

September 20, 2024

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Sent via email

Dear Lisa Ochsner:

Thank you for providing the California Air Resources Board (CARB) with the opportunity to comment on the Notice of Preparation (NOP) for the Berth 97-109 (China Shipping) Container Terminal Project (Project) Revised Supplemental Environmental Impact Report (Revised SEIR), State Clearinghouse No. 2003061153. The China Shipping Project is within the jurisdiction of the City of Los Angeles Harbor Department (LAHD), which is the lead agency for California Environmental Quality Act (CEQA) purposes.

Background

The Project consists of the continued operation of Berths 97-109 in the Port of Los Angeles. China Shipping operates the China Shipping Container Terminal under a lease agreement (also referred to as Permit No. 999) between China Shipping and LAHD. The Project, which has already been constructed and is operational, includes lengthened wharfs at Berths 100 and 102, placement and use of 10 new shoreside A-frame cranes, use of 142 acres of terminal backlands, construction and use of various new onsite facilities, and improvements to roadways.¹ Due to these improvements, the Project would result in a substantial increase in TEU throughput at the China Shipping Terminal resulting in increases in vessel calls, heavy-duty truck trips, and train trips. Due to this increased activity, an increase in air pollution was reasonably foreseeable.

Due to concerns of potential environmental impacts associated with the construction and operation of the Project, the LAHD and the U.S. Army Corps of Engineers released a joint environmental impact report/environmental impact statement for the Project in September 2008 (2008 EIR/EIS). The 2008 EIS/EIR was prepared in response to a court order and the 2004 Amended Stipulated Judgement (ASJ) between China Shipping and the

¹ LAHD, 2008. Berth 97-109 (China Shipping) Container Terminal Project Recirculated Draft Environmental Impact Report/Environmental Impact Statement. Page 2-1. Accessible at https://kentico.portoflosangeles.org/getmedia/b2e0115e-492a-4c79-b409-35348abd2608/2_Project_Description

Port of Los Angeles. The 2008 EIS/EIR was later certified in 2008 and proposed the adoption of 52 mitigation measures to reduce the Project's environmental impacts.

In 2017, the LAHD released the China Shipping Recirculated Draft Supplemental EIR (2017 RDEIR),² which evaluated the potential environmental impacts of the proposed modification of 10 mitigation measures and one lease measure that had not yet been fully implemented. The comment letters on the Project submitted by the AGO, South Coast Air Quality Management District (SCAQMD), and the National Resources Defense Council (NRDC) expressed concerns that the 2017 Draft SEIR removed key feasible mitigation measures previously adopted in the original 2008 EIR/EIS.^{3,4}

In response to comments received on the 2017 RDEIR, the LAHD made changes to the Project's air quality analysis and minor edits to the proposed mitigation measures. These changes were reflected in the China Shipping Recirculated Draft Supplemental Environmental Impact Report (2018 RSEIR).⁵ The AGO, SCAQMD, and NRDC submitted comment letters on the 2018 RSEIR reiterating their concern of potential health impacts of the proposed relaxation of the mitigation measures that were originally proposed in the 2008 EIR/EIS.⁶ The LAHD later certified the China Shipping Final Supplemental Environmental Impact Report (2019 FSEIR) in October 2019.^{7,8,9} In late 2019 and early 2020, the Office of the Attorney General of the State of California (AGO), SCAQMD, CARB and NRDC submitted appeal letters on the LAHD decision to approve the 2019

² LAHD, 2017. Berths 97-109 [China Shipping] Container Terminal Project SEIR. Accessible at: <https://www.portoflosangeles.org/environment/environmental-documents>

³ SCAQMD Comment Letter on the 2017 SEIR. September 29, 2017. Accessible at: <http://www.aqmd.gov/docs/default-source/ceqa/comment-letters/2017/dseir-chinashipping-092917.pdf?sfvrsn=6>

⁴ CARB Comments on the 2017 SEIR. September 29, 2017. Accessible at: <https://ww2.arb.ca.gov/sites/default/files/classic/toxics/ttdceqalist/chinashipping.pdf>

⁵ LAHD, 2018. Berths 97-109 [China Shipping] Container Terminal Project Revised SEIR. Accessible at: <https://www.portoflosangeles.org/environment/environmental-documents>

⁶ SCAQMD Comment Letter on the 2017 SEIR. Accessible at: <http://www.aqmd.gov/docs/default-source/ceqa/comment-letters/2019/october/LAC190905-02.pdf?sfvrsn=8>

⁷ LAHD, 2019. Berths 97-109 [China Shipping] Container Terminal Project Final Revised SEIR. Accessible at: <https://www.portoflosangeles.org/environment/environmental-documents>

⁸ City of Los Angeles City Council, 2020. Official Action of the Los Angeles City Council. August 12, 2020. Accessible at: https://clkrep.lacity.org/onlinedocs/2019/19-1263_CAF_08-12-2020.pdf

⁹ NRDC Comment Letter on the China Shipping FRSEIR. October 3, 2019. Accessible at: <https://kentico.portoflosangeles.org/getmedia/23a1b785-052d-44dc-8dd4-5db355252b80/2019-10-03-China-Shipping-FSEIR-comments>

FSEIR.^{10,11,12,13,14,15} On August 12, 2020, the City of Los Angeles City Council denied the appeal and approved the 2019 FEIR.

In the 16 years since the certification of the 2008 EIR/EIS, due to failures by LAHD to enforce the mitigation and refusal by China Shipping to comply with several key mitigation measures in the SEIR, several mitigation measures and one lease measure have not yet been fully implemented. Throughout that time, the expanded terminal has operated and produced additional emissions, significantly impacting the communities surrounding the port while not implementing the required mitigation. After several petitioners successfully litigated this issue in court (as well as challenges to the 2019 FEIR's air quality analysis), the court ordered the certification of the 2019 SEIR to be set aside. The court also directed LAHD and China Shipping to amend China Shipping's permit, to implement and make enforceable the mitigation measures and lease measures upheld by the court. Finally, the court ordered LAHD to prepare a Revised SEIR that would include re-evaluation and revision of the following issues from the 2019 FSEIR, resulting in the immediate NOP.

The Project Increases Exposure to Air Pollution for Residences Located in Disadvantaged Communities

Since the certification of the 2008 EIR/EIS, the Project was constructed and allowed to operate without the full implementation of the mitigation measures provided in the 2008 EIR/EIS aimed at protecting public health. The continued operation of the Project has, and continues, to expose nearby communities to elevated levels of air pollution, including diesel particulate matter (diesel PM) and oxides of nitrogen (NOx) from the operation of marine vessels, heavy-duty trucks, onsite equipment, and locomotives. According to the 2018 RSEIR, the operation of the Project would expose nearby residences to 1,937 pounds per day of NOx and 151 pounds per day of particulate matter less than 10 micrometers

¹⁰ NRDC Appeal Letter on the FRSEIR. October 18, 2019. Accessible at:

https://clkrep.lacity.org/onlinedocs/2019/19-1263_misc_10-18-2019.pdf

¹¹ SCAQMD Appeal Letter on the FRSEIR. December 4, 2019. Accessible at:

https://clkrep.lacity.org/onlinedocs/2019/19-1263_rpt_pub_12-04-2019.pdf

¹² SCAQMD Appeal Letter on FRSEIR. July 16, 2020. Accessible at:

https://clkrep.lacity.org/onlinedocs/2019/19-1263_PC_AB_07-16-2020.pdf

¹³ CARB Appeal Letter on the FRSEIR. February 3, 2020. Accessible at:

https://clkrep.lacity.org/onlinedocs/2019/19-1263_PC_AB_02-03-2020.pdf

¹⁴ Appeal Letter from the Office of the California Attorney General on the FRSEIR. April 7, 2020. Accessible at:

https://clkrep.lacity.org/onlinedocs/2019/19-1263_misc_04-07-20.pdf

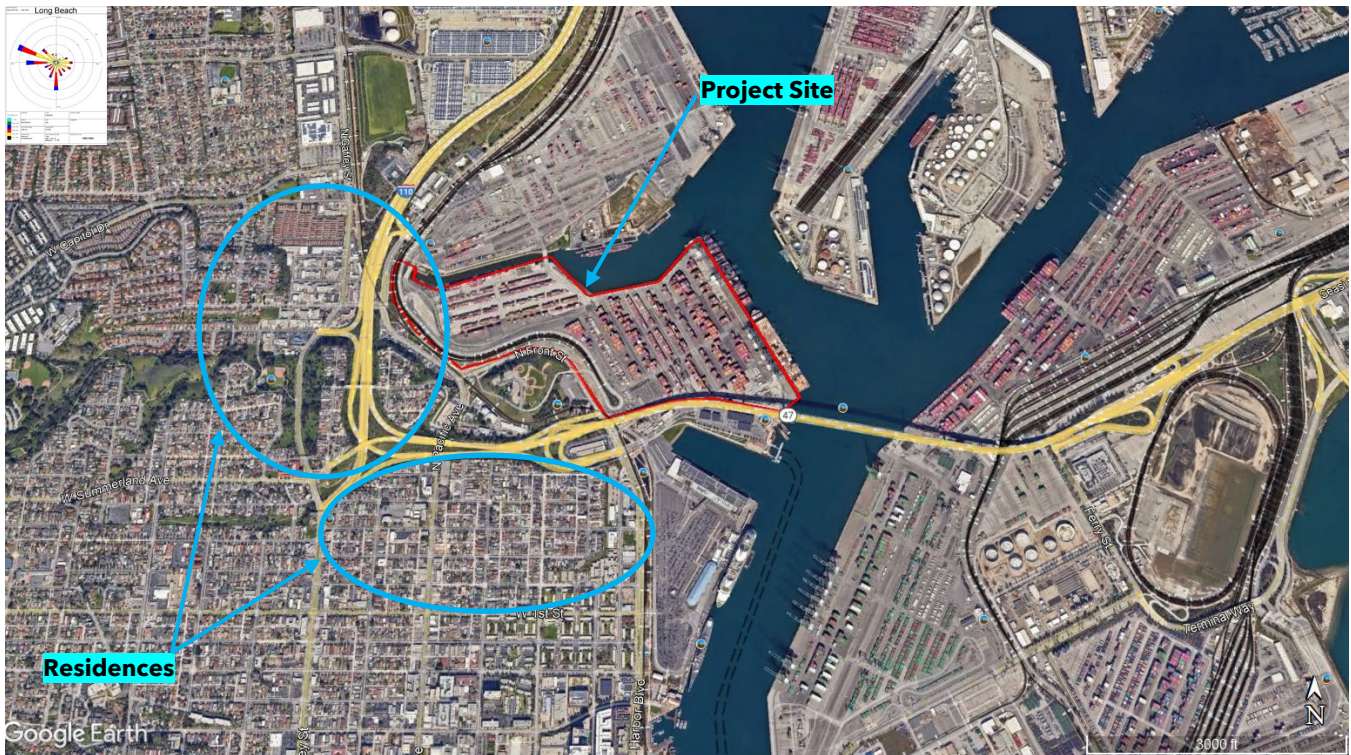
¹⁵ Joe Buscaino, Councilmember, 15th District. Letter to Los Angeles City Council. July 17, 2020. Accessible at:

https://clkrep.lacity.org/onlinedocs/2019/19-1263_misc_7-17-20.pdf

(PM10); these levels of harmful emissions are all well above the SCAQMD's air quality threshold of significance.¹⁶

As shown in Figure 1 below, many residences are located near of the Project. Residences are located west of the Project, with the closest residences situated approximately 630 feet from the Project's western boundary. In addition to residences, Taper Avenue Elementary School, Park Western Place Elementary School and Barton Hill Elementary School are located within a mile of the Project. These residences and schools are located within the Wilmington, Carson, West Long Beach Community (WCLBC) which has been designated as a disadvantaged community under Assembly Bill (AB) 617 (C. Garcia, Chapter 136, Statutes of 2017).¹⁷ Therefore, CARB is particularly concerned about localized air pollutant exposure at the neighborhood level, as well as the Project's regional air quality impacts.

Figure 1: Project Location Relative to Residences



¹⁶ LAHD, 2018. Berths 97-109 (China Shipping) Container Terminal Recirculated Draft Supplemental Environmental Impact Report. Page 3.1-51. Table 3.1-9. Accessible at https://kentico.portoflosangeles.org/getmedia/e75c5353-bb13-4f23-8f0c-9b7466a0c361/03-1_CS_Air_Quality_RSEIR

¹⁷ Assembly Bill 617, Garcia, C., Chapter 136, Statutes of 2017, modified the California Health and Safety Code, amending § 40920.6, § 42400, and § 42402, and adding § 39607.1, § 40920.8, § 42411, § 42705.5, and § 44391.2.

Health-harming emissions, including diesel PM, a toxic air contaminant with no safe level of exposure, generated from the operation of the Project have, and continues to, negatively impact the community, which is already disproportionately impacted by air pollution from existing freight operations as well as stationary sources of air pollution.¹⁸ According to the base year (2017) emissions inventory presented in the WCLB Community Emissions Reduction Plan (CERP), the residences located within the WCLBC are currently exposed to 10,614 tons of NOx, 5,642 tons of volatile organic compounds (VOC), and 1,323 tons of particulate matter less than 2.5 micrometers (PM2.5) annually.¹⁹ A large percentage of these annual air pollutant emissions are generated by off-road and on-road emission sources such as those servicing rail and port facilities. The continued operation of the Project will increase air pollutant emissions in these communities if not mitigated. To protect the residents living in the WCLB community, the LAHD and China Shipping should incorporate all feasible mitigation measures in the Project's final design.

The LAHD and China Shipping Must Fully Evaluate the Project's Air Quality and Health Risk Impacts in the Revised SEIR

The operation of the Project results in increased rail traffic and vessel calls, along with increased truck traffic, all of which negatively impact nearby residents. CEQA requires the lead agency to "determine whether a project may have a significant effect on the environment based on substantial evidence in light of the whole record." (See Title 14, Cal. Code of Regs., § 21082.2, subd. (a)). To fully evaluate the Project's air quality and health risk impacts, the LAHD and China Shipping must analyze all direct and reasonably foreseeable air quality and health risk impacts associated with the operation of the Project.

The health risk assessment (HRA) prepared for the Project should be based on the latest Office of Environmental Health Hazard Assessment's (OEHHA) guidance (2015 Air Toxics Hot Spots Program Guidance Manual for Preparation of Health Risk Assessments).²⁰ The on-road and off-road Diesel PM emissions used to estimate the proposed Project's cancer risk impacts should be based on CARB's latest 2021 Emission Factors model (EMFAC2021) and OFFROAD2021, respectively.^{21,22}

¹⁸ CARB. CARB Identified Toxic Air Contaminants. Accessible at <https://ww2.arb.ca.gov/resources/documents/carb-identified-toxic-air-contaminants>

¹⁹ South Coast Air Quality Management District. Community Emissions Reduction Plan Wilmington, Carson, West Long Beach. September 2019. Accessible at <https://www.aqmd.gov/docs/default-source/ab-617-ab-134/steering-committees/wilmington/cerp/final-cerp-wcwlb.pdf?sfvrsn=8>

²⁰ Office of Environmental Health Hazard Assessment (OEHHA). Air Toxics Hot Spots Program Guidance Manual for Preparation of Health Risk Assessments. February 2015. Accessed at: <https://oehha.ca.gov/media/downloads/cnr/2015guidancemanual.pdf>.

²¹ CARB. Emission Factors model Web Platform. Accessible at: <https://arb.ca.gov/emfac/emissions-inventory/7fbbb7c961d621ffc05eb5e5f8dfd175c8cff0fc>

²² CARB. OFFROAD2021 Web Platform. Accessible at: <https://arb.ca.gov/emfac/offroad/>

CEQA also requires lead agencies to consider whether the incremental effects of a proposed project are cumulatively considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects. (See Title 14, Cal. Code of Regs., § 15064, subd. (h)(1)). The LAHD and China Shipping must consider the combined air quality and health risk impacts of the Project, and other reasonably foreseeable projects that may arise because of the Project. Should the Revised SEIR find that the Project would result in a cumulatively significant impact, CEQA requires that the LAHD and China Shipping must implement all feasible mitigation measures to reduce those impacts to a less-than-significant level.

As shown in the 2018 DEIR, LAHD and China Shipping find that the operation of the Project would expose residences near the Project site to diesel PM that would result in a significant and unavoidable health impact. Since it is likely that the Revised SEIR will reach a similar impact conclusion, CARB urges the LAHD and China Shipping to include additional meaningful mitigation measures to reduce the Project's potential health risk impacts to the neighboring communities. As further discussed below, additional feasible mitigation options have become available in the five years since the last EIR was finalized.

The Revised SEIR Should Include a Mitigation Measure that Ensures the Project Uses the Cleanest Switcher and Line-Haul Locomotives Available

To reduce the Project's impacts to air quality, greenhouse gas, and health risk, CARB urges the LAHD and China Shipping to plan for the use of zero-emission switcher and line-haul locomotives within the Project to address the Project's impact on air quality and public health. According to the 2018 RSEIR, the operation of the Project would result in 723 daily train trips in the year 2030.²³ To reduce the Project's potential air quality and health risk impacts, CARB urges the LAHD and China Shipping to include either a project design feature or mitigation measure that requires all locomotives serving the Project to be zero-emission and to install on-site infrastructure to support those zero-emission locomotives.

On April 27, 2023, CARB approved the In-Use Locomotive Regulation to reduce air pollutant emissions, toxic air contaminants, and greenhouse gas (GHG) emissions from locomotives operating throughout California. More information about the proposed In-Use Locomotive Regulation can be obtained from CARB's website: <https://ww2.arb.ca.gov/our-work/programs/reducing-rail-emissions-california/locomotive-fact-sheets>.

Based on emerging technologies in batteries and hydrogen fuel cells, zero-emission locomotive operation could be used to meet the needs of the Project. CARB estimates that zero-emission technology will be commercially available by 2030 for passenger, switcher,

²³ LAHD, 2018. Berths 97-109 (China Shipping Container Terminal Recirculated Draft Environmental Impact Report. Page 2-13. Table 2-3. Accessible at https://kenticoportoflosangeles.org/getmedia/7acf4b8e-3663-45df-a080-b276ee338e86/02_CS_Project_Description_RDSEIR

and industrial locomotives and by 2035 for freight line haul locomotives.²⁴ CARB has sponsored, and continues to sponsor, demonstration projects to accelerate the adoption of clean freight technologies and to reduce air pollution caused by the movement of goods throughout the State. CARB's Zero and Near Zero-emission Freight Facilities Program successfully demonstrated batteries in locomotives that could be applied to the Project.²⁵

The Revised SEIR Should Facilitate All Heavy-Duty Trucks Serving the Project To Be Zero-Emission

The Project involves the use of heavy-duty trucks to transport freight to its final destinations. According to the 2018 RSEIR, the operation of the Project would result in 1,501,817 daily truck trips in the year 2030.²⁶ To reduce the Project's potential air quality, health risk and greenhouse gas impacts, CARB urges the LAHD and China Shipping to include either project design features or mitigation measures that facilitate the transition to all zero-emission heavy-duty trucks, including by installing on-site infrastructure to support those zero-emission trucks, and through other creative measures that incentivize use of zero-emission trucks (such as expanded zero-emission priority lanes).

As presented below, CARB has adopted regulations that promote and eventually require the use of zero-emission trucks at freight facilities, such as the Project. Specifically, the Advanced Clean Fleets Regulation sets forth a path for transitioning to a zero-emission fleet statewide and would require all drayage trucks in California to transition to zero-emission over time and be fully zero-emission by 2035. To support trucks serving the Project that are already complying with the Advanced Clean Fleets regulation, CARB urges the LAHD and China Shipping to require, as either a Project design measure or as a mitigation measure, the infrastructure to support on-site zero-emission trucks. A list of commercially-available zero-emission trucks can be obtained from the Hybrid and Zero-emission Truck and Bus Voucher Incentive Project (HVIP).²⁷ The HVIP is a part of California Climate Investments to incentivize the purchase of zero-emission trucks. Based on CARB's review of the zero-emission trucks listed in the HVIP, today there are commercially available electric trucks that can meet the cargo transportation needs of individual industrial uses proposed in the Project. While CARB has implemented or is developing regulations that will eventually

²⁴ CARB. Public Hearing to consider the Proposed In-Use Locomotive Regulation Staff Report: Initial Statement of Reasons. Appendix F. Page 52, 57. Accessible at:

<https://ww2.arb.ca.gov/sites/default/files/barcu/regact/2022/locomotive22/appf.pdf>

²⁵ California Air Resources Board (CARB), 2020. CARB's Zero and Near Zero-emission Freight Facility Program. Accessible at <https://ww2.arb.ca.gov/news/carb-announces-more-200-million-new-funding-clean-freight-transportation#:~:text=The%20goal%20of%20CARB's%20Zero,commercialization%20of%20these%20technologies%20statewide>

²⁶ LAHD, 2018. Berths 97-109 (China Shipping Container Terminal Recirculated Draft Environmental Impact Report. Page 2-13. Table 2-3. Accessible at https://kentico.portoflosangeles.org/getmedia/7acf4b8e-3663-45df-a080-b276ee338e86/02_CS_Project_Description_RDSEIR

²⁷ Zero-Emission Truck and Bus Voucher Incentive Project. Accessible at: <https://californiahvip.org/>

require the use of zero-emission trucks (as noted above), the Project must plan for this transition, and the Revised SEIR should explain how the Project will achieve this transition. CARB also urges the LAHD and China Shipping to incorporate all feasible measures to facilitate and incentivize zero-emission trucks within the Project site. As an additional example, Project currently has a lane that prioritizes entry to the terminal for zero-emission trucks. The Revised SEIR should consider additional priority entry lanes for zero-emission trucks.

The list below details the CARB regulations that will result in the reduction of Diesel PM and NOx emissions from trucks within California:

- **Drayage Truck Regulation:** The existing Drayage Truck Regulation requires all drayage trucks to operate with an engine that is a 2007 model year or newer.
- **Truck and Bus Regulation:** The Truck and Bus Regulation requires all trucks, including drayage, to have 2010 or newer model year engines by January 1, 2023.
- **Heavy-Duty Low-NOx Omnibus Rule:** The Heavy-Duty Low-NOx Omnibus Rule requires truck emission standards to be reduced from 0.20 to 0.05 grams per brake horsepower-hour (g/bhp-hr) from 2024 to 2026, and to 0.02 g/bhp-hr in 2027.
- **Advanced Clean Trucks Regulation:** The Advanced Clean Trucks Regulation, approved by CARB on June 25, 2020, requires manufacturers to start manufacturing zero-emission trucks and vans beginning in 2024. The rule is expected to result in about 100,000 zero-emission trucks in California by the end of 2030 and about 300,000 by 2035. The Advanced Clean Trucks regulation is part of CARB's overall approach to accelerate use of zero-emission medium- and heavy-duty vehicles. CARB approved amendments to the Advanced Clean Trucks regulation in March 2021; the amendments help ensure that more zero-emission vehicles are brought to market. CARB directed staff to ensure that fleets, businesses, and public entities that own or direct the operation of medium- and heavy-duty vehicles in California purchase and operate ZEVs in anticipation of fully ZEV fleets by 2045 everywhere feasible, and specifically to reach:
 - 100% zero-emission drayage trucks, last mile delivery, and government fleets by 2035
 - 100% zero-emission refuse trucks and local buses by 2040
 - 100% zero-emission capable utility fleets by 2040
- **Advanced Clean Fleets Regulation:** The Advanced Clean Fleets Regulation is part of CARB's overall strategy to accelerate use of zero-emission medium- and heavy-duty vehicles. This regulation works in conjunction with the Advanced Clean Trucks regulation. The regulation applies to trucks performing drayage operations at seaports and railyards, fleets owned by State, local, and federal government agencies, and high priority fleets. High priority fleets are those entities that own, operate, or direct at least one vehicle in California, and that have either \$50 million or more in gross annual revenue, or that own, operate, or have common ownership or

control of a total of 50 or more vehicles. The regulation affects medium- and heavy-duty on-road vehicles with a gross vehicle weight rating greater than 8,500 pounds, off-road yard tractors, and light-duty mail and package delivery vehicles. All drayage trucks entering seaports and intermodal railyards would be required to be zero-emission by 2035.

With the implementation of the regulations listed above, specifically the Advanced Clean Trucks Regulation, LAHD and China Shipping would over time be required stop using diesel trucks and vans and begin using zero-emission trucks. To protect the air quality of the communities near the Project site, CARB urges the LAHD and China Shipping to include all feasible project design features and/or mitigation measures in the Revised SEIR that would facilitate the transition to exclusively zero-emission trucks.

The Revised SEIR Should Require All Cargo Handling Equipment to be Zero-Emission

The operation of the Project would require cargo handling equipment (CHE) such as top picks, side picks, yard tractors, and rubber-tired gantry cranes. In developing the Revised SEIR, LAHD must reevaluate the CHE-related mitigation measures in the previous EIR, specifically MMs AQ-15, MM AQ-16, and MM AQ-17, which would require the transition to cleaner diesel-powered CHE operating within the Project site. Although these mitigation measures would somewhat reduce the Project's air quality impact, diesel-powered CHE operating within the Project site would continue to expose nearby communities and onsite works to diesel PM emissions that could significantly impact health. Furthermore, in the intervening years since the last SEIR, there have been notable advances in zero-emission cargo handling equipment.

To reduce the proposed Project's air quality, health risk and greenhouse gas impacts, CARB urges the LAHD and China Shipping to include a project design feature or mitigation measure in the Revised SEIR that would require all CHE operating within the Project site to be zero-emission. Zero-emission CHE are commercially available and can be purchased using incentive funding from CARB's Clean Off-Road Equipment Voucher Incentive Project (CORE) administered by CALSTART or the HVIP.^{28,29,30}

²⁸ CARB Cargo Handling Equipment Commercial Availability List. Accessible at: <https://ww2.arb.ca.gov/our-work/programs/cargo-handling-equipment/zero-emission-che-availability>

²⁹ Clean Off-Road Equipment Voucher Incentive Project. Accessible at: <https://californiacore.org/how-toparticipate/>

³⁰ Zero-Emission Truck and Bus Voucher Incentive Project. Accessible at: <https://californiahvip.org/>

The Revised SEIR Should Require All Transport Refrigeration Units to be Zero-emission Where Feasible and Plug-In Capable Everywhere Else

Based on CARB staff's review of the NOP for the Revised SEIR and 2018 RSEIR, it is unclear whether the trucks and railcars serving the Project would be equipped with transport refrigeration units (TRU). TRUs on trucks and trailers, and on railcars, can emit large quantities of diesel exhaust while operating in and around the Project site. Residences and other sensitive receptors (e.g., daycare facilities, senior care facilities, and schools) located near where these TRUs could be operating, would be exposed to Diesel PM emissions that would result in a significant cancer risk impact to the nearby community.

On February 24, 2022, CARB approved the amendments to the Transportation Refrigeration Unit Airborne Toxic Control Measure (2022 TRU ATCM Amendments).³¹ The TRU ATCM is an initiative aimed at reducing air pollutant and greenhouse gas emissions and improving air quality in the transportation sector. The 2022 TRU ATCM Amendments require newly manufactured truck TRUs, trailer TRUs, and domestic shipping container TRUs to use refrigerant with a global warming potential less than or equal to 2,200, or no refrigerant at all, beginning December 31, 2022. Beginning December 31, 2023, TRU owners will be required to turn over at least 15% of their truck TRU fleet operating in California to zero-emission technology each year for seven years, and all truck TRUs operating in California are required to be zero-emission by December 31, 2029. CARB staff are developing concepts for new requirements to use zero-emission non-truck TRUs (trailer TRUs, domestic shipping container TRUs, railcar TRUs, and TRU generator sets).

The Revised SEIR should specify whether transporting or handling cold storage is part of the Project. If the Project is used to transport cold storage, CARB urges the LAHD and China Shipping to require all TRUs on trucks and trailers to be zero-emission to protect the health of communities and to stay in step with current and upcoming CARB regulations. All rail cars with plug-in-capable TRUs entering the Project should be plugged into electric power until they are ready to be transported directly out of the facility. Lastly, the LAHD and China Shipping should require all loading/unloading docks and trailer spaces be equipped with electrical hookups for trucks with plug-in-capable TRU or auxiliary power units. This requirement will substantially decrease the amount of time that a TRU powered by a diesel engine can operate at the project site. Use of zero-emission all-electric plug-in TRUs, hydrogen fuel cell transport refrigeration, and cryogenic transport refrigeration are encouraged and can also be included in lease agreements.

³¹ CARB. Transportation Refrigeration Unit (TRU or Reefer) Regulation. Accessible at: <https://ww2.arb.ca.gov/our-work/programs/truckstop-resources/truckstop/regulations/transport-refrigeration-unit-tru-or#:~:text=Regulation%20Background,risk%20from%20diesel%2Dpowered%20TRUs>.

The Revised SEIR Must Incorporate All Feasible GHG Mitigation

As proposed in the 2019 SEIR, Lease Measure GHG-1 only required the Port to contribute an amount sufficient to offset *one* year of greenhouse gas emissions from the project- an amount wholly inadequate given the Project has already involved, and will continue to involve, operations well beyond a single year.³² Furthermore, the measure does not specify which type(s) of offset credits can be purchased.

Under CEQA, a lead agency may not approve a project that will have significant environmental impacts unless it finds that alternatives and mitigation measures to reduce environmental impacts are infeasible based on specific economic, legal, social, technological or other considerations. (Pub. Res. Code, §§ 21002; 21061.1.) “‘Feasible’ means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social and technological factors.” (*Id.*, § 21061.1.)

The 2018 RSEIR found that the Project would result in 183,231 tons of carbon dioxide equivalent (CO₂e) in the year 2030, far exceeding the SCAQMD’s 10,000 tons of CO₂e significance threshold; ultimately resulting in a significant and unavoidable impact on climate change.³³ Since there have been little to no changes in the Project’s operations, it is very likely that the Revised SEIR will have similar GHG impacts as found in the 2018 RSEIR. Consequently, the Project will have significant greenhouse gas impacts that are not fully mitigated by existing measures. As such, the Port must mitigate GHG to the extent feasible for the reasonably foreseeable operational life of the Project.

The NOP indicates that the Revised SEIR will analyze the Project’s GHG impacts, and will identify any mitigation measures that are available and feasible to mitigate those impacts. To that end, CARB suggests above several additional feasible mitigation measures that LAHD can adopt to much more fully mitigate the Project’s significant emissions impacts, including its greenhouse gas emissions. LAHD should incorporate these measures in the Revised SEIR. LAHD should also consider additional feasible greenhouse gas mitigation. For further information regarding how to properly analyze and feasibly mitigate the Project’s greenhouse gas emissions, the Local Actions Appendix to CARB’s 2022 Scoping Plan (Appendix D) includes information on these topics to assist lead agencies with meeting their CEQA obligations.³⁴ Appendix D helps agencies identify feasible greenhouse gas mitigation, including by describing the “hierarchy” of available mitigation, starting by

³² See December 29, 2023 Opinion in *Natural Resources Defense Council, Inc. et al. v. City of Los Angeles*, (Fourth Appellate Dist. Case No. D080902) at p. 28.

³³ LAHD, 2018. Berths 97-109 [China Shipping] Container Terminal Project Revised SEIR. Page 3.2. Table 3.2-4. Accessible at https://kentico.portoflosangeles.org/getmedia/1621ba42-12a9-45c8-b11a-4389b764d34e/03-2_CS_GHG_RDSEIR

³⁴ CARB, 2022. 2022 Scoping Plan. Appendix D. Accessible at <https://ww2.arb.ca.gov/sites/default/files/2022-11/2022-sp-appendix-d-local-actions.pdf>.

looking for opportunities at the project site (consistent with CARB's mitigation recommendations above).

Where additional on-site mitigation is demonstrated to not be feasible, Appendix D also provides information regarding off-site GHG mitigation, and carbon offsets. The LAHD should consider this information in the Scoping Plan and all other sources relevant to CEQA greenhouse gas analysis and must ensure that it is mitigating the Project's greenhouse gas emissions to the full extent required by CEQA.

Conclusion

LAHD and China Shipping have a long history of failing to implement essential - and required - CEQA mitigation that would help protect the communities near the Project. Through the Revised SEIR, LAHD has the opportunity to reevaluate and improve the air quality analysis and mitigation measures to minimize the Project's significant air quality, toxics, and greenhouse gas impacts to the full extent feasible to protect public health. CARB strongly urges the LAHD to consider these comments when preparing the Revised SEIR.

The LAHD and China Shipping now have a unique opportunity to create jobs for Californians and to showcase a state-of-the-art zero-emission terminal that could be used as a model for other projects in the State. By building on the work of other port operators already servicing their operations with zero-emission technologies, the LAHD and China Shipping can develop a freight facility that results in economic growth without diminishing public health in nearby communities or exacerbating climate change. To this end, CARB urges the LAHD and China Shipping to incorporate all feasible measures for zero-emission switcher and line-haul locomotives, trucks, on-site CHE, and TRUs within the Project.

Given the breadth and scope of projects subject to CEQA review throughout California that have air quality and GHG impacts, coupled with CARB's limited staff resources to substantively respond to all issues associated with a project, CARB must prioritize its substantive comments here based on staff time, resources, and its assessment of impacts. Please note that CARB's deliberate decision to substantively comment on some issues does not constitute an admission or concession that it substantively agrees with the lead agency's findings and conclusions on any issues on which CARB does not substantively submit comments.

Lisa Ochsner
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CARB staff can provide assistance with zero-emission technologies and emission reduction strategies, as needed. Please include CARB on your list of selected State agencies that will receive the Revised SEIR. If you have questions, please contact Stanley Armstrong, Air Pollution Specialist via email at stanley.armstrong@arb.ca.gov.

Sincerely,



Matthew O'Donnell, Chief, Risk Reduction Branch

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