South Coast
Air Quality Management District
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Via Email and U.S. Mail

March 6, 2013

Chris Cannon
Director of Environmental Management
Port of Los Angeles
425 South Palos Verdes Street
San Pedro, CA 90731

Dear Mr. Cannon:

Final Environmental Impact Report
Southern California International Gateway (SCIG) Project

The South Coast Air Quality Management District (SCAQMD) staff appreciates the opportunity to comment on the Final Environmental Impact Report (FEIR) for the Southern California International Gateway (SCIG) Project. The SCAQMD staff previously submitted comments on the Draft Environmental Impact Report (DEIR) on November 30, 2011, January 19, 2012, February 1, 2012, and February 14, 2012 and on the Recirculated Draft Environmental Impact Report (RDEIR) on November 14, 2012.

The SCAQMD staff is concerned that the EIR does not fully describe the air quality and public health implications of the proposed SCIG project, or all feasible mitigation measures. The proposed Project will substantially increase truck and train activities close to, and generally upwind of, a community with residences, schools, and workplaces. The proposed Project is unlike other major port-infrastructure projects approved in recent years because of its location and close proximity to existing sensitive land uses. At full build out there will be 2 million truck trips and nearly 6,000 train trips annually moving cargo in and out of the SCIG site. There are substantial air emissions that will affect public health and potentially impede the ability for this region to achieve state and federal air quality standards.

The FEIR shows that the Proposed SCIG project will generate significant localized air quality impacts. Based on the FEIR, the Proposed SCIG project will exceed the applicable significance thresholds for NO_2, PM10, and PM2.5 by up to 250%, 420%, and 80%, respectively. These NO_2, PM10, and PM2.5 exceedances from the proposed project will impact residents, school children and other sensitive populations near the proposed rail yard. In addition, the Environmental Justice section of the Recirculated Draft EIR states that, "Because the area surrounding the proposed Project site is predominantly minority and low-income, Impact AQ-4 *[localized NO2 and PM impacts]* would constitute a disproportionately high and adverse effect on minority and low-income populations." These pollutants are associated with chronic respiratory diseases such as asthma as well as declines in pulmonary function, especially in children.

The FEIR contain one mitigation measure for particulate emissions (sweeping). However, the FEIR does not contain any mitigation measures that commit to reducing operational NO_2 impacts. The two largest source categories contributing to the NO_2 impacts are heavy-duty trucks and locomotives. As stated in previous comment letters to the Port of Los Angeles in the DEIR and RDEIR zero-emission container movement technologies and use of Tier 4 locomotives are feasible mitigation measures that must be included in the proposed Project.

Because of deficiencies in analysis and mitigation as described above and in the attachment, the EIR must be sent back to staff for revision. The SCAQMD staff appreciates the opportunity to comment on this important project. We look forward to working with the Port of Los Angeles on this and future projects. If you have any questions, please call me at (909) 396-3105.

Sincerely,

Susan Nakamura

Susan Nakamura
Planning Manager

Attachment

SN:PG:BB:VT:IM

Attachment A
Additional Comments on the Final EIR for
Southern California International Gateway (SCIG) Project

The following includes specific comments on the FEIR for the Proposed Southern California International Gateway (SCIG) Project.

Use of Tier 4 Line-Haul Locomotives is a Feasible Mitigation Measure

The Final EIR fails to address the need to mitigate the air quality impacts from line-haul locomotives. In the District comment letter on the DEIR and RDEIR, the SCAQMD staff specified that line-haul locomotives should meet the following requirements, consistent with the long-term goal of the Clean Air Action Plan (CAAP) measure RL-3:

1 By 2018, at least 25% of BNSF line-haul locomotives entering SCIG and other port properties shall be Tier 4.
2 By 2020, at least 95% of BNSF line-haul locomotives entering SCIG and other port properties shall be Tier 4.

The FEIR includes PC AQ-12 which does not commit to the RL-3 "goal" and further does not implement the RL-3"minimum requirement" for locomotives on port property: 50% Tier 4 by 2023. PC AQ-12 eviscerates RL-3 by allowing BNSF to reduce emissions anywhere in the four-county region, and by any means, in lieu of using Tier 4 locomotives at SCIG. This approach does not address the impacts to the community near and around the SCIG site, and does not require any number of Tier 4 locomotives.

Response to Comment 156-11 in the FEIR is non-responsive. The response states that "Tier 4 locomotives are expected to utilize a new, untested technology that simply does not currently exist at a size adequate for line-haul locomotive engines." The response includes opinions about the availability of locomotives in 2013 and 2015, but never addresses the availability of locomotives in 2018 or 2020, five years after the standard is implemented. Tier 4 locomotives are currently being tested. In August 2012, General Electric unveiled a prototype that is part of its Evolution Series Locomotives that meets the US EPA's Tier 4 emission standards. This engine technology is the result of an initial six-year $400 million investment, followed by a two-year, $200 million investment to research, design, and engineer locomotive engines to meet Tier 4 emission standards.

The issue is not whether Tier 4 locomotives are feasible today; the issue is feasibility early in the life of the project. Beginning in 2015, the railroads will not be able to buy anything but Tier 4 locomotives because they will be required by federal law. BNSF can route its cleanest locomotives to this region; it is doing this right now with Tier 2 locomotives. Data underlying the EIR analysis assumes a percentage of Tier 4 locomotives in the national fleet that would be sufficient to achieve 95% Tier 4 at SCIG by 2020. Finally, BNSF previously committed to acquire cleaner locomotives years before they were developed.

Response to Comment R156-11 states that "PC AQ-12 San Pedro Bay Ports CAAP Measure RL-3 is not quantifiable or feasible at this time and is not considered mitigation under CEQA to reduce an identifiable impact." *RL-3 is quantifiable.* The RDEIR used a fleet mix to quantify

locomotive emissions. Page 3.2-37 of the RDEIR states that, "SCIG line-haul locomotive emission factors were modeled using fleet forecasts through 2019 from the 1998 Fleet Average Agreement between CARB and the Class I railroads, and the EPA national locomotive fleet forecast for all years after 2019." Therefore, PC AQ-12 should be adopted as an enforceable mitigation measure that is required of the project in order to reduce significant impacts.

The fleet mix used to quantify emissions from the proposed project assumed a specific mix of locomotives for each Tier. Along with air dispersion files, the Lead Agency sent an Excel file to the SCAQMD staff titled "Loco EF.xls" which contains two spreadsheets with the locomotive fleet mix before 2020 and on and after 2020. For each locomotive Tier, there is a percentage of the fleet for each specific tier. For example, in 2023 the locomotive emissions are based on a fleet mix that includes 39.5% Tier 4 locomotives. The Lead Agency can revise these spreadsheets to reflect a fleet mix that includes 95% Tier 4 in 2020. Locomotive emissions can then be quantified emissions from implementation of RL-3.

Response to Comment R156-12 was non-responsive. The SCAQMD staff commented in its November 14, 2012 letter that the proposed SCIG facility will "handle between two and three trains per day in 2020, there will only be approximately 12 locomotives (four per train) serving SCIG in the South Coast Air Basin on any given day. These 12 locomotives represent less than 1% of BNSF's Tier 4 fleet." Response to Comment R156-12 focused on the number of locomotives that enter and leave California each day stating that "operating procedures require that many hundreds, if not thousands, of locomotives enter and leave California each day." The point of the SCAQMD's comment is that the number of locomotives needed for the proposed SCIG facility is very small (less than 1 percent) relative to BNSF's national locomotive fleet. The RDEIR states in its spreadsheets provided to SCAQMD staff, that the national fleet average will have approximately 26.5% Tier 4 locomotives in 2020. This equates to 1,380 locomotives.

California Air Resources Board staff has estimated that UP and BNSF would need a national pool of up to 5,000 Tier 4 interstate line haul locomotives to ensure that up to 1,200 Tier 4 interstate line haul locomotives will be able to operate in ***all of California*** — a ratio of about 4 to 1. http://www.arb.ca.gov/railyard/ted/drftrec090909.pdf. Thus, if we assume that BNSF operates 300 line haul locomotives per day in the four-county South Coast region, 1,200 Tier 4 locomotives would be needed nationally (i.e. less than the 1,380 assumed in EIR) to ensure all Tier 4 ***in the region***. Thus, achieving all Tier 4 at just SCIG is *clearly* feasible.

Zero Emission Container Movement

In the Master Response to Comments, the FEIR states a commitment to achieving "100% of the truck moves to proposed and existing near-dock rail-yards by zero-emission trucks by 2020." (FEIR, pg. 2-32.) Yet, when the Port actually approves a large-scale project with an implementation schedule that extends beyond 2020, it claims that the adoption of a mitigation measure requiring zero-emission trucks is infeasible. As indicated, a mitigation measure is feasible if it can be achieved in a reasonable period of time (CEQA Guidelines § 15364). Operation of the project would not begin until 2016 and full operation will not occur until 2035. (RDEIR, pg. 2-11.) Clearly, the 2020 timeframe identified by the Port is early on in the 2016-2035 implementation phase of project operation. Therefore, even if the Port were correct in

asserting that zero-emission trucks could not be deployed now, they certainly could be deployed within a reasonable time.

There are currently several research and demonstration programs being conducted by the Port of Los Angeles, South Coast Air Quality Management District, California Energy Commission, Environmental Protection Agency and the U.S. Department of Energy, to develop dedicated zero-emission trucks or hybrid electric trucks that will have zero-emission range. Such demonstrations are expected to be completed within the next several years and lay the foundation for commercialized products. The SCAQMD staff believes that the first generation of zero-emission trucks will be available within the next five years, well within the required timeframe.

The mitigation measures proposed for adoption in the RDEIR are inadequate to assure that zero-emission trucks will be required of the project through enforceable mitigation measures. Under CEQA, a mitigation measure must be "required in, or incorporated into, the project." (Pub. Res. Code § 21081(a); Guidelines § 15091(a).) They must also be "fully enforceable through permit conditions, agreements, or other measures." (*Federation of Hillside & Canyon Assoc. v. City of Los Angeles* (2000) 83 Cal.App.4th 1252, 1261.) The mitigation measures identified in the MMRP fall short of these principles. Mitigation Measures AQ-9 and AQ-10 do not require the evaluation and adoption of zero-emission technologies under a particular timeframe with consequences to ensure adoption and enforcement of the measures. For instance, MM AQ-9 simply requires the business to review the feasibility of an identified emissions-reductions technology and report back to the port at any time a lease amendment is required or a facility modification is occurring. (FEIR, pg. 2-10.) There is no indication as to when either of these events might occur, let alone by the 2020 timeframe identified by the Port for zero-emission trucks. Contrary to the response to comments, there is nothing in the mitigation measure that would actually require that advancements be implemented upon a five-year review because it is subject to "mutual agreement on operational feasibility and cost sharing." This is not a fully enforceable requirement. Similarly, MM AQ-10 simply identifies that a new improved technology could replace an existing measure. Again, there is no requirement that the zero emission technology be adopted with certainty in any given timeframe, let alone by 2020. Lastly, PC AQ-11 should be incorporated as a fully enforceable mitigation measure and not simply as a recommendation for inclusion in the agreement.

The Port Failed to Provide Sufficient Information to Support its Emissions Calculations and Modeling thus Depriving the Public of the Ability to Provide Informed Comment

In its November 14, 2012 comment letter, the District explained that from the information provided, "AQMD staff is unable to verify that the modeling analysis corresponds correctly to the emission calculation spreadsheets." (Comment 156-27.) Moreover, the Port failed to provide the necessary information to determine whether modifications had been performed in the databases. The District provided an example of how the spreadsheets, model inputs, and databases were NOT correlated. The District did not imply that this issue was present for only one particular example, but rather noted that "there are thousands" of sources for which the District was unable to correlate the data. Furthermore, the District explained: "Without the ability to review these calculations, the public and AQMD staff are unable to verify the validity of the modeling analysis." Moreover, Comment Letter 143, dated February 14, 2012, set forth in detail the inadequacies of the information provided to the District, and requested specific

information that was never provided. This is a serious CEQA violation warranting recirculation of the document after the needed information has been provided.

"[A] prejudicial abuse of discretion occurs if the failure to include relevant information precludes informed decision-making and informed public participation, thereby thwarting the statutory goals of the EIR process." *Association of Irritated Residents v. County of Madera*, 107 Cal. App. 4th 1383, 1391 (2003). In this case, the District showed that the Port's analysis was *internally* contradictory. Therefore, the Port was obligated to explain why its analysis was indeed correct. The Port was required to provide "sufficient information and analysis to enable the public to discern the analytic route the agency traveled from evidence to action." *Id.* at 1397. It failed to do so.

The Port's response to this issue also failed to comply with CEQA. The Port simply responded to the District's specific example, in Comment 156-27, without addressing the numerous other cases in which the documents could not be correlated, or even providing a generic explanation which would explain the other cases. In response to the entire modeling comment letter, (Response 143) the Port simply said either that the comment relates to a recirculated portion, or the comment is general, and in either case does not require response. This is an affront to the integrity of the process. In responding to comments, "There must be good faith, reasoned analysis in response. Conclusory statements unsupported by factual information will not suffice." CEQA Guidelines Section 15088(c). Where the District's comment clearly indicated that the needed data was lacking for all the modeled sources, it is not a good faith response to simply address one source.

Indeed, without the needed data, the public has no way of knowing whether ANY of the emissions information—or the conclusions derived from that information—is correct. This represents a fundamental flaw in the document that renders it so "fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded." CEQA Guidelines Section 15088.5(a)(4). The Port must provide the information needed to allow the public to verify the accuracy of the Port's calculations, and then recirculate the document to allow public comment. *Id.*

The Port's Responses to Comments Were Frequently Inadequate

In many cases, the Port attempts to completely avoid its obligation to respond to comments by citing CEQA Guidelines Section 15088.5(f)(2). (*See* responses to the District's November 30, 2011 comment letter (Response 68), January 19, 2012 comment letter (Response 81), and February 1, 2012 comment letter (Response 126).) This amounts to some 56 pages of comments which the Port claims it may simply ignore.

The Port relies on a CEQA Guideline that applies where only portions of a document are revised and recirculated. The Guideline states that "The lead agency need only respond to (i) comments received during the initial circulation period that relate to chapters or portions of the earlier EIR that were not revised and recirculated, and (ii) comments received during the recirculation period that relate to the chapters or portions of the earlier EIR that were revised and recirculated." The Port thus responds to *all* of the District's earlier comments as follows: "This comment refers to a

chapter or section of the DEIR that was recirculated. No response is necessary per CEQA Guidelines Section 15088.5(f)(2)."

The Port has ignored two key portions of Guideline Section 15088.5(f). First, in order for the lead agency to avoid responding to a comment, the relevant portion of the document must be *revised* as well as recirculated. Where the lead agency revises its analysis, it makes sense to require new comments to be filed on the revised analysis. However, where the lead agency does not revise the analysis, the original comment remains relevant and the lead agency must respond to it. Second, the cited Guideline specifically provides that "In no case shall the lead agency fail to respond to pertinent comments on significant environmental issues." CEQA Guidelines Section 15088.5(f). Therefore, the Port brushes off all of the District's earlier comments at its peril. Where the comments remain pertinent, the Port must respond to them. The District hereby incorporates by reference its previous comments—which the Port ignored—dated November 30, 2011 (Comment 68), January 19, 2012 (Comment 81), February 1, 2012,(Comment 126), and February 14, 2012 (Comment 143).

Moreover, many of the other responses to comments are inadequate. For example, in Comment 143-1, the District had argued that the two-week extension of time to respond to modeling files was not adequate to allow for full review. The Port's response was that "The comment is general and does not refer to any specific section of the DEIR or RDEIR therefore no further response is required," citing Pub. Res. Code Section 21091(d) and CEQA Guideline 15204(a). Leaving aside the fact that neither the cited statute nor the guideline makes that statement, the District's comment applied to the *entire air quality analysis* and was not "general" because it clearly identified the subject of the comment. To say the comment is too general for response clearly is simply disingenuous. Moreover, the District commented that activity data was not provided, and without the activity data for the thousands of sources in the analysis, it is impossible to determine if modeled pollutant concentrations correspond to the values used in the DEIR. Comment 143-2. Again, the Port claims that it need not respond to this comment because it pertains to a recirculated section of the document—but the Port never provided much of the requested data. (Response 143-2) In response to the District's request for the needed data, the Port blithely asserts that "the comment is general" and thus does not require any response—even though the type of data sought is regularly provided by other CEQA lead agencies. (See "Technical Analysis is Not Documented and May Not Support Conclusions in Final EIR.")

Responses 156-6, 156-7, and 156-8, are also inadequate. The Port asserts in each of these Responses that Master Response 7 explains why ZECMS and Tier 4 line haul locomotives are not feasible mitigation measures. However, Master Response 7 fails to explain why Tier 4 line haul locomotives are not feasible for a railyard that will be in operation for many years after EPA's regulation requires *all* new locomotives to meet Tier 4 requirements. Response 156-11 purports to address this issue, but it simply ignores the EPA requirement and the EPA evaluations of feasibility, relying simply on the statement that the technology "does not currently exist at a size adequate for line-haul engines."

This statement applies the wrong legal test. The question is not whether a technology currently exists; it is whether it is "capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and

technological factors." Guidelines Section 15364. What is a reasonable period of time may vary depending on the length of time over which a project will be carried out. In this case, the project will be in existence for decades. Given the EPA requirement, the conclusion that Tier 4 locomotives are infeasible merely because the technology "does not *currently* exist" in adequate size is not based on substantial evidence.

The Port Uses the Wrong Legal Test for Determining Feasibility

Master Response 7 related to Zero Emissions Container Movement Systems, also applies the wrong legal test in determining feasibility**.** The Port states that "while zero emission technologies are promising, zero emission trucks and ZECMS have not yet proven, through demonstration and evaluation, to be feasible in Port operations." As noted above, the legal test is not whether the mitigation measure is feasible today; it is whether it is feasible in a reasonable period of time. Guidelines § Section 15364. As this project will last for several decades, a reasonable period of time would include a period of several years at least. The District's comment letters established that even allowing for the demonstration process described in the TIAX Report, zero emission technologies can be commercialized in time for use between the Ports and SCIG by 2016, with 100% deployment by 2020. (*See* Comment 156-8 and attachment B of letter 156.) The Port's response did not rebut this evidence, but merely called the comment speculative. It is not. It is the expert opinion of the District's Technology Advancement Office staff, which constitutes substantial evidence. CEQA Guidelines § 15384. Instead, the Port myopically insists that a ZECMS be "fully demonstrated" before it can be considered feasible. (Master Response 7, p. 2-32) This approach improperly ignores the fact that there is ample time to complete the demonstrations required during the period when the project becomes fully operational. It improperly requires that the project be capable of successful implementation today, rather than "within a reasonable period of time", which is the proper legal test.

The Port Uses an Improper Baseline for Criteria Pollutant Emissions

The Port fails to adequately respond to the District's comment that the Port should have used a floating baseline rather than a static "year 2010" baseline for criteria pollutant emissions to evaluate significance of criteria pollutant impacts. (Comment 156-26) This comment needs to be considered in conjunction with the more detailed comments regarding this issue that were filed on the DEIR. (Comments 68 and 81) Those comments incorporated the argument that using the static baseline of emissions in the year 2010 improperly credits the project with emission reductions that will occur anyway and are not due to the project. Thus, the issue purportedly discussed in Master Response 2 (Adopted Regulations) is really a part of the baseline issue. The Port has misunderstood our argument regarding the role of adopted regulations in the analysis.

Master Response 2 contends that the Port correctly included adopted regulations in its analysis of the project impacts. In other words, when the Port predicts the future emissions resulting from the Project, it assumes that the Project will comply with applicable regulations. We do not disagree with this proposition. We disagree, however, that those future emissions should be compared with a static baseline consisting of existing emissions as of 2010. What the Port has done is compare existing conditions, *before* the implementation of adopted but future effective regulations, with future conditions *after* implementation of adopted regulations, and pretended that the benefits of adopted regulations are due to the project, where in fact they would occur

anyway. This approach has the potential to obscure significant adverse impacts of the project. The District's November 30, 2011, and January 19, 2012 letters explained the problems with this approach —yet as discussed above, the Port simply ignored these comment letters.

The Port's approach is analogous to a case where a facility emits 1000 tons per year in 2010, but in the future, due to adopted rules, its emissions will go down to 500 tons. The facility proposes a modification that will increase its future emissions to 750 tons per year. By comparing the future emissions (750 tons per year) with 2010 emissions (1000 tons per year) it appears that the modification provides an environmental benefit, where actually it results in a 250 ton per day emissions increase. In the unique area of air quality, if activity remains constant, emissions will go down in the future due to adopted rules and fleet turnover. To discern the true impacts of the Project, the Port needs to use a future baseline which would evaluate emissions in the future with the project compared to emissions in the future without the Project. The Port should use a 2010 baseline as well, and consider impacts to be significant if they are significant using either baseline.

The Port argues that it did in fact perform an analysis of the comparison between the Project and the no-project alternative. (Master Response 1 p. 2-14) However, it did not use this as one of the baselines for determining significance. Moreover, as noted elsewhere in these comments, the District has serious questions about the correctness of the Port's analysis, and has been deprived of the information needed to judge that correctness.

The Port's Responses Improperly Limit its Own Legal Authority

In Response 156-18, the Port addresses the District's request that the Port as lead agency limit access to the SCIG rail yard to only locomotives that meet Tier 2 engine rebuild or above emission levels. The Port's response never claims this would be technically, economically, or operationally infeasible. Instead, the response merely snipes at the District by arguing that the District lost a case in which it was held that federal preemption precluded the regulations at issue. The response neglects to mention that the Ninth Circuit Court of Appeals held that if the rules had been approved by EPA into the State Implementation Plan, they would generally not be preempted. The District and CARB have submitted the rules to EPA for inclusion in the state implementation plan. The response essentially says that the Port has no legal ability to require the railroads to comply with such a measure. We find it difficult to believe that this response reflects the "independent judgment" of the Port (CEQA Guidelines Section § 15084(e).

This response completely ignores the Port's market participant authority, which it has so vigorously defended in the courts. In its brief in opposition to petition for certiorari to the U.S. Supreme Court in *American Trucking Associations v. City of Los Angeles,* Case Number 11-798, the Port argued at page 12: "the essence of the market participant doctrine concerns whether a state is acting in a proprietary fashion as an owner of property or is engaged in regulation. As [the Supreme] Court stated in Boston Harbor: 'When a State owns and manages property…it must interact with private participants in the marketplace. In so doing, the State is not subject to pre-emption…because preemption doctrines apply only to state *regulation.*'" (*Emphasis in original*.) Therefore, if the Port believes it is preempted from requiring a particular feasible mitigation under CEQA, it should consider whether in its capacity as a landlord, it can require certain emission reduction measures acting as a market participant.

Inconsistent use of Hobart in the Baseline, No Project, and Proposed Project

As we identified in our November 14, 2012 comment letter, CEQA obligates a lead agency to analyze the whole of an action with the potential for resulting in a direct or reasonably foreseeable indirect physical change in the environment (CEQA Guidelines § 15378(a). Here, the Port has chosen to evaluate SCIG as part of a system that includes Hobart for only a limited portion of the analysis, namely the baseline and the no project alternative and meanwhile chose to ignore full activity at Hobart when analyzing the impacts of the project. As a result, the project looks artificially beneficial to regional air quality, a position which is untenable and defies common sense.

BNSF, in their November 28, 2012 letter to the Port, identifies that the Hobart rail yard is one of the largest intermodal rail yards in the United States and currently receives half of its cargo from the ports and the remainder from domestic and transload cargo from various points in Southern California. (Pg. 1.) With the SCIG project, only 5% of international intermodal cargo will pass through Hobart. Thus, SCIG would clearly allow for Hobart to receive and deliver a greater volume of domestic and transload cargo, unless one were to assume that one of the largest intermodal rail yards in the country would operate well below capacity.

However, instead of analyzing the potential impacts associated with a greater percentage of domestic and transload activity in Hobart, with originating and destination points throughout Southern California, rather than the fixed distance to the Port, the RDEIR claims that any such change at Hobart is unrelated to the project. Specifically, the Port claims, "future changes associated with rail and vehicular traffic outside the rail routes between the Ports and Hobart would not be caused by the proposed project and are beyond the geographic scope of the impact analysis." (SCIG Final EIR, pg. 2-18.) The Port and BNSF claim that this is because SCIG and Hobart are simply accommodating growth that is occurring irrespective of the Project.

This position advanced by the Port and BNSF is similar to a builder of tract homes claiming that the population of Southern California will grow irrespective of the decision to build homes in a given location and thus the impacts of building those homes need not be evaluated. Clearly that argument would run counter to CEQA. For similar reasons, the Port's position is equally untenable. This logic fails to take into account that the SCIG project does impact where that growth will occur and also controls the resultant pattern on the rail transportation network. Thus, even if cargo growth is unrelated to SCIG, it cannot be ignored that SCIG is controlling the flow of that cargo by increasing capacity near the ports and allowing for an increased capacity at Hobart. The direct and indirect impacts of that increased capacity at SCIG and Hobart must be analyzed as part of the same project. By not analyzing the impacts at Hobart, the RDEIR fails to analyze the whole of the project and therefore underestimates project impacts, in direct violation of CEQA. (*See, Association for a Cleaner Environment v. Yosemite Community College Dist.* (2004) 116 Cal. App. 4th 629, 637-41.) It is particularly important that the FEIR analyze the potentially significant physical impact on the environment from the increased domestic transload activity because, as BNSF acknowledges, it is likely that any potential physical changes at Hobart will not require any discretionary approval requiring CEQA review. As a result, this is the only opportunity to mitigate those impacts.

In their letter, BNSF also states that increases at Hobart in the past have not resulted in changes in demand for intermodal rail movements. By way of example, they claim that the year with the highest activity thus far, 2007, which had 1.37 million lifts was accommodated by improvements to the system. However, the growth projection is 2.9 million lifts at Hobart, without SCIG. BNSF seems to acknowledge that this growth would likely require actual facility developments and technological advances. (BNSF letter, pg. 4.) The discussion of the no project alternative in the RDEIR does not contain sufficient evidence to establish that Hobart would definitely be developed to accommodate such growth in international cargo and domestic transload activity rather than have the increased cargo growth dispersed amongst other rail yards in the rail transportation network. In other words, the RDEIR does not explain why the projected growth must come to Hobart, with or without SCIG, rather than travel to other rail yards that may or may not be located within the South Coast Air Basin. It would seem that, at the very least, SCIG is assisting in ensuring that growth will be targeted in this already highly impacted area within the Basin. It must be remembered that while the international cargo travels a distance between the ports and Hobart that is approximately 24 miles, the domestic and transload cargo travels to and arrives from points throughout the region and would thus have greater air quality emissions associated with that greater distance.

Before the Port decides to approve a project that will help ensure that future growth in cargo is directed towards this region, that the impacts of that decision are fully analyzed and mitigated to the greatest extent feasible.

Lastly, Appendix G4 of the EIR shows that while Hobart will have capacity to handle extra domestic and transload containers, other rail yards will be at or over capacity in future years. Given the capacity constraints at other yards, the newly opened capacity at Hobart would allow for additional activity and shifting of containers to a less congested facility.

Locomotive Activity Along the San Pedro Branch Line Adjacent to Sensitive Receptors

The SCAQMD staff is disappointed with the Lead Agency's response. The proposed Project will increase locomotive activity on the San Pedro Branch Line in an area that is adjacent to sensitive receptors including homes and schools. The SCAQMD staff understands that the Lead Agency did not find a significant impact and under CEQA is not obligated to implement mitigation. However, the SCAQMD staff strongly encourages the Lead Agency to consider measures to reduce the exposure of diesel exhaust to residents, students, and other sensitive populations by avoiding whenever possible locomotive activities along this track during times when children are expected to be outside, including lunch periods, recesses, and other times that the school district may identify. In addition, the Lead Agency could place signs notifying train personnel that there are school children and to limit unnecessary idling. In addition, there should be strict monitoring and enforcement of locomotive activity along this line to ensure that idling is kept to a minimum and does not exceed estimates in the EIR.

Technical Analysis May Not Support Conclusions in Final EIR

As we previously expressed in our comment, without the ability to review these calculations, the public and SCAQMD staff are unable to verify the validity of the modeling analysis. We are particularly concerned by this because the modeled concentrations provided in the modeling output files and databases do not correspond to the values presented in the text of the Final EIR

and its appendices. For example, in Table 3.2-28 of the EIR, the max NO2 1-hour modeled concentration is reported as 745 $\mu g/m^3$ for the state standard and 518 $\mu g/m^3$ for the federal standard. From the modeling files provided to SCAQMD staff, the 1-hour NO2 concentration at the maximum offsite receptor for the mitigated project is 1,157 $\mu g/m^3$ (at a receptor located at 386100E, 3738950N). It is unclear to SCAQMD staff how the reported 745 $\mu g/m^3$ correlates to the modeled 1,157 $\mu g/m^3$. This difference in values represents a substantial difference in the severity of the reported impact.

This misreporting of results goes beyond potential typographic errors within the text of the EIR. The below example details the impact of missing emission calculations for the reported 1-hour No Project emission rate for Cal Cartage cargo handling equipment (the source name is CCBASE). Of the hundreds of emission sources modeled in the EIR for the No Project alternative, CCBASE is the largest contributor to NO2 impacts at Hudson Elementary School, representing approximately 45%.

In the file titled 'No Project – Criteria Concentration.accdb', emission rates are listed for each modeled source. These emission rates are used to determine the modeled pollutant concentrations by multiplying the emission rate by a dispersion factor found in a file titled 'Dispersion Factor – other.accdb'. The dispersion factor multiplied by the emission rate should equal the final modeled concentration used to determine the significance of air quality impacts. SCAQMD staff is able to correlate these calculated concentrations with the reported concentrations found within the 'No Project – Criteria Concentration.accdb' file. However, the emission rates in this file cannot be correlated with any emission calculation spreadsheets.

For example, the emission rate for CCBASE for 1-hour NOx is listed as 2.759 grams per second. This is equivalent to 525.535 pounds per day as shown in the equation below.

*525.535 lb/day = 2.759 g/s * 60 s/min * 60 min/hr *24 hr/day / 453.59 g/lb*

Because this source of emissions is tied to the operating hours of Cal Cartage (76 hours per week), the average pounds per day should only be approximately 237.719 pounds per day as shown below.

*237.742 lb/day = 525.535 lb/day * 76 operating hours/week / 168 total hours/week*

Given the above analysis, SCAQMD staff expects to find the value of 237.742 lb/day within the emission calculation spreadsheets provided with the EIR. We could not find this value in any spreadsheet. The most likely value we could identify was in the '2035 Avg&Peak Daily' worksheet within the spreadsheet titled 'Summary NP Annual & Peak Emissions_All Years_06.26.12.xls'. Within this table is listed the "Total Peak Daily Emissions [lb/day]" for all existing businesses on the SCIG site. Cell Z16 lists the emission rate for cargo handling at Cal Cartage as 36.308 lb/day. SCAQMD staff believes this is the correct table to use as the sum of emissions from all cargo handling equipment from this table is equivalent to the value of 50.54 shown in Table C1.2-NP-22 from Appendix C1.

This rate of 36.308 lb/day is approximately 6.5 times lower than the rate of 237.742 lb/day listed above. Without any further information, SCAQMD staff concludes that the No Project emissions from the single largest source at Hudson Elementary are substantially overestimated thus making the No Project alternative concentrations appear much worse than they should. To be clear, these mismatches between emission calculations and modeled emissions appear to be systematic throughout the entire modeling analysis for all alternatives and SCAQMD staff must conclude that the air quality significance impacts are not adequately supported by the information provided in the EIR or its supporting files.

Proposed ICTF Project Not Adequately Addressed in Cumulative Impact Analysis

The ICTF rail yard is located adjacent to the proposed SCIG project to the north and is proposing to expand its operations to handle up to 1.5 million containers per year (NOP released January 2009). While the cumulative impacts of adding SCIG and expanding ICTF were quantitatively treated in the Draft EIR, the Recirculated Draft EIR removed this analysis. It is not clear that the cumulative air quality analysis from the Draft EIR would still be valid given the updated baseline year and the use of a floating baseline in the Recirculated Draft EIR. The minimal treatment of this significant cumulative impact in the Recirculated Draft EIR potentially diminishes the severity of the impacts that this local community will experience.

Further, conclusory statements in the Recirculated Draft EIR cumulative impacts chapter do not provide meaningful disclosure for the public or decision makers regarding the severity of the impact of these two substantial rail yards being located adjacent to one another, and residences and schools. For example, the EIR relies on statements like those found on page 4-28 to determine significance "*Although there is no way to be certain if a cumulative exceedance of the thresholds would happen for any pollutant without performing dispersion modeling of the other projects, previous experience indicates that cumulative air quality impacts would be likely to exceed the thresholds for NO_x, could exceed the thresholds for PM_{10} and $PM_{2.5}$, and would be unlikely to exceed the thresholds for CO.*" While the Draft EIR attempted to demonstrate the severity of these impacts, the Recirculated (and hence Final) EIR omit this consideration. Decision makers and the public need to know the severity of this cumulative impact when considering the feasibility of mitigation and whether the benefits of the project outweigh the impacts.

Student Exposures

The EIR presents potential carcinogenic health risks for student populations based on a set of exposure parameters that are not appropriately conservative. While Figures 3.2-10, 11, and 12 in the EIR show risks with residential exposures for the identified school sites, the exposures for students are limited to 6 years, 6 hours per day, and 180 days per year within Table 3.2-35. This exposure period is less than the minimum 9-year exposure duration recommended by Cal-EPA Guidance, and is also lower than the typical exposures experienced by students adjacent to the proposed project. Hudson Elementary is in fact a K-8 school, and students from this school are likely to attend Cabrillo High School just next door that has similar impacts. Students also frequently stay at schools for longer periods for extra-curricular activities in the afternoons or during the summer. The HRA should report student risks that at minimum account for these realistically longer exposures, if not using a residential exposure typical applied to sensitive land uses.