



August 30, 2012

Barry Wallerstein, D. Env.
South Coast Air Quality Management District
21865 Copley Drive
Diamond Bar, California 91765

Re: Comments on the Draft 2012 Air Quality Management Plan

Dear Dr. Wallerstein:

The Port of Long Beach and Port of Los Angeles (Ports) appreciate the opportunity to serve on the South Coast Air Quality Management District's (AQMD) 2012 Air Quality Management Plan (AQMP) Advisory Committee. We support the AQMD's clean air goals and have a proven leadership record of developing and implementing appropriate and effective strategies that have resulted in the port-related goods movement industry's achievement of real and dramatic emissions reductions. Although the Ports do not own or control the emission sources, the Ports have worked cooperatively with business operators in the port area and the air quality regulatory agencies (i.e. Environmental Protection Agency, California Air Resources Board, and AQMD) to help the port industry reduce its fair share of air quality impacts to the region from port-related operations, as outlined in the San Pedro Bay Ports Clean Air Action Plan (CAAP) and the associated San Pedro Bay Standards. As a result, between 2005 and 2011 emissions from port-related sources were reduced by 73 percent for diesel particulate matter (DPM) and by 50 percent for nitrogen oxides (NOx). The Ports' San Pedro Bay Standards for 2014 established goals to reduce port-related DPM by 72 percent and NOx by 22 percent. Therefore, as a result of implementation of aggressive actions by the port industry, port-related emission reductions have exceeded our goals several years ahead of schedule.

While we remain a committed partner in the effort to improve air quality in the region, we have significant concerns with several proposed control measures in the Draft 2012 AQMP that improperly misclassify the Ports as "stationary sources" or "indirect sources" under AQMP Stationary Source measures, or as "implementing agencies" of specific AQMP mobile source measures. In particular, the proposed Stationary Source Measure IND-01, "Backstop Measures for Indirect Sources of Emissions from Ports and Port-Related Sources" contains many legal flaws, as explained in greater detail below, and inappropriately proposes to impose enforcement actions on the Ports for emissions generated by emissions sources that the Ports do not own,

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operate, or control, which is counterproductive to the cooperative relationship that our agencies have established since we began working together on the voluntary CAAP in 2006.

This letter provides the Ports' specific comments on the control measures in the Draft 2012 AQMP that we believe must be addressed prior to finalization and adoption by your agency.

Proposed Stationary Source Measure IND-01

There are three fundamental problems with Proposed Measure IND-01, "Backstop Measures for Indirect Sources of Emissions from Ports and Port-Related Sources." First, the proposed backstop rule would transform the Ports' voluntary CAAP into the AQMD's mandatory regulation of the Ports. This would jeopardize the Ports and the Port-related emissions sources' grant funding for equipment replacement and modernization if it is now necessary to comply with regulation, while offering nothing to assist the Ports with compliance in terms of additional technologies, facilitating regulations, tools, or funding. Second, although the CAAP was a voluntary cooperative effort of the Ports and the air agencies designed to encourage the industry operators of regulated equipment to go beyond regulation, the proposed backstop rule would improperly subject the Ports to the AQMD's enforcement action for industry's missed emissions reductions by equipment not operated or controlled by the Ports, or even potential loss of federal funding under federal conformity principles if the AQMP is adopted into the State Implementation Plan (SIP) and approved by the U.S. EPA as federal law. Third, the proposed backstop rule exceeds the AQMD's authority and if implemented may violate the State Tidelands Trust. If Measure IND-01 (as well as the Offroad Mobile Source Measures discussed below) are in reality the AQMD's regulation of Port-related mobile emissions sources such as locomotives, ships, rail, and trucks, then this is beyond AQMD's legal authority and AQMD should obtain a waiver under the Clean Air Act from the U.S. EPA. The Ports provide further detailed comments on Proposed Measure IND-01 below, and object to it being included in the 2012 AQMP.

Based upon the AQMD's modeling results, existing control measures are expected to result in attainment of the Federal 24-hour PM_{2.5} standard by the 2014 deadline without Measure IND-01. Section 39602 of the California Health and Safety Code states that the State Implementation Plan (SIP) shall only include those provisions necessary to meet the requirements of the Clean Air Act. Hence, there is no identified need or legal basis for implementing Measure IND-01. The AQMD's proposed measure will not result in any additional benefit for the region beyond what is currently being achieved and expected to be achieved in the near future, and is therefore unnecessary.

The Ports are neither "direct emissions sources" nor "stationary sources" subject to AQMD permitting, and the AQMD has not complied with requirements for regulation under Health and Safety Code. The Ports are also not "indirect sources" subject to an AQMD indirect source review program within the meaning of the Clean Air Act, and the AQMD has not complied with requirements of the Clean Air Act, 42 U.S.C. §7410 and various other requirements for indirect source classification. The Ports are also not air agency regulators. The Ports do not own, operate, regulate, or control any of the goods movement equipment serving the Ports that are

targeted emissions sources under Measure IND-01. Additionally, the equipment are mobile sources regulated by state, federal, and/or international regulation, sometimes under jurisdiction preempting Port or AQMD action. It is inappropriate for the AQMD to regulate the Ports without the Ports' ownership, operation, or jurisdiction to regulate the various industry businesses actually causing the emissions within our boundaries.

The proposed backstop measure continues to state that if there is a South Coast Air Basin-wide shortfall in emission reductions, then the AQMD will mandate additional emission reductions from the Ports, even if the port-related sources have already met their commitments. This moving target standard is unconstitutionally vague and therefore illegal. The Ports are unfairly targeted, as there are no backstop measures proposed for other entities or source categories should other modeling assumptions not come to pass, such as anticipated natural fleet turnover, or other non-regulated initiatives failing to meet their goals, such as those expected by the Carl Moyer Program. If the AQMD's emissions projections for achieving attainment are incorrect, including control factors and growth rates, this measure appears to imply that the Ports will be specifically tasked with rectifying the shortfall. If the Basin fails to achieve the federal air quality standard, the proper channel to address this is through the established SIP process, not to establish a contingency rule to unfairly burden one specific industry out of the entire Basin.

AQMD staff has indicated that Measure IND-01 is proposed to account for measures that are not backed by enforceable requirements. However, significant programs such as the CAAP's Clean Truck Program, Ocean-going Vessel Low Sulfur Fuel Program, Cargo-handling Equipment requirements, and the Shore-side Power/Alternative Maritime Power programs are currently backstopped by CARB and International Maritime Organization (IMO) regulations. The Ports also require higher rates of vessel or equipment compliance than regulation through terminal leases, when such commercial opportunities are able to be negotiated with tenants. Therefore, Proposed Measure IND-01 is unnecessary.

Measure IND-01 is vague and incomplete. It is unclear whether the AQMD has taken credit for actual/current emission reductions in the baseline only, or if assumptions have been made for future year reductions. We take issue with a measure moving forward where emissions projections are "on-going." Further, no detail is provided on the level of emission reductions that are needing to be maintained. This is further complicated by the differences that exist between the emissions inventories produced by the Ports and the inventory used for the AQMP. It is unclear if a specific emission reduction shortfall will trigger implementation of the measure, or if it is simply left to the discretion of the AQMD. Additionally, the control costs have not yet been developed or justified in a cost-benefit analysis.

The CAAP is a planning document that provides a guideline of strategies and targets that are often "stretch goals," which ultimately are implemented through individual actions adopted by the Long Beach and Los Angeles Boards of Harbor Commissioners (Boards). The Ports are sovereign Tidelands granted to the cities of Los Angeles and Long Beach by the state under the oversight of the State Lands Commission. Each city has been appointed as a trustee and has established their respective Board of Harbor Commissioners with exclusive control and management of the Tidelands and revenues and expenditures from the Tidelands. However,

such discretion must be exercised in accordance with their obligations to prudently manage Tidelands assets and revenues within a nexus and proportionality to the Tidelands Trust interests, as well as in accordance with applicable laws such as the California Environmental Quality Act (CEQA) and principles of federal preemption.¹ The AQMD cannot mandate action by each Port's Board of Harbor Commissioners, nor can the AQMD direct how the Ports obligate state Tidelands money; only the appointed trustee can make discretionary actions to obligate state Tidelands funds. Specifically, the CAAP measures listed in the Draft 2012 AQMP each require the Boards to authorize the expenditure of incentive monies and program costs, or to approve conditions of infrastructure project development in their discretion as CEQA lead agency and as Tidelands trustees.

We strongly believe that the voluntary and cooperative CAAP process established by the Ports remains the most appropriate forum for the Ports and the air regulatory agencies to discuss technical and policy issues related to reducing emissions from port-related sources. As stated above, we remain committed to achieving the clean air goals identified in the CAAP and working with port industry and the air regulatory agencies on implementation of appropriate strategies.

For your reference, attached is our comment letter dated July 10, 2012, expressing our preliminary concerns related to the proposed Measure IND-01 and a comment letter dated May 4, 2010, in which the Ports initially expressed concerns regarding backstop rules.

Proposed Off-Road Mobile Source and Advanced Control Technology Measures

The Draft 2012 AQMP also identifies the San Pedro Bay Ports as "Implementing Agencies" for several of the proposed Off-Road measures (OFFRD-02, OFFRD-04, and OFFRD-05) and Advanced Control Technology measures (ADV-01, ADV-02, ADV-03, ADV-04, and ADV-05). The Ports should not be listed as Implementing Agencies, which the AQMP Appendix IV-A defines as "the agency(ies) responsible for implementing the control measure." While the Ports have been moving forward with voluntary efforts in these areas, as mentioned above, the Ports are not air agency regulators. We also do not own or operate the equipment identified in the proposed measures, and therefore we do not have direct control over any of the sources listed. During the Advisory Committee meetings, AQMD staff has provided clarification that the Ports are listed as Implementing Agencies because of our voluntary commitments to work on these

¹ The Ports' experience with the first phase of the 2006-2010 CAAP showed that in actual implementation, many CAAP measures were carried out in a different manner than originally conceptualized, or not carried out at all, based on limitations on the Boards' opportunities and their exercise of their discretion to manage Tidelands assets and funds under real-world circumstances. Some of the CAAP measures can only be implemented if businesses apply to the Ports for permits to build or expand their lease premises and CEQA mitigation required by law or lease conditions that can be negotiated with a Port tenant. Other CAAP measures involve emissions sources (rail or ocean vessels) that may assert federal preemption against efforts to compel use of specific technology, so the CAAP goals involve the Ports offering economic incentives in voluntary compliance programs, such as the Ocean Vessel incentive programs. However, only the Boards have the legal authority to fund such incentives or impose CEQA mitigation or lease conditions to project approval, which decisions also fall within the Boards' sole discretion regarding their respective Port's properties and their individual Harbor Revenue Fund budgets, which may be affected by the global economy.

efforts, and that being listed as an implementation agency does not obligate the Ports to any specific requirement, however, this is contrary to the language of the AQMP that implementing agencies are “responsible for implementing the control measure.” We believe that listing the Ports, and not including all of the other public and private partners that are also working on these efforts, gives the impression that the Ports do have an assigned obligation, or that the Ports must bear a larger burden in the effort to implement these programs. We also repeat our comment stated above that the AQMD cannot mandate in the AQMP that the Ports must expend monies in these voluntary efforts, since most of these Off-Road and Advanced Control Technology measures require incentive monies to fund demonstration projects or accelerated use of new technology.

We believe that the appropriate Implementing Agencies for these measures are the United States Environmental Protection Agency and the California Air Resources Board.

The Ports urge AQMD to make all of the above-requested changes to the draft 2012 AQMP, in particular, to eliminate Measure IND-01 Port Backstop Rule as a legally unnecessary measure exceeding AQMD’s authority and violating the State Tidelands Trust. We believe it is much more effective to advance our mutual clean air goals for our agencies to continue working cooperatively together, but if the AQMD takes the above 2012 AQMP measures forward, the Ports will have no choice but to vigorously oppose such action through the administrative and legal process.

Sincerely,



Chris Lytle
Executive Director
Port of Long Beach



Geraldine Knatz
Executive Director
Port of Los Angeles

HAT:s

cc: Peter Greenwald, South Coast Air Quality Management District
Elaine Chang, South Coast Air Quality Management District
Henry Hogo, South Coast Air Quality Management District
Susan Nakamura, South Coast Air Quality Management District
Cynthia Marvin, California Air Resources Board
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Robert Kanter, Port of Long Beach
Rick Cameron, Port of Long Beach
Dominic Holzhaus, Deputy City Attorney, City of Long Beach
Chris Cannon, Port of Los Angeles
Joy Crose, Assistant General Counsel, City of Los Angeles
David Reich, Los Angeles City Mayor’s Office



July 10, 2012

Barry Wallerstein, D. Env.
South Coast Air Quality Management District
21865 Copley Drive
Diamond Bar, California 91765

Re: Initial Comments on the Proposed 2012 Air Quality Management Plan,
Control Measure IND-01

Dear Dr. Wallerstein:

The Port of Long Beach and Port of Los Angeles (Ports) appreciate the opportunity to participate in the South Coast Air Quality Management District's (AQMD) 2012 Air Quality Management Plan (AQMP) Advisory Committee. We support the AQMD's clean air goals and have worked aggressively with the port industry to reduce our fair share of air quality impacts to the region from port-related operations, as outlined in the San Pedro Bay Ports Clean Air Action Plan (CAAP) and the associated San Pedro Bay Standards. As a result, between 2005 and 2010, emissions from port-related sources were reduced by 70 percent for diesel particulate matter and by 49 percent for nitrogen oxides. Emissions inventory work currently underway indicates additional, continued emission reductions in 2011.

While we continue to remain a committed partner in the effort to improve air quality in the region, we disagree with AQMD's proposed control strategy for port-related sources in the Draft 2012 AQMP. The inclusion of proposed measure IND-01, "Backstop Measures for Indirect Sources of Emissions from Ports and Port-Related Sources," is unnecessary and counter-productive.

The two Ports have a proven track record of developing and implementing appropriate and effective emission reduction strategies. These efforts have been entered into voluntarily, working cooperatively with operators in the port area and the air quality regulatory agencies (i.e. Environmental Protection Agency, California Air Resources Board and AQMD). Since the Ports initially implemented the CAAP, many of the port-related control strategies have been or will be superseded by state or international requirements, such as the rules for replacing drayage trucks, switching to cleaner marine fuels, and using shore power while at berth. The Ports' emissions inventories in 2010 show reductions that are meeting or are in excess of the emission reductions that the Ports committed to in the San Pedro Bay Standards. However, it is important to note that in order to remain on track to meet the Standards, a collaborative and concerted effort with our agency partners is essential, with the understanding that while the Ports can achieve significant emission

Dr. Wallerstein

July 10, 2012

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reductions, no single entity can accomplish this task. The previous State Implementation Plan identified several regulatory strategies that have not yet materialized into regulations for various reasons. Moving forward, the Ports will need agency assistance, particularly on the development and deployment of zero-emission technologies and at-berth controls for non-regulated vessels, as well as on the preferential deployment of cleaner vessels to the basin.

The Ports are sustaining and growing long-standing successful CAAP programs, such as the Vessel Speed Reduction Incentive Program and, on July 1, 2012, the Ports implemented new, groundbreaking incentive programs to encourage cleaner ocean-going vessels to call at the Ports. With programs such as these, along with the above-referenced regulatory rules becoming effective and ensuring significant additional emission reductions by 2014, there is no identified need for implementing a backstop measure. The AQMD's proposed backstop measure will not result in any additional benefit for the region beyond what is currently being achieved and expected to be achieved in the near future, and is therefore unnecessary.

It is inappropriate for the AQMD to attempt to regulate the Ports, which are the Harbor Departments of the cities of Long Beach and Los Angeles, in an attempt to control emissions from equipment within our boundaries, but which we do not own or operate. Further, the proposed backstop measure identifies that the "...requirements will be triggered if the reported emissions for 2014 for port-related sources exceed the 2014 target milestone, *or the Basin fails to meet the 24-hour PM2.5 standard as demonstrated in the 2012 AQMP and basin-wide reductions are needed, in which case a new reduction target for each pollutant will be established.*" (emphasis added). While clarification has been provided by AQMD staff that any effort to make up for a basin-wide shortfall will be the responsibility of all sectors, not just the Ports, this statement still implies that if the port industry meets their targeted emission reductions, but other sectors fail to meet their fair share obligations, then the AQMD will mandate additional reductions from the Ports. This is counter to the cooperative relationship that our agencies have established since we began working together on the CAAP in 2006, and ignores the tremendous air quality benefits that have been gained from voluntary actions.

Lastly, based on the preliminary calculations by AQMD, the majority of the region is expected to be in attainment for PM2.5 by the target year of 2014, with the remainder anticipated to be in attainment by the expected extension date of 2019. The inclusion of IND-01 is therefore unnecessary for the region to reach attainment. If these emission reductions are needed in the baseline emissions calculation, there is precedent for mechanisms other than control measures to be used for this purpose, and we would like to discuss those options with your staff.

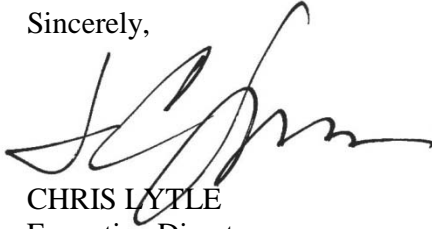
We strongly believe that the voluntary and cooperative CAAP process established by the Ports remains the most appropriate forum for the Ports and the air regulatory agencies to discuss technical and policy issues related to reducing emissions from port-related sources. As stated above, we remain committed to achieving our fair share of clean air goals identified in the CAAP and working with port industry and the air regulatory agencies on implementation of appropriate strategies.

For your reference, attached is a comment letter dated May 4, 2010, in which the Ports initially expressed concerns regarding backstop rules. The letter was submitted as a public comment on the proposed Rules 4010 and 4020, which were proposed backstop rules for health risk and criteria pollutant emissions.

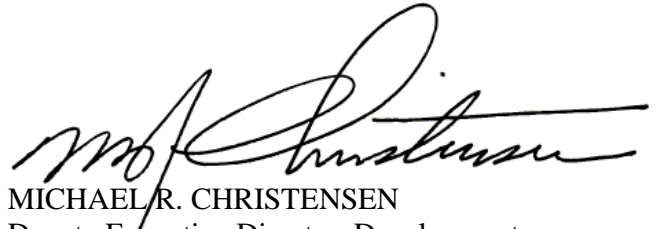
Dr. Wallerstein
July 10, 2012
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We look forward to working with AQMD on resolving our concerns related to the proposed backstop measure in the Draft 2012 AQMP.

Sincerely,



CHRIS LYTLE
Executive Director
Port of Long Beach



MICHAEL R. CHRISTENSEN
Deputy Executive Director, Development
Port of Los Angeles

HAT:s

cc: Peter Greenwald, South Coast Air Quality Management District
Elaine Chang, South Coast Air Quality Management District
Henry Hogo, South Coast Air Quality Management District
Susan Nakamura, South Coast Air Quality Management District
Cynthia Marvin, California Air Resources Board
Roxanne Johnson, Environmental Protection Agency, Region 9
Robert Kanter, Port of Long Beach
Rick Cameron, Port of Long Beach
Dominic Holzhaus, Deputy City Attorney, City of Long Beach
Chris Cannon, Port of Los Angeles
Joy Crose, Assistant General Counsel, City of Los Angeles



Port of
LONG BEACH
The Green Port

San Pedro Bay Ports Clean Air Action Plan

May 4, 2010

Susan Nakamura
South Coast Air Quality Management District
21865 Copley Drive
Diamond Bar, CA 91765

Subject: AQMD Proposed Rules 4010 and 4020

Dear Ms. Nakamura:

This letter is on behalf of the Ports of Long Beach and Los Angeles (Ports) as a preliminary response to the "backstop" Rules 4010 and 4020 (Proposed Rules) proposed by the South Coast Air Quality Management District (AQMD). As will be explained below, based upon the limited amount of information released by the AQMD about the Proposed Rules thus far, the Ports have a number of preliminary questions and concerns at this stage of the first public consultation meeting and will be providing more detailed comments on the Proposed Rules at a later stage.

The Ports have had tremendous success with implementing the San Pedro Bay Port Clean Air Action Plan (CAAP). The development of the original CAAP and the update to the CAAP has been conducted through a cooperative effort with staff from the AQMD, the United States Environmental Protection Agency (EPA), and the California Air Resources Board (CARB). The Ports strongly believe that this partnership of over four years, and the collaboration that has occurred throughout that time, have aided in the success of the CAAP and the emissions reductions that have been achieved.

Since the CAAP was adopted in late 2006, the Ports have exceeded our interim emissions reductions milestones and are well on our way to meeting the original forecasted emissions reductions of at least 45% by 2011, compared to uncontrolled conditions. This has been accomplished through the steadfast implementation of CAAP measures, highlighted as follows:

- Development, approval, and implementation of the Clean Trucks Program in which two major milestones have been achieved resulting in truck pollution reductions of nearly 80% (January 2010), almost two years ahead of schedule (HDV1).
 - October 2008: ban pre-1989 trucks.
 - January 2010: ban pre-1993 trucks; 1994-2003 trucks require Level 3 plus NO_x retrofit.

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- Facilitated construction of an LNG on-road truck fueling station in the port area. Fueling operations have been underway since early 2009. In addition the Ports have contributed to funding the construction of two additional LNG on-road truck fueling stations in the Port area, due to open later in 2010 (HDV2).
- Over \$6.5 million in incentives for vessels participating in the voluntary Vessel Speed Reduction Program and Vessel Fuel Incentive Program (OGV1, OGV4).
- Design, construction, and operation of shore power infrastructure completed at 5 berths and underway for over 40 additional berths (OGV2).
- Replaced entire fleet of port switching locomotives with new, cleaner locomotives in 2008, and a subsequent fleet turnover to cleaner locomotives anticipated by end of 2011 (RL1).
- Provided funding of \$5.4 million toward projects through our Technology Advancement Program, conducted with input from an Advisory Committee consisting of AQMD, EPA, and CARB.
- The Ports' 2008 Emissions Inventories show combined emission reductions of 20% diesel particulate matter (DPM), 10% nitrogen oxides (NOx) and 24% sulfur oxides (SOx) compared to the 2005 baseline. The 2009 Emissions Inventories, which are expected to be finalized and published in June, will show an even greater level of emission reductions as additional CAAP efforts have come into effect.

In addition to the implementation efforts listed above, the Ports have also worked in coordination with CARB and EPA on development of rules and regulations affecting port sources. These regulatory requirements have helped to ensure that emissions reductions from specific equipment types operating at the Ports will continue into the future. The Ports look forward to continuing these cooperative efforts on regulatory development with CARB and EPA, with the support of AQMD, to ensure that the early action measures being taken by the Ports are supported and implemented more broadly.

Further, as you are aware, the Ports recently released our draft CAAP Update, where we revisited and updated each of the control measures and proposed aggressive, long-term goals for emissions reductions and health risk reductions, titled the San Pedro Bay Standards. Once the CAAP Update is adopted, the Ports will quantitatively measure our progress against these long-term goals and will make adjustments to our implementation efforts over time as necessary to ensure that we remain on track for achieving these goals.

With these demonstrated results carried out voluntarily, and further efforts underway, the Ports regard the AQMD's proposed Rules 4010 and 4020 as unnecessary, and raise several questions regarding the Proposed Rules and the rulemaking process. Below is a list of preliminary questions to help us gain a better understanding of the AQMD's proposed approach:

Emissions and Health Risk Reduction Targets

Proposed Rule 4020 Sections (d) (1) and (2) will include targets for criteria pollutant and health risk reductions to be met by the Ports to avoid triggering the backstop provisions. The Ports have the following concerns and questions regarding the targets:

1. How were the targets developed? In June 2007, the Ports provided AQMD with detailed comments and concerns regarding the methodology and the specific port-related emission reduction targets contained in the 2007 Air Quality Management Plan (AQMP). CARB declined to adopt the port targets into the 2007 State Implementation Plan (SIP). In the AQMD Governing Board's resolution adopting the 2007 AQMP, it committed that AQMD staff would work with the Ports and, based on its technical review, would recommend any appropriate adjustments to the AQMP criteria pollutant targets attributable to the Ports. Although initial coordination efforts have occurred, the AQMD has not completed detailed analyses necessary for the Ports to understand how the AQMP targets and the targets contained in the Proposed Rules have been developed, or to understand how these targets differ from the Emission Reduction Standards contained in the Draft 2010 CAAP Update. We request that the AQMD present the methodology and resulting targets to a Stakeholder Working Group, including the Ports, before progressing further with the rulemaking process. Further, to the extent that the targets in proposed Rule 4020 go beyond the 2007 SIP/AQMP targets to address future regulations that have not yet been adopted, the Ports have even greater concerns.
2. The Emission Reduction Standards contained in the Draft 2010 CAAP Update were developed by the Ports in coordination with the EPA, CARB, and AQMD. Achievement of these Standards will require aggressive implementation of strategies by the Ports and the port operators. Further, the Standards are predicated on a conservative 2007 cargo forecast developed before the recent economic crisis and assume that the Ports reach capacity in 2023. Instead, there has been a significant downturn in cargo volumes from 2008 to present, such that the Ports do not anticipate returning to 2007 cargo throughput levels until 2014-2015, and reaching capacity until approximately 2035. This has reduced the Ports' emissions footprint, as well as potentially reduced the Ports' proportion of basin-wide pollution. Nonetheless, to be conservative and to voluntarily strive to ensure a "fair share" contribution of port-related sources to regional attainment goals, the Ports retained the higher growth forecast in the CAAP. It is important to note that, even with these higher than anticipated rates of future emissions growth, the Ports project DPM reductions greater than 70%, SOx reductions greater than 90%, and NOx reductions of nearly 60% by 2023.
3. The 2007 SIP identified several regulatory and technology strategies to be undertaken by EPA and CARB to contribute to the reduction in port-related emissions. This is consistent with the philosophy that achieving emission reductions from port-related sources must be a cooperative partnership effort, because no one entity can meet the need by itself. Since the 2007 SIP was developed, for various reasons including technical feasibility, technology availability, and cost-effectiveness, several key federal and state regulatory and technology strategies have failed to occur. These include, but are not limited to: commercial availability of Tier 4 line haul and switcher locomotive engines in 2012, implementation of a statewide regulation requiring use of shoreside power for all vessel types while at berth, and implementation of a statewide regulation requiring retrofitting of existing ocean-going vessels and the preferential deployment of progressively cleaner new build vessels to California ports. The Ports are concerned that the emission reductions associated with these proposed EPA and CARB strategies are now being fully assigned to the Ports through the proposed targets in order to make the

SIP "whole," even though the strategies may not be technically feasible and/or cost-effective. Further, as you know, the Ports do not own or operate the emissions sources targeted by this regulation and the Ports may not have implementation mechanisms available within their jurisdiction to implement the controls even if they were deemed feasible and cost-effective.

DISTRICT RULEMAKING PROCESS

The Ports have a number of initial questions geared towards gaining a better understanding of AQMD's intended rulemaking process for the Proposed Rules.

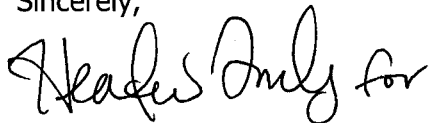
4. As suggested above, will the AQMD form a Stakeholder Working Group, including the Ports, to discuss the AQMD's Proposed Rules and analysis?
5. What is the AQMD's authority for regulating the Ports under the Proposed Rules?
6. The Ports would like to understand what level of CEQA analysis the AQMD is proposing for this rulemaking. Will there be a scoping meeting?
7. When will the AQMD release a Preliminary Draft Staff Report (PDSR)? Given the unprecedented nature and broad technical, practical, regulatory, and legal implications of these Proposed Rules, we believe that the PDSR must be very detailed or the Ports, air agencies, and other stakeholders will not have the information necessary to participate fully in the rule development process. We request that the PDSR include:
 - a. Technical analysis of the Proposed Rules, targets, etc.
 - b. An analysis of potential Draft Findings required under Health and Safety Code (e.g., Necessity, Authority, Clarity, Consistency, Non-Duplication, and References)
 - c. Detailed information on control technologies and programs that the AQMD believes the Ports and affected sources would need to implement to meet the proposed rule reduction requirements.
 - d. As part of cost-effectiveness analysis, detailed information on the feasibility, control effectiveness, and costs of these technologies and programs, including who would bear those costs. The AQMD should work with the Ports, their tenants, and others in the goods movement industry to estimate these costs.
 - e. A preliminary Socioeconomic Impact Report (SIR) based on input from the Ports, their tenants, and other affected industries. Given the broad implications to the region's economy, the Ports recommend a detailed preliminary SIR be prepared and released with the PDSR.
 - f. AQMD's proposal for how it will specifically apply the scheme of fines, penalties, or other enforcement provisions of the Health and Safety Code to the Ports to enforce the Proposed Rules, including providing an understanding of how the enforcement action would be assessed, given that the Ports are two separate and distinct departments of their respective cities.

The Ports look forward to receiving AQMD's responses to these preliminary questions. We will follow up with additional questions and comments later, as more information is provided by AQMD on the proposed rules.

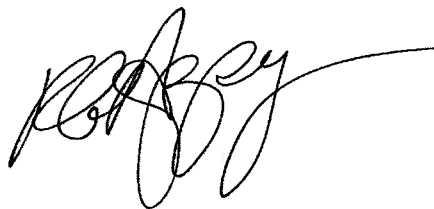
The Ports are committed to achieving aggressive and feasible emissions reductions and health risk reductions from port-related sources, and have already proven that such reductions can be achieved while allowing the Ports to continue to move forward as a strong economic engine for the region. The Ports remain committed to implementing the CAAP and working in cooperation with the agencies and the industry to achieve our goals. We believe the Proposed Rules are unnecessary and that the AQMD should consider alternative mechanisms to achieve the AQMD's goals. We bring to your attention that the Bay Area AQMD initiated a backstop measure but ultimately determined to pursue a Memorandum of Agreement approach for similar work with the Bay Area ports.

If you have any questions regarding this correspondence, please contact Heather Tomley, Assistant Director of Environmental Planning, Port of Long Beach, at (562) 590-4160; or Christopher Patton, Environmental Affairs Officer, Port of Los Angeles, at (310) 732-3677.

Sincerely,



Richard D. Cameron
Director of Environmental Planning
Port of Long Beach



Director of Environmental Management
Port of Los Angeles

cc: Dick Steinke, Executive Director, POLB
Geraldine Knatz, Executive Director, POLA
Mike Christensen, Deputy Executive Director, POLA
Robert Kanter, Managing Director, POLB
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Joy Crose, Assistant General Counsel, City of Los Angeles