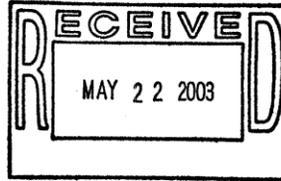
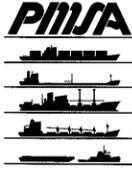


COMMENT LETTER 6

Pacific Merchant Shipping Association
May 22, 2003



VIA FACSIMILE (909 396-3324) AND MAIL

May 21, 2003

Mr. Michael Krause
South Coast Air Quality Management District
CEQA Section, Planning, Rules Development and Area Sources
21865 E. Copley Drive
Diamond Bar, CA 91765

Re: Comments to the Draft Program Environmental Report for the Proposed Draft 2003
Air Quality Management Plan

Dear Mr. Krause:

6-1

I am writing on behalf of the members of the Pacific Merchant Shipping Association (PMSA), a regional trade association representing many of the steamship lines and marine terminal operators at the Port of Los Angeles and Long Beach, as well as throughout the state. We appreciate the opportunity to provide comments on the Draft Program Environmental Impact Report (EIR) for the Proposed Draft 2003 South Coast Air Quality Management Plan (AQMP). PMSA's comments focus on the sections related to port and vessel operations and we would be glad to discuss these issues further with SCAQMD prior to finalization of the draft AQMP and associated draft EIR.

6-2

1. Pages ES-9 – ES-10 and Chapter 5 (Alternatives): The Draft EIR states that all action alternatives (including Alternatives 2 and 4, which do not attempt to prescribe reductions in federal sources) would have impacts similar to those of the proposed project and would bring the District into attainment with the air quality standards addressed by the 2003 AQMP. The Draft EIR does not, however, discuss, much less identify, the environmentally superior alternative, as CEQA requires. The failure to address the environmentally superior alternative, particularly where the District's AQMP is at stake, is a serious omission that deprives the public of the opportunity to focus and comment on an identified environmentally superior alternative and, in turn, deprives the District of the public's comments on that alternative.

6-3

2. Page ES-15 and 2-16: Control Measures FSS-05 and FSS-07, which are elements of the proposed project, are described as "**Speculative**" and the Draft EIR makes no effort to analyze these project elements. There is no adequate project description for FSS-05 and FSS-07 under CEQA. The inadequate project description precludes the EIR from analyzing the potential impacts of these measures. Control Measures FSS-05 and

Page 1 of 8

Pacific Merchant Shipping Association

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- 6-3
cont. FSS-07 should not be included in the proposed project if the District describes them as “speculative” and is not prepared to analyze the potential impacts of those project elements.
- 6-4 The only project description provided for FSS-05 and FSS-07 is that the SCAQMD would implement fees for federal and port sources that would be utilized to support various emissions reduction programs. The quantity of fees, potential reduction programs or location of emissions reductions is not identified. Based on this description, it is difficult to see how measures FSS-05 and FSS-07 can even be identified as “control measures.”
- 6-5 The Draft EIR (page 4.0-3) states that in relation to measures FSS-05 and FSS-07 “there is insufficient information regarding compliance options or how they would be implemented to determine the potential impacts”. The Draft EIR goes on to assert that “[b]ecause the control measures are general in nature, its difficult to determine what, if any, impacts could be expected from these control measures. Therefore, the impacts of the control measures identified in Table 4.0-2 would be considered speculative and no further environmental analysis is required (CEQA Guidelines § 15145).” This statement of the law is incorrect. CEQA Guidelines section 15145 provides: “If, after thorough investigation, a lead agency finds that a particular impact is too speculative for evaluation, the agency should note its conclusion and terminate discussion of the impact.” This provision allows a lead agency to thoroughly investigate all impacts of a properly defined project and to conclude, based on that investigation, that a particular impact is too speculative to evaluate. Nothing in section 15145 or in CEQA permits a lead agency to fail to define project elements, to conclude based on the inadequacy of the project description that the impacts of those elements cannot be evaluated, and then to declare its CEQA work completed. Without adequate definition of the proposed action, and with the District’s acknowledgment that it can not even foresee the potential impacts, the District cannot fulfill its obligation under CEQA to assess potential impacts from the proposed action or to address cumulative impacts that would result in part from the proposed action. Therefore, if SCAQMD ever attempts to proceed with Control Measures FSS-05 or FSS-07, this EIR will be useless and the District will need an entirely new CEQA document.
- 6-6 These measures would impose unspecified fees on vessels and other Port-related sources in the District. A potential effect of such fees could be the redistribution of cargo out of the district with unknown environmental impacts. A current example of such unintended consequences has arisen at the Alameda Corridor, where a modest \$30-per-container rail fee, intended to pay for the rail facility’s construction, has diverted cargo from lower-polluting trains to higher-polluting trucks. The Draft EIR does not address the potential cargo redistribution impact, or any other potential impact, of FSS-05 and FSS-07.
- 6-7 In addition, the EIR identifies Control Measures FSS-05 and FSS-07 as measures to be implemented by the SCAQMD, rather than by CARB or EPA. The EIR acknowledges, however, that almost all of the sources that would be affected by these measures are subject to exclusive federal jurisdiction. What is the legal basis for the District to impose

- 6-7
cont. fees on sources that it has no jurisdiction to regulate? The Draft AQMP (page 4-17) acknowledges that the District may lack legal authority to impose measures FSS-05, FSS-06 and FSS-07, but the Draft EIR does not.
- 6-8 Finally, even if the District had jurisdiction to impose fees, or if such fees were proposed by EPA, PMSA would be concerned about the implementation of emission fee programs and the lack of specificity of how any such fees would be used. Any mitigation programs that are developed should be implemented within the local area of the emissions source, so that impacts are mitigated. Finally, FSS-05 and FSS-07 appear to have the potential to require an overlap of fees for port sources. If these control measures are ever pursued, clarification will be needed on the specific sources that would be assessed fees under each proposed measure to confirm that there would not be redundant requirements.
- 6-9 3. Page 2-16: Measure FSS-6 is unclear in regard to the sources that would be regulated under this proposed measure. The Draft EIR states that FSS-06 will apply to “in-use off-road equipment and vehicle categories (e.g. construction and industrial equipment recreational vehicles, utility equipment)”. It is understood that the measure would consist of retrofitting existing engines or accelerating the engine turn-over rate. Emissions inventory data contained with the Draft AQMP, Attachment A, Appendix III, Other Mobile Source Category, includes source codes 810 through 895. Source code 860 is shown as off-road equipment and code 850 is shown as off road recreational vehicles. It is anticipated that source code 810-Aircraft, code 820-Trains and code 830-Ships and commercial boats or other port sources will not be regulated under FSS-06. Please provide clarification. Lacking this clarification it is not possible to clearly identify the potential local or cumulative impacts from this proposed measure.
- 6-10 4. Page 2-38: Table 2.6-4 shows virtually identical peak ozone concentrations regardless of whether regulation of federal sources is increased. This table appears to conflict with the assertion that greater regulation of federal sources is required in order for the District to attain ozone standards, and therefore appears to undermine the stated need for control measures FSS-05 and FSS-07.
- 6-11 5. Pages 2-39 –2-40: The Draft EIR states that “[b]etween 2000 and 2010, the total NO_x emissions from marine vessels are projected to increase 25 percent ... because the effects of activity growth are greater than the benefits of current controls. ... Marine ... emissions continue to grow dramatically by 2020 without new strategies.” These estimates appear not to take into consideration voluntary trip speed reductions, implementation of IMO standards, and other significant efforts by the ports and vessel operators to reduce emissions, as described in Comment 7 below. Please explain if these emission reductions were not taken into account in the emission inventory upon which the Draft AQMP was based. As discussed below, this omission would be a major defect in the Draft AQMP and would also affect the Draft EIR Setting section.
- 6-12 6. Pages 3.1-18 through 3.1-27: We have previously commented to the District on the inaccuracies in the vessel and port inventories used in the Draft AQMP. These inaccuracies result both from flawed methodology and from failure to acknowledge

6-12
cont. existing and anticipated reductions in marine vessel emissions. We received no response to our comments and the inaccuracies are perpetuated in the Draft EIR. The result is that substantial evidence does not support the "Setting" section of the Draft EIR pertinent to marine vessels. Accordingly, we will briefly reiterate our comments on the flawed methodology and assumptions used in the Draft AQMP and now in the Draft EIR.

6-13 a) Incorrect Calculation Methodology Was Used To Estimate Emissions From Marine Vessels. - On March 28, 2003, PMSA submitted comments to Mr. Zorik Pirveysian, Planning and Rules Manager, on potential inaccuracies in the quantification method for vessel emissions in the AQMP. The inaccuracies include the following.
The ARCADIS report upon which the Draft AQMP vessel emission inventory was based used a modified version of a formula designed for calculating the power required (indicated horsepower) to attain a certain speed through the water, in order to arrive at a classification system and a "design category" (see page 2-2 of the ARCADIS report). The report used deadweight tonnage instead of the required displacement tonnage¹ value in this equation. Displacement tonnage and deadweight tonnage are two totally different measurements and are not interchangeable. No reason or explanation was given for the use of deadweight over displacement tonnage.

6-14 The correct version of this formula is only used for preliminary horsepower design calculations by naval architects; the formula was not intended for the purpose of emissions analysis and it not well suited to such analysis

6-15 The accuracy of the approximation and the reliability of the correct calculation method (which was not used by ARCADIS) depend wholly on the similarity of ship design and propellers under comparison. The use of the correct equation is based on the assumption that the propulsive efficiency is constant and the whole resistance of the ship follows the law of surface friction resistance. In lay terms this means that different hull designs and propeller designs will have a huge affect on the efficiency of the vessel. More efficient hulls or propeller designs provide different values.

6-16 In addition, the report tries to extrapolate the break horsepower (bhp) for newer, larger, and faster ships that do not fit into previously categorized OGVs via graphing the break horsepower of known ships versus the derived design category values. The bhp is then used in conjunction with emission factors from a 1991 Lloyd's study to calculate emissions for pollutants such as NO_x.

6-17 Although there are many references to the 1996 inventory assessment, other information such as the engine rated power (*i.e.*, horsepower) data were obtained from a Lloyd's Registry study completed in 1991. This means that the engine data of OGVs used for this

¹ The difference between deadweight tonnage and displacement tonnage is as follows: displacement tonnage is tons of salt water displaced by a vessel afloat. The deadweight tonnage is cargo carrying capacity of a vessel in long tons plus the weight of other variables including fuel and ballast water. The displacement tonnage is typically larger in value than the deadweight tonnage. The deadweight tonnage, unlike displacement tonnage, does not include the weight of the hull and machinery.

6-17
cont.

report is almost 12 years old. The recent shipping industry trend is the use of larger and few vessels to deliver cargo. The International Maritime Organization (IMO) Annex VI dictates substantially reduced NO_x emissions from new or retrofitted main engines. When ratified — and the President recently forwarded Annex VI to the Senate for U.S. ratification — these standards will be retroactive to January 1, 2000. Consequently, virtually all ships designed and delivered after that date comply or exceed these standards and are representative of the international fleet that services the Port of Los Angeles (POLA) and Port of Long Beach (POLB). The AQMP and Draft EIR do not accurately consider the current types of vessels that are typically utilized within the South Coast Air Basin, even though the Draft EIR elsewhere acknowledges the substantial emission reductions that are projected to occur. (Draft EIR, p. 4.1-42).

6-18

The ARCADIS report ignores vessel fuel consumption as a factor in its emission calculations, which has ramifications for future year predicted emissions. The reasoning used is that energy consumption allows for better indication of pollutants such as NO_x and SO_x, however, the use of energy consumption methodology tends to increase the emission rates for future years. This approach raises questions on the accuracy of future predictions of marine inventories. The report further indicates that the use of fuel emission consumption method is difficult since it requires estimates of fleet-average fuel efficiency in future years, which are difficult to project. Fuel consumption is a very real factor in engine emissions. To totally ignore fuel consumption in favor of a “methodology” that “tends to increase” future year inventories, shows an unfair bias against the industry. Many companies are building new vessels with more fuel-efficient engines. Indeed, with fuel comprising about 45 percent of a ship’s operating cost, concerns over main engine efficiency is paramount in the minds of ship owners and operators. To compare these new engines to the engines in use during the 1991 Lloyd’s study is inaccurate and leads to erroneous conclusions.

6-19

The ARCADIS report addresses the harbor craft and tugs in section 3 of the report. The emission calculations performed in this section are based on 1993 data from the US Army Corps of Engineers. The majority of the tugs and harbor craft in operation today at the Port of Los Angeles (POLA) and Port of Long Beach (POLB) (*i.e.*, vessel assist tugs, workboats) were put into service after 1993. Therefore, the emission data reported in the ARCADIS report is out-dated and bears no resemblance to current circumstances. In addition, a large portion of the harbor craft fleet has already gone through engine retrofits, accomplished through various programs, including the Carl Moyer program and a program administered by the port authorities. The SCAQMD appears to not have taken these existing reductions into consideration in development of the inventory.

6-20

The ARCADIS report does not contain the correct information for the number of ocean-going tugs that call in at the San Pedro Bay Port (SPBP). In section 2, it is estimated that roughly 98 of the 5238 calls made to the San Pedro Bay Ports in 1997 were made by non-OGVs (*i.e.*, tugs and harbor crafts). However, based on our conversation with Mr. McKenna of the Southern California Marine Exchange, roughly 500 (±100) tug calls are made to the Ports of San Pedro Bay every year. This number has remained relatively constant since before 1997.

6-21

The POLA and POLB are in the process of preparing up-to-date emission inventories for their operations. The POLA intends to quantify emissions from vessels and port side operations, whereas POLB has opted to primarily focus on the port side operations. These studies should be available in September or October of this year. Given the potential local and international trade ramifications of proposed rulemaking for vessels and ports, it is suggested that SCAQMD should at a minimum delay proposals for any rule making associated with these sources until more accurate emissions based on current scientific knowledge and actual operations are developed.

6-22

b) The Draft AQMP and Draft EIR Should Have Incorporated Ongoing Emission Reductions in the Inventory – The SCAQMD clearly acknowledges that vessels and ports are already voluntarily exploring measures to reduce emissions. (Draft EIR, p. 2-44.) However, it appears that the SCAQMD does not account for numerous voluntary or MOU based port programs that have been implemented or are ongoing, and the recent programs promoted by the Mayor’s office. These programs represent the substantial commitment by these sources to address air quality issues and implement emission reductions. Programs that apparently have not been included into the AQMD planning process include:

1. Carl Moyer and State Emissions Mitigation – Emissions have been reduced and will hopefully continue to be reduced through projects funded by the Carl Moyer and State Emission Mitigation programs.
2. Vessel Speed Reduction Measure. Implemented May 2001, under MOU with EPA, CARB, SCAQMD, maritime industry, Marine Exchange, POLA, POLB. Every ship entering and leaving San Pedro Bay is monitored. Current benefit is calculated to be in excess of 1.5 tons of NO_x per day.
3. Port Infrastructure Projects including Alameda Corridor and intermodal rail yards at Pier 400, Pier 300, Terminal Island, and West Basin. Grade separations and terminal entrance/exit improvements that reduce port emissions.
4. Recent commitments by the POLA and POLB to utilize emulsified fuels and diesel oxidation catalysts at the ports. In fact the POLA has order 585 oxidation catalyst and anticipates that over 75 percent of their equipment will be controlled as a result of this effort. (However, it is noted this was only formally announced within the last few weeks.)
5. Clean Fuel during Hotelling. Although the benefits of this program have not been reported the potential reduction in PM10 (diesel air toxic particulates) is conservatively estimated to be twenty-five percent. The reduction in sulfur dioxide (SO₂) would be over 90 percent from current levels which would include transiting in addition to hotelling emission reductions.
6. Alternative Maritime Power Program. A study is being done on the feasibility of providing shore based power sub-stations that vessels will plug into while alongside the dock, allowing them to keep their main engines and auxiliary generators idle. Several shipping lines have signed non-binding MOU’s with the Port of LA to participate in this study. This technology is often referred to

6-22
cont.

- as “cold-ironing.” Cold-ironing has the potential to reduce emissions by several tons per day of NO_x and hundreds of pounds per day of PM₁₀, a.k.a. diesel air toxic particulates.
7. Port of Los Angeles Clean Air Program (POLACAP). \$2.8 million of Port funds combined with \$2.4 million of State grant funds to reduce Port emission sources.
 - a. \$250,000 for ship demonstration program.
 - b. \$1,200,000 for terminal equipment oxidation catalysts installation
 - c. \$940,000 for emulsified diesel use in terminal equipment
 - d. \$900,000 for locomotive repower/replacement & emulsified diesel use
 - e. \$1,000,000 for SCAQMD match fund program for Port equipment
 - f. \$950,000 for Harbor Craft Repowers under Carl Moyer Program
 - g. \$200,000 for emission testing
 8. Settlement agreement with NRDC, CAC, San Pedro Homeowners.
 - a. \$10,000,000 for Gateway City accelerated truck retirement program
 - b. \$20,000,000 for unspecified air quality measures
 - c. Mitigation measures for China Shipping Container Terminal:
 - i. \$5,000,000 for AMP
 - ii. unknown cost for alternative fuel yard tractors
 - iii. use of emulsified diesel and oxidation catalysts on all terminal equipment (equipment procurement underway)

6-23

The draft AQMP Attachment A, Appendix III shows a 35 percent increase from the baseline year of 1997 in comparison to the year 2010. It appears that the SCAQMD does not take into consideration the above emission reductions. Under CEQA, both current baseline and future no-project conditions must be accurately described. The SCAQMD should revise the emission inventory to take into consideration programs that are being implemented to reduce emissions in order to accurately define the baseline existing setting and potential future need for additional regulation.

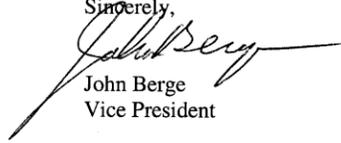
6-24

Conclusion

As you know, the Ports of Los Angeles/Long Beach together constitute the third busiest commercial port complex in the World and the busiest in the United States. The actions of the SCAQMD, CARB, and EPA within their respective regulatory authorities will have major impacts on the local community as well as the state and national economy. The actions of these agencies must, therefore, be firmly based on up-to-date information, sound science, and an appreciation of the importance of uniform regulation of interstate and international commerce.

We look forward to meeting with the district staff to further discuss these concerns in an effort to assist in developing this plan.

Sincerely,

A handwritten signature in black ink, appearing to read "John Berge", with a long horizontal flourish extending to the right.

John Berge
Vice President

cc: Barry Ogilby
Joan Heredia

**COMMENT LETTER # 6
FROM PACIFIC MERCHANT SHIPPING ASSOCIATION**

John Berge
May 22, 2003

Response 6-1

The SCAQMD staff understands that the Pacific Merchant Shipping Association's (PMSA) comments on the AQMP and AQMP PEIR are related to port and vessel operations.

Response 6-2

The CEQA Guidelines state "if the environmentally superior alternative is the "no project" alternative, the EIR shall also identify an environmentally superior alternative among the other alternatives" (CEQA Guidelines §15126.6(e)(2)). Based on the analysis of the relative merits of the project alternatives in the Draft PEIR, it was apparent that the No Project Alternative is not the environmentally superior alternative. Even though the No Project Alternative is not the environmentally superior alternative, Alternative 3 has been identified in the Final PEIR as the environmentally superior alternative because it achieves more VOC emission reductions and equal NOx emission reductions compared to the proposed project. Impacts to other environmental topics are comparable among all the alternatives. No further modifications are required to the alternatives analysis.

Response 6-3

The descriptions of the AQMP and the Control Measures in the Draft PEIR were only summaries of the proposed project. The 2003 AQMP and Appendices with the full descriptions of each Control Measure were available during the public comment period for the Draft PEIR. The commentator, therefore, had other sources of information to supplement the information in the Draft PEIR.

See Response 1-3 regarding comments on FSS-05 and FSS-07. See also Responses 1-23 through 1-25 regarding FSS-05 and Responses 1-28 through 1-30 regarding FSS-07. The actual specific details on how Control Measures FSS-05 and FSS-07 would be structured is beyond the scope of the control measure write-up. The details of such a program would be thoroughly evaluated and analyzed during the rule development process. However, the control measures have been revised to include criteria for establishing the emissions fee and for selecting emission reduction projects. The SCAQMD staff considers the need to develop these mobile source control strategies in the Plan to be necessary because of the significant level of emission reductions required to demonstrate attainment with the 1-hour ozone standard by 2010 while making progress towards federal PM2.5 standards. See Response 6-10 which concedes ozone can be attained without regulating federal sources. Refer to Response 5-3.

Response 6-4

See Response 1-3 regarding comments on FSS-05 and FSS-07. See also Responses 1-23 through 1-25 regarding FSS-05 and Responses 1-28 through 1-30 regarding FSS-07. Please refer to the response for comment #6-3 with regard to the details of FSS-05 and FSS-07.

Response 6-5

See also Responses 1-23 through 1-25 regarding FSS-05 and Responses 1-28 through 1-30 regarding FSS-07. The PEIR does exactly as suggested in this comment, i.e., identifies the Control Measure (FSS-05), explains why the impacts are speculative (see page 4.0-3 which has been revised to include FSS-05), and terminates the discussion of these impacts. The PEIR has complied with the CEQA Guidelines regarding speculative impacts. During the rulemaking process the SCAQMD staff will prepare the appropriate CEQA document. See Response 1-3 regarding comments on the FSS-05 and FSS-07.

The degree of specificity of the environmental analysis in this PEIR is commensurate with the degree of specificity of the proposed project. It is expected that subsequent projects to implement AQMP control measures will undergo an environmental analysis that tiers off of this PEIR pursuant to CEQA Guidelines §15152.

Response 6-6

The control measures are revised to include criteria for establishing the emissions fee and for selecting emission reduction projects. However, the impacts from Control Measures FSS-05 and FSS-07 are speculative, and would be further evaluated during the rule development of each control measure. See also Response 1-47 regarding diversion of cargo.

Response 6-7

Control Measure FSS-05 has been revised in the 2003 AQMP to indicate that the SCAQMD is currently seeking to obtain broader legal authority to regulate mobile sources to the extent feasible. The control measure has also been revised to indicate that it would need to be adopted by the U.S. EPA and the mitigation fee to be paid by federal sources through U.S. EPA rulemaking and/or U.S. EPA grants to the SCAQMD.

Relative to Control Measure FSS-07, the authority to regulate indirect, area-wide and fleet sources are set forth under California Health and Safety Code Sections 40440, 40447.5, 40716 and 40522.5. Although there are restrictions in state and federal law regarding the SCAQMD's authority to directly regulate emissions from non-road sources through establishing emissions standards, the SCAQMD's has the authority to adopt in use restrictions on these sources. The SCAQMD's can require a permit, impose a limitation on the number of hours a source can operate and cap emissions, among other things. Therefore, it would be reasonable for the SCAQMD's to establish a fee program

to support the costs of in-use programs or to implement alternatives to those measures. Likewise, the SCAQMD's may adopt fleet rules and impose indirect source regulations and fees, and therefore may establish fee programs to support or substitute for those programs.

The PEIR has been revised to reflect these revisions to the AQMP. Please note that the PEIR summarizes the AQMP in the Project Description portion of the PEIR and does not reiterate all portions of the AQMP. The AQMP should be consulted for the detailed information regarding the plan.

Control Measure FSS-05 – Mitigation Fee Program for Federal Sources District is to be adopted by U.S. EPA and the mitigation fee to be paid by federal sources through U.S. EPA rulemaking and/or U.S. EPA grants to the District.

Response 6-8

See Response 1-3 regarding comments on FSS-05 and FSS-07. See Response 1-3 regarding comments on FSS-05 and FSS-07. See also Responses 1-23 through 1-25 regarding FSS-05 and Responses 1-28 through 1-30 regarding FSS-07. See Response 1-24 regarding potential overlap between the two control measures. Language has been added to the control measure that establishes criteria that will be used in establishing the emissions fee and in selecting the emission reduction projects that will be funded with the mitigation fee. The program design and implementation details will be developed during the rule development stage, where a thorough and collaborative effort will be initiated involving the SCAQMD staff, regulated entities, and other interested stakeholders.

Although, there is overlap between the types of sources subject to control measures FSS-05 and FSS-07, during rule development, these overlaps will be taken into account to ensure that the same categories are not subject to multiple requirements. In order to address these potential overlaps, the control measures have been revised to indicate that staff will conduct further analysis during rule implementation to identify the most feasible control strategy for each source category (e.g., reduction controls, mitigation fee).

Response 6-9

The commenter is correct. Control Measure FSS-06 does not apply to aircraft, trains, and ships. As described in Appendix IV-A, FSS-06 applies to off-road vehicles and equipment such as construction equipment, small utility engines, lawn and garden equipment, off-road recreational vehicles, recreational marine vessels, and other non-highway mobile equipment.

Response 6-10

Based on the modeling analysis conducted in the draft 2003 AQMP, the Basin could still demonstrate attainment with the federal 1-hour ozone standard without further reductions from federal sources (i.e., less NO_x reductions). However, this strategy will jeopardize the attainment of the new standards (i.e., PM_{2.5} and ozone 8-hour standards) since NO_x contributes to formation of both ozone and PM_{2.5}. Therefore, because of the significant contribution of federal sources to emissions (i.e., 34 percent in 2010), Control Measures FSS-05 and FSS-07 must be pursued to achieve the maximum level of reductions achievable from these sources by 2010.

Response 6-11

The marine vessel emissions inventory in the 2003 AQMP is based on the ARCADIS report, completed in 1999. This report did not take into account the recent voluntary speed reductions program for marine vessels since these reductions from voluntary actions are not federally enforceable. However, IMO standards were taken into consideration. SCAQMD staff recognizes that refinements to the marine vessel inventory are certainly possible (e.g., updated methodology and activity data) and would be considered during rule development. However, the overall inventory for marine vessels is not expected to be significantly different than the current estimates and the marine vessels would still represent one of the largest under-controlled emission source categories. SCAQMD staff welcomes the participation of PMSA and other stakeholders in refining the emissions inventory for this source category in the future.

Response 6-12

Please see response to comment #6-11.

Response 6-13

SCAQMD staff recognizes that the ARCADIS report uses a modified version of a formula designed for calculating power requirements in ship design as a classification scheme to estimate the average rated power of ships that call and operate within South Coast waters. However, SCAQMD staff disagrees that the use of the modified equation invalidates the emissions inventory for this source category. As stated in the report, the deadweight tonnage was used as a surrogate for the displacement tonnage because a strong correlation was found between these two values and also because of the unavailability of the displacement weight data for a large fraction of ships. Since displacement tonnage is typically larger than the deadweight tonnage, as noted by the commentor, it could also be inferred that power requirements based on displacement tonnage would be larger than when deadweight tonnage is used. Therefore, the emission inventory may be potentially underestimated using deadweight tonnage instead of displacement weight. The marine vessel inventory will be updated in the future to reflect updated activity data and improved methodologies.

Response 6-14

Please see response to comment #6-13.

Response 6-15

Please see response to comment #6-13.

Response 6-16

Please see response to comment #6-13.

Response 6-17

The marine vessel emissions inventory study included 1991, 1993, and 1995 data from the Lloyd's Marine Exhaust Emissions Research Programme and also used the 1998 data from Mercer Management and Standard & Poor. In addition, the study considered and evaluated the emissions limits finalized in 1997 by the International Maritime Organization (IMO) and changes in NOx emission rates due to IMO standards were incorporated into the emissions forecast.

SCAQMD staff recognizes that refinements including data and methodology improvements may be warranted in future updates to the marine vessels emissions inventory and welcomes the participation of all stakeholders including, PMSA and the ports.

Response 6-18

The SCAQMD disagrees with the opinion expressed in this statement. The 1999 ARCADIS report did not ignore fuel consumption as a factor of emissions calculations. This was a specific methodology change from the 1996 emission inventory study and was intended to improve the analysis by eliminating the need to estimate fleet-average fuel efficiencies. The 1999 ARCADIS report calculates energy consumption instead of fuel consumption. Both methodologies are valid and have precedent in emissions inventory calculations. However, the energy consumption method was chosen because NOx emissions may better be indicated by energy rather than fuel consumption. The fuel consumption method requires estimates of fleet-average fuel efficiency in future years which are difficult to project. The energy consumption method avoids the need for such projections. Also please refer to response to comment 6-17.

Response 6-19

Please refer to Response 6-17 with regards to out-dated data.

During rule development, the SCAQMD will consider the implementation of voluntary measures by port terminal operators. In order for these reductions to be credited toward

SIP commitments, they have to be federally enforceable through a District, state, or federal rule and credit can be provided if the emission reductions already occurred.

Response 6-20

The 1999 emissions inventory study for marine vessels (i.e., by ARCADIS) was developed based on available data at the time of the study from various sources cited in the report. Please also see the response to comment #6-11.

Response 6-21

The SCAQMD is aware of the current emission studies being conducted by the ports and is looking forward to receiving the resulting emissions inventories. However, given the size of the black box and the number of years remaining to demonstrate attainment with the federal 1-hour ozone standard, delays in proposing control measures may hinder progress in attaining all standards by the dates mandated in the CAA. Any updates to the emissions inventory for the Ports can be incorporated into the analysis during the rule development of the control measures.

Response 6-22

During rule development, the SCAQMD will consider the implementation of voluntary measures by port terminal operators. In order for these reductions to be credited toward SIP commitments, they have to be federally enforceable through a District, state, or federal rule. Emission reductions already achieved, for example can be credited through the Carl Moyer Program.

Response 6-23

The ARCADIS report, used as the basis for developing the emissions inventory for ships currently represents the best available information on ship emissions for the Basin. The ARCADIS report provides an inventory study that is sufficiently accurate to support balance planning and an appropriate consideration of control strategies. The SCAQMD acknowledges that the voluntary measures listed in the comment letter were not taken into consideration in developing the baseline and projected emissions inventory for the Ports. However, the SCAQMD will consider the implementation of voluntary measures by port terminal operators during rule development of the proposed control measures.

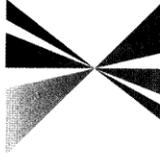
Response 6-24

The SCAQMD staff understands that the proposed control measures in the 2003 AQMP may affect local ports and harbors. The SCAQMD looks forward to continuing to work with these entities to continue improving emission inventories and developing regulations that will result in emission reductions and assure attainment of the ambient air quality standards.

COMMENT LETTER 7

**Southern California Association of Governments
May 21, 2003**

SOUTHERN CALIFORNIA



ASSOCIATION OF GOVERNMENTS
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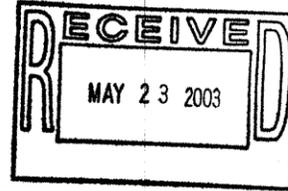
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May 21, 2003



Mr. Steve Smith, Ph.D
CEQA Program Supervisor
South Coast Air Quality Management District
21865 E. Copley Drive
Diamond Bar, CA 91765-4182

RE: **Comments on the Draft Program Environmental Impact Report for the 2003 Air Quality Management Plan – SCAG No. I 20030199**

Dear Mr. Smith:

Thank you for submitting the **Draft Program Environmental Impact Report (EIR) for the 2003 Air Quality Management Plan** to SCAG for review and comment. As areawide clearinghouse for regionally significant projects, SCAG reviews the consistency of local plans, projects, and programs with regional plans. This activity is based on SCAG's responsibilities as a regional planning organization pursuant to state and federal laws and regulations. Guidance provided by these reviews is intended to assist local agencies and project sponsors to take actions that contribute to the attainment of regional goals and policies.

The Draft Program EIR considers the proposed 2003 Air Quality Management Plan. The proposed Project includes short-term and long term control measures for stationary and mobile sources to be implemented with a cooperative partnership of governmental agencies at the federal, state, regional and local level.

SCAG staff has evaluated the **Draft Program Environmental Impact Report for the 2003 Air Quality Management Plan** for consistency with the Regional Comprehensive Plan and Guide (RCPG). The Draft Program EIR includes a discussion on the proposed Projects' consistency with SCAG policies and applicable regional plans. Those policies and plans were outlined in our October 4, 2002 letter on the Notice of Preparation (NOP) for this Draft Program EIR.

Consistency / Regional Comprehensive Plan and Guide

The RCPG includes Growth Management Chapters (GMC) that discuss and include policies to improve standard of living, provide equity and improve quality of life. The Draft Program EIR, in Section 4.6, Consistency, includes a discussion on consistency with each Growth Management Chapter. Each discussion concludes with a general statement, summarized as follows:

- The proposed 2003 AQMP in relation to the GMC would not interfere with the achievement of such goals,
 - of providing social, political and cultural equity
 - nor would it interfere with any powers exercised by local land use agencies
 - but rather assist in improving the regional quality of life
- The proposed 2003 AQMP in relation to the GMC would have positive benefits for the following reasons,
 - proposes control measures to further reduce emissions and reach attainment with federal and state ambient air quality statements.
 - the net effect will be to provide improved air quality to the public thus a benefit to the health of the community.
 - reducing criteria pollutant and toxic air contaminants throughout the region.

May 21, 2003
Mr. Steve Smith, Ph.D
Page 2

7-2
CONT. The Draft Program EIR also includes a discussion of consistency with the Regional Transportation Plan. This discussion concludes with the following:

- The proposed 2003 AQMP is consistent with the RMP and CMP ... Implementing the TCMs would be consistent with the implementation of the RTP, which identifies the strategies to reduce future congestion impacts resulting from growth.

7-3 Based on information provided in the Draft Program EIR, the proposed Project is consistent with the RCPG Growth Management Chapters and the Regional Transportation Plan. The Final Program EIR should correct the title of Regional Mobility Element (RMP) to Regional Transportation Plan (RTP).

Response to Comments on the Notice of Preparation

7-4 The Draft Program EIR in Appendix B, responded to SCAG staff comments on the Notice of Preparation and addressed the manner in which the proposed Project would incorporate the comments into the Draft Program EIR. This approach to addressing staff comments is commendable and we appreciate your efforts.

7-5 A description of the proposed Project was published in the April 1-15, 2003 Intergovernmental Review Clearinghouse Report for public review and comment. If you have any questions, please contact me at (213) 236-1867. Thank you.

Sincerely,



JEFFREY M. SMITH, AICP
Senior Regional Planner
Intergovernmental Review

**COMMENT LETTER # 7
FROM SOUTHERN CALIFORNIA ASSOCIATION OF GOVERNMENTS**

Jeffery M. Smith
May 21, 2003

Response 7-1

The SCAQMD staff understands that SCAG has reviewed the 2003 AQMP Draft PEIR for consistency with SCAG policies and applicable regional plans and that SCAG acknowledges that the PEIR includes a discussion of consistency with SCAG's policies and applicable regional plans.

Response 7-2

The SCAQMD staff agrees with SCAG's comment that the 2003 Draft AQMP PEIR is consistent with the RCPG Growth Management Chapters and the Regional Transportation Plan.

Response 7-3

The Final PEIR has revised the title of the Regional Mobility Element to the Regional Transportation Plan.

Response 7-4

The SCAQMD staff understands that the comments submitted by SCAG on the NOP were adequately addressed and incorporated into the Draft PEIR.

Response 7-5

The SCAQMD staff understands that a description of the AQMP was published in the April 1-15, 2003 Intergovernmental Review Clearinghouse Report.

COMMENT LETTER 8

**South Bay Cities Council of Governments
May 20, 2003**



5033 Rockvalley Road
Rancho Palos Verdes, California 90275
310/377-8987 • Fax 310/377-5790
Email: jackbach@cox.net
www.southbaycities.org

May 12, 2003

Mr. Michael Krause
c/o CEQA
South Coast Air Quality Management District
21865 East Copley Drive
Diamond Bar, CA 91765-4182

Re: Comments on the Draft Program Environmental Impact Report (EIR) for the Proposed Draft 2003 Air Quality Management Plan (AQMP)

Dear Mr. Krause:

- 8-1 The South Bay Cities Council of Governments (COG) is submitting this comment letter on the Draft EIR for the Draft 2003 AQMP. A summary of our concerns is as follows:
- 8-2 • We are concerned that the draft AQMP makes little progress over the 1997/99 AQMP in identifying the new control measures needed to demonstrate attainment with the 1-hour ozone standard in 2010.
 - 8-3 • We are troubled by the increase in the magnitude of the undefined "black box" reductions.
 - 8-4 • We are concerned that no clear process has been established to allocate responsibility for identifying, selecting and implementing "black box" measures.
- 8-4 If real progress towards attainment of the ozone standard is to continue, all responsible agencies will have to contribute new emission reductions. To that end, we believe that local transportation agencies need to establish a process that formalizes the identification and selection of projects that emphasize emission reductions. Past efforts in this arena have been conducted on a somewhat ad hoc basis through Congestion Mitigation Air Quality (CMAQ) allocations, Mobile Source Emission Reduction Credit (MSRC) projects, Transportation Improvement Program (TIP) analyses, etc.
- 8-5 One possible approach which we would support would be to provide a forum for the selection of projects/measures that emphasize emission reductions. This forum would establish a permanent review process that satisfies EPA's RACM (Reasonably Available Control Measure) requirements. We believe that SCAG (Southern California Association of Governments) should take the lead in establishing such a forum. It should be comprised of representatives from SCAG, member COGs and transportation agencies. One model for this forum may be the process established by the Transportation Planning Agencies (TPAs) in San Joaquin Valley to identify and implement RACM that affect local transportation activity. That process employs a Valleywide committee that meets on a biweekly/monthly basis to discuss individual agency progress on identifying and implementing control measures. South Bay Cities

LOCAL GOVERNMENTS IN ACTION

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8-5 | would participate in such a forum and believes it is important enough to the process that funding should
cont | be made available to agencies for their participation.

8-6 | We appreciate the opportunity to comment on the Draft EIR for the Draft AQMP. We do not believe
| that the 2003 AQMP should be held up to include the process outlined above. Instead, we believe that it
| should include a commitment to institute such a process. We would be pleased to discuss any of the
| issues outlined above with both District staff and SCAG staff. If you have any questions or comments or
| would like to arrange a meeting, please call me at (310) 377-8987.

Sincerely,



Ken Blackwood, SBCCOG Chair
Councilman, Lomita

Cc: SCAQMD Board members
William Burke, Chair
L.A. City Councilman Hal Bernson
Bradbury Councilmember Bea LoPisto Kirtley
SCAG Regional Council
President Bev Perry
SBCCOG Board of Directors

LOCAL GOVERNMENTS IN ACTION

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Palos Verdes Estates Rancho Palos Verdes Redondo Beach Rolling Hills Rolling Hills Estates Torrance

**COMMENT NO. 8
FROM SOUTH BAY CITIES COUNCIL OF GOVERNMENTS**

Ken Blackwood
May 20, 2003

Response 8-1

In developing the SCAQMD's short-term measures for the 2003 AQMP, the District: 1) carried over the remaining near-term control measures from the 1997/99 SIP, 2) substituted long-term strategies in the 1997/99 with short-term control measures (i.e., for coating/solvents, fugitive sources, and industrial process operations), and identified new feasible control measures. The twelve new control measures include strategies for achieving additional reductions from stationary sources including the NO_x RECLAIM program, fugitive dust sources, aggregate and cement manufacturing, ammonia sources, fireplaces and wood stoves, natural gas combustion, large VOC sources. In addition, because of the significant reductions needed for attainment demonstration, for the first time four new short-term measures targeting mobile sources are introduced in the AQMP by the SCAQMD including truck stop electrification, mitigation fees for federal sources, emission controls for in-use off-road equipment and vehicles, and an emission fee program for port-related mobile sources. It is also important to note that the SCAQMD has already exceeded its emission reduction target commitment in the 1997/99 SIP (as of Oct 2002) by 42 tons per day because of a number of SCAQMD rules adopted since 1996. The emission reductions associated with these rules are 158 tons per day of VOC and 12 tons per day of NO_x emissions in 2010. The SCAQMD's short-term control measures in the 2003 AQMP with quantifiable emission reductions are estimated to provide an additional 21.5 tons per day of VOC and five tons per day of NO_x reductions by 2010. Any excess reductions from these measures as well as from other short-term measures, for which reductions are not yet quantified, will be applied toward the black box emission reductions.

The SCAQMD and CARB are working diligently to identify control measures to replace the black box measures and welcome your suggestions on feasible measures that could be identified to help demonstrate attainment with the federal ozone standard.

Response 8-2

The size of the black box emissions has grown for a number of reasons, with the primary reason being improvements in the mobile source emissions inventory. Thus, these emissions were actually in the air in previous AQMPs, and would have been included in the black box if they had been identified at that time. Another reason for the increase in the size of the black box is the selection of a new and more restrictive episode day and improved air quality modeling.

The SCAQMD also shares your concern regarding the size of the black box and believes that state and federal agencies which have jurisdiction over mobile sources constituting

70 percent the VOC and 89 percent of the NO_x emissions by 2010 (Modifications to the AQMP, 2003, Figure 3-5A) should commit to their fair share of reductions just as the SCAQMD is committing to specific reduction targets from sources under its jurisdiction.

Response 8-3

Control measure LTM-All which represents the SCAQMD long-term measure, has been modified to add clarification on the process the SCAQMD will use to identify new control strategies to reduce the black box. The SCAQMD's process to identify new control strategies would include Annual Technology Assessment workshops, AQMP Advisory Group Technical Subcommittee process as well as studies conducted as part of implementing the Annual Emissions Reporting Program to identify new emission reduction strategies. Periodic BACT updates can also be used to identify new emission reduction strategies that may result from add-on controls or process changes. Future evaluations on VOC reactivity of various compounds may also provide a basis for establishing control strategies that substitute highly-reactive VOCs with low reactive VOCs. New control measures identified through any of the mechanisms will be reported to the Governing Board in December of every year, as part of the SCAQMD's Annual Rule and Control Measure Forecast Report. This report will also provide a preliminary estimate of the expected emission reductions from each newly identified measure along with the proposed rule adoption calendar. Furthermore, in January of each year, the SCAQMD will provide a summary of the emission reductions achieved through adoption of the control measures by the Governing Board in the previous year(s) to track the performance of its SIP commitment.

Response 8-4

The draft AQMP sets forth a comprehensive strategy to demonstrate attainment that focuses on all emission sources – stationary as well as mobile sources. Furthermore, the SCAQMD is also recommending that the emission reductions required as part of the long-term strategy be assigned among the respective agencies based on the contribution of the sources emissions as well as the agencies commitments in the 1997/1999 SIP (i.e., Scenario 1 in Chapter 4). By recommending Scenario 1, the SCAQMD seeks to ensure that all emission sources contribute a fair share toward the attainment demonstration requirements set forth under federal and state law.

The SCAQMD does not have control over the funding or project selection process in programs mentioned by the commenter. However, any projects funded by the SCAQMD would place emphasis on emission reduction potential.

Response 8-5

The SCAQMD will take the suggestion under review. In as far as the SCAQMD's stationary and mobile source control measures, a process for identifying the long-term measures needed to demonstrate attainment has been added to Control Measure LTM-

ALL. This process can be found in the Proposed Modifications to the Draft 2003 AQMP Appendix IV-A.

Response 8-6

The SCAQMD welcomes the participation of the South Bay Cities COG in future rule development processes.

COMMENT LETTER 9

Western Propane Gas Association (Paul Hastings)
May 22, 2003

PaulHastings

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May 22, 2003

29813.93512

VIA UPS

Mr. Zorik Pirveysian
Planning and Rules Manager
South Coast Air Quality Management District
21865 E. Copley Dr.
Diamond Bar, CA 91765

Re: Comments on EIR for 2003 AQMP

9-1

On behalf of the Western Propane Gas Association ("WPGA"), please accept these comments on the EIR for SCAQMD's Draft 2003 AQMP. WPGA has previously submitted comments on the AQMP as it relates to control measure OFF RD LSI 3 ("LSI 3") to SCAQMD and CARB. (Attachments A and B.) LSI 3 would require the purchase of electric forklifts with a lifting capacity of 8,000 lbs or less starting in 2005. WPGA's prior comments are attached and incorporated by reference.

1. LSI 3 is Ultra Vires

WPGA has explained in detail how LSI 3 and the process leading towards its adoption does not comport with the requirements of the Health & Safety Code. Among other things, SCAQMD is prohibited from including LSI 3 in the EIR for evaluation because CARB does not have the authority to adopt the control measure.

9-2

Implicitly SCAQMD has acknowledged that CARB lacks this authority:

Under Health and Safety Code 41712, CARB has the authority and responsibility to achieve the maximum technologically and commercially feasible VOC emission reductions from consumer products. However, CARB is prohibited from eliminating a product type (e.g., mode of dispensing).

EIR at 2-28.

Paul Hastings

Mr. Zorik Pirveysian
May 22, 2003
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9-2
cont

LSI 3 would eliminate a product type because it would eliminate internal combustion engine forklifts with a lifting capacity less than 8,000 lbs. SCAQMD may not include an illegal control measure in the EIR for evaluation.

9-3

It should be noted that CARB staff recently proposed a revised version of LSI 3. This version has not been made publicly available and it was not evaluated in the EIR. WPGA believes the new version is faulty. However, if SCAQMD intends on incorporating a revised version of LSI 3 into the AQMP (despite it being ultra vires), then the EIR must be recirculated for public comment before SCAQMD may certify it.

2. The EIR Grossly Exaggerates LSI 3's Emission Reductions

The EIR states that LSI 3 will cause emissions reductions of NO_x of between 2.3 and 4.7 tons per day. See, EIR at 2-31. However, CARB has conceded that the estimate of LSI 3's emissions reductions is incorrect by a factor greater than 2. (Attachment B, Tab 1.) This admission was as a result of an initial analysis by Sierra Research. (Attachment B, Tab 2.) Sierra Research was able to demonstrate that CARB basically assumed that all ICE forklifts have the same emissions regardless of age. This assumption negated the air quality benefits attributable to the 3 gram HC + NO_x standard that went into effect in 2001 and will apply to 100% of new purchases by 2004. Nor did CARB take into account the emission benefits that will result from the federal Tier 2 standards. Correcting CARB's analysis in these two respects causes maximum emission reductions to be less than half of that reported in the Draft AQMP.

9-4

Sierra Research has conducted an additional (draft) analysis demonstrating that CARB's current estimate continues to significantly over-estimate emissions reductions. (Attachment B, Tab 3.) The reason why is because CARB has not factored in the likelihood that forklift users will retain their ICE forklifts beyond their expected useful life in order to avoid the difficulties presented by electric forklifts. CARB has received substantial testimony from industry and individual users regarding the infeasibility of electric forklifts.

Using a conservative assumption that new forklift purchases beginning in 2005 will be reduced by 10% (with a corresponding retention of older forklifts), CARB's revised estimate of emissions reductions are halved (1.1 tpd of NO_x instead of 2.2 tpd). Using a more plausible assumption that forklift purchases will be reduced by 20%, there are virtually no emission reductions (0.2 tpd of NO_x). These are the maximum theoretical benefits.

Sierra Research's analysis, and CARB's admission that emissions reductions are significantly overstated, constitute significant new information. The EIR must be revised in light of this new information and re-circulated for public comment.

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- 9-5 3. The AQMP Does Not Fulfill its Objectives Because LSI 3's Emissions Reductions are Insignificant
- The EIR explains that CARB proposes to reduce up to 46 tpd of NO_x by 2010. Table 2.5-6 lists CARB's proposed control measures to achieve this objective. Table 2.5-6 indicates that all of the control measures will reduce a maximum of 46.1 tpd of NO_x emissions by 2010.
- This table does not take into account CARB's revised estimate of LSI 3's emission reductions. Using CARB's revised estimate, the maximum reduction in emissions drops to 42.6 tpd of NO_x. CARB's revised estimate still exaggerates emissions reductions. If Sierra Research's new analysis is incorporated, then emissions reductions drop further to 40.4 tpd.
- The AQMP, as it is currently proposed, does not meet its objectives because CARB's proposed control measures will not achieve 46 tpd of NO_x emissions reductions. As a result, the AQMP must be revised so that its objectives are met and a revised EIR must be re-circulated for public comment.
- 9-6 4. The EIR Includes Legally Infeasible Mitigation Measures
- The EIR concludes that control measures requiring electric vehicles, such as LSI 3, will cause potentially significant impacts due to illegal battery disposal. In order to mitigate these potentially significant impacts, mitigation measures are proposed to require (1) leasing, deposit, or rebate programs for electric batteries; and (2) spent battery exchange for battery replacement.
- Neither SCAQMD nor CARB have the authority to impose these mitigation measures. CEQA does not expand an agency's authority to mitigate otherwise significant impacts. See, Pub. Res. Code § 21004; 14 CCR § 15040(e). See, also Kenneth Mebane Ranches v. Superior Court (1992) 10 Cal.App.4th 276, 291; Pinewood Investors, Inc. v. City of Oxnard (1982) 133 Cal.App. 3d, 1030, 1040. See, also 14 CCR § 15126.4(a)(2) ("Mitigation measures must be fully enforceable through permit conditions, agreements, or other legally binding instruments.")
- 9-7 Because the mitigation measures are infeasible, the EIR has identified significant environmental impacts that are unmitigated. SCAQMD must either identify feasible mitigation measures or adopt a statement of overriding considerations. In either event, the EIR must be revised and re-circulated for public comment.
- 9-8 5. Faulty Alternatives Analysis
- An EIR must evaluate a reasonable range of alternatives to the proposed project. See, 14 CCR § 15126.6. The alternatives in SCAQMD's EIR are not reasonable. All of the

Paul Hastings

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Page 4

- 9-8
cont alternatives, except for the no project alternative, include the exact same control measures as the proposed project. The only differences among the alternatives involve which source categories will be relied upon to satisfy long-term "Black Box" emissions reductions.
- 9-9 The rationale for including all of the short term control measures in all of the alternatives is that they are all necessary to achieve ambient air quality standards. This standard does not reflect the standard CEQA imposes for consideration of alternatives. The CEQA Guidelines state "The range of potential alternatives to the proposed project shall include those that could feasibly accomplish most of the basic objectives of the project and could avoid or substantially lessen one or more of the significant effects." 14 CCR § 15126.6(c) (emphasis added).

SCAQMD could evaluate alternatives that do not include certain control measures because the alternatives would still achieve most of the project's basic objectives. However, Sierra Research has already demonstrated and CARB has conceded that LSI 3 does not achieve the emissions reductions identified in the EIR. LSI 3 is not critical to the success of the AQMP and, thus, it is not essential to each alternative.
- 9-10 Analysis of alternatives is also important to consider whether there are alternatives that will cause less impacts than the proposed project. LSI 3 will cause potentially significant environmental impacts associated with disposal of batteries. An alternative that did not include LSI 3 would allow the public to evaluate whether a control measure with at best marginal air quality benefits is worthwhile given the anticipated environmental impacts it will cause.
- 9-11 The current analysis of alternatives is inadequate. The EIR must be revised to include a meaningful discussion of alternatives and re-circulated for public comment.
- 9-12 6. LSI 3 Will Cause Significant Impacts Because it is Infeasible

CARB and SCAQMD have received extensive testimony demonstrating that LSI 3 is not feasible. Electric forklifts are infeasible in many applications. For example, electric forklifts do not operate well on rough terrain or on slopes. Electric forklifts are considerably more expensive than internal combustion engine forklifts. Facilities would need to operate more electric forklifts than standard forklifts because of the need to recharge batteries. For these reasons and more, many forklift operators can be reasonably expected to keep their internal combustion engine forklifts in operation longer than they otherwise would. This will cause the emissions reductions attributable to LSI to be less than reported, as previously explained. However, LSI 3 will also cause other significant impacts to the environment that must be evaluated in the EIR.

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Page 5

- 9-13 (a) Occupational Inhalation of Particulate Matter
The EIR must evaluate the potential environmental impacts of forklift operators keeping diesel forklifts in operation to avoid purchasing electric forklifts. Slow engine turnover is already recognized in the EIR as one reason for less emissions reductions. See, p. 2-16. This is one reason why even CARB's revised estimate of LSI 3's emissions reductions are exaggerated. However, in addition to evaluating this issue, the EIR must evaluate human health concerns caused by employees being exposed to diesel exhaust from forklifts.
- 9-14 (b) Additional Vehicular Miles Traveled
CARB has received testimony indicating that certain manufacturers and/or distributors will move outside of SCAQMD's jurisdiction to avoid the reach of LSI 3 rather than be subject to a mandate to purchase electric forklifts. This will cause diesel trucks to travel additional miles to distribute commercial goods. The increased emissions associated with extra vehicular miles must be evaluated to gain a true understanding of the environmental benefits, if any, of LSI 3.
- 9-15 (c) Availability of Alternative Fuels
The EIR concludes that the AQMP may cause an increase in demand for alternative fuels but that there is an adequate supply to accommodate a growth in demand. The EIR does not evaluate the potentially devastating impact LSI 3 may have on suppliers of propane gas. CARB has received testimony indicating that just a 10% reduction in propane sales due to control measures that require electric vehicles would require layoffs and could put them out of business. Propane, a recognized alternative to gasoline, could become less available as a result of LSI 3 and create the perverse incentive of increased reliance on gasoline.
- 9-16 7. Conclusion
Since SCAQMD made the EIR available for public comment, CARB conceded that the emissions reductions it attributed to LSI 3 are incorrect. CARB's revised estimate, although still exaggerating emissions reductions, is significant new information that materially affects the analysis and conclusions in the EIR. The proposed project will not achieve its objectives, it will cause significant impacts to the environment that have not been evaluated, and the public has not been given a meaningful opportunity to comment

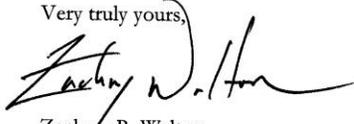
PaulHastings

Mr. Zorik Pirveysian
May 22, 2003
Page 6

9-16
cont.

on alternatives to it. The EIR must be revised to accurately reflect the likely consequences of LSI 3 and recirculated for public comment.

Very truly yours,



Zachary R. Walton
for PAUL, HASTINGS, JANOFSKY & WALKER LLP

ZRW:ema
Attachments

cc: Peter Weiner
Mary Mulrooney-Reynolds

SF/279480.1

**COMMENT LETTER # 9
FROM WESTERN PROPANE GAS ASSOCIATION**

Paul Hastings
May 22, 2003

Response 9-1

The SCAQMD understands that this comment letter is submitted on behalf of the Western Propane Gas Association.

Response 9-2

The assertion relative to CARB being prohibited from adopting LSI-3 is erroneous since forklifts are not defined as a consumer product (Health & Safety Code §41712). Furthermore, control measure LSI-3 has been revised to require companies purchasing or leasing forklifts to select a zero-emission forklift only for those applications where zero-emission forklifts have been deemed to be suitable alternatives to internal combustion engine forklifts. Additionally, operational feasibility and economic impact to operations will be considered as part of the regulatory development.

Response 9-3

Recirculation of an EIR is required when significant new information is added to an EIR after public notice is given of the availability of the draft EIR for public review but before certification. New information added to an EIR is not "significant" unless the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect (including a feasible project alternative) that the project's proponents have declined to implement (CEQA Guidelines §15088.5(a)).

Recirculation is not required where the new information added to the EIR merely clarifies or amplifies or makes insignificant modifications in an adequate EIR (CEQA Guidelines §15088.5(b)). The modifications to LSI-3 do not constitute significant new information requiring recirculation of the EIR. The proposed measure has been modified to account for information provided to CARB by the public. The proposed measure provides flexibility to regulated parties by requiring companies purchasing or leasing forklifts to select a zero-emission forklift rather than requiring electric forklifts only. Furthermore, the modifications recognize that there may be applications where zero-emission forklifts are not suitable alternatives to internal combustion engine forklifts. Such clarifications to the proposed measure do not deprive the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect.

Response 9-4

The emission reductions associated with the control measures included in the AQMP are estimates based on available information at the time the measures are developed; actual reductions are identified during the promulgation of rules. Invariably, some rules achieve greater reductions than were estimated in their respective control measures, while others achieve less.

CARB has modified the emission reduction estimates presented in proposed measure LSI-3 down to 1.4 - 2.8 tons per day of NO_x from 2.3 - 4.7 tons per day. Considering the Basin's 2010 NO_x emissions inventory and carrying capacity are estimated to be 764 and 530 tons per day, respectively, the revision to the emission reduction estimate of LSI-3 - on the order of a couple of tons per day - is not considered significant new information requiring recirculation of the Draft PEIR.

Response 9-5

As a blueprint for demonstrating attainment with federal and state ambient air quality standards, the AQMP includes carrying capacities for specific pollutants which become the basis for the reduction commitments from the responsible agencies. As a long-range planning document, however, the AQMP inherently includes some uncertainties relative to the control strategy. For example, it is not known at this time which source categories and to what extent they will ultimately provide reductions toward the long-term measures included in the AQMP. The NO_x carrying capacity for 2010 is estimated to be 530 tons per day. Consequently, the uncertainty relative to the few tons per day emission reductions associated with LSI-3 does not imply, as asserted by the commenter, that the AQMP does not meet its objectives. Furthermore, the commenter misrepresents the information in the Draft PEIR. CARB's emission reduction commitment is expressed as a range to account for the uncertainties that are inherent in emissions inventory and reduction projections. The Draft EIR states, in pertinent part, that "CARB staff proposes . . . to provide *up to* 46 tons per day of NO_x reductions . . ." (page 2-30, emphasis added). The AQMP and Draft PEIR purposely provided latitude to refine the control strategy and the emission reduction estimates of the control measures as additional information is obtained. Finally, although the emission reductions anticipated for LSI-3 have been revised downward, this is a reduction in the benefit of the control measure and does not constitute a new significant adverse impact or make existing impacts substantially worse.

Based on the above, the SCAQMD staff disagrees with the assertion that "the AQMP must be revised so that its objectives are met and a revised EIR must be re-circulated for public comment."

Please also see the response to comment 9-4.

Response 9-6

Note that LSI-3 has been revised to require zero-emission forklifts with a lift capacity of 8,000 pounds or less, where feasible. Currently the only commercially available zero-emission forklifts are electric; however, electric forklifts may not be suitable in all applications. Consideration of operational feasibility and economic impact to operations will enter into the regulatory development for implementation of this control measure.

CARB has the legal authority to include the recommended mitigation measures when the rules that implement Control Measure LSI-3 are developed, therefore, the comment that the mitigation measures are potentially unenforceable is incorrect.

Response 9-7

Mitigation measures are required if they are feasible. CEQA defines feasible as “capable of being accomplished in a successful manner taking into account economic, environmental, legal, social and technological factors. Note that the statement of overriding considerations is not a required component of an EIR. However, the SCAQMD will prepare a Statement of Overriding Considerations for several of the significant impacts identified in the Draft PEIR where it was concluded that significant impacts would remain following mitigation. As indicated in Response 9-3, the commentator has provided no substantive information or data that would warrant recirculation of the Draft PEIR pursuant to CEQA Guidelines, § 15088.5.

Response 9-8

The SCAQMD staff disagrees with the opinion in this statement. Because the district is in severe ozone non-attainment, the SCAQMD is required to implement all feasible measure in compliance with the California Clean Air Act and the Health and Safety Code. Since the short-term measures are considered to be feasible measures, the SCAQMD is required to implement them, so they have to be included in all project alternatives. As noted by the commentator, the long-term measures are different for each alternative as the carrying capacities change with each alternative. The federal long-term black box measures are excluded from Alternatives 2 and 4. In addition, the toxic-PM control measure is excluded from all the alternatives except Alternative 5. The alternatives will vary with the number of black box measures to be implemented, the expected emission reductions from each measure, the federal and state involvement, etc. As recognized by the alternatives analysis, virtually all the control measures, including long-term control measures, identified for inclusion in the AQMP are necessary to achieve compliance with the ambient air quality standards.

Response 9-9

The alternative analyzed by the SCAQMD comply with the criterion identified by the commentator. In this case the SCAQMD must meet all of the standards required by state or federal laws. There is no lee way to meet “most” of the standards. Further, the only

alternative that does not comply with all of the standards is the No Project Alternative because it has fewer control measures than the AQMP and the other alternatives. As a result, an alternative that does “not include certain control measures” as suggested would likely not be a feasible alternative if it does not attain all state and federal standards.

The information regarding Control Measure LSI-3 has been modified in the AQMP (see Appendix IV-B) and AQMP PEIR (see Chapter 2). The emission reductions expected from LSI-3 are 0.3 to 0.6 ton per day of ROG, 1.4 to 2.8 tons per day of NO_x, and 10.8 to 21.6 tons per day of CO in 2010. All identified emission reductions are important to the success of the AQMP since additional emission reductions (Black Box or long-term strategies) are required (over and above the emission reductions identified in the AQMP PEIR).

Response 9-10

Note that elimination of LSI-3 from the AQMP or PEIR would not eliminate the environmental impacts associated with the disposal of batteries. Electrification is being considered for other mobile sources included in the Long term strategies. This impact, however, was concluded to be insignificant.

Response 9-11

The SCAQMD staff believes that the alternatives analysis is adequate pursuant to CEQA Guidelines. The commentator not only does not say why the alternative analysis is inadequate but he does not provide substantial information or data to support this opinion. Please see Responses 9-12, 9-13 and 9-14.

Response 9-12

The proposed measure has been modified to account for information provided to CARB by the public. The proposed measure provides flexibility to regulated parties by requiring companies purchasing or leasing forklifts to select a zero-emission forklift rather than requiring electric forklifts only. Furthermore, the modifications recognize that there may be applications where zero-emission forklifts are not feasible alternatives to internal combustion engine forklifts. Consequently, the rule would be limited to forklifts used in applications where zero-emission forklifts have been deemed to be feasible. See also responses to comments 9-4 and 9-5.

Response 9-13

Proposed control measure LSI-3 would regulate large spark-ignition engines, not compression ignition (diesel) engines. Thus, those applications where diesel forklifts are currently used are not affected by the proposed control measure. Furthermore, CARB has committed in the proposed control measure that the regulatory development process will include careful consideration of diesel forklift purchases and rentals to ensure diesel equipment is not used to circumvent the regulation. Consequently, there is no substantial

evidence to suggest that proposed control measure LSI-3 would cause increased exposure to diesel emissions from forklift operations.

Response 9-14

There is no substantial information to make the assumption that control measure LSI-3 would cause a significant number of manufacturers and/or distributors to move outside of the SCAQMD's jurisdiction and that this would in turn cause diesel trucks to travel additional vehicular miles to deliver goods. There are a number of factors that affect whether or not a business will relocate. It is simplistic to assume that a business will relocate on the basis of one factor. It could reasonably be assumed that, in the event that manufacturers and/or distributors moved outside the SCAQMD's jurisdiction, other companies would fill any void left by those who leave. In any event, the result described by the commentator is not expected to occur because of modifications to the control measure. See Response 9-6. Consequently, the opinion is speculative and does not warrant a modification to the EIR since CEQA relieves a Lead Agency from a requirement to engage in speculation (CEQA Guidelines §15145).

Response 9-15

The proposed measure provides flexibility to regulated parties by requiring companies purchasing or leasing forklifts to select a zero-emission forklift rather than requiring electric forklifts only. Furthermore, the CARB recognizes that there may be applications where zero-emission forklifts are not suitable alternatives to internal combustion engine forklifts. Consequently, the rule would be limited to forklifts used in applications where zero-emission forklifts have been deemed to be feasible. Furthermore, in the event that forklift operations moved to electric or other zero-emission technologies, there would be a corresponding reduction in demand for propane. Thus, it is unlikely that implementation of proposed control measure LSI-3 would cause propane to become less available or to create an incentive for increased reliance on gasoline. Consequently, the assertion is speculative.

Response 9-16

SCAQMD staff disagrees with the opinion in this statement. The commenter is referred to the previous responses. The information regarding Control Measure LSI-3 has been modified in the AQMP (see Appendix IV-B) and AQMP PEIR (see Chapter 2). The emission reductions identified in the Draft PEIR from LSI-3 were 0.7 to 1.4 tons per day of VOC, 2.3 to 4.7 tons per day of NO_x, 0 to 0.1 tons per day of PM₁₀, and 18 to 36.2 tons per day of CO in 2010. The revised emission reductions in the revised AQMP expected from LSI-3 are 0.3 to 0.6 tons per day of VOC, 1.4 to 2.8 tons per day of NO_x, 0 tons per day of PM₁₀, and 10.8 to 21.6 tons per day of CO in 2010. Note that the range of the emission reductions currently estimated in the revised AQMP is within the range that was previously considered in the draft AQMP. Therefore, the information is not considered to be significant new information that would require recirculation of the PEIR. Also, see Response 9-13 and 9-14 regarding impacts associated with LSI-3.

COMMENT LETTER 10

American Lung Association
May 23, 2003

Comments on Drafts Environmental Impact Report
For 2003 AQMP
By Don Blose, Air Quality Committee, Air District 23
of the Inland Counties



The Executive Summary, Page ES-3 talks about meeting national standards for ozone air quality, but does not state that current planning compared to population and vehicle growth estimates still leave a short fall.

10-1

The Air Quality section on Page ES-8 anticipates compliance with all state and federal standards except the new ozone and PM-10 items, without referencing the same short falls. Chapter 6 on Page ES-11 again ignores the potential short fall.

10-2

The correlation between Table ES-1 Impacts and ES-2 Mitigation might be clearer. For example CMB-10 NO_x RECLAIM indicates a potential impact of Solid/Haz Waste (page ES-13), but it was not obvious that CMB-10 was covered on pages ES-30 and ES-31.

2

10-3

Page 1-6 Areas of Controversy. In the local workshops there was considerable objections to switching from propane to electrical Forklifts. What is the difference in emissions, and how many units would be affected in the South Coast air basin?

10-4

Page 2-28 Reduce Emissions From the In-Use Fleet. under CARB control should focus on ways to remove aging vehicles and equipment and to improve them as cost-effectively as possible. Our Advisory Group might brain storm ways to accomplish this.

10-5

General Comment: The Draft EIR, like other AQMP documents, was well organized and quite detailed. It is an excellent document for planning of our air pollution program.

**COMMENT LETTER # 10
FROM AMERICAN LUNG ASSOCIATION**

Don Blose
May 23, 2003

Responses 10-1

The discussion regarding the estimated emissions reduction short fall is discussed in Chapter 2.6, District, State and Federal, Long Term Control Strategy (182(E)(5) Measures or “Black Box”) (see page 2-33 of the AQMP PEIR) and Chapter 5 – Alternatives.

Response 10-2

The data on impacts associated with implementation of the 2003 AQMP Control Measures has been addressed and summarized in several different manners and locations. In addition to the summary tables in the Executive Summary, a table that summarizes impacts for each Control Measure is provided in each impact section of the PEIR (see Table 4.1-3, Table 4.2-1, Table 4.3-1, Table 4.4-1, and Table 4.5-1. See Response 6-1 regarding the estimated emissions reduction short fall.

Response 10-3

See Responses 9-6 and 9-20 regarding the changes to Control Measure LSI-3 and the related emission estimates.

Response 10-4

The revised AQMP has included recommendations from SCAQMD’s Advisory Group (see Chapter 2 and Table ES-1 of the AQMP PEIR), including the suggestion to remove aging vehicles as early as possible.

Response 10-5

Thank you for your comment.

COMMENT LETTER 11

Department of Transportation
May 22, 2003

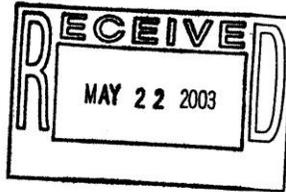
STATE OF CALIFORNIA—BUSINESS, TRANSPORTATION AND HOUSING AGENCY

GRAY DAVIS, Governor

DEPARTMENT OF TRANSPORTATION
DISTRICT 7, REGIONAL PLANNING
IGR/CEQA BRANCH
120 S. SPRING STREET
LOS ANGELES, CA 90012
PHONE (213) 897-4429
FAX (213) 897-1337



*Flex your power!
Be energy efficient!*



May 22, 2003

IGR/CEQA cs/030434
DEIR
2003 Draft AQMP
Vic. South Coast Basin-VAR
SCH # 2003041048

Mr. Michael Krause
CEQA Section
Planning Rule Development and Area Sources
South Coast Air Quality Management District
21865 E. Copley Dr.
Diamond Bar, CA 91765

Dear Mr. Krause:

Thank you for including the California Department of Transportation in the environmental review process for the above-mentioned program document. Based on the information received, we have the following comments:

11-1

The issue of using basin-wide measurements to determine if the region exceeded air pollution standards should be reconsidered and instead localized measurements should be reported. Since 32 monitoring stations are available to analyze and identify the region's air pollution impacts, transportation dollars could be appropriated to affected localized areas in the region.

11-2

The Program Environmental Impact Report did not include related Transportation Control Measures which could affect the implementation and scheduling of transportation projects. Comments regarding proposed transportation control measures are not included in this letter.

11-3

Due to the State funding shortfall and withdrawal of some of the State Traffic Congestion Relief Program and other funds, many transportation projects may not be approved for construction within the 2003 AQMP implementation period. Currently, transportation agencies are altering their scheduling of projects resulting in changes in project implementation due to new priority lists and changes in funding commitments. The dynamic nature of these actions may make it difficult to predict emissions shortfalls and benefits.

If you have any questions regarding our response, refer to our internal IGR/CEQA Record # cs/030434, and please do not hesitate to contact me at (213) 897-4429.

Sincerely,

STEPHEN BUSWELL
IGR/CEQA Branch Chief

cc: Mr. Scott Morgan, State Clearinghouse

"Caltrans improves mobility across California"

**COMMENT LETTER # 11
FROM DEPARTMENT OF TRANSPORTATION**

Stephen Buswell
May 22, 2003

Responses 11-1

Your comment is noted. Compliance with the ambient air quality standards is required at all monitoring stations in order for the Basin to be considered in attainment of the standards. Therefore, the data from all stations are reviewed. Modeling is provided at specified stations include the stations where the highest concentrations of contaminants are detected, e.g., Rubidoux (see AQMP PEIR, Section 4.1.6 Cumulative Air Quality Impacts).

As noted in the PEIR (see section 2.6.5), localized controls may also be considered to achieve reductions from specific areas that contribute to the exceedance of ambient air quality standards. In instances where the exceedances of the air quality standards are attributed only to emissions from a specific geographical area, it would be more effective to develop geographical regulations for the purpose of attaining the standard in a local area. For example, it appears that local PM₁₀ sources in the eastern portion of the district are primarily responsible for the exceedance of PM₁₀ air quality in that area. Therefore, it might be more effective and cost-effective to develop localized controls to achieve the necessary reduction rather than subject the entire district to regulations that would not necessarily benefit the attainment in the local area. As the district nears the attainment dates for federal air quality standards, localized controls may offer a more viable approach in meeting these standards.

Response 11-2

Transportation control measures are discussed in Chapter 2 of the PEIR and in Appendix IV-C. Appendix IV-C has been revised by SCAG and includes details regarding the development, implementation and funding for the transportation control measures and should be consulted for more details of program. Impacts from the transportation Control Measures can be found in Chapter 4 of the PEIR.

Response 11-3

The SCAQMD staff is aware of the concerns regarding state funds for transportation projects. SCAG has identified the appropriate sources of funding for each component of the TCM strategies (see Appendix IV-C, page 27).

COMMENT LETTER 12

Duncan McKee (Community Representative/Citizen)
May 22, 2003

Duncan McKee
738 S. 3rd Avenue
La Puente, Ca. 91746

5/22/03

Mr. Michael Krause c/o
CEQA Section,
Planning, Rules Development and
Area Sources
21865 E. Copley Drive,
Diamond Bar CA. 91765-4182

Dear Mr. Michael Kruse:

12-1

This letter is to voice comments and ask questions on behalf of residents of Avocado Heights, La Puente, North Whittier, Bassett, Hacienda Heights and employees and business owners in the City of Industry, concerning the Draft Program Environmental Impact Report titled the Proposed Draft Air Quality Plan recently released by SCAQMD. SCAQMD staff has done an excellent job compiling data, developing models and patting themselves on the back; however we are extremely concerned regarding shortfalls, oversights and fundamental problems in the EIR. We find it hard to swallow that many of the most important issues are not addressed as well as the fact that some of the proposals will exacerbate air quality problems in these and surrounding communities.

12-2

For example, SCAQMD is proposing the replacement of many propane-powered forklifts with battery-powered forklifts. Does SCAQMD propose that the additional batteries that will be required end up at Quemetco/RSR Inc. in the City of Industry for "recycling" of the lead and disposal of hazardous waste into the local community through the process of incineration and wastewater discharge to LACOSD? I have included with this response a previous letter to your department that contains information regarding this outrageous practice and SCAQMD involvement in it. To avoid duplication please answer the unanswered questions as part of this document as well. We expect that you will need

12-3

to include a solution to this problem in your long-term plan to attempt to come close to meeting Federal Clean Air Standards. Both SCAQMD and CARB have not tackled some of the most important issues that must be taken seriously to address the task of improving air quality in this region. When major projects such as the recent granting of the Conditional Use Permit for the Puente Hills Landfill are based on false sworn testimony before the LACO Planning Commission regarding the permits issued by SCAQMD we have major problems that SCAQMD needs to confront and not hide from.

The Draft EIR fails to address the fact that permits issued by SCAQMD currently stand in the way of long term goals of groundwater, surface water and soil cleanup in various areas of the basin. For example DTSC has identified that soil and groundwater underlying the area in and around Quemetco/RSR in the City of Industry contain unsafe levels of various contaminants. DTSC reports "**Lead, selenium, barium, chromium,**

12-3
cont.

cadmium, copper, iron, and mercury concentrations in groundwater samples exceeded Maximum Contaminant Levels (MCLs)."¹

"In order to meet this criteria for "clean closure" there has to be a determination that no releases that have affected ground water have occurred or are continuing to occur and that the Facility once "closed" will not be a threat to ground water. **Such a determination is unlikely, based on the following facts and previous determinations to the contrary.**"

The fact of the matter is that it would be irresponsible to not immediately institute cleanup of the toxicity that exists beneath this site. It would be careless to overlook this problem. In the DTSC report it indicates that lower contaminant concentrations that Quemetco claims, are likely a result of contamination moving offsite and into the local aquifers when ground water fluctuations occur. According to DTSC scientists "The agencies have attributed this shift from relatively high lead concentrations in the first year of monitoring to progressively lower lead levels to contaminant plume migration. Based on the above-mentioned trends, it is likely that a plume of contaminated ground water has moved from the WMA [Waste Management Area] toward downgradient points."²

In addition, "Highly elevated lead contamination from soil samples has been reported from within the boring for MW-10 (1800 mg/kg at 69 ft. bgs³). In the DTSC Internal Memorandum, June 7, 1989, prepared by David Schwartzbart (GSU) to Willie Ndubuizu, it was noted that of all the soil samples taken to that point in time, only soil samples from MW-8 were not found to contain lead and that in some of the borings, lead was encountered to the full vertical extent of the borings.⁴ DTSC additionally reports that "This is because previous boring logs indicate that the soils around this "background" monitoring well are reported to be contaminated to depths of up to 68 feet bgs with up to 1800 mg/kg of lead."⁵

Surface water appears to be threatened as well as DTSC reports that contaminated groundwater underlying this facility is potentially entering the surface waters of the San Jose Creek at a estimated rate 3 cubic feet per second which is 22.441 gallons per second or over **80,784 gallons per hour!**

"Some of the following findings are of significance with regard to Quemetco, Inc.

" ... EPA has identified the San Jose Creek (channel and subdrain structure) as a potential contaminant pathway to downstream areas. Between 1980 and 1988, potentiometric contours appear to intersect the

¹ Comprehensive Ground Water Monitoring Evaluation Report, Quemetco Inc., RSR Corporation, City of Industry, Ca. March 8, 1996 EPA ID No. CADO66233966 page 16

² Comprehensive Ground Water Monitoring Evaluation Report, Quemetco Inc., RSR Corporation, City of Industry, Ca. March 8, 1996 EPA ID No. CADO66233966, Page 98

³ -Environmental Strategies Corporation, July 9, 1991, Supplemental Soil and Groundwater Investigations, Quemetco, Inc. Facility, City of Industry, California. Page 115

⁴ Comprehensive Ground Water Monitoring Evaluation Report, Quemetco Inc., RSR Corporation, City of Industry, Ca. March 8, 1996 EPA ID No. CADO66233966 page

⁵ Comprehensive Ground Water Monitoring Evaluation Report, Quemetco Inc., RSR Corporation, City of Industry, Ca. March 8, 1996 EPA ID No. CADO66233966 56

lined San Jose Creek channel along a reach in the City of Industry. Between 1980 and 1984, average groundwater discharge to the creek was estimated to be approximately 3 cubic feet per second (cfs) (EPA, 1992). Surface and subdrain discharge water sampling results have indicated the presence of VOCs."

"Surface water samplings previously performed for the Quemetco Facility investigation, have not included sampling of the subdrain structure beneath San Jose Creek. This structure has the potential to have been or still being a major contaminant pathway from this site since it has an influence on ground water chemistry and since lead contaminate wastes had been routinely discharged to the creek by Quemetco for almost two decades.

In order to meet this criteria for "clean closure" there has to be a determination that no releases that have affected ground water have occurred or are continuing to occur and that the Facility once "closed" will not be a threat to ground water. Such a determination is unlikely, based on the following facts and previous determinations to the contrary."

The closure plan did not satisfactorily consider that ground water beneath the Facility has already been determined to be contaminated by lead, cadmium, mercury, and chromium as supported by groundwater monitoring analytical data from 1982-1987 (monitoring wells MW-1, MW-2, MW-3 and MW-4). These data indicate that lead and other metals had, at that time, contaminated ground water across the entire boundaries monitored at the site. Those concentrations appear to have decreased over time, possibly due to lead contamination in ground water precipitating out and/or sorbing to aquifer materials as stable lead compounds which are not soluble under non-acidic conditions, or most probably due to migration of lead contamination off-site and downgradient. The latter hypothesis for the fate of previously detected contamination is proposed since detection of lead contamination has been irregular in recent years of groundwater monitoring results and Quemetco has never performed off-site investigation to determine what was happening with the earlier detected contamination.

Quemetco has failed to determined specifically which regulated unit or solid waste management unit or combinations of these was responsible for the reported lead contamination. Without such a determination it must be taken that the surface impoundment contributed to groundwater contamination. This is made likely by the fact that: it was the collection point for all contaminated fluids generated from the drainage of batteries, run-on and run-off from the waste piles containing scrap lead, plastic and hard rubber battery case chips; and contained a significant depth of liquid to generate a hydraulic head to support downward migration. The following facts further support a determination that Quemetco's regulated unit has contributed to groundwater contamination:

12-3
cont

12-3
Cont.

! Historic and contemporary concentrations at this site of sulfate compounds (1200 - 250 mg/l) from five to twenty times the Puente Basin water quality goals (50 mg/l), probably indicate that a release of sulfuric acid occurred and may be continuing to impact groundwater quality.

! Historical records indicate the surface impoundment held extremely high concentrations of lead compounds in sulfuric acid solutions with pH as low as 0 to 4. Samples from the surface impoundment liner contained concentrations of total lead **exceeding 10,000 mg/kg.**⁶

Quemetco themselves admit that “Non-Compliance with established water quality standards for groundwater resulting from continued operations at the Quemetco Facility is considered a significant impact. Impacts remain significant and unavoidable.”⁷

I have included the above referenced report so that you will have an idea as to the extent of this problem and as a guide to development of plans to assist with the relocation of this facility so that the inevitable clean up of this mess can commence. This report indicates that Quemetco is also using rubber and plastic as “fuel” and/or “reducing agents” in their reverberatory furnace.⁸

Will SCAQMD please explain how facilitating this company’s continued expansion of operations will expedite the clean up of this site? I have also included several examples of hundreds of reports to SCAQMD regarding adverse effects from the toxic plumes from this facility. Why has SCAQMD ignored these and similar reports to them and continued to permit this company to increase production? Why would SCAQMD not consider that the Best Available Control Technology (BACT) is to not feed hazardous waste rubber and plastic to the furnace in the first place? I have provided you with several petitions, with hundreds of signatures, formally requesting revocation of the current permit that permits this company to burn plastic and rubber. We request that Quemetco submit a plan of corrective action that includes separating out any and all rubber and plastic from their furnace feeds and shipping it off site for proper disposal or recycling in a responsible manner. SCAQMD current plans for risk reduction at this facility are entirely inadequate. Will SCAQMD require Quemetco to replace contaminated soil prior to paving over it?

⁶ Comprehensive Ground Water Monitoring Evaluation Report, Quemetco Inc., RSR Corporation, City of Industry, Ca. March 8, 1996 EPA ID No. CADO66233966, Page 93-94

⁷ Chambers Group, Inc. Draft Environmental Impact Report for the Hazardous Waste Management Operation and Post Closure Permit for Quemetco, Inc. June 2001, page 1-2

⁸ Comprehensive Ground Water Monitoring Evaluation Report, Quemetco Inc., RSR Corporation, City of Industry, Ca. March 8, 1996 EPA ID No. CADO66233966, Page 17& 86

**COMMENT LETTER # 12
FROM DUNCAN McKEE**

Duncan McKee
May 22, 2003

Response 12-1

The Draft PEIR is a comprehensive document that adequately evaluates the proposed project as required by the California Environmental Quality Act (Public Resources Code §§21000-21178). The SCAQMD disagrees with the commentator's assertion that there are "shortfalls, oversights, and fundamental problems" in the Draft PEIR. The majority of comment letter #12 discusses existing permits to operate at an existing facility as opposed to inadequacies in the EIR.

Response 12-2

The Draft EIR adequately evaluates the potential for additional battery recycling/disposal due to the replacement of propane-powered forklifts with battery-powered forklifts. As part of the analysis, the Draft PEIR includes two mitigation measures to minimize any potential adverse effect:

- SHW 1: Require leasing, deposit or rebate programs for electric batteries. Leasing and rebate programs can both be effective measures to increase the rate of recovery of spent batteries, and both types of measures are already proven in practice. Deposit programs can also achieve the same goals.

- SHW 2: Require spent battery exchange for battery replacement. Require that ZEV service stations sell or install new batteries only on condition that they receive the spent batteries in exchange.

The SCAQMD acknowledges that implementation of LSI-3 may increase the amount of batteries sent to the battery recycling centers in the Basin. However for planning purposes, it is assumed that battery recycling facilities operating in the district meet all applicable regulatory requirements. Finally, LSI-3 has been modified to require replacement with electric forklifts where feasible, see Response 9-6.

Response 12-3

The AQMP is a statutorily mandated regional planning document that is not intended to focus on any individual facility. It should be noted that the SCAQMD has designated Hacienda Heights/La Puente/Avocado Heights as a suitable candidate for the pilot Neighborhood Environmental Justice Council. The purpose of this Council is to address the community's environmental concerns including the issues raised regarding the Quemetco facility. Many of the concerns identified in this comment letter are being

addressed in this public forum which includes representation from the community, industry, and the SCAQMD. The comments provided in this comment letter are best addressed through the existing regulatory programs such as permitting, enforcement and AB2588.

COMMENT LETTER 13

Sonia E. McIntoch (Citizen)
May 19, 2003

2725 Mimosas St.
Alhambra, Calif 91803
May 19, 2003

Mr. Michael Krause
c/o CEQA Section - Planning, Rule
Development, and Area Services
South Coast Air Quality Management District
21865 E. Copley Drive
Diamond Bar, Calif. 91765-4182

Re: the Draft 2003 Air Quality Management Plan
and the Draft EIR for 2003 AQMP.

Dear Sirs:

13-1 I received by UPS, in answer to my phone call on your
"answering woman" tape machine, your two large reports.
Thank you; but there was no paperwork sent about the two
sets of meetings (late last fall '02 and early months '03).
No minutes, agendas, outlines of speakers lists.

13-2 Enclosed please find the 4 page letter to my Congressman
Adam Schiff about the problems near me, many concerning air
and water quality & pollution & law breaking at the Alhambra
industrial district.

13-3 Against the Planning Commission (noise ordinance) Conditions
of Approval for redevelopment, 18 wheeler refrigerator dried truck
bang all night - can't sleep in the summer especially. During the
day add 18 wheelers of all kinds & delivery trucks - no diesel idling
It adds heat too, can't breathe. There is scrap burning.

13-4 It adds heat too, can't breathe. There is scrap burning.
metal, or new hunks of aluminum in International
Extrusion (aluminum) Corp. huge outdoor oven. Toto Foods loads
16 fleet of trucks all night. Last truck unloads during the night
more fumes, etc. that safe next to homes? Should the poor find
more fumes, etc. that safe next to homes? Should the poor find
more fumes, etc. that safe next to homes? Should the poor find
more fumes, etc. that safe next to homes? Should the poor find

13-5 to sour acid smells, to paint solvents filling the air. The air
currents flow this to downtown Alhambra East. Hi Quality Auto
painting adds to the shock smell north of it. on pavement the
painting adds to the shock smell north of it. on pavement the

13-6 - the gardeners I am surrounded by blow (with their gas

**COMMENT LETTER # 13
FROM SONIA E. McINTOSH**

Sonia McIntosh
May 19, 2003

Responses 13-1

The Draft AQMP PEIR was sent to you at your request. The information and comments from the previous public meetings have been incorporated into the PEIR. Information on previous meetings and upcoming meetings can be obtained at the SCAQMD Headquarters, 21865 Copley Drive, Diamond Bar, CA 91765, from the SCAQMD's web page at <http://www.aqmd.gov> or by calling the Public Information office at (909) 396-2039.

Response 13-2

Your comment to your congressman is noted. Concerns regarding illegal activities should be directed to the appropriate law enforcement agencies (police or sheriff).

Response 13-3

Your comments regarding diesel trucks are noted. The enforcement of noise ordinances is the responsibility of the local city. SCAQMD has no jurisdiction over noise. The purpose of the 2003 AQMP is to reduce emissions throughout the district to comply with the ambient air quality standards. Overnight idling may be prohibited by city ordinance. The commentator should check with the city. Note that the 2003 AQMP includes control measures to reduce emissions from diesel trucks, including measures that would reduce truck idling. CARB, the agency with the primary authority over regulating diesel trucks, has proposed control measures to implement risk reductions measures (i.e., emission reductions) associated with diesel emissions. These measures will have the greatest benefits in areas with the greatest number of trucks.

Response 13-4

See Response 13-3 regarding noise issues. Comments regarding specific companies are outside of the scope of the AQMP and AQMP PEIR. The purpose of the 2003 AQMP is to reduce emissions throughout the Basin to comply with the ambient air quality standards. Note that the 2003 AQMP includes control measures aimed at reducing emissions from diesel trucks, including measures that would reduce truck idling.

Response 13-5

The purpose of the 2003 AQMP is to reduce emissions throughout the district to comply with the ambient air quality standards. The control measures proposed in the 2003 AQMP will reduce emissions from various operations throughout the district including trucks,

industrial facilities, other mobile sources, and so forth. Control Measures CTS-07, CTS-10, CONS-1, CONS-2 and some of the long term control measures would require reformulating paints, solvents and other consumer products to reduce emissions.

Response 13-6

The purpose of the 2003 AQMP is to reduce emissions throughout the Basin to comply with the ambient air quality standards. Control Measure SMALL OFF-RD-1 and SMALL OFF-RD-2 would set emission standards for lawn and garden equipment including lawn movers and leaf blowers, so that emission reductions would be expected from this type of equipment.

Response 13-7

The enforcement of noise ordinances is the responsibility of the local City. Noise associated with airplanes is generally regulated by the Federal Aviation Administration. SCAQMD has no jurisdiction over noise. The AQMP includes some long-term control concepts, which would be developed and implemented by the U.S. EPA, to control emissions from airplanes.

Response 13-8

Water quality associated with individuals businesses in the City of Alhambra generally is not within the jurisdiction of the SCAQMD. Construction of new business would be generally within the jurisdiction of the City. The Regional Water Quality Control Board has primary jurisdiction over storm water control and regulation.

Response 13-9

Comments regarding specific companies are forwarded to SCAQMD's Engineering & Compliance for follow-up.

Response 13-10

Water quality associated with individuals businesses in the City of Alhambra generally is not within the jurisdiction of the SCAQMD. The Regional Water Quality Control Board has primary jurisdiction over storm water control and regulation.

Response 13-11

See Response 13-3 regarding truck noise and Response 13-4 regarding emissions from trucks. Enforcement of the local noise ordinances is the responsibility of the City.

Response 13-12

The purpose of the 2003 AQMP is to develop control measures that would reduce emissions to the level where the SCAQMD will comply with the ambient air quality standards. Issues like sleep, safety and the right to enjoy/use properties are not part of the planning process for the AQMP. However, these issues are generally regulated and included in the local City General Plan.

The SCAQMD staff does not have the authority to regulate certain mobile sources (cars and trucks) and certain federal sources (e.g., trains, airplanes, marine vessels) of emissions. The mobile and federal sources must be regulated by either the CARB or the U.S. EPA. For some control measures, the SCAQMD is expected to request additional authority to regulate some of these sources, but currently does not have broad jurisdiction to regulate most of the mobile sources.

Response 13-13

The SCAQMD staff does not have the authority to control the people in the park. Enforcement of the various ordinances would be provided through the local City.

Response 13-14

The SCAQMD staff appreciates your comments. The 1-800-CUT-SMOG phone number operates 24-hours a day and comments can be called in and left on voice mail at any time. The SCAQMD appreciate your comment regarding using rotary phones and will investigate the limitations of this system.

(Attached to the comment letter to the SCAQMD was a copy of an assistance request form to Congressman Adam B. Schiff from the commentator. The problems cited on the assistance request form that were germane to the project were already included in the comment letter to the SCAQMD. Those comments and responses are addressed above .)

COMMENT LETTER 14

Harvey Eder (Citizen)
May 22, 2003

22-05-2003 15:49

From-Kinkos 1161 Santa Monica

3105767700

3105757768 02/002 F-045

COMMENTS ON THE DRAFT EIR FOR 2003 AQMP BY HARVEY EDER AND PSPC

14-1

It is illegal to set today March 22, 2003 as the last day that comments on the Draft EIR for the 2003 AQMP are due because as the woman from the City of L.A. pointed out 2 advisory cm. meetings ago the Draft is not completed until the SocioEconomic Element/ part of the Draft is completed then the 45 days time for comments will begin. There are many problems with the Draft EIR.

Harvey Eder

Sincerely, Harvey Eder

Citizen, and Ex. Dir of the Public

Solar Power Coalition 4:30 pm 5/22/03

Faxed to SCAQMD3 (909)3963324 To Mr. Michael Krause and Mr. Ed Ecklerle

21865 E. COPLEY DR, DIAMOND BAR CA. 91765-4182

1218 12 St. #25 Santa Monica Calif. (310)3932589

**COMMENT LETTER # 14
FROM SOLAR POWER COALITION**

May 22, 2003

Responses 14-1

The public comment period for the Draft PEIR was April 8, 2003 through May 22, 2003, allowing for a 45-day public comment period as required by CEQA (CEQA Guidelines §15205).

The Socioeconomic Report for the AQMP, is a document separate from the AQMP or the AQMP PEIR. The Socioeconomic Report is not part of the Draft PEIR and socioeconomic analyses are not required to be included in EIRs. There is no requirement to prepare or circulate the socioeconomic analysis as part of the Draft PEIR (14 CCR 15064(e)) and the Socioeconomic Report prepared for the AQMP is not subject to the same notice requirements as the Draft PEIR. Social changes are not treated as significant effects on the environment, unless there are related physical changes (14 CCR 15064(e)). The Socioeconomic Report prepared for the AQMP does not identify any physical effects on the environment. Since the Socioeconomic Report is not part of the Draft PEIR it is not subject to the same notification requirements. Comments on the Socioeconomic Report may be submitted at any time.

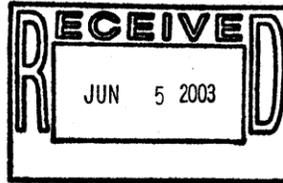
COMMENT LETTER 15

City of Riverside
May 30, 2003



"People Serving
People"

CITY OF RIVERSIDE



May 30, 2003

Steve Smith, Ph.D.
Program Supervisor
Planning, Rules and Area Sources
South Coast Air Quality Management District
21865 E. Copley Drive
Diamond Bar, CA 91765-4182

Dear Dr. Smith:

15-1

On May 20, 2003 the City of Riverside City Council reviewed the Notice of Completion of a Draft Program Environmental Impact Report for the Proposed Draft 2003 Air Quality Management Plan. At that time, by unanimous vote, the City Council went on record with the following recommendations:

- The Draft PEIR contains mitigation measure AQ-1, which requires the development of a TEMP for vehicles in construction projects. It is not clear what agency is to be responsible for implementing the TEMP requirement, and this should be clarified.

15-2

- Control Measure ON-RD HVY-DUTY-3 should be flexible so as to allow the City to comply with the requirement to improve emissions from bus and truck fleets as new vehicles are purchased.

15-3

- The use of low-sulfur diesel fuel should be available as an alternative approach to implement Control Measure ON-RD HVY-DUTY-3.

Thank you for the opportunity to comment on this important document. Should you have any questions regarding the City's recommendations, please call me at (909) 826-5989.

Sincerely,

Craig Aaron
Principal Planner

c: George Carvalho, City Manager
Brian Nakamura, Public Works Director
Colleen Nicol, City Clerk

PLANNING DEPARTMENT

3900 MAIN STREET • RIVERSIDE, CALIFORNIA 92522 • (909) 826-5371
FAX: (909) 826-5981 • www.riverside-ca.org

**COMMENT LETTER # 15
FROM CITY OF RIVERSIDE**

Craig Aaron
May 30, 2003

Response 15-1

The responsibility over the preparation of the Construction Traffic Emission Management Plan (TEMP) would be on the project proponent and the lead agency which has the most discretion over the approval of the project. The TEMP would be required for construction projects in various jurisdictions and in situations where the SCAQMD would have no jurisdiction over approval of the project. Typically, the project proponent is responsible for implementing the plan and the local lead agency is the primary oversight authority for monitoring and enforcing the TEMP. To the extent these plans relate to control fugitive dust, the SCAQMD would have enforcement authority, at least to ensure compliance with Rule 403 – Fugitive Dust.

Response 15-2

The comment is noted. In general, the Control Measures that require new equipment and technologies are expected to be phased in as older equipment is retired.

Response 15-3

The rules developed under Control Measure ON-RD HVY-DUTY-3 are expected to outline the performance standards that must be met. Control strategies are expected to include new engine standards as well as strategies to clean up existing engines, including diesel particulate filters (which requires that low sulfur diesel be used), retire older vehicles or replace vehicles with new, lower-emission models. However, depending on the strategy chosen by fleet operators, the use of low-sulfur diesel fuel may be an integral strategy component. For example, most catalyst-based diesel particulate filters provide the greatest emission reductions when used with low sulfur diesel fuel. Other control strategies are expected to include engine software upgrade, on-board diagnostics, manufacturer-required in-use vehicle testing, and reduced truck and bus idling.

SCAQMD Rule 431.2 – Sulfur content of Liquid Fuels requires refineries or importers to not produce or supply any diesel fuel for any stationary or mobile source application unless the diesel fuel is low sulfur diesel (sulfur content <15ppm weight) by June 1, 2006.