show funding needs on the order of $50 billion over the next 25 years. Despite accommodating most of the nation's international trade volumes, Southern California has received a disproportionately low share of federal and state funding for goods movement. Moreover, the private sector's role in funding regional and nationally significant goods movement projects to date has been limited.

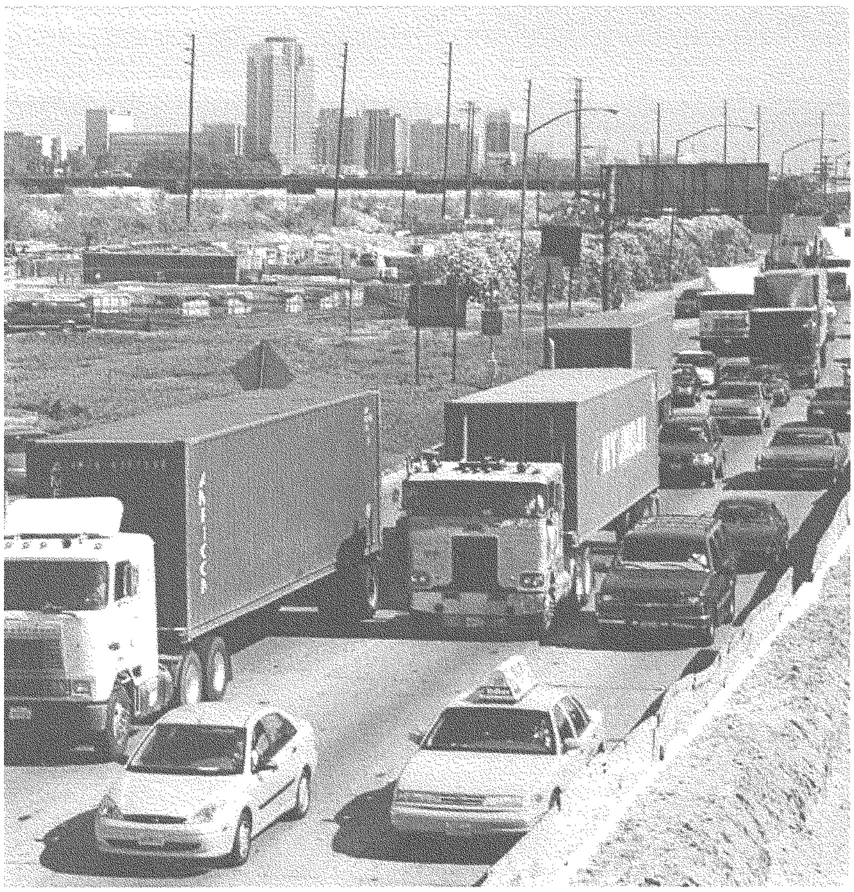
Economic Challenges - Despite its impacts, international trade provides significant benefits to the region. The logistics industry provides both direct and indirect benefits to the region's economy. Economic studies show that logistics activity is responsible for $90.7 billion, or 6.6%, of the nearly $1.4 trillion in economic activity annually in Southern California. The indirect or induced impact represents another $170 billion or 12.4%. Each logistics job supports 2.2 new jobs in the economy. This contribution to the economy is significant and is important to achieving the MCGMAP vision.

Conversely, the economic benefits of goods movement can be negatively impacted by delays and congestion. At the Otay Mesa and Tecate international border crossings, inadequate and aging infrastructure and more stringent security requirements caused the U.S. and Mexico binational economy to lose $3.9 billion and about 21,900 jobs during 2007. The border delays in freight movement result in increased transportation costs and interruptions in manufacturing and delivery cycles.

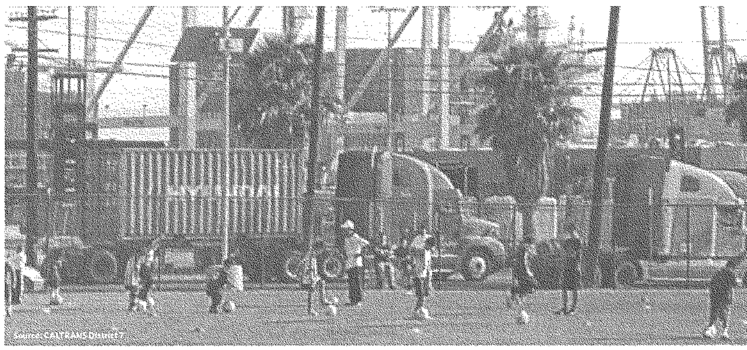
In order to maintain the economic vitality of the region, the economic benefits of goods movement must be leveraged and expanded. One of the challenges for the region is to translate a portion of these economic benefits into a stream of funding that addresses the infrastructure improvements made necessary by the increased movement of goods within and through Southern California. In addition, the economic growth attainable through increased logistics activity is needed to finance the cleanup of environmental problems that have been allowed to accumulate.







Understanding Freight Flows



Source: CALTRANS District 7

Currently, goods passing through the Southern California seaports and land ports of entry with Mexico belong to one of three modal "market segments": 1) On-dock and off-dock/near-dock; 2) distribution/delivery; and 3) transload. By identifying the modes of travel for goods, a market segmented approach can be developed that will allow for the region to better target improvements and funding sources for goods movement projects and associated environmental and community impact mitigation measures.

Understanding the Market Segments

Figure 5 depicts the three primary market segments. Note that the specific percentages listed may vary on a daily basis and do not account for domestic goods movement, which represents a significant share of truck VMT in Southern California.

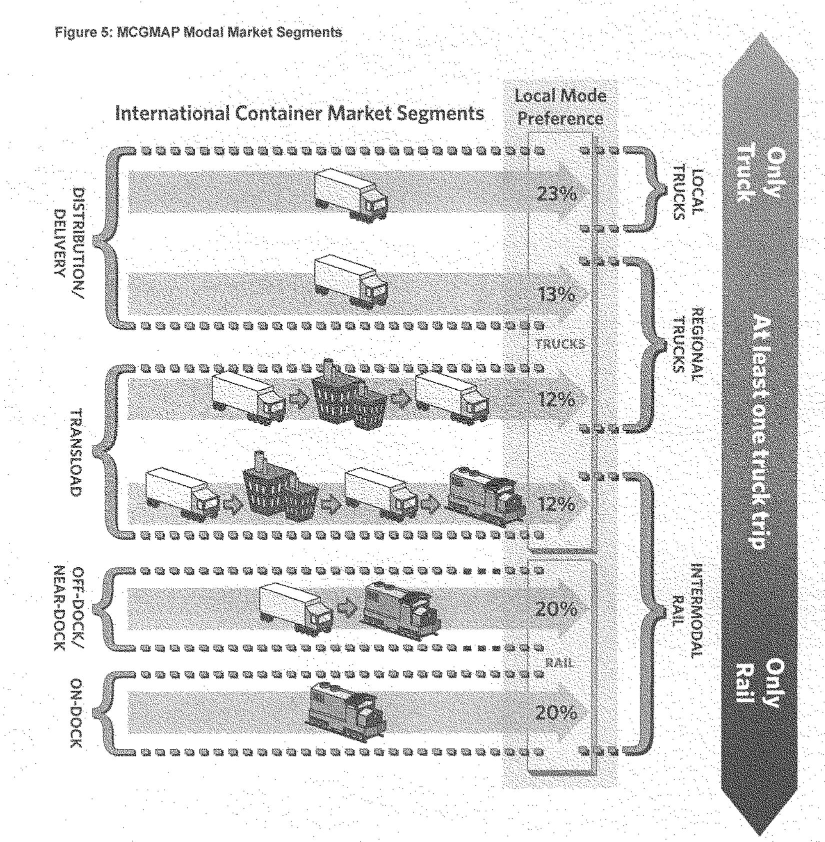
- ***Direct Shipment from on-dock and off-dock/near-dock*** - Approximately 40% of containers passing through the Ports of Los Angeles/Long Beach leave the region by rail utilizing either on-dock rail at the marine terminals or off-dock/near-dock rail inter-modal facilities. These goods are destined for areas outside the MCGMAP region, including the central and eastern United States. As a result, funding sources for goods movement can be better targeted since the direct benefits to shippers and the nation can be clearly shown. This includes additional state and federal goods movement funding, as well as container fees levied on shippers who receive direct benefits from improved efficiency of the goods movement system.

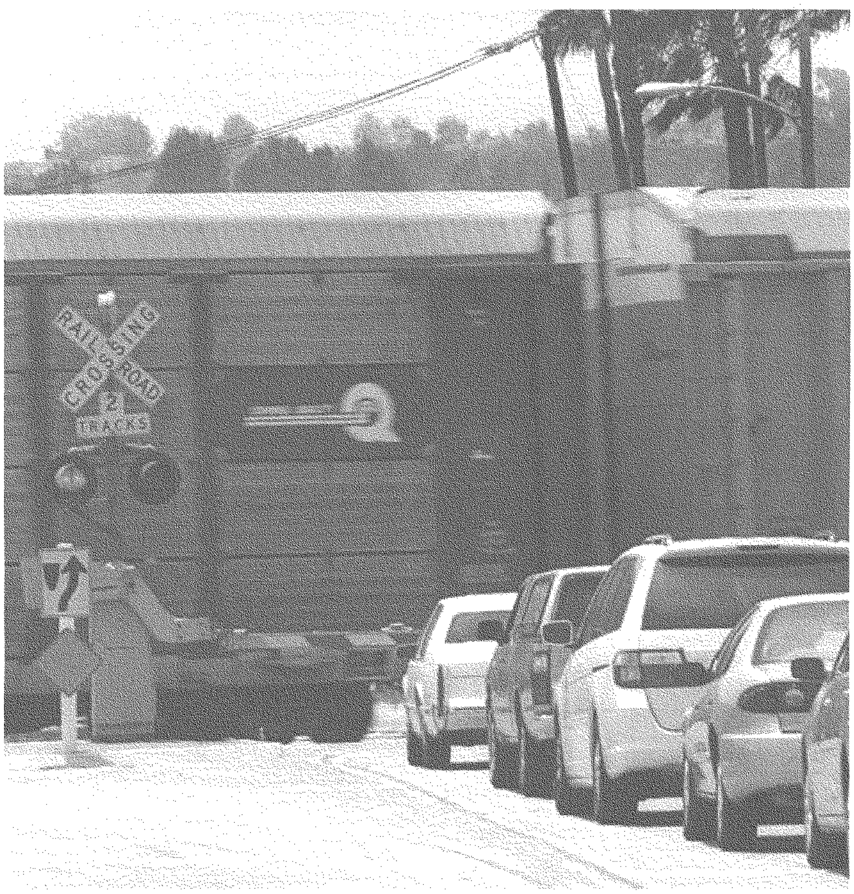
- ***Transload*** - Approximately 37% of containers passing through the Ports of Los Angeles/Long Beach are either trucked directly out of the region or leave the region after an intermediate stop at a warehouse or distribution center. These goods may arrive at the ports as a single container, be transported to an inland distribution center by truck, be broken down into smaller units while at a warehouse or distribution center, then loaded onto either truck or rail to be moved to their final destinations. Such goods use more specific routes through the MCGMAP region and provide better opportunities for targeting of specific routes, users, or impacts relative to local distribution/delivery. This includes truck replacement/retrofit programs, the development of separated corridors that move between clustered warehouse and distribution centers, and concepts such as inland ports and virtual container yards (yard operations to reduce the number of unproductive container truck trips).

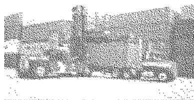
- ***Distribution/Delivery*** - Approximately 23% of containers passing through the Ports of Los Angeles/Long Beach stay within the Southern California region, with the associated benefits and impacts. Because the origins and destinations for these goods are as dispersed as the people and communities that rely on them, the trucks transporting these goods use various roadways and routes for travel and blend into all other vehicular traffic within the region. Domestic goods movement, such as local delivery, construction, manufacturing, and service/utility trucking exhibit similar travel patterns. Because the users and shippers of this modal market are so widely varied, it is difficult to target individual users for funding without ignoring other users. Traditional funding sources for roadway improvements and alternative funding approaches for roadway tolling or congestion pricing will be needed to address this market segment.

Understanding Freight Flows

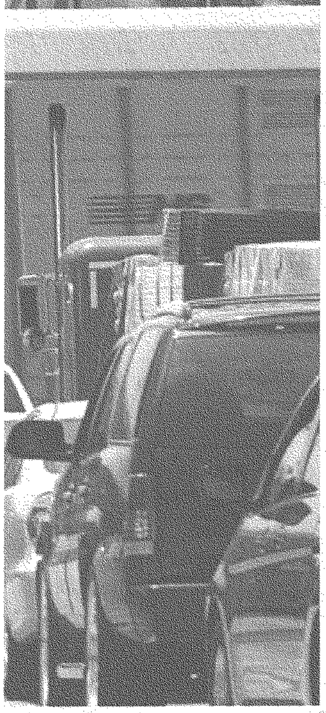
Figure 5: MCGMAP Modal Market Segments




RAIL ROAD
CROSSING
2
TRACKS



Action Plan Framework



The MCGMAP is structured around four sets of actions, each of which is related to a component or segment of the goods movement market. Pages 10 and 11 discuss the concept of market segmentation of the goods movement flows within and through Southern California. It is a concept for structuring the problem in a way that lends itself to more targeted and cost-effective solutions. The three basic market segments of freight flows are:

- Direct intermodal rail shipment from on-dock and off-dock/near-dock to locations outside the region
- Transload (regional trips with an intermediate stopping point)
- Local distribution/delivery by trucks

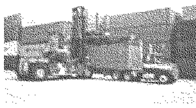
The MCGMAP strategy distributes four "action sets" across the three basic market segments. This represents the basic structure upon which MCGMAP is built. The four action sets include:

1. Accelerate regional environmental mitigation
2. Relieve congestion and improve mobility
3. Improve operational efficiency
4. Develop equitable public/private funding strategy

Table 2 illustrates the core elements of the MCGMAP strategy by identifying the types of actions appropriate to address the needs of each market segment. In some cases, such as the environmental strategies, similar actions cut across all the market segments, but the appropriate source of funding from which to draw resources may vary.

Table 2: Example Actions Targeted by Market Segment

FREIGHT MODAL MARKET SEGMENTS	ACTION 1 - Accelerate Regional Environmental Mitigation
Freight moves destined outside of Southern California (~52%) - No Stops within Region - " Intermodal Rail"	
Freight loaded onto trains at the dock (~20%) Freight transported to near dock facility then onto a train (~20%) Freight transported directly out of the region by truck (~12%)	• Accelerate emission reduction measures in CAAP, AQMD, and state plans • Use clean technology shuttle to intermodal facilities • Use low emission train engines or electrification • Construct grade separations in ACE corridor
Freight moves destined outside of Southern California (~25%) - With at Least One Stop within Region - "Regional Trucks"	
Freight trucked to a warehouse, an intermodal facility and then loaded onto a train (12%) Freight trucked to warehouse, then trucked to a final destination outside of the region (13%)	• Accelerate emission reduction measures in CAAP, AQMD, and state plans • Use clean technology shuttle to inland ports • Use low emission train engines or electrification • Coordinate community impact mitigation and land use planning • Adopt incentive programs for turnover of truck fleet to clean technology
Local freight moves within Southern California (~23%) - Multiple Stops within Region - "Local Trucks"	
Freight trucked to numerous locations within the region	• Accelerate emission reduction measures in CAAP, AQMD, and state plans • Continue project-specific impact analysis and mitigation measures



Action Plan Framework

ACTION 2 - Relieve Congestion and Increase Mobility	ACTION 3 - Improve Operational Efficiency	ACTION 4 - Develop Equitable Public/ Private Funding Strategy
• Construct rail mainline capacity improvements • Construct Colton Crossing • Use clean technology shuttle to intermodal facilities	• Increase on-dock loading • Expand hours of port operation (PIERPASS) and intermodal terminals operation	• Railroad (private) funding and public funding proportional to benefit • User fees (e.g., container fees) • Increase federal participation
• Construct highway capacity improvements • Study feasibility of dedicated freight guideway(s) • Use clean technology shuttle to inland ports	• Adopt flexible hours of operation (warehouse/ distribution centers) • Study feasibility of virtual container yards • Expand use and integration of Intelligent Transportation Systems for highways and vehicles	• Railroad funding and public funding proportional to benefit • Traditional highway funding • Possible truck tolling on dedicated failities • Container fees • Increase federal and state participation • Conditions of approval and development fees for community mitigation
• Construct highway capacity improvements • Study dedicated freight guideway(s) on freeways and roadways	• Adopt flexible hours of operation (delivery) • Expand use and integration of Intelligent Transportation Systems for highways and vehicles • Alleviate physical factors and conditions that may constrain operations of trucks(ie. lane widths, vertical and horizontal constraints and curvature, shoulders, pavement)	• Traditional highway funding • Possible truck tolling on dedicated facilities • Conditions of approval and development fees for community mitigation

Accelerate Environmental Mitigation | ACTION SET 1

Goods movement imposes significant costs on community livability and the environment. Therefore, the MCGMAP partners consider air quality improvements and regional environmental mitigation an intrinsic part of a regional goods movement system.

The Action Plan recognizes that a regional approach is necessary, with the focus on cleaning up emissions at the source (i.e. the powertrains of ships, locomotives, trucks, and harbor equipment) not one based simply on project-by-project mitigation. The simultaneous and continuous implementation of environmental mitigation strategies is a leading imperative for this Action Plan and will require action at two levels: 1) Region-wide approaches; and 2) project-specific mitigation measures.

Region-wide Approaches

A systems approach is required to reduce the air quality, community and environmental impacts of goods movement flowing into and through the region. This approach has three components - acceleration of the funding and implementation of air quality plans already prepared, strengthening of fuel and engine standards, and institutional policies.

- ***Acceleration of funding and implementation of air quality plans*** - Some of the nation's most aggressive clean air improvement plans are now in place in Southern California: the San Pedro Bay Ports Clean Air Action Plan (CAAP), the 2007 South Coast Air Quality Management Plan (AQMP), and the California Air Resources Board (CARB) Emission Reduction Plan. The MCGMAP supports these plans and proposes to accelerate the implementation of the strategies in those plans. Accelerating the environmental cleanup from goods movement sources is one of the principle themes of the environmental actions in the MCGMAP.
- ***Strengthening of fuel and engine standards*** - Regulations that promote the use of clean fuels and engine standards/technologies should be strengthened beyond those currently proposed. This will need to be supported by accelerated research and development of cleaner technologies by private industry, and by implementation assistance from state and federal regulatory agencies. These actions by private industry and regulatory agencies will allow regional and local strategies and incentive programs in the CAAP and AQMD to have greater effect.
- ***Institutional policies*** - Cooperative and coordinated institutional and development policies enacted by local jurisdictions and the development industry could result in environmental and community benefits. Such policies could include: 1) Designating quiet zones for rail corridors; 2) amending zoning and land use regulations to better avoid non-compatible land uses (separating goods movement activities from residential areas; buffering); and 3) establishing mitigation banking and/or development of pooled funds for mitigation (e.g., land use changes, purchasing green space along freight corridors, diesel truck retrofits, funds for health clinics, etc.). The partner agencies have embarked on a collaborative effort with community stakeholders and the private sector to develop such guidelines (see first bullet under specific actions).

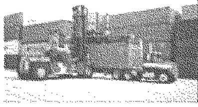
Project Specific Mitigation Measures.

While the proposed broader regional strategies will result in significant reductions in emissions for the study area as a whole, project specific mitigation measures are often most effective at the local level, resulting in more tangible benefits for local neighborhoods and communities. Therefore, the Action Plan supports the use of project-specific revenue mechanisms to help fund mitigation efforts. Examples include:

- Use of best available technology and best practices for project construction and operational impacts.
- Compliance with natural resource statutes (e.g., federal and state Endangered Species Acts and Clean Water Acts, Migratory Bird Treaty Act)
- Inclusion of "smart" design and good planning principles, such as landscaped buffering, noise barriers, exterior light shielding and positioning, separation of incompatible land uses, and wetlands protection.

SPECIFIC ACTIONS

- Develop guidelines for local jurisdictions to use in siting and designing goods movement related land uses and transportation facilities. (Consultant activity is underway)
- Encourage federal participation in developing guidelines and international agreements that regulate vessels (and other stationary sources of diesel emissions) used for transporting goods to and through U.S. ports.
- Support clean lease arrangements made by the ports for reducing ship emissions.
- Initiate a follow-on effort to identify more aggressive goods movement initiatives to achieve regional air quality attainment, including the identification of sources of funding to accelerate the environmental cleanup.



ACTION SET 2 | Relieve Congestion and Improve Mobility

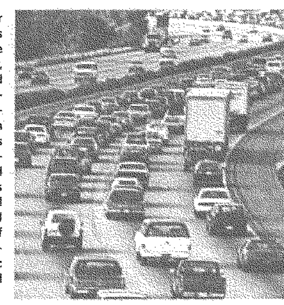
Region-wide congestion relief and increased mobility cannot be achieved without significant investment in infrastructure, coupled with improvements in efficiency and productivity. Utilizing the market segmentation approach, various crucial capital improvements were identified for each of the modes involved in the movement of goods.

Increased Intermodal and Mainline Rail Capacity

Increases in mainline rail capacity and on-dock rail improvements at the ports are critical to the efficient transport of intermodal freight bound for destinations outside the region. The Action Plan recommends implementation of rail improvements in accordance with the San Pedro Bay Ports Master Plans as well as triple tracking the BNSF mainline from Los Angeles to San Bernardino and double tracking the two Union Pacific corridors. These improvements must be done in concert with the grade separations and safety improvements outlined in the multi-county Alameda Corridor East (ACE) Trade Corridor program. Implementing the mainline rail capacity enhancements together with the grade separation of railroad crossings can maximize efficiency and cost-effectiveness while also providing an opportunity to maximize funding from federal and state sources and accelerate the delivery of the needed improvements. Grade separation of the rail-to-rail Colton crossing as well as other rail-roadway grade separations near the the Ports of Los Angeles, Long Beach, Hueneme, and San Diego, and at other key Los Angeles County locations are also critical.

Improved Highways/Roadways

The Plan recommends three tiers of highway actions. The **Tier one** includes major improvements on roadways and bridges in proximity to the ports/border crossings and other major freight activity centers (examples include the Gerald Desmond Bridge replacement project, the SR-47 Expressway, I-110 connectors, High Desert Corridor, SR-78 Brawley Bypass, and the San Diego Border Corridors). **Tier two** is comprised of corridor-level investigation of alternative technologies, separated mass flow applications (e.g., the I-710 Corridor Improvements) as well as dedicated freight guideways/truck lanes with the use of clean engine trucks and/or clean Long Combination Vehicles (LCVs), if such vehicles could be authorized to operate on dedicated facilities in California safely with minimal impacts on surrounding communities. Further consideration of LCVs will require a detailed analysis of potential capital and operational impacts. This tier focuses on new technologies as well as new application of methods not widely used in California. Consequently, these projects will require additional detailed analysis before they can proceed. **Tier three** projects encompass capital and operational improvements that in addition to assisting with the efficient movement of goods, are also beneficial to mixed flow traffic. Such improvements include modification of key freeway-to-freeway interchanges to alleviate operational and geometric bottlenecks, addition of auxiliary lanes, shoulder improvements and other safety and operational improvements on roadways heavily used by trucks.



SPECIFIC ACTIONS

- Complete the ACE Trade Corridor railroad grade crossing improvement program in Los Angeles, Orange, Riverside, and San Bernardino Counties.
- Continue with analysis and planning of I-710 dedicated freight guideway facility.
- Further investigate the feasibility of inland port / concentrate inland warehouse and distribution locations.
- Increase border trade capacity and efficiency.
- Implement key projects listed in the regional and county-specific Tables 5 and 6.
- Participate with the railroads in eliminating key bottlenecks and increasing capacity along the mainline rail system as outlined in the Los Angeles-Inland Empire Railroad Mainline Advanced Planning Study.
- Develop the appropriate institutional arrangements and negotiating framework to provide simultaneous and continuous improvement to mainline track improvements, the Colton Crossing grade separation, highway-rail grade separations, locomotive emission reductions, and other rail corridor related mitigations.
- Initiate a Regionally Significant Transportation Investment Study (RSTIS) to evaluate the feasibility of implementing a Dedicated Freight Guideway System/Regional Truck Lanes (I-710 From Port of Long Beach to SR-60; East-West Corridor between the I-710 and to I-15; and I-15 to Victorville) inclusive of potential non-freeway implementation.

Improve Operational Efficiency | ACTION SET 3

Any comprehensive strategy to address mobility, improve predictability and enhance safety needs to address system and corridor capacity. This includes improvements to the operational efficiency of the region's goods movement system. The operational efficiency of various segments of the goods movement system can be improved based on specific modal market segments.

Improve Marine Terminal Productivity, Truck Turn Times, and Intermodal Operations

In order to meet the future demand, the Ports of Los Angeles and Long Beach will increase their operational productivity from the existing level of 4,700 TEUs per acre per year to almost 11,000 TEUs per acre per year. The current focus is on increasing on-dock rail use and extending hours of operation to off-peak time periods (PIERPASS). Additional strategies include the transport of unsorted containers from the ports to inland railyards separated from residential areas for the creation of destination trains, as well as introducing new technologies such as optical character recognition (OCR) and radio frequency identification tags (RFID), and the evaluation of the feasibility of a virtual container yard to reduce the number of unproductive empty container truck trips.

Improve Highway Operations

Increased implementation of Intelligent Transportation Systems (ITS), weigh-in-motion (WIM) systems, highway pricing such as Open Road Tolling (ORT) collection systems, improved incident management, and enforcement of driver and operating restrictions can improve highway operations. ITS solutions allow for truck routing, traffic control during construction or maintenance, as well as the shifting of truck movement to off-peak times. WIM bypass systems are an effective means of traffic management in the proximity of weigh stations. The system helps maintain normal traffic flow and prevents traffic backup onto the mainline freeway resulting from commercial vehicles entering and exiting weigh stations. Open Road Tolling allows users to travel at highway speeds on the mainline while their tolls are collected electronically overhead, reducing congestion and travel times for passenger and commercial vehicles. California has established a statewide standard for use at all toll roads and bridges utilizing the "FasTrak" device.

SPECIFIC ACTIONS:

- Implement efficiency improvements contained in the San Pedro Bay Ports Master Plans that reduce impacts from trucks and containers on the transportation system and community.
- Improve terminal productivity, truck turn times, and inter-modal operations.
- Implement the highway operational improvements listed in Table 6.
- Develop partnerships between public and private entities to research and develop advances in goods movement transportation technologies.

ACTION SET 4 | Develop Equitable Public/ Private Funding Strategy

Funding and implementation of the recommended actions, projects, and programs and their associated mitigations will require a coordinated effort by the private sector and public sector at all levels of government. It is critical that all beneficiaries of goods movement participate in funding infrastructure improvements as well as environmental mitigation. Beyond its value to the regional economy, the existing border crossings and commercial trade with Mexico are also critical to the regional and bi-national economies. Cross-border goods have origins and destinations to California/regional retail markets and manufacturers to shipping beyond California through the San Pedro Bay Ports and the Inland Empire Rail/Intermodal distribution centers.

To illustrate the shortfall in public funding, the Alameda Corridor-East Trade Corridor, which would provide much needed grade-separation projects to reduce congestion and emissions throughout the region, has an 83% funding shortfall - $3.8 billion out of the $4.4 billion total.

Maximize the Study Area's Fair Share of State and Federal Funds

Federal assistance is essential to compensate for the disproportionate local and regional costs for the goods movement infrastructure (and associated regional environmental and community impacts and necessary mitigations) provided to the rest of the nation. The next national transportation funding reauthorization legislation must recognize the importance of funding a national goods movement system, establish appropriate levels of federal funding support, and provide further opportunity for flexibility in the use of federal funds. The four freight-related programs of key relevance are 1) Projects of National and Regional Significance, 2) National Corridor Infrastructure Improvement Program, 3) Freight Intermodal Distribution Pilot Program, and 4) Truck Parking Facilities Program. Though state and federal funds are needed, any funding for private infrastructure to increase capacity and facilitate the throughput of goods must ensure that public dollars are used in return for public benefits, not merely for benefits to the private logistics system. The development of public-private benefit assessments among the private beneficiaries and public agencies is one method to address this issue.

Private Sector Contribution

Recognizing funding shortfalls for infrastructure projects and the fact that private industry benefits from an improved goods movement system, the MCGMAP recommends efforts to secure private revenue sources including user fees. This could be done through pending legislative efforts or by other means such as ongoing efforts by the San Pedro Bay ports to negotiate cargo fees for infrastructure and environmental mitigation projects. The types of user fees that should be considered include congestion pricing, port-assessed cargo or container fees, industry-supported programs similar to PIERPASS, and VMT-based taxes or gas taxes for trucks. The Action Plan addresses the need to convert the value of improvements to the study area's goods movement system into revenue for improving infrastructure and mitigating impacts. Federal and state funds require local/private matching funds, thus private sector contributions will add strength to applications for leveraging federal and state funds.

Stakeholders in San Diego and Baja California, Mexico are investigating the potential for use of public funds together with private financing and toll fees for a new border crossing, highways, and federal inspection staffing at Otay Mesa East, California / Mesa de Otay II, Baja California. Similar pursuits for new border crossings or expansions are also projected along the Imperial County, California / Mexicali, Baja California border.

SPECIFIC ACTIONS

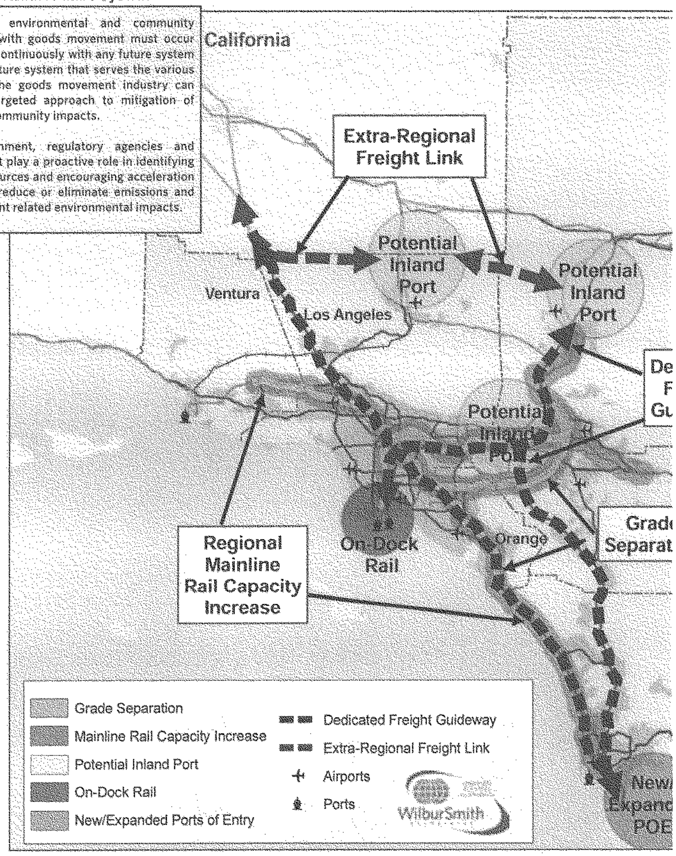
- Maximize Southern California's fair share of state and federal funds through ongoing and coordinated legislative efforts.
- Provide input to legislation focused on user fees and to any ongoing efforts to negotiate user fees with industry that can be included in a specific plan of finance for goods movement and air quality improvements.
- Pursue public-private funding arrangements for specific facilities, where appropriate.
- Implement the Cooperation Agreement among regional, state, and federal agencies to facilitate the actions contained in the MCGMAP.
- Develop structure for managing user fees and revenues for goods movement infrastructure and community/environmental mitigation projects.

Potential Future System

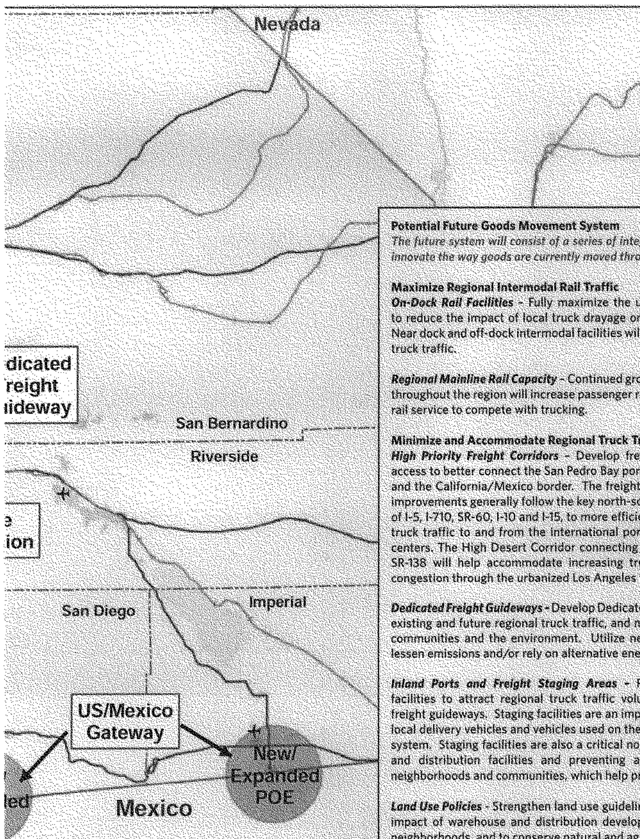
Figure 6: Map of Potential Future System

The mitigation of environmental and community impacts associated with goods movement must occur simultaneously and continuously with any future system improvements. A future system that serves the various modal markets of the goods movement industry can provide a more targeted approach to mitigation of environmental and community impacts.

The federal government, regulatory agencies and private industry must play a proactive role in identifying dedicated funding sources and encouraging acceleration of innovations that reduce or eliminate emissions and other goods movement related environmental impacts.



Potential Future System



Potential Future Goods Movement System

The future system will consist of a series of integral components designed to innovate the way goods are currently moved through the region.

Maximize Regional Intermodal Rail Traffic

On-Dock Rail Facilities - Fully maximize the use of on-dock rail facilities to reduce the impact of local truck drayage on congestion and emissions. Near dock and off-dock intermodal facilities will also be expanded to reduce truck traffic.

Regional Mainline Rail Capacity - Continued growth in mainline rail capacity throughout the region will increase passenger rail services as well as freight rail service to compete with trucking.

Minimize and Accommodate Regional Truck Traffic

High Priority Freight Corridors - Develop freight corridors and improve access to better connect the San Pedro Bay ports, the Inland Empire region, and the California/Mexico border. The freight corridor and border access improvements generally follow the key north-south and east-west corridors of I-5, I-710, SR-60, I-10 and I-15, to more efficiently accommodate regional truck traffic to and from the international ports of entry and distribution centers. The High Desert Corridor connecting I-5 and I-15 generally along SR-138 will help accommodate increasing truck traffic by avoiding the congestion through the urbanized Los Angeles region.

Dedicated Freight Guideways - Develop Dedicated facilities to accommodate existing and future regional truck traffic, and minimize the impact on local communities and the environment. Utilize new modes that eliminate or lessen emissions and/or rely on alternative energy sources.

Inland Ports and Freight Staging Areas - Promote dedicated staging facilities to attract regional truck traffic volumes to use the dedicated freight guideways. Staging facilities are an important interchange between local delivery vehicles and vehicles used on the dedicated freight guideway system. Staging facilities are also a critical node for attracting warehouse and distribution facilities and preventing ad-hoc location throughout neighborhoods and communities, which help prevent land use conflicts.

Land Use Policies - Strengthen land use guidelines and policies to minimize impact of warehouse and distribution development on communities and neighborhoods, and to conserve natural and agricultural lands.

Stakeholder Outreach

This section summarizes the stakeholder outreach efforts of the MCGMAP project, which occurred throughout the development of the Action Plan. The purpose of these outreach activities was to gather comments and input on the Draft Action Plan. Written and oral comments/questions about the Draft Action Plan along with topical responses are included in Appendix C of the Final Action Plan.

Stakeholder participation was an essential component throughout the development of the MCGMAP. In doing so, the project partners attempted to reach as broad a cross-section of stakeholders as possible through the following outreach mediums:

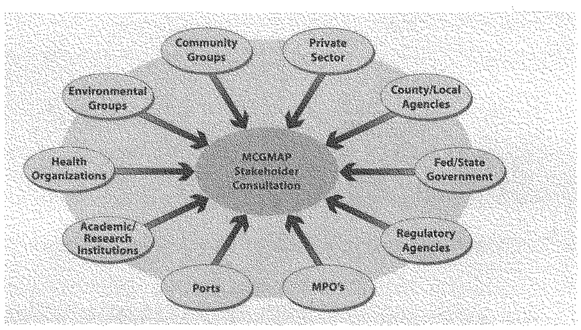
- Project Website;
- Eight (8) Stakeholder Advisory Group (SAG) Meetings;
- Two (2) Public Surveys;
- Presentations to boards, committees and organizations; and
- Twelve (12) Public workshops.

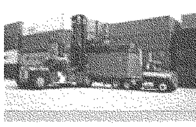
Two survey instruments were utilized and a project website (http://www.metro.net/mcgmap) was established to inform and engage stakeholders. Meetings and workshops were convened to gather input and share findings. The Stakeholder Advisory Group meetings were an important mechanism through which key stakeholders across region were informed and had an opportunity to vocalize concerns to the MCGMAP planners. Representatives from community advocacy and health organizations, air quality regulatory agencies, the ports, the trucking and railroad industries and other transportation agencies at all levels of government were invited to participate in the Stakeholder Advisory Group (SAG) meetings. Additionally, smaller one-on-one meetings were held with many of these groups to confirm data and obtain their individual perspectives on issues related to goods movement. Stakeholder Advisory Group meetings and county workshops provided a forum for stakeholders to comment on the content of the action plan and to express concerns about the impact on local communities, air quality, the environment and the transportation system.

In general, the stakeholders support a coordinated effort among the agencies and stakeholders to solve goods movement challenges facing the region. Stakeholders expressed the following specific concerns:

- Having more aggressive environmental mitigation strategies to reduce current levels of goods movement impacts before any new infrastructure projects are built;
- Dedicating new private/public funding sources to reduce health and environmental impacts of goods movement in the region;
- Providing for more aggressive use of alternative fuels and alternative technologies to address goods movement impacts;
- Questioning whether we need to meet unlimited goods movement demand - all costs and benefits should be studied first; and
- Considering placement of limits on trade growth and diverting it to other ports and instead investing in clean industries as a more cost-effective approach.

Some stakeholders indicated that regional environmental and community impacts must be addressed and mitigated to a level beyond existing air quality attainment goals. However, the authority to increase air quality attainment goals rests with regulatory agencies such as the SCAQMD and CARB, not the MCGMAP partner agencies. For more information, please see Chapter 2 - Stakeholder Outreach in the Action Plan.





Analysis Approach

This section briefly describes the approach to evaluating goods movement projects and strategies. This approach included an analysis of three Port of Los Angeles/Long Beach container volume growth and two levels of infrastructure investment scenarios, a qualitative evaluation of goods movement projects/strategies, and a detailed analysis of twelve bundles of projects, including regional truck lanes.

Analysis of growth scenarios

Four scenarios encompassing three levels of Port of Los Angeles/Long Beach container volume growth and two levels of infrastructure investment were analyzed to determine their economic impact. Table 3 provides a summary of the employment impacts of each scenario. In addition, an attempt was made to estimate the regional mobility impacts of the four scenarios; however, due to data limitations, the regional transportation demand model does not adequately project the linkage between regional truck trips and port container volumes. Consequently, the model could only be used for scenarios 1 and 4.

Table 3: MCGMAP Freight Growth Scenarios

Scenario	*Assumptions*	*2030 Employment impact (number of jobs)*	*Change relative to Scenario 1*
1	San Pedro Bay port growth of 42.5 million TEUs by 2030; SCAG 2004 Regional Transportation Plan baseline implementation	1,601,476	-
2	San Pedro Bay port growth of 24 million TEUs by 2030; SCAG 2004 Regional Transportation Plan baseline implementation	1,013,101	-36.7%
3	San Pedro Bay port growth of 33 million TEUs by 2030; SCAG 2004 Regional Transportation Plan baseline implementation	1,303,490	-18.6%
4	San Pedro Bay port growth of 42.5 million TEUs by 2030; SCAG 2004 Regional Transportation Plan baseline implementation supplemented by additional projects and private investment sources and fees	1,601,476	0.0%

Evaluation of goods movement strategies

A qualitative evaluation of goods movement projects/strategies was also conducted. This analysis grouped a comprehensive list of 249 projects/strategies (the complete list is included in the Action Plan) into 15 categories of projects ranging from increased highway and rail capacity to changes in operational and institutional practices. The 15 categories of projects were then qualitatively evaluated using 26 evaluation criteria. For more detailed information on this analysis, please refer to Technical Memorandum 6A. In addition, 12 bundles of potential freight improvements including nine dedicated truck lane bundles (bundles 2 through 9) and one dedicated freight guideway were modeled using the SCAG Travel Demand Forecasting model. The model was used to quantify truck volumes using the region's highway network and estimate the number of daily hours of delay reduced for both autos and trucks. Furthermore, for each bundle the potential cost (which was kept at a constant per mile basis), the number of warehouse acres in proximity to each corridor, the number of schools within 1/3 mile of each bundle, and the number of residential acres within 1/2 mile of each bundle was calculated. Results from this analysis are summarized in Table 4.

When interpreting the analysis in Table 4, please note the following:

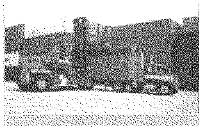
- Due to the limitations of the analytical tools available, all bundles were modeled using a container forecast volume of 42.5 million TEUs by 2030.
- All analyses were completed from a regional perspective. Analyses were completed with the understanding that further future detailed corridor-specific analyses would be required prior to project implementation. Future detailed analysis should quantify factors not included as part of this effort, such as design, right-of-way considerations including number of displaced properties, impact on commercial properties adjacent to corridors, etc.
- The macro-level analysis of dedicated truck lane systems, advanced technology and other bundles rendered preliminary information that also warrants further investigation and outreach to affected communities to be conclusive.

Further information about the scenarios, project bundles and other model criteria and findings can be found in Chapter 6 of the Action Plan and the technical appendices.

Table 4: MCGMAP Bundle Analysis Results

Bundle	Description	Distance (mi)	Reduction of Daily Hours of Delay (vs. 2030 Baseline)		Schools*	Residential* (Acres)	Warehouse* (Acres)
			Autos	Trucks			
1	Operational and safety improvements	N/A	-42,000	-1,000	N/A	N/A	N/A
2	I-710 to SR-60 to I-15	101.5	203,000	78,000	35	9,933	6,290
3	I-710 to I-10 to I-15	98.7	289,000	83,000	60	11,329	3,135
4	I-710 to SR-91 to I-15	87.5	192,000	87,000	48	8,684	4,716
5	I-710 to I-10 (WB) / SR-60 (EB) to I-15	100.1	252,000	81,000	77	16,702	6,767
6	I-710 to SR-91 to SR-57 to SR-60 to I-15	110	207,000	76,000	41	10,533	5,057
7	I-710 to SR-91 to I-605 to I-10 to I-15	96.1	273,000	83,000	57	11,177	2,691
8	I-5 (I-710 to Kern County)	74.6	347,000	89,000	31	4,979	579
9	I-5 (U.S./Mexico Border to Kern County)	204.6	112,000	122,000	78	12,806	3,054
10	Mixed-flow toll expressways: I-710 > SR-60 > I-15	101.5	225,000	32,000	35	9,933	6,290
11	Alternative technologies (e.g. Shuttle Trains, Maglev) between POLA/POLB and inland destinations	N/A	98,000	23,000	N/A	N/A	N/A
12	I-15 (U.S./Mexico Border to Victorville)	161.7	185,000	76,000	23	5,500	3,151

Note: *Data does not include San Diego County information.



Project Descriptions and Lists

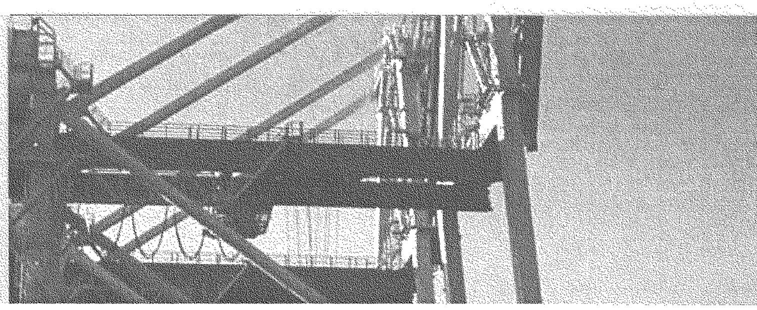
Project Identification Process

In support of the actions and vision, and market segmentation approach, the partner agencies identified a regional and county specific list of projects or strategies, presented in **Tables 5 and 6**. Many of these projects can be implemented in the short-term while others require additional planning and project development. The projects on these lists are considered essential; neither list should be viewed as taking precedence over the other but rather as complementary efforts to address the effects of goods movement in the region. Given the multi-county nature of this study, the majority of the regional and county Goods Movement Projects/Strategies will require coordination among the multi-county partners and stakeholders.

Table 5, the "Regional Goods Movement Projects/Strategies" represents a short-term to long-term vision for improving the system with primary focus on region-wide projects that provide environmental mitigation or ground access (rail, highway, and intermodal) improvements to and from the international gateways and the multi-county goods movement distribution centers and corridors (existing and proposed) within the Southern California region, (i.e., the San Pedro Bay Ports, the Port of Hueneme, Inland Empire Rail/Intermodal Facilities, the Alameda Corridor and the California/Mexico Ports of Entry). This system is also graphically depicted and further described in Pages 18 and 19.

Table 6, the "County-Specific Goods Movement System Projects/Strategies" includes improvements that are located within a single county and connect with the regional goods movement system of corridors and distribution centers and the statewide goods movement system as identified by Caltrans. Table 6 comprises a list of efforts that: 1) Support the regional projects in Table 5; 2) mitigate environmental and/or community impacts in a shorter horizon; 3) correct short-term system deficiencies; and 4) are recommended in advance or in conjunction with the regional projects based on local needs and project readiness. The County-Specific list, in essence, fills critical gaps in the goods movement network.

As can be seen in the two project lists, an investment of over $50 Billion over the next 25 years is necessary to accommodate the projected growth of freight within the region and to mitigate related impacts. This will require funding commitments from all levels of government as well as the private sector. In addition to this list, a series of actions focused on reducing congestion and environmental impacts are identified in the Action Plan. Each of the County chapters also contains additional projects, strategies and vision for localized improvements identified for future implementation.



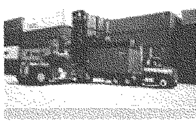
Project Descriptions and Lists

Table 5: MCGMAP Preliminary Regional Goods Movement Projects/Strategies

(REGIONAL AND COUNTY-SPECIFIC LISTS ARE BOTH CONSIDERED TO BE OF EQUAL PRIORITY IN MCGMAP. MODES AND PROJECTS ARE NOT LISTED IN PRIORITY ORDER. ALL PROJECTS WILL REQUIRE FURTHER STUDY PRIOR TO IMPLEMENTATION UNLESS ALREADY COMPLETED.)

Environmental mitigation or Mode/System	*Description*	*2007 Cost[1]* (in millions)	*Committed Funds* (in millions)	*Time-frame[2]*
Regional and project specific mitigation and emissions reduction	• Implementation of Goods Movement Infrastructure Projects Could Require Mitigation of Project Specific Impacts	TBD	TBD	S, M, L
	• San Pedro Bay Ports Clean Air Action Plan	$2,067	$464	S
	• Other Goods Movement Emission Reduction Plans and Identified Needs	TBD	TBD	S, M
RAIL				
Grade Separations	• Alameda Corridor East (ACE) Grade Separations and Grade Crossings Improvements	$4,510	$961	S, M
	ACE County subtotals:			
	•Los Angeles County – San Gabriel Valley	*$1,891*	*$343*	*S, M*
	•Orange County	*$731*	*$115*	*S, M*
	•Riverside County	*$1,048*	*$257*	*S, M*
	•San Bernardino County	*$840*	*$168*	*S, M*
	• Gateway Cities BNSF Mainline Grade Separations (on ACE list)	$196	$78	S, M
Mainline capacity enhancements	• Rail Capacity Improvements (e.g., double and triple tracking; Colton Crossing)[3]	$2,200	$0	S, M
Regional Freight Links	• Reconnect Santa Paula Branch Rail Line	$450	$0	M
INTERMODAL GROUND ACCESS				
On Dock Rail	• San Pedro Bay Ports Rail Systems	$631	TBD	S, M
Intermodal Yards/Facilities	• Ports of Los Angeles/Long Beach Union Pacific Intermodal Container Transfer Facility Modernization[4]	$300	$0	S
	• BNSF Port of Los Angeles/Long Beach Near Dock Facility (Southern California International Gateway – SCIG)[4]	$300	$0	S
Inland port	• Further investigation of Inland Port Strategy	TBD	$0	M
ALTERNATIVE TECHNOLOGY				
Truck Lanes/Dedicated Freight Guideway System	• Dedicated Freight Guideway System/Regional Truck Lanes (I-710 From Port of Long Beach to SR-60; East-West Corridor between the I-710 and I-15; and I-15 to Victorville) inclusive of non-freeway corridors	$18,268	$35	M, L
FREEWAY/HIGHWAY				
Freight Corridor Capacity Enhancement and Operational Improvements	• High Desert Corridor[5] (SR-14 to I-15)	$5,600	$0	M, L
	• Alameda Corridor SR-47 Expressway	$662	$265	S
	• SR-60/I-10 Truck Climbing Lane	$55.3	$0	S
	• Replace/Reconstruct Gerald Desmond Bridge	$800	$337	S
	• I-710 Early Action Projects - City of Long Beach (3 Projects)	$500	$12	S
	• I-5 Truck Lanes Projects - North Los Angeles County (2 Projects)	$392	$12	S, M
	• SR-86 NAFTA Corridor Interchange Construction	$150	$0	M
	• SR-58 Corridor Widening Projects (2 Projects)	$301	$0	M, M
Border Crossing Improvements	• Access Improvements to the California/Mexico Ports of Entry at Otay Mesa, Otay Mesa East, and Calexico East Projects (3 Projects)	$1,699	$524	S
	Total	*$39,081.3*	*$2,610*	

Notes: 1. All figures include environmental mitigation costs.
2. S=Short-term (2007-2015); M=Mid-term (2015-2025); L=Long-term (post 2025).
3. Project must demonstrate regional public benefit to qualify for public funds.
4. Private sector fund sources.
5. Require further analysis west of US-395, private sector primary fund source, with possible exception of short-term project to construct section between Phantom East and I-15 ($350 million).



Project Descriptions and Lists

Table 6: MCGMAP Preliminary County Goods Movement System Improvements
(REGIONAL AND COUNTY-SPECIFIC LISTS ARE BOTH CONSIDERED TO BE OF EQUAL PRIORITY IN MCGMAP. MODES AND PROJECTS ARE NOT LISTED IN PRIORITY ORDER. ALL PROJECTS WILL REQUIRE FURTHER STUDY PRIOR TO IMPLEMENTATION UNLESS ALREADY COMPLETED.)

Mode/System	*County*	*Description*	*2007 Cost[1] (in millions)*	*Time-frame[2]*
RAIL				
Grade Separations	VEN	• Construct Rice Avenue/UP Grade Separation	$45	TBD
	VEN	• Construct Rose Avenue/UP Grade Separation	$45	TBD
	VEN	• SR-118/Coast Line - Construct Grade Separation	TBD	TBD
	LA	• Nogales Street (LA Subdivision) grade separation project	$29	S
	OR	• LOSSAN Corridor Grade Separations	$655	L
Mainline Capacity Enhancement	LA	• Relief siding (2 projects) and upgrade sidings (1 project) on the Antelope Valley Line	$15	S
	SD	• Construct Coastal Rail Corridor	$1,350	S,M
	SD	• Construct South Line Rail/Trolley	$328	S,M
INTERMODAL GROUND ACCESS				
Intermodal Yards/ Facilities	SBD	• Build New BNSF Intermodal Yard in Victorville	TBD	TBD
Maritime	LA	• Shuttle Train Intermodal Service to Inland Empire; Inland Terminal	$60	TBD
	SD	• San Diego Port District Marine Terminal Ground Access	$822	S, M
ALTERNATIVE TECHNOLOGY				
ITS Applications	LA	• San Pedro ATSAC System in City of Los Angeles	$6	TBD
	LA	• Wilmington ATSAC System in City of Los Angeles	$7	TBD
	LA	• Transportation Management, Information and Security System	$10	TBD
FREEWAY/HIGHWAY				
Freight Corridor Capacity Enhancement and Operational Improvements	VEN	• Reconstruct US 101/Rice Avenue IC	$75	M
	LA	• Key Goods Movement Arterial Improvements	TBD	TBD
	LA	• Reconstruct SR-91/I-605 interchange	$240	S
	LA	• Reconstruct I-605/SR-60 interchange	$1,000	S
	LA	• Reconstruct I-605/I-10 interchange	$1,000	S
	LA	• Reconstruct SR-60/SR-57 interchange	$550	S
	LA	• I-110 8th/9th Street Interchange - Add Auxiliary Lanes and Modify/Reconstruct Ramps (Two Projects)	$39	TBD
	LA	• Washington Blvd. Widening and Reconstruction project	$14	S
	LA	• Alameda Street Widening and Reconstruction in Los Angeles (101 Freeway to 7th Street; I-10 to 7th Street)	$29	TBD
	LA	• Seaside Avenue/Ocean Blvd (SR-47) and Navy Way Interchange	$43	TBD
	LA	• I-110 Connector Improvement Program (4 Projects)	$134	TBD
	OR	• I-5 From the I-5/SR-22/SR-57 Interchange to SR-91 add a general purpose lane in each direction	$430	M
	OR	• I-5 Reconstruct El Toro Road Interchange	$120	S
	OR	• I-5 between SR-55 and the SR-133 (near El Toro "Y") add one general purpose lane in each direction and improve interchanges in the vicinity	$319.2	M
	OR	• I-5 between the vicinity of El Toro "Y" to near SR-73 add new lanes in each direction	$315	M

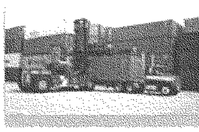
Notes: 1. All figures include environmental mitigation costs.
2. S=Short-term (2007-2015); M=Mid-term (2015-2025); L=Long-term (post 2025).

Table 6: MCGMAP Preliminary County Goods Movement System Improvements (Continued)

(REGIONAL AND COUNTY-SPECIFIC LISTS ARE BOTH CONSIDERED TO BE OF EQUAL PRIORITY IN MCGMAP. MODES AND PROJECTS ARE NOT LISTED IN PRIORITY ORDER. ALL PROJECTS WILL REQUIRE FURTHER STUDY PRIOR TO IMPLEMENTATION UNLESS ALREADY COMPLETED.)

Mode/System	County	Description	2007 Cost[1] (in millions)	Time-frame[2]
FREEWAY/HIGHWAY (Continued)				
Freight Corridor Capacity Enhancement and Operational Improvements (cont.)	OR	• I-5 Northbound Extend Existing Truck Bypass Lane From Crown Valley to El Toro Road. Add Auxiliary lane where needed.	$240	L
	OR	• I-5 Southbound From Alicia Parkway to the Crown Valley Interchange add a Lane	$411	M
	OR	• I-5 Construct new interchange at Crown Valley (Saddleback) and reconstruct interchange at Avery Parkway with collector distributor road between Crown Valley and Avery	$260	L
	OR	• SR-57 Northbound From Lambert Road to Tonner Canyon (LA County Line) interchange add truck climbing lane	$157	M
	OR	• SR-57 Northbound From Orangethorpe to Lambert Road, Add Auxiliary Lane & 5th through lane	$140	S
	OR	• SR-57 in the Northbound Direction Extend General Purpose Lane #5 Between Orangewood and SR-91 and Add Auxiliary Lane	$190.8	S
	OR	• SR-91 Westbound From SR-57 to I-5 – Add General Purpose Lane & Auxiliary Lane	$152	S
	OR	• SR-91 Westbound – Provide a General Purpose Lane from SR-55 to SR-57 and add auxiliary lane	$120	M
	OR	• SR-91 Eastbound Add a Lane Between SR-55 (Lakeview and SR-241 and Westbound From SR-241 to Imperial Highway).	$96	S
	OR	• I-405 from the I-5 to SR-55 add 1 general purpose lane in each direction	$328.9	L
	RIV	• SR-60 Construct Truck Climbing Lane through Badlands to I-10	$114	L
	RIV	• March Inland Cargo Port Airport I-215/Van Buren Blvd. Ground Access Improvement Project	$97.6	S
	RIV	• I-10/SR-60 New Interchange Construction	$100	L
	RIV	• I-215 Widening to SBD County Line	$1,400	S,M
	SBD	• I-15 Widening and Devore Interchange (at I-215) Reconstruction	$200	S
	SBD	• Interstate 10 Widening and Interchange Improvements (LA Co. Line to I-215)	$700	S
	SD	• I-5 Widen/Managed Lanes (From La Jolla Village Dr. to Vandergrift)	$962	S
	SD	• I-15 Widen/Managed Lanes & Operational Improvements (From SR-163 to SR-78)	$608	S
	SD	• I-805 Widen/Managed Lanes (From SR-905 to I-5)	$1,801	S
	SD	• San Diego International Airport Truck Access to I-5 (Truck route/ Interchange improvements)	$32	M
	SD	• Pipeline Truck Access (Petroleum Terminal) to I-15 (Truck route/ Interchange improvements)	$32	M
		Total	*$15,822.5*	

Notes: 1. All figures include environmental mitigation costs.
2. S=Short-term (2007-2015); M=Mid-term (2015-2025); L=Long-term (post 2025).



Next Steps

The MCGMAP is not an end point. Rather, it is the beginning of a more comprehensive regional approach to keep freight moving within and through the region and to reduce the environmental and community impacts caused by the movement of that freight. Going forward, stakeholders will play an integral role in the next steps in the areas of partnership and advocacy, environmental and community impacts, mobility and funding. Based on feedback from stakeholders and Action Plan recommendations, the MCGMAP project partners are committed to taking the following next steps:

Partnership and Advocacy

- Implement the Southern California National Freight Gateway (SCNFG) Cooperation Agreement among federal, state, regional, and other implementing agencies to maintain dialogue to address the challenges outlined in MCGMAP.
- Request the incorporation of MCGMAP strategies and actions into other state, regional and local plans.
- Continue to convene multi-county meetings to monitor the progress on the Action Plan and provide annual reports to the CEOs and to the boards of the partner agencies.
- Support and propose legislation that: 1) Provides funding mechanisms for goods movement projects/strategies; and 2) improves mobility and facilitates regional multi-county goods movement goals without undermining local community priorities and quality of life.
- Support groups such as Mobility 21 and the Coalition for America's Gateways and Trade Corridors in developing dedicated federal and state goods movement funding sources.
- Continue to work closely with all stakeholders including the Councils of Governments, community groups, environmental regulatory agencies and academia.
- Seek goods movement and logistics industry involvement throughout planning and project development phases.

Environmental and Community Impacts

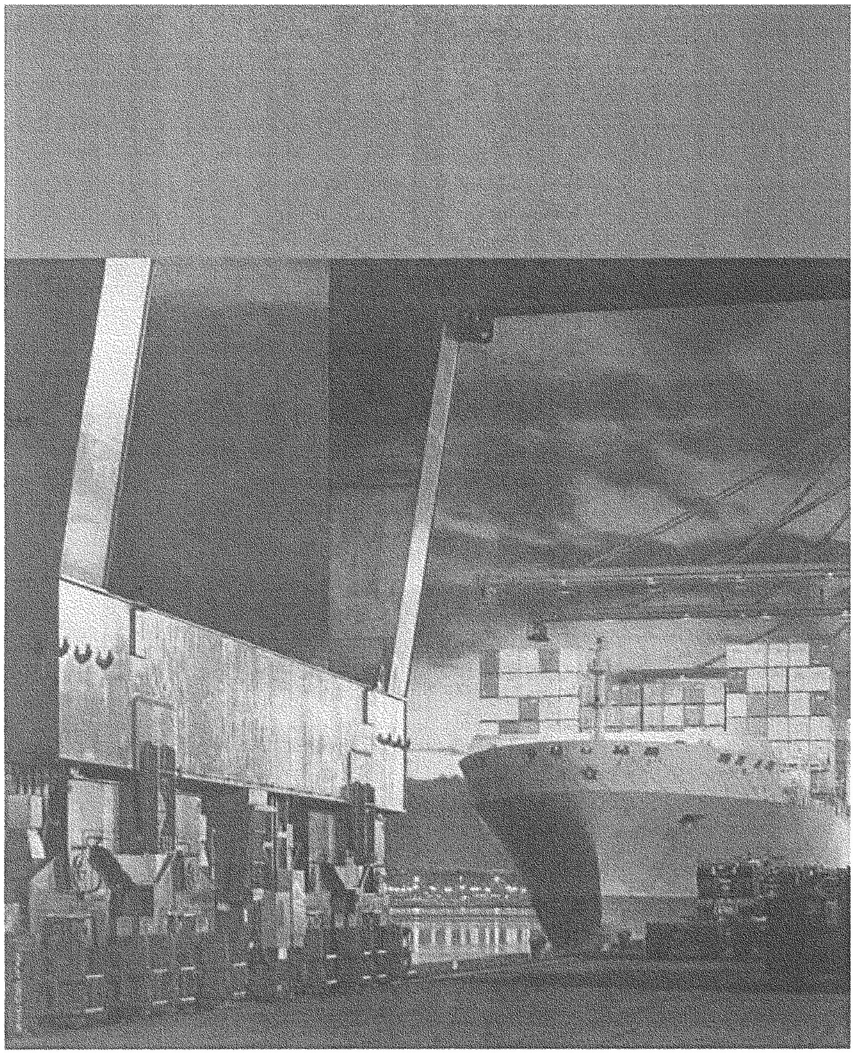
- Through the SCNFG Cooperation Agreement and other related activities, develop a specific set of feasible actions to accelerate implementation of the strategies contained in the various air quality and emission reduction plans that are within the scope of responsibility of the project partners.
- In partnership with CARB, air districts, the logistics industry, and local governments, initiate an activity to generate public and/or private funds to accelerate implementation of air quality improvement strategies being undertaken by these and other entities. Examples may include: Container fees that provide a revenue stream to fund emissions reduction projects, impact fees paid by entities contributing to the goods-related air quality problem, supplemental transportation infrastructure project mitigation (to add to an air quality funding pool), mitigation banking, market-based strategies, and other vehicle-based fees commensurate with the impacts attributed to those vehicles.
- Continue and Complete the Environmental Justice Analysis and Outreach for the MCGMAP in Fall 2007. This effort will develop a guidebook for local jurisdictions and the private sector to use in avoiding, minimizing, and mitigating the effects of goods movement infrastructure and to assist local jurisdictions make informed land use decisions.

Mobility

- Initiate a study to investigate the linkage between industry supply chain trends and port and trade related transportation patterns and movements.
- Continue project development efforts, including planning, design, funding, and implementation, of the regional and county-specific projects listed in the Action Plan, including the mitigation of the impacts of those projects.
- Initiate a Regionally Significant Transportation Investment Study (RSTIS) to evaluate the feasibility of implementing a Dedicated Freight Guideway System/Regional Truck Lanes (I-710 From Port of Long Beach to SR-60; East-West Corridor between I-710 and I-15; and I-15 to Victorville) inclusive of potential non-freeway implementation.
- Initiate localized studies, as appropriate.

Funding

- Pursue new avenues of goods movement funding for projects, including the region's fair share of state appropriations, federal funds, and private sector contributions consistent with the impacts of the benefits they derive from the use of the transportation system.
- Continue fair share and user fee discussions with private sector stakeholders to seek their support in addressing goods movement impacts and filling funding gaps. Develop a clear and concise message on this subject and communicate this to the public, policy and funding decision makers at all levels of government.
- Establish structures to manage user fees and revenue that are acceptable to both public and private sector stakeholders.



National Retail Federation®
The Voice of Retail Worldwide

Port Development and the Environment in San Pedro Bay, California

Written Statement of the

National Retail Federation

To the Coast Guard and Maritime Transportation Subcommittee,

House Transportation and Infrastructure Committee

August 4, 2008

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The **National Retail Federation** (**NRF**) submits these comments to the Subcommittee on Coast Guard and Maritime Transportation of the U.S. House of Representatives Committee on Transportation and Infrastructure for its hearing on port development and the environment in San Pedro Bay.

NRF is the world's largest retail trade association, with membership that comprises all retail formats and channels of distribution including department, specialty, discount, catalog, Internet, independent stores, chain restaurants, drug stores and grocery stores as well as the industry's key trading partners of retail goods and services. NRF represents an industry with more than 1.6 million U.S. retail companies, more than 25 million employees - about one in five American workers - and 2007 sales of $4.5 trillion. As the industry umbrella group, NRF also represents over 100 state, national and international retail associations.

The blue-water seaports of the United States, and the transportation network that connects them to markets, are vital arteries through which our nation's commerce flows. They also represent a key link in the supply chain that enables the retail industry to provide American families the products they need in their daily lives. Billions of dollars of trade passes through the nation's international intermodal transportation system each and every year, and supports millions of jobs throughout our nation and in California. Today, this international intermodal system faces key challenges that require the coordinated effort of all stakeholders, at both the state and federal levels, to manage and address.

There are two underlying challenges: 1) securing sufficient funds to build the infrastructure necessary to support America's economy, not just for the benefit of the retail industry, but for U.S. manufacturers, farmers, importers and exporters; and 2) finding ways to tackle infrastructure development in a manner that both manages growth, and recognizes and addresses the environmental impacts of goods movement.

The San Pedro Ports have attempted to address these twin challenges in various provisions of their Clean Air Action Plan (CAAP). Before we provide comments on specifics of the CAAP, NRF would like to discuss several common misperceptions about the retail industry and its relationship to goods movement through the marine transportation system. We believe that clarifying the context for a discussion about the Marine Transportation System is necessary. In recent months, the rhetoric over these issues has become so enflamed that several important truths have been lost:

- The Retail Industry is not the only user of the nation's blue-water ports, or the marine transportation system,

- Retailers and other shippers pay for the freight system that they use. No shipper is a free-rider.
- Retailers have been good citizens in working to reduce the environmental footprint of freight movement and will continue to do so.
- Retailers have already demonstrated a willingness to pay for their fair share of the cost for infrastructure development and environmental mitigation.

The Marine Transportation System is used by many American Business Sectors

In the rhetoric that has surrounded debate over infrastructure and the environment in the San Pedro Bay area there seems to be the assumption that the retail industry is the main user of U.S. ports and that efforts specifically to tax retailing will have little impact on the economy as a whole.

A very quick survey of the Journal of Commerce's list of the top U.S. container importers and exporters shows that only 32 of the top U.S. container importers are retailers, while 57 are manufacturers. On the export side the figures are even more startling. Only 2 of the top 100 exporters are retailers, 54 are manufacturers, 26 are in the agriculture or forestry sectors, and 16 are in the waste recycling business.

We fully acknowledge that retailers are among the major importers of containers through the San Pedro Bay ports, and that the largest single importer is a U.S. retailer, but it is important for lawmakers to understand that the retail industry is not alone in being a user of the port, and that efforts either to choke off new infrastructure or to tax the movement of containers will have a significant impact on all U.S. economic activity, including transportation, manufacturing, agri-business, wholesaling and retailing.

Retailers and other shippers pay for the infrastructure they use

In the rhetoric that often surrounds the debate on port infrastructure and the environment, it's common to hear the complaint that retailers use the ports but do not pay for them. This is simply untrue.

With the exception of the roads that connect ports and rail hubs, the freight infrastructure system in the United States, including the terminal capacity at the ports of Long Beach and Los Angeles as well as rail terminals and track is a privately-financed system. Most U.S. blue water port authorities act as public landlords assessing rents and other fees on their tenants and the ships that call at their facilities. A port authority may improve the land, but they receive income in the form of rents and tariffs to pay for those improvements. In many cases, the port doesn't even pay directly for the infrastructure improvements.

Indeed, at least one of NRF's top infrastructure priorities – the construction of a new near dock rail facility on land located in the Port of Los Angeles - will be entirely funded by the BNSF Railroad.

Marine terminal operators, ocean carriers, and railroads do not build infrastructure that can't ultimately be paid for through service charges. Indeed, the majority of the freight infrastructure in the United States is privately owned and operated and paid for by shippers.

In addition to the base transportation rate, shippers also pay a number of taxes and additional surcharges and fees imposed by government and private entities. A listing of these fees follows:

1. **Direct Commercial Fees:**
   Not every shipper pays these fees. Sometimes these fees are included in the base rate a shipper pays. Often they are separately stated as surcharges. All of these fees are subject to rate negotiation between the carrier and the shipper.

   - **"Peak Season" Charges:** Ocean carriers as part of the *Trans-Pacific Stabilization Agreement (TSA)* often charge fees of as much as $400 per Forty-foot Equivalent Unit (FEU) on west-bound containers terminating at West Coast ports.
   - **Fuel Price Surcharges:**
     - Bunker Adjustment Factor (BAF): Compensates for wide fluctuations in marine bunker fuel and diesel oil at key load ports. Such surcharges, added onto base freight rates, help offset rising marine bunker fuel and diesel oil prices. The formula managed by TSA tracks world bunker fuel prices and then applies a weighted average formula to recover the cost impact of price fluctuations on carrier operations. The formula reflects fuel consumption patterns across the TSA membership (where fuel is purchased and loaded, vessel size, route configurations, sailing speed and transit time, linehaul and feeder ship fuel costs, cargo mix, etc.). The charge is allowed to float with fuel prices, and is adjusted on a monthly basis.
     - Other Fuel Surcharges: Intermodal rail shippers will also sometimes be charged a fuel adjustment factor that is separate from the base freight rate. Similarly, trucking companies also sometimes impose fuel surcharges.
   - **Terminal Use Fees:** Longstanding business practices allow carriers to pass along terminal operating expenses to shippers through terminal use fees. These

fees for the use of the terminal are sometimes separately stated from the ocean carriage rate. In addition to these charges, other fees may be charged:

- Demurrage Charges are assessed on containers that fail to move off terminal within a specific period of time—usually three or four days. The purpose behind these charges is to ensure that port facilities are not used as warehouses for cargo owners and shippers. The shipper has a significant incentive to move containers quickly to avoid these penalties.
- Detention Charges are fees imposed on intermodal equipment such as chassis. If a shipper keeps a chassis or a container for longer than a specific period of time, fees accrue. The fees are there to encourage shippers to return equipment quickly. After the 2002 labor dispute that closed West Coast ports for more than a week, a critical shortage of chassis developed, further impeding the flow of commerce.

- **Security-related charges:** As of 2003, many carriers include security related surcharges to their freight rates in order to offset higher regulatory costs associated with port and carrier security mandates included in several federal laws.
  - Port Security Fees: Ports have raised their tariffs to cover the cost of compliance with the Marine Transportation Security Act of 2002 and the imposition of international standards on ports developed by the International Maritime Organization and enforced by the U.S. Coast Guard. The ports of California increased their tariffs by 5 percent in 2005 to cover the cost of added security infrastructure. Carriers may pass along a portion of this cost for security infrastructure to shippers in the form of per-container security surcharges, or directly in the shipping rate.
  - Manifest Fees: Many carriers have imposed a new Advanced Manifest Fee, which is assessed on a Bill of Lading basis to pay the cost of compliance with the provisions of the Trade Act of 2002 and the U.S. Customs requirement to provide manifest information 24-hour in advanced of lading.
  - Inspection fees: Importers have to pay the government for the expense of inspecting their cargo, if the container is pulled aside for an intensive exam.
  - C-TPAT Expenses: Although not a charge, *per se*, shippers who participate in the Customs-Trade Partnership Against Terrorism incur a number of business expenses related to ensuring the security of the supply chain. These expenses include on-site monitoring of overseas factories, overseas scanning, and managing compliance audits. Congress has recently considered asking shippers to pay a separate fee for compliance assessments conducted by third-parties.

- **Alameda Corridor Fee:** Containers moving on the Alameda Corridor pay fees of $18/TEU, $36/FEU, and $40/ 45-foot container for the use of the infrastructure. Some containers drayed from the ports of Los Angeles and Long Beach to other rail facilities in Southern California will also pay the corridor fee, even though they merely bypassed the corridor. The fee is paid by the railroads and passed along to carriers who usually charge the shipper either in the rate or as a separate charge.
- **PierPass Traffic Mitigation Fee:** Containers drayed from the Los Angeles and Long Beach ports during daylight hours are subject to a privately-imposed traffic mitigation fee of $100 per FEU. Intermodal rail containers do not pay this fee. The fee is collected directly from the shipper.

2. Direct U.S. Government Compliance Fees:

- Harbor Maintenance Fee, collected by the Department of Homeland Security, U.S. Customs and Border Protection (CBP), is charged only on importers and is a percentage of the value of the merchandise. The fee is used to support dredging of ports nationwide. The Port of Oakland recently benefited from these fees as part of its channel deepening efforts.
- Merchandise Processing Fee, collected by CBP, is assessed up to a certain amount on the value of the merchandise imported. The fee collects $1 billion in revenues each year and is supposed to be used to offset the cost of customs processing. However, until recently, the fee was not "fire-walled" and went directly into the general treasury.
- Import Duties, collected by CBP, are assessed ad valorem on the value of imported merchandise. However, there are some imports that are not required to pay import duties, either because the duty rate is set at zero, or the import qualifies under one of the U.S. Free Trade Agreements. Other imports, such as footwear and apparel, pay very high duties. Duties are imposed to "protect" domestic industry from foreign competition, and thus fall quite unevenly across industry segments, and not at all on exporters. Duties raise approximately $21 billion each year that goes into the general revenues of the United States. Almost half of this revenue is collected as duties on imports of footwear and wearing apparel—a hidden, regressive tax that harms working American families.

3. Other Indirect Compliance Fees:

- **ISPS Surcharges:** The International Ship and Port Facility Security Code (ISPS) went into effect in 2005. This IMO standard is enforced in the Untied States by the U.S. Coast Guard. All ports in the U.S. must meet these security standards or they will be shut down. Cargo coming from non-ISPS compliant ports can be denied entry into the United States. Many foreign governments have imposed fees, taxes and charges on ocean carriers to raise the resources necessary to meet this world-wide standard. Shippers may have to pay these fees as surcharges from ocean carriers.

Road infrastructure is the main portion of the marine transportation system that is publicly financed through federal and state programs. Even here, the notion that shippers – retailers, manufacturers and farmers – use American highways without contributing to that infrastructure is simply fallacious. The main source of revenue for roads takes the form of gasoline taxes, taxes on tires, truck registration fees, and in many states sales taxes. Gasoline taxes, tire taxes and truck registration fees are costs of doing business that are regularly passed along to the customers of trucking firms, including retailers.

Sales taxes are collected by the retail industry, which have a direct impact on retail sales.

Quite often these public sources of revenue are earmarked for projects that have no connection whatsoever to freight movement. Indeed, it has been a long-accepted adage that "freight doesn't vote" when it comes to parceling out the public money for road and public transportation projects. Most federal and state dollars are spent to reduce congestion on commuter routes. NRF has long suggested that the federal government needs a national freight policy to make certain that federal dollars collected from freight stakeholders are spent appropriately. This will be a key issue in the upcoming reauthorization of federal highway transportation funding in the next Congress.

Retailers have been good citizens in working to reduce the environmental footprint of freight movement

As a general matter, retailers do not own the trucks, locomotives or ships that move their cargo from one place to another. Thus, it is difficult for a retailer to exert any direct control over the types of trucks, locomotives and ships that are used to move their goods, to the degree railroads, terminal operators and carriers are able. Nevertheless, the retail industry has shown its commitment to environmental improvement. The industry continues to focus on these issues as part of its effort to continuously improve business practices. A few of the industry's actions as they relate to the environmental footprint of freight movement are noted below.

- Modal shift: Many retailers have moved away from air shipments to consolidate product into ocean shipments - reducing number of air flights needed to move cargo to the United States. This is particularly true of shippers with high-value product. In addition, about half of all trade through Southern California ports is transported inland via more fuel-efficient intermodal rail connection. The vast majority of NRF's members move freight in this manner.
- Transport Loading: Almost every U.S. retailer has worked to improve truck loading to ensure the use of full truck loads rather than partial loads. The pressure is on to increase truck utilization rates across the nation—a move that reduces air pollution, but also reduces costs in the form of better fuel efficiency. Many retailers, especially those moving high-value, low weight consumer products, support easing the federal and state restrictions on truck length—a move that would further reduce the number of trucks on the highways, improve fuel efficiency, and reduce air emissions.
- Pallet Programs: Retailers have worked to re-design shipping pallets to improve capacity utilization and reduce weight. Focusing on volume and weight is a good way to improve capacity utilization, reduce fuel costs, and eliminate unnecessary truck trips.
- PierPass: Many of the largest shippers operating transload and warehouse operations near the San Pedro Bay ports played a leadership role in supporting off-hour truck gates. In 2005, after several years of work in support of night-gates, the members of the Waterfront Coalition, of which NRF is a member, provided a framework for assessing a use fee for daytime operations that ultimately became the PierPass program. Shippers have responded to this market-driven approach by opening up their facilities and container yards to accept freight during non-peak travel times. Today, almost 40 percent of all containers in the San Pedro ports move off-terminal during non-peak times. This program has significantly reduced congestion, and the concomitant idling of trucks, on the I-710 freeway. Recent surveys show that truckers operating at night are making better wages because of this program—a program that underscores the dynamic forces of the market to drive fundamental business practice changes. Additional PierPass usage could be gained by making changes in the gate hours and days to better reflect truckers' hours-of-service regulations.

- Facility Programs: In addition to operating their international distribution centers 24/7, many retailers with international warehouses have instituted no-idling policies at logistics centers in California and across the country, reinforced with yard signing and driver surveys. In addition, retailers and their suppliers have scheduled store deliveries between midnight and 7:00 am to reduce traffic congestion and idling in California and across the nation.
- The SmartWay^{SM} Transport Partnership: SmartWay is a voluntary collaboration between the U.S. Environmental Protection Agency and the freight industry designed to increase energy efficiency while significantly reducing greenhouse gases and air pollution. By 2012, this initiative aims to reduce between 33 - 66 million metric tons of carbon dioxide (CO_2) emissions and up to 200,000 tons of nitrogen oxide (NO_x) emissions per year. At the same time, the initiative will result in fuel savings of up to 150 million barrels of oil annually. There are three primary components of the program: creating partnerships, reducing all unnecessary engine idling, and increasing the efficiency and use of rail and intermodal operations.
    - Creating Partnerships: Partnerships with companies and organizations are the foundation of the SmartWay Transport Program. EPA welcomes any company or organization that will improve the environmental performance of their freight operations. Key Partners are companies that ship products and the truck and rail companies that deliver these products. Partners commit to measure and improve the efficiency of their freight operations, using EPA-developed tools that quantify the benefits of a number of fuel-saving strategies. Current partners, which include many of NRF's members can be found at http://www.epa.gov/smartway/partners.htm.
    - Providing and developing innovative financing for Program Partners: The SmartWay Transport program is working with states, banks, and other organizations to develop innovative financing options that help partners purchase devices that save fuel and reduce emissions
    - Establishing the National Transportation Idle-Free Corridors Program: The SmartWay Transport Partnership aims to eliminate unnecessary truck and rail idling by developing a nationwide network of idle-reduction options along major transportation corridors - truck stops, travel centers, distribution hubs, rail switch yards, borders, ports, and even along the side of the road.
    - Maximizing Rail Efficiency and Intermodal Operations: Ton-mile for ton-mile, rail is a very efficient mode of transportation. A third component of the SmartWay Transport Partnership is to highlight practical opportunities where rail can be better used and to encourage more efficient rail operations and technical innovation.

- Coalition for Responsible Transportation: a number of large retailers have joined together in the San Pedro ports area to form a group called the Coalition for Responsible Transportation. Led mainly by retailers who have warehouse facilities in the region, these companies have made the commitment to move their freight exclusively via clean diesel and are working with their transportation providers to make this change. Members of CRT, including many NRF members, can be viewed at: www.responsibletrans.org.

Comments on the San Pedro Ports Clean Air Action Plan

In 2006, both the ports of Long Beach and Los Angeles issued a document, known as the Clean Air Action Plan (CAAP), detailing both ports' commitment to reduce mobile sources of pollution in San Pedro Bay. The plans are far-reaching and affect a number of stakeholders at the ports including ocean carriers and terminal operators. In general, NRF supports the goal of the CAAP. We have specific concerns with only one aspect of the plans offered by the ports -- the truck replacement plan.

As part of the truck program, both ports proposed to reduce emissions on the more than 16,000 harbor trucks moving commerce through San Pedro Bay marine terminals. According to the Clean Truck Plan (CTP), all beneficial cargo owners beginning on October 1, 2008 will be charged a $70 fee per forty-foot equivalent unit (FEU) on all truck moves that do not use approved clean-emissions equipment. The fee is to be collected by marine terminals operators. Fee revenue would then be used to help truckers pay for new, lower-emissions rigs. The CTP also includes a rolling ban that would stop older trucks from serving the port complex. Both ports also implemented a concession system whereby all licensed motor carriers moving commerce through San Pedro Bay must apply for a license to serve the port. The port of L.A. concession plan would only allow licensed motor carriers that use employee drivers to receive a concession.

Many aspects of this plan -- in particular the requirement included in the Los Angeles version of the truck program that licensed motor carriers use only employee labor – pose serious legal problems. On July 28, the American Trucking Association (ATA) filed suit against the ports on several aspects of this program including the requirement for concession licenses and employee drivers.

NRF is of the view that neither concession requirements, nor employee drivers speak directly to the environmental aspects of the Clean Air Action Plan. Both of these requirements seem tangential to the goal of environmental mitigation and truck replacement. Obviously these issues will ultimately be decided in a court of law.

This is unfortunate, because we have long been of the view that a program to replace trucks could be undertaken in the San Pedro ports without any litigation and without the use of any public funds. We have communicated this view directly by our endorsement of an industry alternative and through organizations that we support such as the Waterfront Coalition and the Coalition for Responsible Transportation. Our pleas to find a means to clean up trucks at the San Pedro ports in a way that would avoid litigation and the use of taxpayer subsidies has largely fallen on deaf ears.

Although we support ATA's litigation on the concession and employee driver provisions of the CAAP Truck plan, we fear that litigation will needlessly delay the replacement of trucks that everyone supports. As an alternative, NRF and a number of other trade associations representing manufacturers, agri-business, terminal operators, ocean carriers and terminal operators offered a proposal in March 2006 that, if it had been adopted, would have quickly replaced trucks without litigation. We summarize the parameters of this alternative below.

March 2006 Industry Alternative to the CAAP Clean Truck Program

In early 2007, a cross functional group of industry stakeholders including retailers, other cargo owners, terminal operators and railroads endorsed a policy to fund goods movement infrastructure and a fleet of clean harbor trucks. A copy of that formal document is attached to this testimony.

The industry plan begins with an endorsement of a state-wide emission standard for all harbor trucks in California. We understand that the California Air Resources Board (CARB) is already well underway in developing such a state-wide standard and that the standard is very close to the one included in the CAAP. Since the California Air Resources Board is the only entity in the State of California with the legal authority to impose standards on mobile sources, endorsement of a CARB standard is both efficacious and lawful. Although the recently filed ATA lawsuit does not challenge the truck ban, ATA could well have chosen to challenge the ports authority to impose air standards on mobile sources.

The second aspect of the industry-endorsed program is the development of a private mechanism, like the privately-developed PierPass program, that would collect a mitigation fee on harbor drayage trucks that do not meet the CARB standard. This is obviously quite similar to the CAAP proposal. It differs only in one respect: In our industry alternative, the funds collected would not be used to leverage public money, but would be given to a trusted financial institution that would help to underwrite low cost loans or lease purchase agreements that would help truckers move into newer and cleaner equipment.

We feel strongly about the importance of this distinction between our suggested alternative and the one that has been challenged by ATA. In our alternative, no public money, would be used to purchase new trucks. The entire cost of meeting the CARB mandates would be borne by industry. We simply do not agree with the specious argument that imposing tailpipe emission mandates on harbor trucks would result in the decimation of the trucking industry in California. It has been precisely this kind of thinking that resulted in the concession approaches that are now being litigated, and which would, ironically, throw out of business many owner-operator truckers, the very persons that the truck concession plan purports to be helping.

We see no reason for public bailouts using bond money that is financed over 30 years. That money would be better spent on projects like the Alameda Corridor East, where private money from the railroads is constrained. By the time that money is paid off, the assets that it bought would be long gone.

A smaller group of importers, including a number of large retailers, went on to try to put this industry alternative into action when they formed the Coalition for Responsible Transportation (CRT). CRT members have committed to moving their freight in trucks meeting the CAAP standard as quickly as possible. Unfortunately some of the provisions of the Long Beach proposal – in particular its insistence on imposing fees on trucks that meet the 2007 EPA standard for clean diesel – would make it more expensive for a CRT member to move freight in a new clean diesel truck than in an old, dirty diesel truck. In the Long Beach iteration of the program, only cargo moving on LNG would be exempt from the mitigation fee. As a result the Long Beach fee schedule sends the wrong market message – it would keep people in dirty trucks longer than the proposal offered by industry.

Members of the retail industry have continuously stressed the point that the CAAP program needs to be fuel neutral. There is no evidence that LNG trucks are inherently more environmental friendly than clean diesel trucks. The bottom line is that the State of California needs to regulate tailpipe emissions from harbor trucks, and the industry, including retailers, needs to find a way to comply with those standards. The state does not need to spend public money to make this happen. The industry is willing and able to foot the bill.

Container Fees and Taxes

The San Pedro Ports and the State of California are both contemplating assessing a number of new fees and taxes on the movement of shipping containers through the state of California to fund various programs and efforts. We have already discussed the San Pedro truck mitigation program above.

In addition to the truck replacement fee, two proposals to pay for road infrastructure through container fees and taxes have been proposed in the State of California – one by the San Pedro ports and the other by the California legislature.

As a general matter, NRF supports efforts to develop public-private partnerships to develop funding streams for infrastructure projects. These funding streams should include tolls and user fees. NRF's members are not adverse to paying tolls and user fees.

However we support two key principals when it comes to user fees – first, that they should be imposed on the actual users of the infrastructure, and second, that they should not create free-riders.

Both proposals now on the table to use container fees and taxes to fund infrastructure in the State of California miss these important principals by a wide margin.

The ports have proposed a $30.00 per FEU fee to pay for certain infrastructure improvements within the ports. NRF supports the infrastructure projects included in this fee proposal. However, we continue to be concerned, that the ports plan to ask only containerized trade to fund these projects even though the road is used by break bulk cargo, project cargo, and citizens in automobiles. In addition the fee proposal would ask rail users to pay for roads they do not use, and road users to pay for rails. This is problematic for us, and refutes the view that these fees are "user" fees. We believe there is a way to structure this proposal to eliminate these inequities and we have continuously communicated our views to the ports on this subject.

To date our proposals have fallen on deaf ears.

The California Legislature has also recently passed a bill, SB 974, that calls for the imposition of a $60 container (FEU) fee on cargo owners to fund goods movement infrastructure and related clean air projects in California. The bill, fails to meet our general principals for private-public partnerships. In addition, in our view it likely violates several provisions of the U.S. Constitution. It is unclear whether this bill will be signed into law, or if it will be litigated.

Once again we have offered the state alternatives that we know are lawful and likely will not end up in court challenges, but the legislature insists on moving forward with a bill that is significantly flawed. The basic parameters of a state-wide infrastructure program are included in the March 2007 White Paper proposal that is attached to this testimony.

Conclusion

The National Retail Federation and its member companies in the U.S. retail industry support environmental mitigation and the development of marine transportation infrastructure to meet the challenges of growing trade and national and international commerce. We believe these twin goals are possible and are not mutually exclusive.

We stand ready to work with state, local and federal entities to develop private-public partnerships that will enhance U.S. competitiveness while at the same time protecting the environment. We thank the subcommittee for allowing us this opportunity to provide our views.

Respectfully Submitted,

Steve Pfister
Sr. VP, Government Affairs
National Retail Federation

A Program for Establishing Public-Private Partnerships

For

Infrastructure Financing
and
The Improvement of Harbor Drayage Trucks
In the State of California

Endorsed by:

Association of American Railroads
National Retail Federation
Pacific Merchant Shipping Association
Retail Industry Leaders Association
Waterfront Coalition

March 26, 2007

Executive Summary

The State of California shares in the economic benefits of the U.S. distribution economy. But international commerce also raises challenges: growth in the goods-movement industry requires infrastructure in California sufficient to handle the load; growth leads to road congestion that negatively affects the same consumers who derive the benefits; and goods-movement activities have impacts on the environment that must be managed. To ensure its competitiveness and economic vibrancy, the state must work with stakeholders to adequately address these concerns and impacts.

Infrastructure Development and Financing

Coordination within transportation corridors can only be achieved by eliminating the piecemeal action of local governments, port authorities, and regional planning organizations. Projects must be considered in light of their contribution to the goals of moving freight and vehicles through an entire transportation corridor. This systemic perspective, which only the state can provide, must be applied to the prioritization, coordination, and oversight of infrastructure projects.

We, therefore, urge the Governor and the Legislature to create four trade corridor authorities to administer and coordinate projects within the four corridors identified in the Goods Movement Action Plan of January 11, 2007. We charge these authorities with 1) identifying priority projects within the corridor, and 2) developing financing plans for each project that will include a mix of options and, where appropriate, involve Public Private Partnerships.

Six major projects within Southern California are high priorities for the goods movement industry and include such projects as the replacement of the Gerald Desmond Bridge, improvements to SR-47, and near-dock rail projects.

In putting together public-private partnerships to support and finance priority projects, and in determining what kind of private participation is appropriate for priority projects, we believe the following core principles should be followed:

1. The project has to provide specific benefits to specific private stakeholders. The primary benefits of the project should be improved operational efficiencies, specifically velocity, throughput capacity, and reliability of freight delivery.
2. The project must have an acceptable return on investment.
3. The project must be considered a capital project under generally accepted accounting principles.
4. The partnership must be voluntary, led by the state, a corridor authority or a local project sponsor. An honest partnership may be authorized by legislation, but it cannot be imposed by legislation.
5. The project must be well coordinated with other corridor projects and the authority must have the powers necessary to move forward with it.
6. The fees or contributions must be "fire-walled" and used exclusively for the project. Funds cannot be reallocated to general revenue for the state or other local governments.

7. There must be accountability and transparency in the use of project financing.
8. Private contributors should have some role in the governance or oversight of the project.
9. Private dollars should pay for private benefits, while public contributions should pay for public benefits.
10. Fees and contributions must be collected from the actual users of the infrastructure.

Improving the Harbor Drayage Trucking Fleet

The need for environmental mitigation, especially in the San Pedro Basin area, has been acknowledged by the trade community for years. Real progress has been made by vessels, terminal operators, railroads, and trucks in responding to the need to reduce air pollution. Despite this commitment, the public debate has focused on the need to replace and retrofit harbor drayage trucks. An upgraded harbor drayage fleet is, ultimately, in the industry's long-term interest. We hold this view, even though achieving an upgraded fleet will entail higher costs. This paper outlines a market-driven plan to improve harbor drayage trucks, as follows:

- **State Emission Standards:** The California Air Resources Board (CARB) has embarked on the dual process of developing diesel emission standards for all truck fleets statewide, as well as a specific standard for harbor drayage trucks. We support a state-wide standard only, and charge the state with moving forward with a single standard for California trucks as quickly as possible.
- **Early Market-Based Enforcement through Marine Terminals:** We urge the Marine Terminal Operators to use their existing discussion agreement, pursuant to oversight from the Federal Maritime Commission, for the purpose of privately collecting a mitigation fee from any harbor drayage truck not meeting the CARB standard as of a certain date prior to the state's implementation date for all trucks in California.
- **Providing assistance to owner-operators for new trucks:** The money collected as part of this fee (after administrative costs) would be put into a "fire-walled" fund for the purpose of providing assistance to owner-operator truckers in financing retrofit or replacement of trucks that will be used in harbor drayage. The money should be managed by a trusted private financial institution selected by the corridor authority for the purpose of providing low cost loans or lease-to-purchase arrangements for owner-operators.
- **Tax incentives for new trucks:** We also call upon the state government to consider tax incentives for owner-operators or trucking firms who purchase new trucks meeting the CARB standards.
- **Truck Registration Requirements:** We support state legislation that would require trucks registering in California to meet minimum age standards.

Introduction

The U.S. economy has transformed itself in the last decade from a manufacturing economy to a distribution- and information-technology-based economy. National policy over the last twenty years has been aimed at fostering this change. The U.S. Government continues to pursue trade policies designed to foster U.S. exports, and open our borders to more imports.

We have no reason to believe these national policies, or the trade growth they have engendered, will suddenly change or be reversed. Imports from the Pacific Rim will continue to expand. As our trade policy removes tariff and non-tariff barriers to U.S. exports our outbound trade will also increase.

These polices benefit all Americans, but most particularly American consumers. Free trade policies provide exceptional value to American consumers in the form of lower prices and unparalleled choices in the marketplace.

The new distribution economy also produces a great many well-paying jobs—a substantial number of them in California. According to the California Marine and Intermodal Transportation System Advisory Council[1] one in seven jobs in the State of California is created by the international distribution chain that moves goods through the state's ports. Many additional jobs are created by the domestic distribution economy over and above these international-trade-related jobs.

The State of California shares in the benefits of this vibrant distribution economy. Because of its geography, the state stands as the primary U.S. gateway to trade with the Pacific, putting it in a unique position to derive benefits from international commerce.

But international commerce also raises challenges: growth in the goods-movement industry requires infrastructure in California sufficient to handle the load; growth leads to road congestion that negatively affects the same consumers who derive the benefits; and goods-movement activities have impacts on the environment that must be managed. To ensure its competitiveness and economic vibrancy, the state must work with stakeholders to adequately address these concerns and impacts.

But the state is constrained in its actions because trade flowing through its ports is, by definition, interstate and foreign commerce. Not only is this trade protected by international agreements ratified by the United States and governed by well-established principles of federal law, but it remains protected by some of the oldest and best understood provisions of the U.S. Constitution. The impacts of trade—both positive and negative—are felt in the State of California, but taxes and other limitations on interstate commerce will not serve as the panacea they are claimed to be. The risks of costly litigation, diversion, and constraints to growth are real.

There is a great need for the policymakers and leaders of California to work in a true partnership with the economic interests that use, and largely pay for, the port infrastructure now in place. Adversarial actions that attack interstate commerce are counterproductive to our shared goals and future partnerships.

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[1] Growth of California Ports: Opportunities and Challenges, A Report to the California State Legislature, January 2007

This paper, endorsed by a number of association stakeholders in international intermodal transportation, will outline a public-private partnership designed to avoid constitutional pitfalls and costly litigation. It is largely directed at the California State Government, which in our view must take responsibility for managing growth around its blue-water ports. In this document we will outline an approach for public-private partnerships to fund necessary infrastructure, as well as a program to improve the quality of the trucks engaged in harbor drayage.

Infrastructure Development and Financing

The people of California expressed their support for additional transportation infrastructure by approving a substantial new bond proposal in the November 2006 election. The Governor and Legislature have also embraced new principles for the delivery of infrastructure projects that include the concept of public-private partnerships (PPPs).

Public-private partnerships are not funding streams. They are a method of moving forward with infrastructure projects. Some projects may be suitable for private funds, others for alternate forms of public and private financing. Both private funding and private financing can be pursued in a PPP.

A PPP presupposes that a group of private stakeholders will be sufficiently interested in the economic benefits[2] delivered by an infrastructure project to make a financial contribution to its financing and construction. As such, the notion that a PPP could be "imposed" on private entities is antithetical to the definition of partnership.

With these concepts in mind, the next steps are to: 1) create the authority to manage projects, 2) identify the priority projects that will provide economic benefits to private stakeholders, and 3) decide the appropriate funding streams for each priority project. These steps must be coordinated by the state.

Establish Corridor Authorities

Governor Schwarzenegger's Goods Movement Action Plan identifies four principal trade corridors within the state and makes the argument that the state has an overarching interest in managing these corridors in a coordinated way.[3] We agree.

Coordination within transportation corridors can only be achieved by eliminating the piecemeal action of local governments, port authorities, and regional planning organizations. Projects must be considered in light of their contribution to the goals of moving freight and vehicles through an entire transportation corridor. This systemic perspective, which only the state can provide, must be applied to the prioritization, coordination, and oversight of infrastructure projects.

We, therefore, urge the Governor and the Legislature to create four trade corridor authorities to administer and coordinate projects within the four corridors identified in the Goods Movement Action Plan of January 11, 2007.

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[2] The California Goods Movement Action Plan identifies three main economic benefits of interest to stakeholders: improved throughput capacity, reliability, and velocity. Section IV does an excellent job of defining these terms.

[3] Goods Movement Action Plan, State of California, January 2007, pp I-2.

We envision that these authorities would be led by the state and include other appropriate public and private freight stakeholders. The purpose of these authorities would be to coordinate projects identified in the Goods Movement Action Plan, ensure that bond proceeds are spent appropriately on projects that contribute to the corridor, and to be the lead agency when it is determined appropriate to use PPPs to finance and deliver priority projects.

Corridor authorities should also take a role in helping to define and support projects that may require no public support whatsoever, but would reduce truck trips, road congestion, or air emissions. For example, private railroads have promoted projects that will increase near-dock rail capacity funded entirely out of private dollars that will have a significant, positive impact on the transportation corridor. These projects should be identified and supported by corridor authorities, regardless of their funding arrangements.

Priority Projects

The Goods Movement Action Plan identifies many worthy projects throughout California's four major trade corridors. All of these infrastructure needs are pressing, but we are initially most interested in the projects listed below, all of which are located in the Los Angeles/Inland Empire region of the state. These projects either already have private dollars pledged to them (as in the case of near-dock rail), may have received funding commitments from various public sources (the Desmond Bridge), or would be likely candidates for the creation of PPPs because they clearly provide improvements to throughput, reliability, and velocity.

These priority projects are:

11. Replacement of the Gerald Desmond Bridge,
12. SR-47 Expressway improvements,
13. I-110/SR-47 Connectors Improvements,
14. I-710 improvements, potentially including truck-only lanes,
15. The Southern California International Gateway (SCIG), near-dock rail project. The funding for SCIG has already been identified. SCIG is now undergoing environmental review. This project could reduce nearly 30 million truck miles traveled per year on Southern California freeways, and
16. Future modernization and expansion of the existing ICTF near-dock rail facility located in Los Angeles.

Sources of Funding

Infrastructure projects are funded in a variety of ways. The corridor authority would have to review each project to determine the best method of financing it. It is not within the scope of this paper to select the appropriate mechanisms for each of the projects noted above. They will each require their own mix of funding and financing.

Funding and financing may come from a variety of sources:

17. Revenue Streams:

These would include <u>public sources</u> such as state and federal appropriations, existing taxes such as sales or gasoline taxes, and tax credits. In addition, revenue streams might include private sources, such as direct corporate contributions, and tolls of one kind or another that might be collected in a variety of ways, but which are directly related to the use of the infrastructure.

18. Capital Sources:

Projects are also financed by a mix of debt and equity financing. Public sources of equity financing include federal and state grants and contributions. Private sources of equity financing include direct corporate underwriting, as is the case with many rail projects.

Public sources of debt financing include federal and state loans. Private sources of debt financing include taxable debt and tax-exempt debt as well as innovative financing mechanisms such as state or federal tax credit bonds.

Clearly some projects such as major rail improvements are likely to be funded through direct corporate contributions, as opposed to tolls or cargo fees.[4]

Road and bridge projects might lend themselves to user fees, which would generally take the form of tolls of one kind or another applied to the actual users of the infrastructure. Tolls can be collected in a variety of ways that will not contribute to congestion or idling trucks. In addition, we recognize the controversy over tolls, but we believe that tolls are an important part of the mix of funding solutions and must be considered. Of course it is critical that market mechanisms be put in place to ensure that tolls on trucks are included in freight rates.

Principles for Private Funding and Financing

As noted above, it is premature in this document to outline the specific funding and financing sources for the priority projects enumerated above. Some of these projects have not yet entered the design phase. Some are well defined and all that is necessary is the creation of an authority to begin the process of putting together the various sources of public and private financing.

In putting together public-private partnerships, and in determining what kind of private participation is appropriate, we believe the following core principles should be followed:

1. The project has to provide specific benefits to specific private stakeholders. The primary benefits of the project should be improved operational efficiencies, specifically velocity, throughput capacity, and reliability of freight delivery.
2. The project must have an acceptable return on investment.
3. The project must be considered a capital project under generally accepted accounting principles.
4. The partnership must be voluntary, led by the state, a corridor authority or a local project sponsor. An honest partnership may be authorized by legislation, but it cannot be imposed by legislation.

[4] Although the Alameda Corridor uses a cargo toll, the railroads have largely preferred to make direct corporate contributions to projects. The Alameda Corridor is unique among major rail projects in that it charges a rail toll.

5. The project must be well coordinated with other corridor projects and the authority must have the powers necessary to move forward with it.
6. The fees or contributions must be "fire-walled" and used exclusively for the project. Funds cannot be reallocated to general revenue for the state or other local governments.
7. There must be accountability and transparency in the use of project financing.
8. Private contributors should have some role in the governance or oversight of the project.
9. Private dollars should pay for private benefits, while public contributions should pay for public benefits.
10. Fees and contributions must be collected from the actual users of the infrastructure.

How These Principles Might Affect Funding Streams

Given the ongoing controversy about container taxes and tolls, we believe it might be useful to consider how well such revenue proposals meet the principles enumerated above, recognizing that these options for funding infrastructure may not be suitable or appropriate for every project.

Container taxes: Virtually all of the broad-based container tax proposals recently offered in California, including those by the Legislature, fail to meet one or more of the principles noted above. In particular, most container tax proposals have not been tied to specific projects, do not preserve the concept of "user pays," and are not voluntary. In addition, these proposals run afoul of the constitutional ban on taxation of interstate commerce and international treaty obligations.

Tolls: While tolls remain a clearly legal source of revenue and an alternative to litigating the constitutionality of container taxes, policymakers and advocates have shied away from this traditional method of assessing user fees on roads and bridges.

There are many arguments against the use of tolls: First, local authorities in Southern California have no tolling authority. Second, the imposition of tolls on automobiles and local, domestic trucking, even though they are users of the infrastructure, is less politically attractive than simply placing a fee on an anonymous container. Third, many are concerned that tolls would put hardship on owner-operator truckers. And finally, many worry about traffic diversion.

While these are important concerns, we do not believe that any of them merits summarily taking tolls off the table, especially since tolls would meet the principles above.

This is not to say that any toll would automatically meet the standards. For instance, tolls are only fair if they are universally applied to all users of the infrastructure in question. This point is one of the central principles noted above. Therefore, neither truck-only tolls to fund improvements to the entirety of the I-710, nor the imposition of a toll on containers that travel by rail to fund the Desmond Bridge replacement would be acceptable under the "user pays" principle.

In addition, much has been made about how tolls would hurt truck owner-operators. We are sympathetic to the concerns of truckers on the issue of tolls. However, we believe market forces and the cooperation of freight industry stakeholders will ensure that tolls on trucks will be passed along in the form of higher trucking rates or surcharges.

We see rates continuing to climb for a variety of reasons. The shortage of quality truckers is already driving up rates. The distribution economy depends on harbor drayage trucking so customers will pay higher rates to cover toll expense verses the option of not having harbor drayage truckers available.

The state will need to create corridor authorities in Southern California and elsewhere that have the authority to collect tolls. These user fees would meet the principles enumerated above and are universally recognized as a legal method for raising infrastructure development revenues. Most important, a fee ascribed directly to the use of the infrastructure will always fall fairly on all users.

Table I, below, shows how the PPP principles laid out above come into play in different ways for different kinds of projects. The Alameda Corridor is an example of a PPP, where the imposition of a user fee or toll is on a per container basis. The Southern California International Gateway (SCIG) project is a PPP where a project sponsor self-funds the entirety of the project improvements. The prospective of a Gerald Desmond Bridge toll is an example of how a traditional funding mechanism for bridge improvements would fit the general principles for PPPs previously enumerated.

Table I

	Alameda Corridor (Existing Fee)	**SCIG (Private RR Funds)**	**Desmond Bridge (Toll)**
Clearly identified private benefits	YES. The Alameda corridor provides velocity and throughput. It also reduces congestion.	YES. Creating a new near-dock rail yard would improve velocity and throughput, and provide much-needed capacity.	YES. The bridge is a bottleneck for trucking and cars accessing Terminal Island. Replacing the bridge would increase freight velocity. It would also reduce congestion.
Acceptable ROI	MAYBE. Railroads say the Corridor does not have a positive ROI.	YES	YES Based on identified revenue streams, a toll could provide an acceptable ROI.
Capital Project	YES	YES	YES
Voluntary	YES. The users of the corridor pay a fee.	YES. This is a private project.	YES. Only the users of the Bridge would pay a fee.
Coordinated	YES. The Alameda Corridor Transportation Authority manages the project	YES. It will be privately built with approval from the Port Authority of Los Angeles.	YES. Under our proposal we would support a corridor authority to perform this function.

	Alameda Corridor (Existing Fee)	**SCIG (Private RR Funds)**	**Desmond Bridge (Toll)**
"Fire-walled"	YES. The money is used for the corridor and no other purpose	YES.	YES. Revenues are required to remain within the authority.
Transparency	YES	NO. It's a private project.	YES. With the authority undertaking the project, there would accountability as it is public financing and open to public scrutiny.
Private Governance	NO	YES.	UNKNOWN. We would propose that there be a role for private interests in the corridor authority commensurate with investment levels.
Private $ for private benefit	YES. Private stakeholders are paying for a private benefit. More than half of the funding for the corridor came from private sources. There is some public money, and the public benefits from less congestion.	YES. No public money is involved in this project. The benefit is private and the money is private.	YES $300 million in federal money has already been earmarked for the project as the project yields substantial public safety and congestion relief benefits. The private contribution has not yet been identified, but will reflect the benefits to the private sector of increased throughput and velocity.
User Pays?	YES. The fee is applied ONLY to containers moving on the corridor. The fee is collect by railroads and passed on to shippers.	YES, achieved through transportation rates. The new facility is a cost of doing business	YES. Under a toll every passenger vehicle and every truck that used the bridge would pay a toll for the privilege of that use.
Funding Form	Container Toll	Privately Paid For	Traditional Toll on vehicles

Improving the Harbor Drayage Trucking Fleet

The need for environmental mitigation, especially in the San Pedro Basin area, has been acknowledged by the trade community for years. In light of this acknowledgement, real progress has been made by vessels, terminal operators, railroads, and trucks in responding to the need to reduce air pollution. These efforts focus on reducing emissions directly from sources of air pollution such as locomotives, yard equipment, vessels, and trucks.

In addition, the port authorities continue to pursue aggressive air emissions plans and are negotiating terminal leases that will, over time, further reduce emissions from yard equipment, locomotives, and vessels. Many millions of private dollars have been and will continue to be spent to meet new standards and new lease requirements. These private efforts have reduced air emissions substantially. We are confident that the ocean carrier, railroad, marine terminal operator (MTO), and harbor drayage communities will continue to make improvements in this area, and will continue to invest in technology to reduce air pollution.

Shippers and cargo owners using the intermodal container freight system do not generally own or operate trucks, terminal equipment, ocean vessels or locomotives, so they do not have the opportunity to directly effect change. Shippers and cargo owners do, however, pay for environmental mitigation through higher shipping rates, and, in some cases, through special surcharges or fees. Many shippers have also instituted vendor quality standards that include environmental mitigation.

Despite the existing commitment of the industry to reducing environmental impacts of commerce, the public debate has focused on the need to replace and retrofit harbor drayage trucks.

A few statistics about this fleet are merited. According to the California Air Resources Board (CARB) there are approximately 12,000 harbor drayage trucks in the state, representing less than 5% of the over 250,000 heavy-duty trucks registered in California. More accurately, given CARB's recent estimates that 600,000 to 700,000 trucks are working on California's highways on any one given day, including out-of-state registrants, the harbor drayage fleet is less than 2% of total trucks operating in the State of California. In addition, although many have charged that this fleet is old and dirty, CARB has also estimated that the average age of trucks used in harbor drayage is 12.9 years, while the average age of trucks throughout the state is 12.2.

These facts underscore that only a statewide or national solution will make a significant contribution to improved air quality throughout the state. To that end, while the state should maintain its focus on improving all truck emissions, it is our intention to use market forces to make substantial and immediate contributions to improved air quality at and near the ports. An upgraded harbor drayage fleet is, ultimately, in the industry's long-term interest. We hold this view, even though achieving an upgraded fleet will entail higher costs.

The basics of our proposal to improve the harbor drayage fleet are outlined below. Many details of this approach will have to be hammered out with the Federal Maritime Commission and the State of California. But the approach, which combines government standards and market inducements, would, we believe, significantly improve the harbor drayage trucking fleet over a relatively short period of time. It would also increase trucking rates. Like many changes, it would have some short-term disruptions, but we are confident that the market would adjust relatively quickly to these changes.

State Emission Standards For Trucks

The California Air Resources Board (CARB) has embarked on the dual process of developing diesel emission standards for all truck fleets statewide, as well as a specific standard for harbor drayage trucks. We support a state-wide standard only, and charge the state with moving forward with a single standard for California trucks as quickly as possible. We would expect this standard to specify accepted levels of emissions by type as well as an effective date for the standard. Because of the urgency, we recommend a short, but reasonable phase-in period. We also anticipate that trucks retrofitted with emissions reduction technology would meet the new standard.

Early Market-Based Enforcement through the MTOs

We urge the Marine Terminal Operators to use their existing discussion agreement, pursuant to oversight from the Federal Maritime Commission, for the purpose of collecting a mitigation fee from any harbor drayage truck not meeting the CARB standard as of a certain date prior to the state's implementation date for all trucks in California.

This fee would be assessed on the trucking company and applied every time the non-standardized truck enters the terminal gate. The fee would be set at a level that would induce harbor drayage truckers to upgrade their trucks faster by either replacing or retrofitting them with emissions-reducing-technology such as hydrogen conversion units or diesel particulate filters (DPF). To drive compliance as fast as possible, the fee should be progressive so that after a period of time it becomes too expensive for harbor drayage truckers not to comply. The fee would phase-out entirely at that point when the statewide standard becomes mandatory on all trucks. Consideration needs to be given to managing the process for both in-state and out-of state registered trucks that have a need to enter the ports to do business. We would expect the state and the private sector to undertake an analysis to determine what level of fee would be necessary to create an inducement to retrofit or replace a truck.

Where Would the Money Collected as Mitigation Fees Go?

The money collected as part of this fee (after administrative costs) would be put into a "fire-walled" fund for the purpose of providing assistance to owner-operator truckers in financing retrofit or replacement of trucks that will be used in harbor drayage. The money should be managed by a trusted private financial institution selected by the corridor authority for the purpose of providing low cost loans or lease-to-purchase arrangements for owner-operators. Since the funds will be used to support modernization of the harbor drayage fleet, the trucking community would be asked for their views on how best to manage these funds so they provide the greatest help possible for owner-operators who want to upgrade trucks used in harbor drayage.

Tax Incentives For New Truck Purchases

We also call upon the state government to consider tax incentives for owner-operators or trucking firms who purchase new trucks meeting the CARB standards. In addition, several of the groups ascribing to this position paper have been working with the federal EPA on developing federal legislation that would encourage the purchase of cleaner burning trucks nationwide.

California Truck Registration Legislation

We support state legislation that would require trucks registering in California to meet minimum age standards. Such standards would move the older fleet off the roads more quickly. The California Trucking Association is also considering a program that would help truckers move the oldest trucks off the road first. We endorse this concept.

Market Forces

Many policymakers and leaders in California seem to believe that establishing new standards for trucks will not work. Often, critics of this approach have suggested that we cannot possibly impose new truck standards simultaneously with the Transportation Worker Identification Card (TWIC) mandated by the Marine Transportation and Security Act of 2002. The argument is that these two things, taken together, would so disrupt the market that harbor drayage trucking would cease to exist, leaving no one to pick up freight.

This unfounded fear has been the driving force behind proposals to assess unconstitutional taxes on interstate commerce to fund expensive programs to put every harbor drayman into a new or retrofitted truck. Some have even gone so far as to suggest that the best solution would be to put governmental agencies into the business of running private harbor drayage truck fleets—a move that is not likely to improve efficiency, and which would also raise new liability issues for the government.

We have some difficulty understanding why policymakers and leaders believe government central planning, or government-run harbor drayage truck fleets would be any more efficient than a market driven adjustment to new standards. This is especially true given the fact that our proposal would seek private enforcement and incentives to meet the standards set by these same policymakers and leaders.

Equally important, the implementation of the TWIC program should not be used as an excuse for abandoning market-based principles and mechanisms. TWIC is an important and necessary standard to improve the security of ports and containers. This benefit of TWIC should not be underestimated. The market will adjust to the TWIC program, and it will adjust to new environmental standards on harbor drayage trucks. The market is capable of adjusting to both changes simultaneously.

Because the ability to move freight through Southern California is critical to the U.S. economy, the private sector will find harbor drayage truckers who can meet the new standards. Those truckers will have better equipment, they will ultimately be TWIC certified, and they will undoubtedly charge higher rates for their services than is now charged for harbor drayage trucking.

The financial burden will automatically be passed along to the beneficial cargo owners who will need to pay higher harbor trucking rates in order avoid disruptions to the supply chain. It is also in the cargo owners' best interests to minimize any disruption in the flow of containers off the terminals that may result from new standards that affect harbor drayage trucking. There is, therefore, no reason to assume that new standards aimed at improving the quality of either harbor drayage trucks or trucks statewide would suddenly result in chaos.

When the federal government imposed hours of service regulations on trucks, the private sector adjusted. When the PierPass traffic mitigation fee was launched, the much-anticipated exodus of truckers never materialized. When the federal government imposed gas-mileage standards on Detroit, the auto industry quickly learned how to comply and car prices didn't go through the ceiling.

The state has a responsibility to set standards on the exhaust emissions of trucks operating in California if it believes these vehicles are causing public health problems. Any other position is untenable.

We urge the state to take responsibility for this urgent matter, and end the fruitless debate with respect to massive truck buyout programs that will only end up wasting hundreds of millions of taxpayer and private industry dollars and lead to years of litigation.

Conclusion

We believe the State Government in California has taken several positive steps with respect to infrastructure financing and improving the harbor drayage truck fleet. We support those efforts and we call on the Governor and the State Legislature to take the following additional actions: 1) establish corridor authorities to pursue the delivery of priority projects through a variety of financing options, 2) create tolling authorities where necessary, 3) adopt a state-wide diesel emission standard for trucks, and 4) establish a state-wide truck registration program to move older trucks off California's highways.

We stand ready to work with the state to accomplish these important goals.

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Testimony of the

Retail Industry Leaders Associations (RILA)

and

The California Retail Association (CRA)

Submitted to the

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Transportation & Infrastructure Committee
Subcommittee on Coast Guard and Maritime Transportation

Hearing on

"Port Development and the Environment at the Ports of Los Angeles and Long Beach"

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Long Beach, CA

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Thank you on behalf of the Retail Industry Leaders Association (RILA) and the California Retail Association (CRA) for holding this important hearing. RILA and CRA understand the importance of port development and the environment. Our member companies have met with the ports on several occasions over the past year. RILA testified before the commission members at the public stakeholders meeting held on October 12, 2007, and remains committed to working with the ports to develop solutions to the challenges that both the ports and industry will face in the implementation of the Clean Truck Program.

The Retail Industry Leaders Association promotes consumer choice and economic freedom through public policy and industry operational excellence. Its members include the largest and fastest growing companies in the retail industry – in addition to product manufacturers, and service suppliers, which together account for more than $1.5 trillion in annual sales. RILA members provide millions of jobs and operate more than 100,000 stores, manufacturing facilities and distribution centers domestically and abroad.

The California Retailers Association is a trade association representing major California department stores, mass merchandisers, supermarkets, chain drug and convenience stores, as well as specialty retailers such as auto, book and home improvement stores. CRA members have more than 9,000 stores in California and account for more than $100 billion in sales annually.

Both RILA and CRA members are committed to environmental sustainability and are leading industry efforts in this crucial area. Seven retailers were recently recognized by the Environmental Protection Agency (EPA) with 2007 SmartWay Transport Partnership Excellence Awards. Companies have taken steps to require their carriers to reduce carbon footprints and increase the number of carriers with environmentally friendly operations since partnering with the EPA. The SmartWay program highlights two important points that have been raised by our organizations when working with the southern California ports and local leaders throughout this process. First, with clear standards the market can accelerate progress in creating an environmentally sustainable intermodal transportation system. Second, public-private partnerships are important elements for successful environmentally friendly transportation programs.

Clean Truck Fee:

The Clean Truck Program as implemented at the ports of Los Angeles and Long Beach is an ambitious plan to mitigate the environmental impact of drayage truck operations at the ports. We commend both ports and, as members of the community, we share the ports' commitment to reducing diesel emissions in the South Bay Area.

Our member companies have responded to the ports' challenge and are in the process of upgrading their fleets. Specifically, several retailers including Target Corporation, Lowe's Companies, Inc., The Home Depot, Inc., and Nike, Inc. have been instrumental in the creation of the Coalition for Responsible Transportation (CRT). The CRT is a program whereby importers enter into voluntary agreements with their carriers to pay higher rates to provide financing that assists drivers in purchasing new trucks outright or in participating in lease-to-buy programs. The CRT membership has committed to assist with financing the transition of thousands of trucks within the next year.

Retailers understand that the volume of trucks involved in drayage operations presents the ports with a unique challenge. However, we believe that if the ports establish environmental goals, a timeline for implementation, and measure and manage compliance, the market will adjust and clean trucks will be put into service at the same rate if not quicker than the CAAP ban deadlines. The Clean Truck Fee, however, runs the risk of doing the exact opposite by maintaining fees on trucks even after they have been upgraded into compliance with the plan. The Clean Truck Fee should apply to trucks that do not meet the standards established by the ports. Any trucks that meet the standard and timetable should be fully exempt from the Clean Truck Fee.

Additionally, the administrative challenges the ports will face are significant; as they take on a fiduciary role in the financing of trucks they neither own nor operate. Finally, elements of the Clean Truck Fee could conflict with the federal government's traditional role of setting policy governing interstate commerce.

Infrastructure Fees:

Both ports are close to reaching capacity and will require investment to enable growth. We support much needed investments in port infrastructure that will enhance capacity and efficiency, and will continue to be a strong advocate at all levels of government. We strongly urge Congress to increase funding for port infrastructure as it considers reauthorization of the Transportation Equity Act next year.

Congestion at critical ports of entry, including the ports of Los Angeles and Long Beach, not only slow the movement of goods to and from the ports, but as South Bay residents know all too well, have serious impacts on the community.

We believe that any fees assessed should be uniformly applied to all port users and beneficiaries, and that the revenue derived should be spent only on projects that are associated with the fee's purpose. Further, fees should be assessed based on a uniform measurement of volume, not the value of cargo or solely on twenty-foot equivalent unit's (TEU), as some have suggested.

All port users and beneficiaries have a role to play in its improvements, and any infrastructure fee should be applied uniformly.

Licensed Concessionaires:

We support the intent of the program to increase the quality of drivers. The concessionaire requirement in Los Angeles, which imposes an employee mandate, would limit the legitimate small business from operating at the port, thereby reducing driver capacity at a time when the ports' volumes are significant. We are grateful that the port of Long Beach's concession plan does not ban the use of independent owner operators at the ports. We have recommended that the ports adopt a drayage truck driver licensing program, which would improve driver quality without the unintended consequences that an employee mandate will produce. Drivers would be required to meet the ports' standards in the areas of security (TWIC or similar equivalent), safety/maintenance, insurance, and environmental compliance. Licensed motor carriers would be required under the licensing agreement to clearly demonstrate that all trucks and independent owner operators under contract meet or exceed the emission standards set forth by the ports. Such a program would allow the port to have oversight of the drayage workforce without the administrative and financial burden that the employee-concessionaire proposal would entail.

Conclusion

Our member companies are committed to environmentally sustainable transportation operations. We recognize the challenges facing local port authorities, the state of California, and the U.S. Congress. A partnership between the federal, state and local governments and the private sector is the most logical and effective means to address the challenges facing our nation's ports. We look forward to continuing to work with Congress as well as state and local authorities to develop solutions that will meet these important challenges.

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