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Final Environmental Impact Statement/Report (Draft EIS/EIR) for the Proposed Berths 212-224 (YTI) Container Terminal Improvements Project

The South Coast Air Quality Management District (SCAQMD) staff appreciates the opportunity to submit these supplemental comments regarding the Final EIS/EIR for the Proposed Berths 212-224 (YTI) Container Terminal Improvements Project. This letter describes mapping of pollutant levels prepared by SCAQMD staff in response to information in the Final EIS/EIR. This mapping indicates that the project has potential for greater impacts on air quality and public health in a residential area than was previously understood. This letter also explains why the mitigation measure for new technologies that was discussed before the Harbor Commission on October 16 does not effectively allow the port to require implementation of new lower emission technologies when they become available. Finally, this letter summarizes our position regarding other key matters included in the Final EIS/EIR. These comments seek to ensure that the Commission and public have a full understanding of the project's air quality impacts, and that significant impacts are mitigated to the extent feasible, as required by the California Environmental Quality Act. (CEQA Guidelines §15002(a)(1); §15002(a)(3)).

Exceedance of Federal NO₂ Ambient Air Quality Standard

NO₂ Analyses in EIS/EIR. The federal government has adopted National Ambient Air Quality Standards (NAAQS) for various pollutants which are set at levels necessary to protect public health. The draft EIS/EIR for the YTI project concluded that the project would cause an exceedance of the “1-hour” NAAQS for nitrogen dioxide (NO₂).¹ The draft EIS/EIR included a map showing the point of maximum NO₂ impact, which was located in the ship channel adjacent to the YTI terminal (Draft EIS/EIR Figure 3-16). SCAQMD staff requested that the Final EIS/EIR include a map of dispersion modeling to allow the public to understand the geographic extent of the exceedance.

The Final EIS/EIR provides a map which depicts the area of NO₂ impact from the project. (Final EIS/EIR Figure R.7, shown below). This map was prepared using a methodology that combined dispersion modeling of emissions and monitoring data from a nearby air monitor.² This map in the Final EIS/EIR shows exceedance of the federal NO₂ standards occurring primarily over water and port waterfront property, and generally not extending into a residential area.

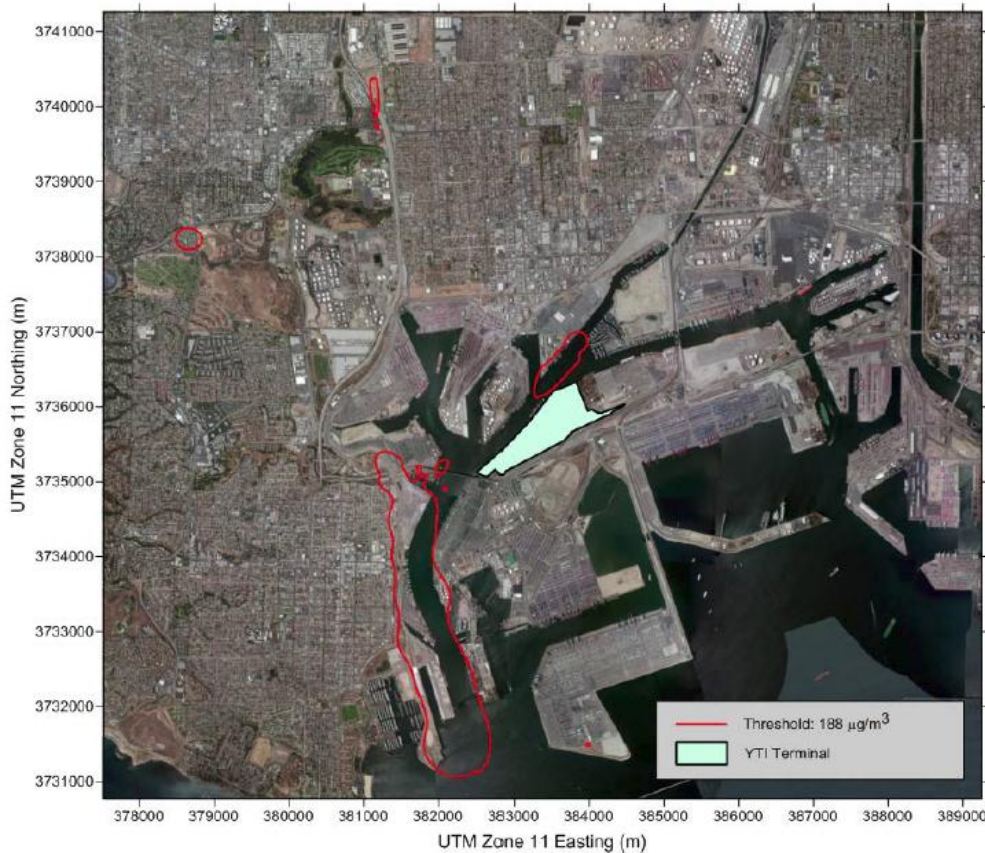


Figure R.7: Mitigated Proposed Project Federal 1-hr NO₂: Operation

¹ Exposure to NO₂ is linked to airway inflammation, respiratory symptoms in people with asthma, emergency room visits and hospital admissions. Children and the elderly are particularly vulnerable.

² This map was prepared by evaluating the NO₂ concentration of the total YTI facility in 2026, subtracting baseline NO₂ levels from the facility in 2012, and adding NO₂ levels monitored at a nearby site.

Recent Plot of Facility-Specific Data. Using the modeling data underlying the above map in the Final EIS/EIR, SCAQMD staff has plotted areas expected to exceed the federal NO₂ standard solely due to emissions from the YTI facility.³ This information is provided in the two maps below. The maps are based solely on data that is specific to the YTI facility, i.e. emissions, source location, wind direction, and other pertinent data. The first map (Figure 1) shows in yellow the area of NO₂ exceedance resulting from baseline emissions in 2012. The second map (Figure 2) shows in yellow the area of exceedance resulting from the YTI facility after the project is completed and in operation. Since these analyses solely modeled emissions from the YTI facility, actual areas of exceedance could be larger in both cases due to cumulative background NO₂ levels created by other sources.

The maps show that the YTI terminal by itself creates NO₂ levels exceeding the federal standard. With the project, the modeled area of exceedance increases to encompass an area with over one thousand residences.

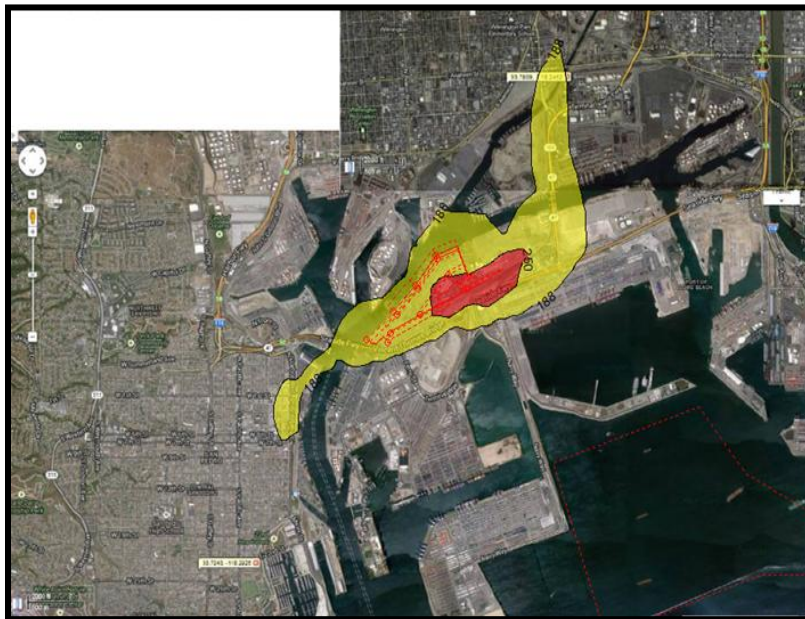


Figure 1. Map Created from Dispersion Modeling Output File Provided to SCAQMD Staff. Yellow shading shows area with NO₂ concentrations that exceed federal NAAQS of 188 ug/m³. Red shading shows areas with NO₂ concentrations that exceed 250 ug/m³.

³ Data comes from 'yti.onsite.coarse/no2.yti.01hr.bl.ops.8th.ALL.plot' and the 'yti.onsite.coarse/no2.yti.01hr.ppm.ops.8th.ALL.plot' model files.

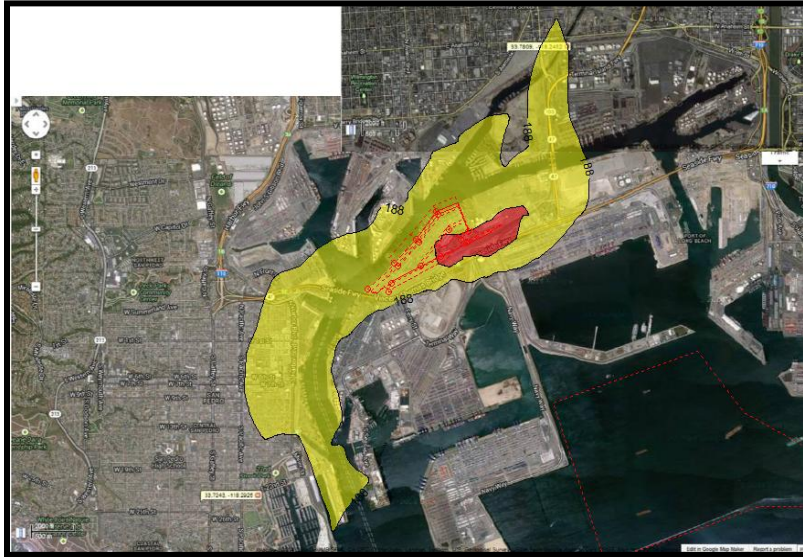


Figure 2. Map Created from Dispersion Modeling Output File Provided to SCAQMD Staff. Yellow shading shows area with NO₂ concentrations that exceed federal NAAQS of 188 ug/m³. Red shading shows areas with NO₂ concentrations that exceed 250 ug/m³.

Implications. The above maps indicate that the project will have a greater impact than previously understood by causing the federal NO₂ standard to be exceeded in a large residential area. This more specific information is available and should be considered by the Commission as part of its implementation of CEQA. These maps provide a more accurate representation of potential air quality impacts from the YTI facility before and after the project is built. CEQA requires that the agency select an approach for analysis "that will give the public and decision makers the most accurate picture practically possible of the project's likely impacts." (*Neighbors for Smart Rail v. Exposition Metro Line Construction Auth.* (2013) 57 Cal.4th 439, 449.)

While the EIS/EIR already determined NO₂ impacts to be significant, this new data emphasizes the importance of making every effort to identify and incorporate all feasible mitigation measures into the project approval. As noted in our prior comment letters, SCAQMD staff does not believe that the project includes all feasible measures to reduce NO₂, cancer risk, and other significant emissions impacts identified in the EIS/EIR.

The above data is also relevant to the Harbor Commission's decision to adopt a Statement of Overriding Conditions. CEQA requires that, in a case such as this where the lead agency is making a decision to approve a project despite finding it infeasible to mitigate its significant adverse environmental impacts, the agency must find that the benefits of the project outweigh its adverse impacts. (CEQA Guidelines § 15093.) The evidence that the project will cause a federal health-based air quality standard to be exceeded in a large residential area must affect this decision.

Mitigation Measure LM AQ-1, Periodic Review of New Technology and Regulations

At the October 16 Harbor Commission meeting, there was discussion regarding a key mitigation measure proposed by the port. This mitigation measure, which was commonly referred to as a “lease reopener,” is claimed to allow the port to require the terminal operator to implement new, lower emission technologies in the future when they become feasible. This measure is important because the EIS/EIR states that a number of low or zero emission technologies, while “promising,” are not currently feasible. Rather than including conditions designed to require or even just incentivize actions to implement such technologies, the EIS/EIR relies on this “lease reopener” to authorize imposition of mitigation in the future.

The characterization of this measure as a lease re-opener is incorrect and, more importantly, the measure is inadequate to enable the port to require implementation of new strategies to mitigate project impacts. The problem is that the measure only applies in two circumstances, neither of which are likely to occur. The first circumstance is at the time of a “lease amendment” or “facility modification”— neither of which are foreseeable or likely during the term of the new lease. The second circumstance is if the tenant and the port reach a mutual agreement on “operational feasibility” and “cost sharing.” Neither of these terms are defined, and the provision effectively gives the tenant the ability to block any new mitigation requirement by declining to agree.

The SCAQMD continues to believe that additional enforceable mitigation measures can be required from this project to ensure actual mitigation of significant impacts. Rather than relying on LM AQ-1, which creates no requirement or even incentive to deploy cleaner technologies, the Commission should incorporate specific mitigation measures that are designed to effectively mitigate the significant adverse impacts.

Other Issues

SCAQMD staff has reviewed the EIS/EIR responses to our comments, but we continue to have the following concerns that should be addressed prior to project approval:

Compatibility with the 2010 CAAP and San Pedro Bay Standards. The project is inconsistent with the San Pedro Bay Standards by allowing an exceedance of the cancer risk threshold in residential areas.

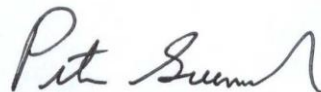
Feasibility of Additional Mitigation Measures. Given the projected exceedance of the federal NO₂ standard and increased cancer risk, the Lead Agency has the burden of identifying and enforcing feasible mitigation measures to reduce those significant impacts. In the Final EIR, the Lead Agency acknowledged the mitigation measures proposed by SCAQMD in its comment letter, but found them to be infeasible. SCAQMD staff disagrees with the Lead Agency’s response and believes that more can feasibly be done to require and incentivize cleaner technologies. Some examples of such technologies include:

- *Zero/Near-Zero Emission Technologies* - SCAQMD staff believes that zero and near-zero emission technologies for cargo handling equipment and trucks can be deployed during the life of the project.
- *Oceangoing Vessel Alternative Marine Power (AMP)* – SCAQMD staff disagrees with the Final EIR’s conclusion that no further mitigation is feasible to reduce ship emissions while at berth. The project could require that either more ships utilize AMP beyond CARB regulations, (and before the final year of the project, as currently proposed), and/or the project could require ships to use collection and control technology (e.g. the “bonnet”) similar to what is currently proposed for the Port of Long Beach Mitsubishi terminal project.
- *Lower Emission Oceangoing Vessel Engines* - The Lead Agency should include measures to deploy ships meeting the Tier III IMO emission standards during the life of the proposed Project.
- *Rail* - The Final EIS/EIR should include a mitigation measure to accelerate the use of Tier 4 line-haul locomotives (similar to CAAP measure RL-3). SCAQMD staff also recommends that the proposed project maximize on-dock rail usage beyond currently projected on-dock demand to reduce the need to send containers to off-dock rail yards.

In closing, we urge the Harbor Commission to ensure full consideration of the above evidence of significant impacts, and include additional measures to mitigate the significant adverse impacts of this project.

Please contact me at (909) 396-2111 if you have any questions regarding the enclosed comments.

Sincerely,



Peter Greenwald
Senior Policy Advisor

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