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Governing Board Members
South Coast Air Quality Management District
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[submitted electronically to descontrias@aqmd.gov]

Governing Board Members,

The Port of Los Angeles (POLA or Port) appreciates the opportunity to provide these written comments to the South Coast Air Quality Management District's (AQMD) Governing Board for the February 4, 2022 meeting. We write to express our disappointment that negotiations to establish a Memorandum of Understanding (MOU) among the two ports and the AQMD have been unsuccessful. If additional negotiations are pursued – and if they are to have a chance of success – authorization for staff to proceed with formal Indirect Source Rule (ISR) rulemaking must be withdrawn. Fundamentally, we believe it is not possible to establish an effective, collaborative emissions reduction framework in the San Pedro Bay Port Complex, and across the maritime supply chain, under threat of an ISR.

In our judgment, three key things that have contributed to our inability to advance these negotiations must be addressed.

First, there is a fundamental disagreement regarding the purpose of the MOU. Starting in 2018, the ports of Los Angeles and Long Beach (the San Pedro Bay Ports or Ports) sought to develop an MOU that would allow AQMD to obtain State Implementation Plan (SIP) credit for 2017 Clean Air Action Plan (CAAP) Update programs implemented by the Ports. This purpose was clearly and consistently stated in the recitals of MOU drafts that were shared among the Ports and AQMD during the first two years of these negotiations before the global pandemic began in Spring 2020. We continue to support an MOU based on the CAAP as the ideal way to coordinate our efforts with AQMD to quantify emission reduction benefits in the Basin, within our respective legal authorities. Unfortunately, in the summer of 2021, AQMD staff informed us they rejected the 2017 CAAP Update as the basis of the MOU; and that they would require the Ports to go beyond the 2017 CAAP Update. They sent the Ports a list of new MOU concepts reflecting this thought process, and informed the Ports they now need to guarantee NOx emissions reductions of 20 tons per day from preempted sources the Ports do not own or control (please note that 75% of these emissions come from ocean going vessels).

As has been stated since the beginning of negotiations, the Port of Los Angeles remains open to the development of new CAAP programs, and we are prepared to proceed, with input from AQMD staff, but we cannot commit to new CAAP programs in an MOU with AQMD without first going through our CAAP process. That process requires vetting new program concepts with stakeholders, development of draft programs for discussion, and eventually, presentation of those new programs to our Board of Harbor Commissioners along with Charter-required review by the Los Angeles City Council. There is a timeline associated with our CAAP process that is not consistent with the time frame you have given

staff for negotiation of the MOU. Nonetheless, this process is vital and fundamental to voluntary action from the stakeholders that own and operate the preempted modes of transportation found in the goods movement industry. Our requests for time to allow for our process to be accommodated have not received response.

Second, in August 2021 you gave AQMD staff authorization to proceed with an Indirect Source Rule (ISR) rulemaking process starting in February 2022, while also telling them to try to negotiate an MOU in the interim six months. While your staff did engage in discussions with the Ports in the weeks and months following your August 2021 Board meeting, the fact that they already had authorization to proceed with an ISR, together with our fundamental disagreement regarding the purpose of an MOU, created a framework for unproductive negotiations. We sent a letter to you in December 2021 with an offer of how to move forward with an MOU. We have yet to receive an official response to our letter beyond verbal statements from AQMD staff that our offer is simply not enough and we must offer more to deter them from proceeding with a rulemaking process for which they have already received authorization. As we have stated previously, rulemaking will likely cause potential CAAP stakeholders to cease participation in further voluntary efforts and instead revert to legal pathways to protect their own interests, which would delay achieving our shared emission reduction goals.

Third, AQMD staff's summer 2021 MOU concepts asked that the Port of Los Angeles commit to fund Low NOx trucks with \$100 million in advance monies from the Clean Truck Fund Rate. The City of Los Angeles has been very clear in its commitment to focus its funding and programs toward zero emission trucks only. We cannot advance money for the purchase of Low NOx trucks. Our stakeholder input process, conducted over the last few months of 2021 as directed by our Board of Harbor Commissioners, further led us to support the need to focus entirely on zero emissions development and deployment in order to concurrently achieve our climate goals, reduce criteria pollutant emissions, and reduce health risk. In both our November and December letters to the AQMD Board, we committed to expend \$130 million during the first three years of Clean Truck Fund Rate collection toward the purchase of zero emission trucks and related infrastructure. We also committed to fund 1,000 zero emission trucks through 2025. We remain committed to these zero emission investments, but again, we have not received any formal response.

We want to achieve the same overarching goals of reducing emissions and protecting public health but have fundamentally different views on how to achieve them. The Port does not own, operate or control the ships, trucks, trains, cargo handling equipment, and harbor craft that are the focus of our CAAP and the subject of these MOU negotiations. These sources are regulated by Federal, State, and international agencies. The regulation by Federal, State and international agencies preempts local attempts to regulate these sources – this fact is fundamental to understanding why the CAAP's voluntary approach is superior to rulemaking. Our CAAP has demonstrated that the best way to achieve emissions reductions is through collaboration with the owners and operators of these sources to establish voluntary goals to meet our objectives. This CAAP approach has produced dramatic emissions reductions and was recently identified by the United States Environmental Protection Agency as a model for the world to follow for effective solutions to reduce goods movement emissions. Just recently, we agreed to a first of its kind partnership with cargo owners, shipping lines and the Port of Shanghai to establish a new process to develop meaningful new programs and establish strong goals to decarbonize the movement of goods **along the entire corridor** between our two ports over the next decade and beyond. We are very proud to begin working with this new partnership. Over the past fifteen years, we have shown that this same collaborative process works.

Conversely, ISR rulemaking will halt emissions reduction progress dramatically. Once rulemaking begins, our CAAP stakeholders will refrain from collaborating in the development of new CAAP programs out of concern that our CAAP process will simply provide technical support for AQMD's ISR rulemaking. We hold strong reservations as to whether the CAAP can continue to progress under the umbrella of a rulemaking, and we believe rulemaking will not lead to the kind of emissions reductions that would result from an MOU.

Therefore, if additional negotiations are pursued – and if they are to have a chance of success – we urge you to: (i) withdraw the ISR rulemaking process; (ii) accommodate our CAAP process – we need to engage stakeholders, obtain authorization from our Board, and afford our City Council an opportunity to weigh in under our Charter, and (iii) support our focus on zero-emissions equipment.

Lastly, our ports have been the focus of international and national attention because of the unprecedented cargo volume and supply chain disruption. We have been working tirelessly with our federal and state leaders to address this historic challenge. What is clear is that the maritime shipping industry is complex: it consists of multiple stakeholders beholden to a variety of rules and regulations stemming primarily and most importantly from the State, Federal, and international levels. Attempts to enact change in this industry by local fiat are typically unproductive and can yield unintended consequences. Similarly, it is likely that rulemaking amidst current market conditions may exacerbate current supply chain issues. Efforts to reduce emissions must be nuanced and carefully balanced. We believe that change in this industry will be best accomplished through collaboration. This is how our CAAP works. To abandon the CAAP approach now, or fundamentally change its foundations, threatens to set back long-term attempts to address emissions reduction in this complex industry.

We remain committed to the actions and goals of the CAAP, while also remaining committed to partnering with you to assure emissions reductions can be SIP-creditable. Together, we can work together to add to address the impacts of local air pollution and global climate change.

Respectfully,



EUGENE D. SEROKA
Executive Director
Port of Los Angeles

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