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

September 26, 2007

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

Subject: Draft Environmental Impact Statement (FEIS) for the Berths 136-147 (TraPac) Container Terminal Project in the Port of Los Angeles (CEQ # 70285)

Dear Dr. MacNeil,

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. These comments were also prepared under the authority of, and in accordance with, the provisions of the Federal Guidelines (Guidelines) promulgated at 40 CFR 230 under Section 404(b)(1) of the Clean Water Act (CWA) and EPA's ocean dumping regulations promulgated at 40 CFR 220-227 under the Marine Protection, Research and Sanctuaries Act (MPRSA). Our detailed comments are enclosed.

The purpose of the proposed project is to expand and modernize the container terminal at Berths 136-147 within the Port of Los Angeles, upgrade existing wharf facilities, and install a buffer area between the terminal and the community. Impacts from the proposed project include 10 acres (800,000 cubic yards) of fill into marine waters located in the Northwest Slip of the West Basin within the Los Angeles Inner Harbor. The project also proposes to dredge approximately 295,000 cubic yards of material as part of the proposed wharf and berth work within the West Basin.

Based upon our review, we have rated the Proposed Action as Environmental Concerns-Insufficient Information (EC-2), (see attached "Summary of the EPA Rating System"). EPA is concerned that the project area has historically sustained extensive cumulative impacts to air and water quality, and the DEIS does not justify that the alternative selected is the Least Environmentally Damaging Practicable Alternative (LEDPA). We are also concerned regarding the impacts to minority communities in the area.

Appendix H notes that only the Proposed Project and Alternative 2 were carried forward for consideration and that the other Alternatives do not meet the project purpose or need. However, the cargo-handling capacity is not greatly diminished under Alternative 3, and it is unclear from the document why Alternative 3 does not meet the project purpose and need. While it appears that Alternative 3 may have fewer environmental impacts, if this alternative is not feasible, the Final EIS (FEIS) should be drafted to reflect Alternative 2 as the "new" proposed project. Alternative 2 would eliminate the need for 800,000 cubic yards of fill and would be considered the LEDPA, the only alternative that can be permitted under Section 404 of the Clean Water Act. However, if additional information demonstrates that the Proposed Action is the LEDPA, the Port should commit to a hierarchy for the acceptance of different types of material to fill the 10-acre site, in keeping with the Los Angeles Contaminated Sediment Task Force Long Term Management Strategy for beneficial reuse.

EPA has been involved in the development of the Clean Air Action Plan (CAAP) for the San Pedro Ports and is supportive of the controls and mitigation included. However, EPA is concerned that the project will have disproportionately high and adverse effects on minority and low-income populations as a result of increased air impacts. It is essential that the FEIS respond more directly to public concerns and consider selecting an alternative with fewer air impacts due to less construction. The FEIS should include additional information regarding commitments to work with the railways to reduce cumulative air impacts.

We appreciate the opportunity to review this DEIS. When the FEIS is released for public review, please send one hard copy and two CD-ROMs to the address above (Mail Code: CED-2). If you have any questions, please contact me at 415-972-3846 or Summer Allen, the lead reviewer for this project. Summer can be reached at 415-972-3847 or allen.summer@epa.gov.

Sincerely,

/S/

Nova Blazej, Manager
Environmental Review Office

cc: Dr. Ralph Appy, Director
Environmental Management Division, Port of Los Angeles

Air Quality

The proposed project is located in the southwest coastal area of the South Coast Air Basin (SCAB). The SCAB is classified by EPA as serious nonattainment of the National Ambient Air Quality Standards (NAAQS) for particulate matter less than ten microns in diameter (PM10), nonattainment for particulate matter less than 2.5 microns in diameter (PM2.5), and severe nonattainment for 8-hour ozone. On April 24, 2007, the Region IX Administrator signed EPA's approval of the carbon monoxide (CO) redesignation request and maintenance plan for the South Coast Air Basin. This action was effective 30 days after publication in the Federal Register, redesignating the South Coast Air Basin to attainment for CO and making the maintenance plan federally enforceable. EPA is concerned about the air quality impacts of the project from construction and operational emissions.

The Clean Air Action Plan (CAAP), approved on November 20, 2006, identifies the measures that the Port of Los Angeles and the Port of Long Beach will take to reduce the emissions from Port operations. The CAAP includes recommendations and measures to reduce emissions 45% by 2011 through control measures for ocean-going vessels, heavy duty vehicles, cargo-handling equipment, harbor craft, and locomotives. The measures included are anticipated to reduce diesel particulate matter by 80% over the next five years (p. 4-39). Terminal equipment is a substantial source of Nitrous Oxides (NOx) (Table 3.2-5). In addition, the DEIS identifies that the project will result in significant increases in 1 hour NOx, and 24 hour PM10 and PM2.5 (p. 3.2-55) and produce cumulatively considerable and unavoidable contributions to ozone (O3), carbon monoxide (CO), sulfur dioxide (SO2), PM10, or PM2.5 pollutant levels during all project years (p. 4-35). Therefore, it is important to commit to a lasting mitigation plan to reduce these impacts.

In addition, a general conformity to the approved State Implementation Plan (SIP) has not been completed. The document references the draft 8-hour ozone SIP and the 2003 SIP, neither of which have been approved by EPA. A general conformity determination to the applicable SIP (i.e., 1997/1999 South Coast SIP) is required to meet the general conformity requirements. The DEIS also does not include detailed information regarding the mitigation measures that will be adopted to reduce the air impacts from locomotives. Many of the measures that are discussed, such as low-sulfur fuel and electrification of the Alameda Corridor and Alameda Corridor East, are not considered feasible at this time due to "planning, technical, operational, and cost constraints" (p. B-22 and B-23). While we understand the technical difficulties, all relevant, reasonable mitigation measures (even those outside the jurisdiction of the lead agency), that could improve the project should be described, as well as the probability of the implementation of these mitigation measures within a timely manner (Question 19b of *the Council of Environmental Quality (CEQ)'s NEPA 40 Most Asked Questions).*

> *Recommendation:*
> The Final EIS (FEIS) should include a general conformity determination and more specific information on the cumulative impacts to air quality from the locomotives and a timeline for plans to work with Burlington Northern Santa Fe (BNSF) and Union Pacific to mitigate these impacts. It should include specific implementation plans and timelines

for further mitigation measures to reduce air impacts from locomotives. We recognize the significant mitigation measures that have already been incorporated and we encourage, whenever possible, going beyond those measures by implementing California Air Resources Board (CARB) rules and CAAP measures earlier than required.

Environmental Justice

The ambient concentrations of air emissions and resulting increased cancer risk represent a disproportionately high and adverse effect on minority and low-income populations in Wilmington (p. 5-18 and 5-20). The DEIS notes that future rulemaking activities by the CARB and EPA will reduce future cumulative health impacts. However, there is no further information on what these steps may be, and the impacts of these activities are unknown.

Recommendation:

The FEIS should include details regarding coordination with the community of Wilmington and other communities affected by the increases in air emissions. It should respond to concerns over the Port expansion through minimizing the project-related emissions by selection of an alternative that generates fewer air emissions or through additional controls. The FEIS should include a cohesive response to the public's concerns regarding disproportionate impacts to nearby communities.

In addition to directly reducing air emissions, the FEIS could consider other options to mitigate direct air impacts, such as construction and financing of a health clinic in the area to help reduce the health costs associated with air impacts from freight transport, or financing an air filtration program for residents and schools impacted by the increased exposure to air pollutants, including a monitoring protocol determining the level of resident exposure. The mitigation measures could be expanded to also include community outreach, informing the community of techniques to reduce exposure to air pollutants and ways to recognize symptoms that call for immediate health care.

Identification of the Least Environmentally Damaging Practicable Alternative (40 CFR-230.10(a))

Compliance with the Federal Guidelines under Clean Water Act (CWA) Section 404(b)(1) requires that the proposed project represents the Least Environmentally Damaging Practicable Alternative (LEDPA) that achieves the basic project purpose while meeting the costs, technical, and logistical feasibility factors associated with that basic purpose. After reviewing both the DEIS and the draft 404(b)(1) alternatives analysis included in the DEIS appendices, it appears that the proposed project does not represent the LEDPA. The DEIS notes that the Reduced Wharf Alternative (Alternative 3) is considered infeasible as it would handle less cargo than the two other alternatives. However, in the Executive Summary, the amount of cargo handled under Alternative 3 is not significantly less than that under the Proposed Project. Without additional information, Alternative 3 should not be dismissed as impracticable.

The DEIS notes that the Proposed Project and Alternative 2: *Project without the 10-Acre Fill* are practicable under the 404(b)(1) Guidelines. The DEIS states that Alternative 2 would meet the project purpose as it would result in the same amount of container throughput as the proposed project, the same number of vessel calls per year, the same number of rail trips, and the same maximum number of truck trips. The DEIS states that filling 10 acres of waters would improve

cargo handling efficiencies by providing more backland space for handling cargo. Optimizing cargo-handling efficiencies is not essential to the project purpose, and therefore Alternative 2 cannot be dismissed as impracticable under the 404(b)(1) Guidelines. The draft section 404(b)(1) Alternatives Analysis included in the DEIS supports this argument and identifies Alternative 2 as the LEDPA.

Recommendation:

- The FEIS should include additional information supporting the dismissal of Alternative 3 by demonstrating that the 705-foot wharf at Berth 147 is integral to the project's success. If the 705-foot wharf at Berth 147 is not integral to the project's success, Alternative 3 should be identified as the LEDPA.
- If Alternative 3 is not practicable, EPA would support the Corps' identification of Alternative 2 as the LEDPA and recommend that the FEIS be drafted to reflect this alternative as the "new" proposed project, as the LEDPA is the only alternative that can be permitted under Section 404 of the Clean Water Act.

Beneficial Reuse and Fill Material for the Northwest Slip

The DEIS states that the site could be constructed as a Confined Disposal Facility (CDF) to manage contaminated sediments. Therefore, the site should be managed to first preferentially accept dredged material found unsuitable for unconfined aquatic disposal, then dredged material found suitable for aquatic disposal, and lastly, accept material from upland locations. A CDF provides the opportunity to help meet the Los Angeles Contaminated Sediment Task Force (CSTF)'s goal of maximizing beneficial reuse of contaminated dredge material from sources within and outside the Port of Los Angeles.

Recommendation:

If additional information demonstrates that the Proposed Action is the LEDPA, the Port should commit to a hierarchy for the acceptance of different types of material to fill the 10-acre site. The FEIS and Record of Decision should include this hierarchy and plan for acceptance of fill material.

Dredged Material Disposal from Berths 136-147

The DEIS identifies that approximately 295,000 cubic yards of material will be dredged adjacent to Berths 136-147. Disposal options identified in the DEIS include disposal at an approved in-water site, or re-use as fill within the Port. EPA will not concur on ocean disposal of sediments, if beneficial reuse is determined to be practicable. Under EPA's ocean dumping regulations promulgated at 40 CFR 220-227 under the Marine Protection, Research and Sanctuaries Act (MPRSA), EPA must determine the suitability of and concur on any material proposed for ocean disposal.

Recommendations:

In keeping with the Los Angeles CSTF Long Term Management Strategy (LTMS), EPA recommends that the Port begin exploring options to maximize beneficial reuse of these sediments, with the goal of 100% beneficial reuse and include this information in the FEIS. To streamline permitting, EPA also recommends that the Port remain in close communication with both EPA and the Corps, either through the Los Angeles CSTF or other avenue, with regards to the preparation and implementation of any sampling and

analysis plans, sediment chemistry, bioassay, and bioaccumulation results, proposed suitability of materials for aquatic disposal, and proposed disposal locations for dredged material. The EPA contact for this process is Allan Ota at (415)972-3476.