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

October 16, 2006

Colonel Alex C. Dornstauder
District Commander
U.S. Army Corps of Engineers
Los Angeles District
c/o Dr. Aaron Allen
ATTN: CESPL-CO-R-2003-01029-A0A
P.O. Box 532711
Los Angeles, CA 90053-2325

Subject: Draft Environmental Impact Statement Berth 97-109 Container Terminal Project, Port of Los Angeles, Los Angeles County, CA (CEQ# 20060352)

Dear Colonel Alex C. Dornstauder:

The U.S. Environmental Protection Agency (EPA) has reviewed the above project pursuant to the National Environmental Policy Act (NEPA), Council on Environmental Quality (CEQ) regulations (40 CFR Parts 1500-1508), and Section 309 of the Clean Air Act.

Based upon our review, we have rated this Draft Environmental Impact Statement (DEIS) as EC-2, Environmental Concerns - Insufficient Information (see attached "Summary of the EPA Rating System"). While we remain concerned with the significant and unavoidable impacts to air quality, noise, and visual impacts, specifically with respect to construction activities affecting minority and low income populations, we commend the Port of Los Angeles and the Army Corps of Engineers on their thorough analysis and mitigation commitments in the DEIS.

We are also concerned with the language of the Purpose and Need statement that focuses on "maximizing" the cargo-handling efficiency and capacity at Berth 97-109 versus "optimizing" throughput and cargo-handling efficiency. This wording may be overly narrow which could limit practicable alternatives that would otherwise meet the basic project purpose. Our detailed comments are enclosed.

We appreciate the opportunity to review this DEIS and are available to discuss our detailed comments. Please send one hard copy and three CD ROM of the Final EIS to this office at the same time it is officially filed with our Washington, D.C. office. If you have questions, please contact Laura Fujii, the lead reviewer for this project, at (415) 972-3852 or at fujii.laura@epa.gov.

Sincerely,

/s/

Duane James, Manager
Environmental Review Office

Enclosures: Summary of EPA Rating System
Detailed Comments

cc: Dr. Aaron Allen, Ventura Field Office, U.S. Corps of Engineers
Dr. Ralph Appy, Los Angeles Harbor Department

EPA DETAILED COMMENTS, BERTH 97-109 CONTAINER TERMINAL PROJECT, PORT OF LOS ANGELES, LOS ANGELES COUNTY, CA, OCTOBER 16, 2006

Purpose and Need

Modify the project Purpose and Need statement by replacing "maximize" with "optimize." The DEIS states that the overall purpose of the proposed project is to establish and maximize the cargo-handling efficiency and capacity at Berth 97-109 (p. 2-7). We are concerned that this language may be an overly narrow definition of the basic project purpose. A standard to "maximize" use could potentially eliminate less damaging, but still practicable, alternatives that would otherwise meet the basic project purpose. We are particularly concerned with the use of this more stringent and narrow purpose and need standard for other Port of Los Angeles (POLA) projects such as the Pier 300 expansion. A standard to "optimize" use would meet the basic project purpose while providing the flexibility to balance with other factors such as environmental requirements.

> ***Recommendation:***
> We recommend replacement of the word "maximize" with the word "optimize" in the project Purpose and Need statement.

Air Quality

Demonstrate general conformity to the applicable State Implementation Plan.
The General Conformity statement in the DEIS (p.3.2-86) should demonstrate how the direct and indirect emissions from the federal action conform to the applicable State Implementation Plan (SIP) as required by the General Conformity Rule (40 CFR 93.150).

> ***Recommendation:***
> The FEIS should demonstrate conformity for all pollutants for which the South Coast Air Basin (SCAB) is nonattainment or maintenance, and whose construction or operational emissions exceed the applicable de minimis levels. In addition, the FEIS should clearly and accurately characterize the attainment status for SCAB for each criteria pollutant. Conformity may be demonstrated by a showing that the total direct and indirect emissions from the action are specifically identified and accounted for in the SIP.

Provide a clear commitment in the Final EIS and Record of Decision to identified mitigation measures. The DEIS provides a very thorough air quality analysis and description of mitigation measures to reduce identified significant adverse impacts. Even with implementation of these aggressive mitigation measures, the DEIS identifies maximum daily construction emissions which would exceed emission thresholds for nitrogen oxide (NOx), sulfur oxide (SOx), and particulate matter less than 10 microns in diameter (PM10) (pps. 3.2-39 to 3.2-42).

> ***Recommendation:***
> The Final EIS (FEIS) and Record of Decision (ROD) should explicitly commit to the identified mitigation measures. The FEIS should describe how these mitigation measures will be made an enforceable part of the project's

implementation schedule. Given the severity of air quality nonattainment in the SCAB, we recommend implementation of these mitigation measures prior to or, at a minimum, concurrently with construction of Phase II and III.

Update the description of the nonattainment status of SCAB. The description of the nonattainment status of SCAB for various air quality pollutants is out of date.

Recommendation:
The FEIS should provide an up to date description of the nonattainment status of SCAB for the applicable pollutants. SCAB is in serious nonattainment for carbon monoxide (CO) and PM-10, nonattainment for particulate matter less than 2.5 microns in diameter (PM-2.5), and in Severe-17 nonattainment for 8-hour ozone.

Mitigation Measures

Implement mitigation measures for visual, noise, and air quality impacts on minority and low-income populations prior to construction. The DEIS identifies significant, unavoidable, and disproportionate noise and visual impacts to minority and low-income populations (Table ES-2, pps. ES-25 to ES-26). Mitigation measures to reduce these impacts include sound walls, construction of low-profile cranes, a beautification plan and improvements at key roadside locations, and improvements for Plaza Park.

Recommendation:
Although noise and visual impacts will remain significant with mitigation, we recommend implementation of mitigation measures, such as the beautification plan and Plaza Park improvements, as soon as feasible to offset the disproportionate impacts to these minority and low-income populations.

Describe measures to ensure truck emission and traffic mitigation measures are implemented. Appendix C: PCAC and NII Mitigation Measures appears to rely upon the Gateway Cities Program, California Department of Transportation (Caltrans), Metropolitan Transportation Authority (MTA), the Port Community Advisory Community (PCAC), and the terminal operator to ensure mitigation measures to limit truck emissions and traffic will be adequately implemented[1]. Truck emissions could result in unacceptable levels of exposure to communities along the truck routes and near the construction site.

Recommendation:
The FEIS should describe the actions that will be taken to ensure the truck emission mitigation measures are implemented. For example, describe the actions to help ensure the Gateway Cities' Program and MTA funding levels and program design will be adequate to implement the truck emission and traffic improvement mitigation measures.

[1] Appendix C: PCAC and NII Mitigation Measures, mitigation measures AQ-30 to AQ-41, pps. 3-5; and T-3, T-9, pps. 22, 25.

Explain why Diesel Particulate Filters are not feasible for use on dockside equipment. Appendix C: PCAC and NII Mitigation Measures also appears to reject Diesel Particulate Filters (DPFs) on dockside equipment as "feasibility uncertain.[2]" This is certainly not the case for all dockside equipment and is not consistent with other parts of the DEIS which describes the use of DPFs (p. 3.2-125, mitigation measure AQ-3).

> ***Recommendation:***
> The FEIS should describe the dockside equipment that cannot use DPFs and why.

Incorporate mitigation commitments into the Environmental Management Policy for the Port. The DEIS states that the Board of Harbor Commissioners approved development of an Environmental Management Policy in August 2003. The purpose of the policy is to provide an introspective, organized approach to environmental management; further incorporate environmental considerations into day-to-day Port operations; and achieve continual environmental improvement (p. 1-31).

> ***Recommendation:***
> The FEIS should provide a more in-depth description of this Environmental Management Policy (Policy). For instance, describe whether the Policy matches ISO 14000 Series Environmental Management Standards, whether it has been certified by a third-party, and the geographic and facility scope of the Policy. We recommend mitigation measures and other commitments for the Berth 97-109 Container Terminal Project be incorporated as objectives and targets in the Environmental Management Policy.

[2] Appendix C, mitigation measure AQ-46, p. 5.