San Pedro Waterfront Project

Final General Conformity Determination

The Port of Los Angeles, California

May 2011

Prepared for:

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Section 1
Introduction

Section 176 (c) of the Clean Air Act (42 U.S.C. § 7506(c)) requires any entity of the Federal government that engages in, supports, or in any way provides financial support for, licenses or permits, or approves any activity to demonstrate that the action conforms to the applicable State Implementation Plan (SIP) required under Section 110 (a) of the Clean Air Act (42 U.S.C. § 7410(a)) before the action is otherwise approved. In this context, conformity means that such Federal actions must be consistent with a SIP's purpose of eliminating or reducing the severity and number of violations of national ambient air quality standards (NAAQS) and achieving expeditious attainment of those standards. Each Federal agency (including the U.S. Army Corps of Engineers [USACE]) must determine that any action that is proposed by the agency and that is subject to the regulations implementing the conformity requirements will, in fact, conform to the applicable SIP before the action is taken.

The Port of Los Angeles San Pedro Waterfront Project (hereinafter the Project) will require the issuance of a USACE permit, pursuant to Section 404 of the Clean Water Act, Section 10 of the Rivers and Harbors Act, and Section 103 of the Marine Protection, Research, and Sanctuaries Act. This action includes the construction of in-water and over-water structures and the disposal of up to 608,330 cubic yards (cy) of dredge and excavated material associated with the Project; beneficial reuse (e.g., beach nourishment along Outer Cabrillo Beach, Port fill) or disposal of clean dredge material is planned for ocean disposal sites LA-2 and/or LA-3, with upland disposal of contaminated sediments should they be present. This final general conformity determination documents the evaluation of the Federal action with Section 176 (c) requirements of the Clean Air Act. The remainder of Section 1 discusses the background of the regulatory requirements. Section 2 discusses the USACE's Federal action. Section 3 discusses the regulatory procedures for the conformity evaluation. Section 4 describes how applicability of the conformity requirements to the Federal action was analyzed. Section 5 presents the methods and criteria that were used to evaluate the conformity of the Federal action. Section 6 discusses the concepts of mitigation required under conformity regulations. Section 7 presents the reporting process to be followed to formalize the conformity determination. Section 8 offers the USACE's findings and conclusions. Section 9 provides references for the evaluation. Attachment A provides a discussion and results of the emission calculation methods applied in the general conformity evaluation. Attachment B includes correspondence from the Southern California Association of Governments related to the Project. Attachment C presents the USACE general conformity guidance document. Attachment D provides correspondence received from the South Coast Air Quality Management District (SCAQMD) with documentation supporting the conformity determination for the Federal action. Attachment E provides a list of the changes made to the draft general conformity determination to create this final general conformity determination.

1.1 Transportation Conformity Requirements

The U.S. Environmental Protection Agency (EPA) promulgated two regulations to address the conformity requirements of the Clean Air Act. On November 24, 1993, EPA promulgated final transportation conformity regulations at 40 C.F.R. Part 93 Subpart A to address Federally-assisted transportation plans, programs, and projects. These regulations have been revised several times since they were first issued to clarify and simplify them. On September 14, 1994, the South Coast Air Quality Management District (SCAQMD), which oversees air quality management in the South Coast Air Basin (SCAB) of California, adopted these regulations by reference as part of Rule 1902. The SCAQMD rule has also been amended since its original issuance. Although, in general, a seaport development project may require or rely on improvements in roadway or transit infrastructure, a determination of transportation conformity related to such improvements would typically be addressed by the Federal Highway Administration (FHWA) or the Federal Transit Administration (FTA) as part of a regional transportation plan or regional transportation improvement program and not as a stand-alone project. SCAG, the regional metropolitan planning organization (MPO), has indicated that POLA growth in truck and automobile traffic is accounted for in the 2008 Regional Transportation Plan (RTP, SCAG 2008) (SCAG 2007) for which a transportation conformity determination has been issued (see Section 3.1); therefore, it would not be necessary to include on-road emissions associated with construction material deliveries, on-road debris hauling, and worker commute trips in the general conformity evaluation because this portion of the Federal action is considered to conform to the SIP (40 C.F.R. § 93.158(a)(5)(ii)). Attachment B includes the SCAG statements.

1.2 General Conformity Requirements

On November 30, 1993, EPA promulgated final general conformity guidance to the states at 40 C.F.R. Part 51 Subpart W to develop general conformity regulations for all Federal activities except those covered under transportation conformity. On September 14, 1994, South Coast Air Quality Management District (SCAQMD) adopted these regulations by reference as part of Rule 1901, and EPA approved this rule as part of the California SIP on April 23, 1999 (64 FR 19916). Parallel general conformity regulations at 40 C.F.R. Part 93 Subpart B apply in areas where EPA has not approved general conformity requirements to the state's implementation plan. On April 5, 2010, EPA promulgated revised general conformity requirements at 40 C.F.R. Part 93 Subpart B (75 FR 17254). In the same action, EPA eliminated most of the general conformity requirements under 40 C.F.R. Part 51 Subpart W, because they were mostly duplicative of the requirements at 40 C.F.R. Part 93 Subpart B, and revised 40 C.F.R. § 51.851 to remove the obligation for states to include general conformity requirements in their implementation plans. The revised regulations took effect on July 6, 2010.

The general conformity regulations apply to a Federal action in a nonattainment or maintenance area if the total of direct and indirect emissions of the relevant criteria pollutants and precursor pollutants caused by the Federal action equal or exceed certain

de minimis rates, thus requiring the Federal agency to make a determination of general conformity. By requiring an analysis of direct and indirect emissions, EPA intended the regulating Federal agency to make sure that only those emissions that are reasonably foreseeable and that the Federal agency can practicably control subject to that agency's continuing program responsibility will be addressed.

The general conformity regulations incorporate a stepwise process, beginning with an applicability analysis. According to EPA guidance (EPA 1994), before any approval is given for a Federal action to go forward, the regulating Federal agency must apply the applicability requirements found at 40 C.F.R. § 93.153(b) to the Federal action to evaluate whether, on a pollutant-by-pollutant basis, a determination of general conformity is required. The guidance states that the applicability analysis can be (but is not required to be) completed concurrently with any analysis required under the National Environmental Policy Act (NEPA). If the regulating Federal agency determines that the general conformity regulations do not apply to the Federal action, no further analysis or documentation is required. If the general conformity regulations do apply to the Federal action, the regulating Federal agency must next conduct a conformity evaluation in accord with the criteria and procedures in the implementing regulations, publish a draft determination of general conformity for public review, and then publish the final determination of general conformity.

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Section 2
Description of the Federal Action

In accordance with applicable general conformity regulations and guidance, including USACE guidance dated April 20, 1994 (USACE 1994; see Attachment C), when a general conformity determination is necessary, the USACE is only required to conduct a general conformity evaluation for a specific Federal action associated with the selected alternative for a project or program (EPA 1994), and the USACE must issue a positive conformity determination before the Federal action is approved. Each Federal agency is responsible for determining conformity of those proposed actions over which it has jurisdiction. This final general conformity determination is related only to those activities included in the USACE's Federal action pertaining to the Project, which is more fully described in Section 2.1.

The general conformity requirements only apply to Federal actions proposed in nonattainment areas (i.e., areas where one or more NAAQS are not being achieved at the time of the proposed action and requiring SIP provisions to demonstrate how attainment will be achieved) and in maintenance areas (i.e., areas recently redesignated from nonattainment to attainment and requiring SIP provisions pursuant to Section 175A of the Clean Air Act to demonstrate how attainment will be maintained). The attainment status in the vicinity of POLA is discussed in Section 4.1.

2.1 San Pedro Waterfront Project

To complete the Project, LAHD will require a permit from USACE authorizing work and structures in navigable waters of the U.S, the discharge of dredge and fill material into waters of the U.S., and the transport and disposal of qualifying dredged material at an ocean disposal site (LA-2/3). The EIS/EIR (USACE/LAHD 2008 and 2009) addresses impacts related to the Project activities requiring USACE approval (proposed action or Federal action).

The purpose of the proposed action is to provide in-water and water-side facilities to accommodate growth in the cruise industry, to provide additional space for water-dependent marine facilities, and to increase public access to and use of the water (see details in Chapter 2 [Project Description] of the EIS/EIR).

The Federal action consists of all harbor cuts and dredging activities; removal of existing, and construction of new, bulkheads, wharves, pilings, piers, rock slope protection, floating docks, and promenades that cover waters of the U.S.; and the transport and ocean disposal of dredged material. Landside construction activities within 100 feet of the shoreline necessary to complete the in-water and over-water activities, as well as the Outer Harbor Cruise Terminals and associated parking, which directly depend on authorization of in-water and over-water activities at the Outer Harbor, would be within the USACE's regulatory purview. The Federal scope of analysis does not include most elements of the Project associated with the demolition and construction of buildings and parking facilities related to new development,

redevelopment, cultural attractions, and modifications to existing tenants or to transportation improvements; nor does it include lease renewals. The Federal action is expected to spread into multiple phases over a six-year period (2011 to 2016).[1]

The Federal action includes construction of in-water and over-water structures and the transport and disposal of dredged material at the LA-2 and/or LA-3 disposal sites in the open ocean. It also includes beneficial reuse within POLA, such as nourishment at Cabrillo Beach, with upland disposal of contaminated sediments should they be present. As part of the environmental review of the proposed action, the USACE, in coordination with the LAHD, prepared this draft general conformity determination to demonstrate compliance with the general conformity requirements in support of the USACE's Federal action associated with the Project.

The LAHD has prepared an extensive list of mitigation measures that it proposes to implement as part of the proposed action to satisfy requirements of the California Environmental Quality Act (CEQA), and for the general conformity evaluation, the construction measures are considered design features as part of Project construction. These mitigation measures were developed from reviews of mitigation measures and plans used at other seaports and extensions of ongoing LAHD environmental policies (including implementation of the Sustainable Construction Guidelines (POLA 2007) and the San Pedro Bay Ports Clean Air Action Plan (POLA/POLB 2006)). The mitigation measures related to construction include the following general approaches to reduce air quality impacts:

MM AQ-1: Harbor Craft Used During Construction.

With limited exceptions, all harbor craft used during the construction phase of the Project shall, at a minimium, be repowered to meet the cleanest existing marine diesel engine emission standards or EPA Tier 2. Additionally, where available, harbor craft shall meet the EPA Tier 3 (which phase in beginning 2009) or cleaner marine diesel engine emission standards.

MM AQ-2: Dredging Equipment Electrification.

All dredging equipment shall be electric.

MM AQ-3: Fleet Modernization for On-road Trucks.

With limited exceptions, the following shall apply for the construction phase of the Project.

[1] For the evaluation contained in this Final General Conformity Determination, it was assumed that all aspects of the Project would be constructed between 2011 and 2016. However, as of the time of publication of this document, LAHD plans to complete Phase 1 of the Project by 2016 but now expects to delay commencement of Phase 2 until 2018, the completion of which may extend until 2030. Therefore, the timing and amounts of peak emissions analyzed in this evaluation are conservative. Prior to commencement of construction on Phase 2 of the Project, USACE would consult with SCAQMD to review the expected construction emissions associated with the Federal action to verify that they are still accommodated in the approved SIP or proposed revision to the SIP at the time. See Section 7.3 for a discussion of the conditions that could require a reevaluation of general conformity for the Federal action.

Prior to and including December 31, 2011: All on -road heavy-duty diesel trucks with a gross vehicle weight rating (GVWR) of 19,500 pounds or greater used on site or to transport materials to and from the site must contain an EPA 2004 engine model year or newer in order to comply with EPA 2004 on-road emission standards.

From January 1, 2012 on: All on-road heavy-duty diesel trucks with a GVWR of 19,500 pounds or greater used on site or to transport materials to and from the site shall comply with EPA 2010 on-road emission standards, where available. In addition, all on-road trucks shall be outfitted with the BACT devices certified by CARB.

All years: Trucks hauling materials such as debris or fill shall be fully covered while in operation off Port property. **Idling shall be restricted to a maximum of 5 minutes when not in use**.

MM AQ-4: Fleet Modernization for Construction Equipment.

With limited exceptions, the following shall apply for the construction phase of the Project.

Prior to and including December 31, 2011: All off-road diesel-powered construction equipment greater than 50 hp, except derrick barges and marine vessels, shall meet the Tier 2 offroad emission standards. In addition, all construction equipment shall be outfitted with the BACT devices certified by CARB. Any emissions control device used by the contractor shall achieve emissions reductions that are no less than what could be achieved by a Level 2 or Level 3 diesel emissions control strategy for a similarly sized engine as defined by CARB regulations.

From January 1, 2012 through December 31, 2014: All off-road diesel-powered construction equipment greater than 50 hp, except derrick barges and marine vessels, shall meet Tier 3 emission off-road emission standards. In addition, all construction equipment shall be outfitted with the BACT devices certified by CARB. Any emissions control device used by the contractor shall achieve emissions reductions that are no less than what could be achieved by a Level 3 diesel emissions control strategy for a similarly sized engine as defined by CARB regulations.

From January 1, 2015 on: All off-road diesel-powered construction equipment greater than 50 hp shall meet Tier 4 emission standards, where available. In addition, all construction equipment shall be outfitted with the BACT devices certified by CARB. Any emissions control device used by the contractor shall achieve emissions reductions that are no less than what could be achieved by a Level 3 diesel emissions control strategy for a similarly sized engine as defined by CARB regulations.

Construction equipment shall incorporate, where feasible, emissions savings technology such as hybrid drives and specific fuel economy standards. In addition, idling shall be restricted to a maximum of five minutes when not in use.

MM AQ-5: Additional Fugitive Dust Controls.

The construction contractor shall further reduce fugitive dust emissions to 90 percent from uncontrolled levels. The construction contractor shall designate personnel to monitor the dust control program and to order increased watering or other dust control measures, as necessary, to ensure a 90 percent control level; their duties shall include holiday and weekend periods when work may not be in progress. Measures will include, but not be limited to: additional watering beyond that required by SCAQMD Rule 403, use of non-toxic soil stabilizer, use of temporary wind fencing, covering of haul trucks, use of wheel washers for vehicles leaving the construction site, and suspension of soil disturbance when wind speed exceeds 25 miles per hour.

MM AQ-6: Best Management Practices (BMPs).

The following types of measures are required on construction equipment (including on-road trucks):

- Use of diesel oxidation catalysts and catalyzed diesel particulate traps.
- Maintain equipment according to manufacturers' specifications.
- Restrict idling of construction equipment to a maximum of five minutes when not in use.
- Install high-pressure fuel injectors on construction equipment vehicles.

MM AQ-7: General Mitigation Measure.

For any of the above mitigation measures (MM-AQ-1 through MM-AQ-6), if a CARB-certified technology becomes available and is shown to be as good as or better in terms of emissions performance than the existing measure, the technology could replace the existing measure pending approval by the LAHD.

Because the effectiveness of the above measure has not been established, it is not quantified in this evaluation.

MM AQ-8: Special Precautions near Sensitive Sites.

When construction activities are planned within 1,000 feet of sensitive receptors (defined as schools, playgrounds, day care centers, and hospitals), the construction contractor shall notify each of these sites in writing at least 30 days before construction activities begin.

Because the effectiveness of the above measure has not been established, it is not quantified in this evaluation.

The reader should refer to the Final EIS/EIR (USACE/LAHD 2009) for additional details on these mitigation measures. All of the mitigation measures that the USACE has relied upon in this final general conformity determination are CEQA-related mitigation measures that were expressly adopted by LAHD in approving the overall Project and certifying the Final EIR. As such, those mitigation measures are fully enforceable under Cal. Pub. Res. Code § 21081.6. California regulations also require compliance with mitigation requirements as stated in a mitigation monitoring and reporting program (MMRP); see 14 C.C.R. §§ 15091(d) and 15097(c)(3). The Project MMRP (LAHD 2009), which incorporates all of the mitigation measures that the USACE has relied upon in this final general conformity determination as design features, describes LAHD's lead responsibility for administering the program, the timing of implementation, monitoring frequency, and actions indicating compliance. These provisions, through the written commitment of LAHD in the Project MMRP, ensure that the measures will be properly implemented through incorporating mitigation measures into all construction bid specifications for the Project.

Finally, the emission factors for construction equipment will decrease into the future due to current CARB regulations (such as the in-use off-road diesel-fueled fleets rule, 13 C.C.R. Article 4.8) that have emission limits and reduction goals phased in over time. Therefore, even if the project construction schedule were to slip (see Footnote 1 on page 2-2), the peak year construction emissions would not be higher than the emissions identified in Section 4 of this final general conformity determination.

2.2 Relationship to Other Environmental Analyses

A joint Draft EIS/EIR was published for public review and comment in September 2008 (USACE/LAHD 2008) providing a co-equal analysis of the Project and six alternatives; the Final EIS/EIR was published in September 2009 (USACE/LAHD 2009). The USACE is the lead agency for the NEPA analysis documented in the Environmental Impact Statement (EIS). LAHD is the lead agency for the CEQA analysis documented in the Environmental Impact Report (EIR).

Both NEPA and CEQA require that the air quality impacts of the proposed action implementation be analyzed and disclosed. Regulatory guidance implementing these statutes requires that the air quality impacts from the project and its alternatives be determined by identifying the associated project incremental emissions and air pollutant concentrations and comparing them respectively to emissions thresholds and state and national ambient air quality standards. For CEQA purposes, the air quality impacts of the Project and the alternatives were compared to the impacts of the environmental baseline to determine environmental significance and develop appropriate mitigation measures. The air quality impacts of the Project and the alternatives were also compared to the NEPA Baseline (equivalent to the No Federal Action Alternative) for NEPA purposes. This final general conformity determination is being published analyzing only the Federal action, being that part of the Project that requires USACE approval. Since publication of the draft general conformity determination, the Port has informed USACE that the Crowley and Millenium marine office buildings are no longer part of the San

Pedro Waterfront Project. Therefore, emissions associated with construction of these two buildings are no longer included in the Federal action emissions.

Section 3
Regulatory Procedures

The general conformity regulations establish certain procedural requirements that must be followed when preparing a general conformity evaluation. This section addresses the major procedural issues and specifies how these requirements are met for the evaluation of the Federal action. The procedures required for the general conformity evaluation are similar but not identical to those for conducting an air quality impact analysis under NEPA regulations.

3.1 Use of Latest Planning Assumptions

The general conformity regulations require the use of the latest planning assumptions for the area encompassing the Federal action, derived from the estimates of population, employment, travel, and congestion most recently approved by the MPO (40 C.F.R. § 93.159(a)). It should be noted that the latest planning assumptions available from the MPO at the time of this evaluation may differ from the planning assumptions used in establishing the applicable SIP emissions budgets. The approved 1997/1999 AQMP was developed with data similar to that used in the 1998 Regional Transportation Plan (RTP), which was contemporaneous with the 1997/1999 AQMP. The approved 2008 RTP, which supersedes earlier RTPs, predicts an increase of goods movement in the SCAG region out to at least 2035, which partly reflects activities at POLA.

As noted previously, SCAG is the MPO for the region encompassing POLA. The SCAG region covers an area of over 38,000 square miles and includes the counties of Imperial, Los Angeles, Orange, Riverside, San Bernardino, and Ventura. SCAG adopted the 2008 RTP on May 8, 2008 (SCAG 2008). On June 5, 2008, the FHWA issued a finding that the 2008 RTP conforms to the applicable state implementation plan (i.e., transportation conformity determination). Subsequently, SCAG has issued three amendments to the 2008 RTP and the FHWA has issued positive transportation conformity determinations for each amendment. The growth forecast for the 2008 RTP estimated a region-wide population growth of approximately 30 percent between 2005 and 2035 and a nearly equivalent region-wide employment growth for the same period. The growth rates for population and employment in Los Angeles County are among the lowest for counties in the SCAG region.

The 2008 RTP indicates that container volume processed by the San Pedro Bay ports (Port of Los Angeles and Port of Long Beach), as a measure of goods movements within southern California, grew by almost 60 percent between 2000 and 2006, and it is expected to nearly triple by 2035. While the 2008 RTP focuses on the land transport aspects of goods movement (e.g., freight rail, high-speed regional transport, and highway), it recognizes the huge contribution and potential to goods movement from maritime transport and other marine activities in the ports.

3.2 Use of Latest Emission Estimation Techniques

The general conformity regulations require the use of the latest and most accurate emission estimation techniques available, unless such techniques are inappropriate (40 C.F.R. § 93.159(b)). Prior written approval from SCAQMD or EPA is required to modify or substitute emission estimation techniques. It should be noted that the latest and most accurate emission estimation techniques available at the time of this evaluation may differ from the emission estimation techniques used in establishing the applicable SIP emissions budgets. The details of emissions estimating are described in Attachment A. The emission estimation techniques used in this evaluation are generally consistent with those used in preparing the Draft and Final EIS/EIR (USACE/LAHD 2008 and 2009, respectively). Since publication of the draft general conformity determination, the Port has informed USACE that the Crowley and Millenium marine office buildings are no longer part of the San Pedro Waterfront Project. Therefore, emissions associated with construction of these two buildings are no longer included in the Federal action emissions.

3.3 Emission Scenarios

The general conformity regulations require that the evaluation must reflect certain emission scenarios (40 C.F.R. §93.159(d)). Specifically, these scenarios must include emissions from the Federal action for the following years: (1) for nonattainment areas, the year specified in the applicable SIP or mandated in the Clean Air Act for attainment and for maintenance areas, the farthest year for which emissions are projected in the approved maintenance plan; (2) the year during which the total of direct and indirect emissions for the Federal action are projected to be the greatest on an annual basis; and (3) any year for which the applicable SIP specifies an emissions budget. These emission scenarios will be described in more detail in Section 5. **Table 3-1** specifies the years for which the general conformity evaluation was performed for comparison to the approved SIP. **Table 3-2** specifies the years for which the general conformity evaluation was performed for comparison to the proposed SIP revisions (the 2007 AQMP).

Table 3-1
Emission Scenario Years for General Conformity Evaluation based on 1997/99 SIP

Pollutant	Attainment/ Maintenance	Greatest Emission Year	Years Analyzed for General Conformity [a,b]
Ozone (VOC or NO_x)	2010	2011	2011[c]

Source: Camp Dresser & McKee Inc., 2010.
a. No project construction occurred in 2002, 2003, 2005, 2006, 2007 or 2008; therefore, no comparisons to budgets for these years are necessary.
b. Federal action construction does not extend to 2020; therefore, no comparisons to 2020 budgets are included.
c. The 2011 SIP inventories will be estimated by interpolating between the 2010 and 2020 inventories presented in Appendix III.

Table 3-2
Emission Scenario Years for General Conformity Evaluation based on 2007 AQMP

Pollutant	Attainment/ Maintenance	Greatest Emission Year	Years Analyzed for General Conformity [a,b]
Ozone (VOC or NO_X)	2023[c]	2011	2011, 2014

Source: Camp Dresser & McKee Inc., 2010.

a Federal action construction does not extend beyond 2016; therefore, no comparisons to budgets for milestone years beyond 2016 (2017, 2020, 2023, and 2030) are included.

b. No project construction occurred in 2002, 2005 or 2008; therefore, no comparisons to budgets for these years are necessary.

c. The current classification of the region is Extreme, which indicates an attainment year of June 2024. Since the ozone season extends into the autumn, attainment must be demonstrated by the end of the ozone season in 2023.

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Section 4
Applicability Analysis

As stated previously, the first step in a general conformity evaluation is an analysis of whether the requirements apply to a Federal action proposed to be taken in a nonattainment or a maintenance area. Unless exempted by the regulations or otherwise presumed to conform, a Federal action requires a general conformity determination for each pollutant where the total of direct and indirect emissions caused by the Federal action would equal or exceed an annual de minimis emission rate.

4.1 Attainment Status of South Coast Air Basin

POLA is located within Los Angeles County in the SCAB of southern California. The regulatory agencies with primary responsibility for air quality management in the SCAB include SCAQMD and CARB, with oversight by EPA. Pursuant to the Clean Air Act, EPA established primary NAAQS to protect the public health with an adequate margin of safety and secondary NAAQS to protect the public welfare for seven air pollutants. These pollutants are known as criteria pollutants: particulate matter with an equivalent aerodynamic diameter less than or equal to ten micrometers (µm) in diameter (PM_{10}), particulate matter with an equivalent aerodynamic diameter less than or equal to 2.5 µm in diameter ($PM_{2.5}$), sulfur dioxide (SO_2), carbon monoxide (CO), ozone (O_3), nitrogen dioxide (NO_2), and lead (Pb). EPA has delegated authority to SCAQMD to implement and enforce the NAAQS in the SCAB.

That portion of the SCAB encompassing POLA is in an area that is designated as being in nonattainment of the NAAQS for O_3 (eight-hour average), PM_{10}, and $PM_{2.5}$. In addition, the severity of the nonattainment status for this area has been classified as "extreme" for O_3[2] and "serious" for PM_{10}, but it is not classified for $PM_{2.5}$. On July 24, 1998, this area was re-designated from nonattainment to attainment/maintenance status for NO_2 by EPA (63 FR 39747). More recently, the area was re-designated by EPA from nonattainment to attainment/maintenance for CO (72 FR 26718), effective June 11, 2007. The area is in attainment of the NAAQS for SO_2. Thus, for purposes of the general conformity requirements, this evaluation addresses NO_2, O_3 (eight-hour average), CO, PM_{10}, and $PM_{2.5}$.

[2] On May 5, 2010, EPA promulgated a rule to reclassify the SCAB from “severe-17” to “extreme” for O_3; this rule was effective on June 4, 2010 (75 FR 24409). Because such a reclassification lowers the general conformity de minimis threshold for O_3 and extends the mandatory attainment date, these changes have been incorporated into the final GCD. Also, see the discussion in Section 4.3.

4.2 Exemptions from General Conformity Requirements

As noted previously, the general conformity requirements apply to a Federal action if the net project emissions equal or exceed certain de minimis emission rates. The only exceptions to this applicability criterion are the topical exemptions summarized below. However, the emissions that would be caused by the Federal action do not meet any of these exempt categories (except maintenance dredging and associated debris disposal pursuant to 40 C.F.R. 93.153(c)(2)(ix)).

- Actions which would result in no emissions increase or an increase in emissions that is clearly below the de minimis levels (40 C.F.R. § 93.153(c)(2)). Examples include administrative actions and routine maintenance and repair.

- Actions where the emissions are not reasonably foreseeable (40 C.F.R. § 93.153(c)(3)).

- Actions which implement a decision to conduct or carry out a conforming program (40 C.F.R. § 93.153 (c)(4)).

- Actions which include major or minor new or modified sources requiring a permit under the New Source Review (NSR) program or the Prevention of Significant Deterioration (PSD) program (40 C.F.R. § 93.153(d)(1)).

- Actions in response to emergencies which are typically commenced on the order of hours or days after the emergency and, if applicable, which meet the requirements of 40 C.F.R. § 93.153(e) (40 C.F.R. § 93.153(d)(2)).

- Actions which include air quality research not harming the environment (40 C.F.R. § 93.153(d)(3)).

- Actions which include modifications to existing sources to enable compliance with applicable environmental requirements (40 C.F.R. § 93.153(d)(4)).

- Actions which include emissions from remedial measures carried out under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) that comply with other applicable requirements (40 C.F.R. § 93.153(d)(5)).

In addition to these topical exemptions, the general conformity regulations allow each Federal agency to establish a list of activities that are presumed to conform (40 C.F.R. § 93.153(f)). The USACE has not established a presumed-to-conform list of activities at the time of this evaluation.

4.3 De Minimis Emission Rates

The general conformity requirements will apply to the Federal action for each pollutant or precursor for which the total of direct and indirect emissions caused by the Federal action equal or exceed the de minimis emission rates shown in **Table 4-1**. These emission rates are expressed in units of tons per year (tpy) and are compared to the total of direct

and indirect emissions caused by Federal action for the calendar year during which the net emissions are expected to be the greatest. It should be noted that, because O_3 is a secondary pollutant (i.e., it is not emitted directly into the atmosphere but is formed in the atmosphere from the photochemical reactions of volatile organic compounds, VOC, and oxides of nitrogen, NO_x, in the presence of sunlight), its de minimis emission rate is based on primary emissions of its precursor pollutants - VOC and NO_x. If the net emissions of either VOC or NO_x exceed the de minimis emission rate for O_3 (EPA 1994), then the Federal action is subject to a general conformity evaluation for O_3.

The region in which the project is located had until recently been classified as a "severe" nonattainment area for the eight-hour O_3 NAAQS, which carries a 25 tpy de minimis emission rate for NO_x and VOC. However, SCAQMD recently requested re-classification (bump up) to "extreme" nonattainment for the eight-hour O_3 NAAQS in the 2007 AQMP, and EPA approved the bump up which was effective June 4, 2010. The "extreme" nonattainment classification for O_3 carries a 10 tpy de minimis emission rate for NO_x and VOC.

Table 4-1
De Minimis Emission Rates for Determining Applicability of General Conformity Requirements to the Federal Action

Pollutant	SCAB Attainment Status Designations	De Minimis Emission Rate tons per year (tpy)
Nitrogen Dioxide	Attainment/Maintenance	100
Ozone (VOC or NO_x)	Nonattainment/Extreme	10[a]
Carbon Monoxide	Attainment/Maintenance	100
Particulate Matter PM_{10}	Nonattainment/Serious	70
Particulate Matter $PM_{2.5}$ (and each precursor)[b]	Nonattainment	100

Source: Camp Dresser & McKee Inc., 2010.

a. U.S. EPA has reclassified the South Coast Air Basin as an "extreme" nonattainment area for the 8-hour ozone NAAQS (75 FR 24409, May 5, 2010), effective June 4, 2010. This reclassification lowers the general conformity de minimis emission rate for NOx and VOC to 10 tpy. The Federal action associated with the San Pedro Waterfront project already requires a full general conformity evaluation under the "severe-17" classification; therefore, the change in classification does not change the requirement for, or analyses included in, the general conformity evaluation provided in this document.

b. The $PM_{2.5}$ precursors in the region include SO_x, NO_x, VOC, and ammonia. Ammonia emissions are not associated with the sources that are included in the Federal action (CARB 2009), therefore, no further analysis is conducted for ammonia as a PM2.5 precursor.

Further, the pollutant $PM_{2.5}$ consists of primary particulate matter (directly emitted) and secondary particulate matter (formed in the atmosphere from precursor compounds) and may ultimately be composed of many separate chemical compounds. Generally, the main precursors of secondary $PM_{2.5}$ include oxides of nitrogen (NO_x), oxides of sulfur (SO_x), and ammonia, although organic carbon compounds (VOC) also contribute to the formation of $PM_{2.5}$. Dynamic reactions between these precursor compounds emitted into the atmosphere by the sources of interest will affect the amount of $PM_{2.5}$ attributable to the Federal action. Based on studies conducted by SCAQMD in the SCAB, in general, the total mass of $PM_{2.5}$ is more associated with combustion-related sources and secondary

particles formed therefrom, and primary particles represent a relative small proportion of total $PM_{2.5}$ mass. In fact, ammonium nitrates and ammonium sulfates represent a dominant fraction of $PM_{2.5}$ components in the SCAB. If the net emissions of any of these precursor compounds exceed the de minimis emission rate for $PM_{2.5}$, then the Federal action is subject to a general conformity evaluation for $PM_{2.5}$. Ammonia emissions are not associated with the sources that are included in the Federal action (CARB 2009), therefore, no further analysis is conducted for ammonia as a $PM_{2.5}$ precursor.

4.4 Applicability for Federal Action

The applicability of the general conformity requirements to the Federal action was evaluated by comparing the total of direct and indirect emissions (calculated as presented in Attachment A) for the calendar year of greatest emissions to the de minimis emission rates specified in Table 4-1. Those pollutants that could not be excluded from applicability by this mechanism underwent a complete general conformity evaluation consistent with the procedures in Section 3 above using the methods in Attachment A and the criteria in Section 5 below.

4.4.1 Methodology

Attachment A contains a discussion of the approach used to estimate emissions for this general conformity evaluation and the resulting emission inventories associated with the proposed Federal action. In general, the equipment parameters and construction activities have been described in the Final EIS/EIR (USACE/LAHD 2009). As noted in Section 3.2 above, the Project no longer includes two of marine office buildings originally planned; therefore, emissions for construction of these buildings are no longer included. This information has been incorporated into the emission calculations presented in Attachment A, and summarized below.

4.4.2 Estimated Emissions and Comparison to De Minimis

Emissions were calculated for VOC, CO, NO_x, PM_{10}, and $PM_{2.5}$ (including precursors) for construction activities associated with the Federal action. For purposes of this evaluation, emissions of NO_2 are assumed to equal emissions of NO_x. These emissions are associated with mobile and area sources expected to be used for on-site construction-related purposes. Off-site construction-related on-road emission sources (e.g., construction worker commute trips, material delivery hauling trips, debris/spoils disposal hauling trips) are assumed to be accounted for in the conforming 2008 RTP (due to the extensive discussions of, and plans for growth in, goods movement in the SCAG region presented in that document, and the SCAG statements included in Attachment B), and they are therefore excluded from consideration of general conformity herein (40 C.F.R. § 93.158(a)(5)(ii)).

The emissions associated with the Federal action are summarized in **Table 4-2** for each year of construction. These data show that annual emissions from construction activities would exceed the conformity de minimis emission rates for NOx in 2011 through 2015.

Peak annual NOx emissions of 64.9 tons are predicted to occur in 2011. Therefore, a general conformity determination is required for proposed NOx emissions.

Table 4-2
San Pedro Waterfront Federal Action Emission Rates and Comparison to De Minimis Emission Rates

	Emission Rates, tons per year (tpy)					
Construction Year	**VOC**	**CO**	**NO_x**	**SO_x**	**PM_{10}**	**$PM_{2.5}$**
2011	5.7	30.0	**64.9**	0.06	4.9	2.7
2012	1.3	10.9	**15.2**	0.02	2.2	0.8
2013	4.8	28.8	**56.7**	0.07	10.0	3.7
2014	2.1	17.9	**27.9**	0.03	9.5	2.9
2015	4.6	21.1	**45.6**	0.05	4.0	2.1
2016	0.6	4.8	7.4	0.01	2.2	0.6
General Conformity de minimis emission rate (tpy)	**10**	**100**	**10**	**100**	**70**	**100**
Are de minimis emission rates exceeded?	No	No	**Yes**	No	No	No

Source: Camp Dresser & McKee Inc., 2010.

4.4.3 Applicability Determination

The total of direct and indirect emissions of VOC, CO, SO_x, PM_{10}, and $PM_{2.5}$ from the Federal action are less than the general conformity de minimis threshold emission rates. Therefore, the general conformity requirements do not apply to these pollutants, and there will be no further evaluation of these pollutants herein.

Because the total of direct and indirect emissions of NO_x from the Federal action exceeds the "extreme" O_3 nonattainment area conformity de minimis emission rate, the general conformity requirements apply to NO_x emissions from the action. Subsequent sections of this document will address the general conformity evaluation of NO_x as applicable to the Federal action.

Section 5
General Conformity Evaluation

For Federal actions subject to a general conformity evaluation, the regulations delineate several criteria that can be used to demonstrate conformity (40 C.F.R. § 93.158). In fact, a combination of these criteria may be used to support a positive general conformity determination (EPA 1994). The approach to be taken to evaluate the Federal action relies on a combination of these available criteria, and the remainder of this section summarizes the findings to make the final determination.

5.1 Designation of Applicable SIP

Section 110(a) of the Clean Air Act (42 U.S.C. § 7410(a)) requires each state to adopt and submit to EPA a plan which provides for the implementation, maintenance, and enforcement of each NAAQS. This plan is known as the SIP. Over time, states have made and continue to make many such submittals to EPA to address issues as they arise related to the various NAAQS. As EPA reviews these submittals, it can either approve or disapprove them in whole or in part. The compilation of a state's approved submittals constitutes that state's applicable SIP. In California, the state agency responsible for preparing and maintaining the SIP is CARB.

5.1.1 SIP Process in the South Coast Air Basin

California law provides for the establishment of air quality management districts and air pollution control districts within California for the purpose of implementing and enforcing ambient air quality standards on a county or regional (airshed) basis. State law also requires the districts in areas with poor air quality to prepare regional plans (Air Quality Management Plans [AQMPs]) to support the broader SIP, as well as to meet the goals of the California Clean Air Act. The South Coast Air Quality Management District (SCAQMD) is the local air district for the Port of Los Angeles.

Every three years, SCAQMD must prepare and submit to CARB an AQMP to demonstrate how the SCAB will attain and maintain the NAAQS and the California ambient air quality standards. The AQMP contains extensive emissions inventories of all emission sources in the SCAB as well as various control measures applicable to most of these sources. Once CARB approves the AQMP, it is submitted to EPA for approval into the SIP. The approved ozone SIP for the SCAB is based on the AQMP which SCAQMD submitted to CARB in 1997 (SCAQMD 1996), as amended in 1999, and supplemental information as discussed in Section 5.1.2.

In August 2003, SCAQMD submitted to CARB the final 2003 AQMP (SCAQMD 2003), and this formed the basis of a proposed SIP revision submitted by CARB to EPA on January 9, 2004. In October 2008, EPA proposed to approve portions and disapprove portions of the proposed revisions to the South Coast SIP included in the 2003 AQMP (73 FR 63408). Among those portions proposed for approval were the base year and baseline emissions inventories for ozone precursors and NO_2. Among those portions proposed for disapproval were the rate-of-progress and attainment demonstrations. The

final partial approval and partial disapproval were published in March 2009 (74 FR 10176). The disapproved portions of the 2003 AQMP were not required under the Clean Air Act, because they represent revisions to previously approved SIP elements. Therefore, the disapprovals neither trigger sanctions clocks nor EPA's obligation to promulgate a Federal implementation plan for lack of an approved SIP. Because the 2003 AQMP rate-of-progress and attainment demonstrations were not approved by EPA, the 1997/1999 SIP remains the currently applicable SIP for O_3 (one-hour).

In June 2007, SCAQMD submitted to CARB the final 2007 AQMP (SCAQMD 2007), and this formed the basis of a proposed SIP revision submitted by CARB to EPA on November 16, 2007. On August 27, 2009 (74 FR 43654), EPA proposed to grant a request from the state of California to reclassify the SCAB to "extreme" nonattainment for eight-hour O_3, and it has signaled that it will take action on the 2007 AQMP in a separate rulemaking. On May 5, 2010 (75 FR 24409), EPA promulgated the reclassification of the SCAB to "extreme" nonattainment for O_3, effective on June 4, 2010.

5.1.2 Status of Applicable SIP and Emissions Budgets by Pollutant

The Clean Air Act requires attainment of the NAAQS as expeditiously as practicable, but no later than the statutory dates for those criteria pollutants for which the SCAB is designated nonattainment and for which a finding of general conformity must be determined for the Federal actions. Upon re-designation of an area from nonattainment to attainment for each standard, the area will be considered to be a maintenance area for that standard (pursuant to Section 175A of the Clean Air Act), and as such, must meet all applicable requirements to maintain the standard.

To support the general conformity determination, the USACE provides documentation from the SCAQMD that demonstrates that the 2007 AQMP represents a written commitment for a revision to the SIP to accommodate the Federal action's emissions (criterion at 40 C.F.R. § 93.158(a)(5)(i)(B), see Section 5.2 below). The currently approved SIPs for the SCAB are summarized below.

- O_3: SIP approved by EPA on April 10, 2000 (65 FR 18903), based on the 1997 AQMP and a 1999 amendment to the 1997 AQMP. This SIP applies to the one-hour O_3 NAAQS; while the 2007 AQMP contains an attainment demonstration for the eight-hour O_3 NAAQS, EPA has not yet taken action on the proposed SIP revision which incorporates the 2007 AQMP.

- CO: SIP approved by EPA on May 11, 2007 (72 FR 26718), based on 2005 re-designation request and maintenance plan. In this SIP approval, EPA also re-designated the SCAB from nonattainment to attainment/maintenance for CO.

- PM_{10}: SIP approved by EPA on April 18, 2003 (68 FR 19315), based on the 1997 AQMP, amendments to the 1997 AQMP submitted in 1998 and 1999, and further modifications to the 1997 AQMP submitted in a status report to EPA in 2002.

- $PM_{2.5}$: No EPA-approved SIP.

- NO_2: SIP approved by EPA on July 24, 1998 (63 FR 39747), based on the 1997 AQMP. In this SIP approval, EPA also re-designated the SCAB from nonattainment to attainment/maintenance for NO_2.

SCAQMD released the Final 2007 AQMP on June 1, 2007, and as noted above, that AQMP formed the basis of a proposed SIP revision submitted to EPA. For purposes of the general conformity determination, the applicable SIP will be the most recent EPA-approved SIP at the time of the release of the final general conformity determination.

5.2 Comparison to SIP Emissions Inventories

Under the general conformity regulations, a Federal action can be determined to conform to the applicable SIP for O_3 if the action is specifically identified and accounted for in the SIP's attainment demonstration or reasonable further progress milestone, or in a facility-wide emission budget included in the SIP; if the total of direct and indirect emissions from the action are fully offset within the same nonattainment area by a revision to the applicable SIP or a similarly federally enforceable measure; or if the state agency responsible for the SIP determines and documents that the total of direct and indirect emissions from the action can be accommodated within the SIP emissions budgets. The Federal action described herein is not specifically identified or accounted for in the approved SIP, and USACE does not plan to rely on emission offsets to demonstrate conformity. The following discussion summarizes a determination from the SCAQMD (Attachment D), the agency responsible for developing the SCAB portion of the SIP, that demonstrates the Federal action as described herein conforms to the SIP.

5.2.1 NOx Emissions from Construction Sources Under the Federal Action

At the time that SCAQMD prepared the 1997 AQMP, LAHD had not yet announced its intention to undertake the Project. Therefore, it is evident that the EPA-approved SIP does not contain specific estimates of emissions for construction activities under the Project.

As noted in the preceding section, the most recent EPA-approved SIP at the time of the release of the final general conformity determination must be used for emission budget analyses. The 1997 AQMP together with supplemental information form the basis for the current, EPA-approved O_3 SIP as noted in Section 5.1.2. However, as noted by SCAQMD (Attachment D), EPA believes that current emissions estimates for the SCAB already exceed the emissions budgets in the approved SIP. Therefore, SCAQMD cannot determine or document that the total of direct and indirect emissions for the Federal action, together with all other emissions in the nonattainment area, would not exceed the emissions budgets specified in the approved SIP.

The general conformity evaluation and findings below are based on a determination by SCAQMD (Attachment D) that the 2007 AQMP represents a written commitment for a SIP revision that accommodates the Federal action's emissions.

Specifically, at 40 C.F.R. § 93.158(a)(5)(i)(B), where the State determines that the total of direct and indirect emissions from a Federal action, together with all other emissions in the nonattainment area, would exceed the emissions budgets specified in the approved SIP, the State can make a written commitment to EPA to accommodate a specific project's emissions via a SIP revision. Such a SIP revision would include:

> (1) a specific schedule for adoption and submittal of a revision to the SIP which would achieve the needed emission reductions prior to the time emissions from the Federal action would occur; (2) identification of specific measures for incorporation into the SIP which would result in a level of emissions which, together with all other emissions in the nonattainment or maintenance area, would not exceed any emissions budget specified in the applicable SIP; (3) a demonstration that all existing applicable SIP requirements are being implemented in the area for the pollutants affected by the Federal action, and that local authority to implement additional requirements has been fully pursued; (4) a determination that the responsible Federal agencies have required all reasonable mitigation measures associated with their action; and (5) written documentation including all air quality analyses supporting the conformity determination.

As noted by SCAQMD (Attachment D), it believes the necessary SIP revision called for under 40 C.F.R. § 93.158(a)(5)(i)(B) has already been satisfied through submittal of the 2007 AQMP (and the 2007 State Strategy and subsequent related documents upon which the 2007 AQMP relies in part) as a proposed SIP revision for the SCAB and that the 2007 AQMP accommodates the O_3 precursor emissions from the Federal action.

Regarding item (1) above, a schedule for adoption and submittal of a SIP revision is unnecessary because the necessary SIP revisions have already been submitted; see discussion in Section 5.1.1.

Regarding item (2) above, Chapter 4 of the 2007 AQMP sets forth new and amended control measures and strategies that SCAQMD and CARB have adopted to meet the requirement to demonstrate reasonable further progress and attainment of the 1997 eight-hour O_3 NAAQS. The USACE believes that, when implemented, these measures would result in emissions from the Federal action, along with all other emissions in the nonattainment area, that would not exceed any emissions budget.

Regarding item (3) above, Chapter 7 of the 2007 AQMP includes specific discussions of the issue of plan implementation; also, CARB is acting on its current SIP commitments as evidenced in recent submittals to EPA. The USACE believes that these conditions demonstrate appropriate implementation of existing SIP requirements.

Regarding item (4) above, SCAQMD believes that the Project, as described in the Final EIS/EIR, now includes all reasonable CEQA-related mitigation measures and that those measures will be implemented and enforced by LAHD.

Regarding item (5) above, in addition to the detailed technical documentation in the 2007 AQMP that supports the proposed SIP revision, including emissions projections and modeling input and output, the USACE understands that SCAQMD believes the 2007 AQMP accommodates the emissions from the Federal action. In particular, the emissions associated with the Project were envisioned in the 2007 AQMP through the growth projection of port expansion and construction activities provided by SCAG. SCAG recently noted (SCAG 2007) that current and projected activity levels at the Port of Los Angeles and Port of Long Beach are routinely submitted by the ports to SCAG and incorporated into the RTP. Specifically, SCAG indicated that Port of Los Angeles forecasted activity levels have been incorporated into the 1994, 1998, 2001, 2004, and 2008 RTPs. Because the 2004 RTP was used to develop the 2007 AQMP emission inventories (SCAQMD 2007, Appendix III) and growth on the project site has been part of those plans, it is evident that the 2007 AQMP should contain estimates of emissions for construction activities under any of the build alternatives, including the Federal action addressed herein.

In addition, the current economic recession is providing margin to accommodate unanticipated emissions in the SCAB. The recession has produced lower cargo handling activities at the Ports of Los Angeles and Long Beach. This economic downturn has provided temporary emission reductions that will "offset" near-term increases in construction emissions from the proposed Federal action. Annual Port of Los Angeles container volume dropped each calendar year since the peak in 2006 of 8.47 million twenty-foot equivalent units (TEUs) (POLA 2010). By 2008, container volume had dropped by more than 600,000 TEUs/year from 2006, approximately a 7 percent reduction (POLA 2010). The 2009 container volume was 14 percent below the 2008 volume and 20 percent below the 2006 volume (POLA 2010). These reductions in container volume equate to substantial de facto reductions in emissions and, more importantly, are counter to the growth rates assumed in either the approved SIP or 2007 AQMP. While the growth rates assumed in the SIP or AQMP may resume in future years, it will proceed from a lower baseline than before, and there is no evidence at this time to expect that growth rates will accelerate to regain the projected emission levels included in either the approved SIP or 2007 AQMP for the years addressed in this evaluation.

The most recent emission inventory for the Port of Los Angeles is for the 2008 calendar year (POLA 2009), which indicates that the Port of Los Angeles NO_x emissions averaged 2 tons per 1000 TEUs. The 2009 container volume was 20 percent below the 2006 volume, representing a reduction of over 1.7 million TEUs and a reduction of 3,400 tons of NO_x per year. This substantial reduction in container volumes would more than compensate for the entire Federal action emissions of roughly 217 tons of NO_x over the six years of construction.

Lastly, the increase in construction emissions due to the Project is a nominal portion of the total baseline emissions for the 2007 AQMP emissions inventories and will result in a minimal impact to ambient air quality in the SCAB.

Based on the foregoing reasons, SCAQMD has concluded (Attachment D) that the emissions from the Federal action addressed herein would be accommodated by the proposed 2007 SIP revision and that that SIP revision may be relied on by the USACE to make a positive general conformity determination. Therefore, the Federal action conforms to the approved SIP through the SCAQMD's written commitment for a SIP revision and satisfies the conformity demonstration requirement under 40 C.F.R. § 93.158(a)(5)(i)(B).

5.2.2 NO_x Emissions from Other Sources at POLA

It is the determination of the USACE that any change in future emissions at POLA following the implementation of the Federal action are not subject to the continuing program responsibility of the USACE and therefore are not required to be addressed in this evaluation. Once construction activities in and over the water are completed, the USACE will retain no authority over other construction and operational activities, particularly those occurring in the upland portions of the project area. This finding and approach to the analysis are fully consistent with the General Conformity Rule and 1994 USACE guidance on this subject (see Attachment C). However, these future construction and operational emissions will remain subject to the continuing program responsibility of LAHD, as the local agency with lease and development control over projects in the Port of Los Angeles, and numerous CEQA-related mitigation measures, including many focused on limiting air emissions, will have to be implemented, maintained, and monitored pursuant to the MMRP in the certified Final EIR for these actions (see Section 2.1 for further discussion).

5.3 Consistency with Requirements and Milestones in Applicable SIP

The general conformity regulations state that notwithstanding the other requirements of the rule, a Federal action may not be determined to conform unless the total of direct and indirect emissions from the Federal action is in compliance or consistent with all relevant requirements and milestones in the applicable SIP (40 C.F.R. § 93.158(c)). This includes but is not limited to such issues as reasonable further progress schedules, assumptions specified in the attainment or maintenance demonstration, prohibitions, numerical emission limits, and work practice standards. This section briefly addresses how the Federal actions were assessed for SIP consistency for this evaluation.

5.3.1 Applicable Requirements from EPA

EPA has already promulgated, and will continue to promulgate, numerous requirements to support the goals of the Clean Air Act with respect to the NAAQS. Typically, these requirements take the form of rules regulating emissions from significant new sources, including emission standards for major stationary point sources and classes of mobile sources as well as permitting requirements for new major

stationary point sources. Since states have the primary responsibility for implementation and enforcement of requirements under the Clean Air Act and can impose stricter limitations than EPA, the EPA requirements often serve as guidance to the states in formulating their air quality management strategies.

5.3.2 Applicable Requirements from CARB

In California, to support the attainment and maintenance of the NAAQS, CARB is primarily responsible for regulating emissions from mobile sources. In fact, EPA has delegated authority to CARB to establish emission standards for on-road and some non-road vehicles separate from the EPA vehicle emission standards, although CARB is preempted by the Clean Air Act from regulating emissions from many non-road mobile sources, including marine craft. Emission standards for preempted equipment can only be set by EPA.

5.3.3 Applicable Requirements from SCAQMD

To support the attainment and maintenance of the NAAQS in the SCAB, SCAQMD is primarily responsible for regulating emissions from stationary sources. As noted above, SCAQMD develops and updates its AQMP regularly to support the California SIP. While the AQMP contains rules and regulations geared to attain and maintain the NAAQS, these rules and regulations also have the much more difficult goal of attaining and maintaining the California ambient air quality standards.

5.3.4 Consistency with Applicable Requirements

In operating POLA, LAHD already complies with, and will continue to comply with, a myriad of rules and regulations implemented and enforced by Federal, state, regional, and local agencies to protect and enhance ambient air quality in the SCAB. In particular, due to the long persistence of challenges to attain the ambient air quality standards in the SCAB, the rules and regulations promulgated by CARB and SCAQMD are among the most stringent in the U.S. LAHD will continue to comply with all existing applicable air quality regulatory requirements for activities over which it has direct control and will meet in a timely manner all regulatory requirements that become applicable in the future. Likewise, LAHD actively encourages all tenants and users of its facilities to comply with applicable air quality requirements.

The nature and extent of the requirements with which LAHD complies and will continue to comply include, but are not limited to, the following.

- EPA Rule 40 C.F.R. Part 89, Control of Emissions from New and In-Use Non-road Compression-Ignition Engines: requires stringent emission standards for mobile non-road diesel engines of almost all types using a tiered phase in of standards.

- CARB Rule 13 C.C.R. § 1956.8, California Exhaust Emission Standards and Test Procedures for 1985 and Subsequent Model Heavy-Duty Diesel Engines and Vehicles: requires significant reductions in emissions of NO_x, particulate matter, and

non-methane organic compounds using exhaust treatment on heavy-duty diesel engines manufactured in model year 2007 and later years.

- SCAQMD Rule 403, Fugitive Dust: identifies the minimum particulate controls for construction-related fugitive dust. For example, Rule 403 requires twice daily watering of all active grading or construction sites. Haul trucks leaving the facility must be covered and maintain at least two feet of freeboard (C.V.C. § 23114). Low emission street sweepers must be used at the end of each construction day if visible soil is carried onto adjacent public paved roads, as required by SCAQMD Rule 1186.1, Less-Polluting-Sweepers. Wheel washers must be used to clean off the trucks, particularly the tires, prior to them entering the public roadways.

- SCAQMD Rule 431.2, Sulfur Content of Liquid Fuels: requires that, after January 1, 2005, only ultra low sulfur diesel fuel (containing 15 parts per million by weight sulfur) will be permitted for sale in the SCAB for any stationary- or mobile-source application.

- SCAQMD Rule 2202, On-Road Motor Vehicle Mitigation Options: requires employers in the SCAB with more than 250 employees to implement an approved rideshare program and attain an average vehicle ridership of at least 1.5.

- City Council directive on diesel engine particulate traps, approved by the Mayor on December 2, 2002: requires that all existing City-owned and City-contracted diesel-fueled vehicles be retrofitted with particulate traps, which engines would henceforth be required to use ultra low sulfur diesel fuel (15 parts per million by weight or less); some exceptions include emergency vehicles and off-road vehicles.

Section 6
Mitigation

As part of a conformity evaluation, it may be necessary for the Federal agency to identify mitigation measures and mechanisms for their implementation and enforcement. For example, if a Federal action does not initially conform to the applicable SIP, mitigation measures could be pursued. If mitigation measures are used to support a positive conformity determination, the Federal agency must obtain a written commitment from the entity required to implement these measures prior to a positive conformity determination, and the Federal agency must include the mitigation measures as conditions in any permit or license granted for the Federal action (40 C.F.R. § 93.160). Mitigation measures may be used in combination with other criteria to demonstrate conformity. The Federal action, as evaluated herein, assumes various air quality mitigation measures as described in the Final EIS/EIR (USACE/LAHD 2009) to meet CEQA requirements are part of the Project. Based on CEQA provisions that mitigation measures be required in, or incorporated into, the project (14 C.C.R. § 15091(a)(1)), LAHD will implement, maintain, monitor, and enforce these CEQA-related air quality mitigation measures pursuant to the MMRP, which are included in the certified Final EIR; see Section 2.1 for more information on the CEQA-related mitigation measures. The USACE recognizes the LAHD, as the local responsible agency, will implement, maintain, monitor, and enforce numerous mitigation measures, including many focused on limiting air emissions, as required by a certified Final EIR; however, the USACE lacks continuing program responsibility, control, and enforcement capability over mitigation measures not related to project construction activities in or over water as well as those continuing after construction activities in and over water are completed. Because the USACE has determined that the Federal action, which incorporates the above-mentioned CEQA-related mitigation measures as design features of the Project, will conform to the Clean Air Act, no mitigation, as defined under the general conformity regulations (40 C.F.R. § 93.160) or guidance (EPA 1994), are required to support a positive general conformity determination.

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Section 7
Reporting

To support a decision concerning the Federal action, the USACE is issuing this final general conformity determination for public disclosure purposes.

7.1 Draft General Conformity Determination

The USACE provided copies of the draft general conformity determination to the appropriate regional offices of EPA, any affected Federal land manager, as well as to CARB, SCAQMD, and SCAG for a 30-day review. The USACE also placed a notice in a daily newspaper of general circulation in the SCAB announcing the availability of the draft general conformity determination and requesting written public comments for a 30-day period.

7.2 Final General Conformity Determination

The USACE is providing copies of the final general conformity determination to the appropriate regional offices of EPA, any affected Federal land manager, as well as to CARB, SCAQMD, and SCAG, within 30 days of its promulgation. The USACE is also placing a notice in a daily newspaper of general circulation in the SCAB announcing the availability of its final general conformity determination within 30 days of its promulgation. As part of the general conformity evaluation, the USACE has documented its responses to all comments received on the draft general conformity determination and will make both the comments and responses available upon request by any person within 30 days of the promulgation of the final general conformity determination.

7.3 Reevaluation of General Conformity

The general conformity regulations state that once a conformity determination is completed, that determination is not required to be reevaluated if the responsible Federal agency has maintained a continuous program to implement the action, the determination has not lapsed, or any modification to the Federal action does not result in an increase in emissions above the de minimis emission rates (40 C.F.R. § 93.157(a)). The conformity status of a Federal action automatically lapses five years from the date a final general conformity determination is reported, unless the Federal action has been completed or a continuous program to implement the Federal action has commenced (40 C.F.R. § 93.157(b)). Because the Federal action envisions a development program extending beyond five years, it is important to note that the final general conformity determination will remain active only under this "continuous program to implement."

As part of a phased program, the implementation of each element of the development of the Federal action does not require separate conformity determinations, even if they are begun more than five years after the final determination, as long as those elements are consistent with the original program which was determined to conform (EPA 2002). However, if this original conforming program is changed such that there is an increase

in the total of direct and indirect emissions above the de minimis threshold levels, USACE will conduct a new general conformity evaluation.

Section 8
Findings and Conclusions

As part of the environmental review of the Federal action, the USACE conducted a general conformity evaluation pursuant to 40 C.F.R. Part 93 Subpart B. The general conformity regulations apply at this time to any action at POLA requiring USACE approval because the SCAB where POLA is situated is a nonattainment area for O_3, PM_{10}, and $PM_{2.5}$; and a maintenance area for NO_2 and CO. The USACE conducted the general conformity evaluation following all regulatory criteria and procedures and in coordination with EPA, CARB, SCAQMD, and SCAG. The USACE proposes that the Federal action as designed will conform to the SIP's purpose of eliminating or reducing the severity and number of violations of the NAAQS and achieving expeditious attainment of such standards, based on the findings below:

- The Federal action is not subject to a general conformity determination for CO, VOC (as an O_3 and $PM_{2.5}$ precursor), NO_x (as a $PM_{2.5}$ precursor), PM_{10}, $PM_{2.5}$, or SO_x (as a $PM_{2.5}$ precursor) because the net emissions associated with the Federal action are less than the general conformity de minimis thresholds.

- The Federal action, along with all activity at the Port of Los Angeles, is addressed in the 2007 AQMP, which represents a proposed SIP revision for the 1997 eight-hour O_3 NAAQS incorporating the Project. The 2007 AQMP includes all of the necessary elements for the requested redesignation to "extreme" nonattainment classification for the eight-hour O_3 NAAQS (74 FR 43654), and EPA has granted that request. Therefore, the Federal action conforms to the approved SIP through the 2007 AQMP proposed SIP revision and satisfies the conformity demonstration requirement under 40 C.F.R. 93.158(a)(5)(i)(B).

Therefore, USACE herewith concludes that the Federal action as designed conforms to the purpose of the SIP, and it is consistent with all applicable requirements.

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Section 9
References

40 C.F.R. Part 51 Subpart W. *Determining Conformity of General Federal Actions to State or Federal Implementation Plans.*

40 C.F.R. Part 93 Subpart A. *Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Laws.*

40 C.F.R. Part 93 Subpart B. *Determining Conformity of General Federal Actions to State or Federal Implementation Plans.*

58 FR 13846. *Determining Conformity of General Federal Actions to State or Federal Implementation Plans. Notice of Proposed Rulemaking.* March 15, 1993.

58 FR 63241. *Determining Conformity of General Federal Actions to State or Federal Implementation Plans. Final Rule.* November 30, 1993.

63 FR 39747. *Approval and Promulgation of State Implementation Plans and Redesignation of the South Coast Air Basin in California to Attainment for Nitrogen Dioxide.* July 24, 1998.

64 FR 19916. *Approval and Promulgation of Implementation Plans for Arizona and California; General Conformity Rules*. April 23, 1999.

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Attachment A
Port of Los Angeles San Pedro Waterfront Federal Action General Conformity Calculation Methodology and Results

CDM

Memorandum

To: *John Pehrson*

From: *Katie Travis*

Date: *05/09/2011*

Subject: *Port of Los Angeles San Pedro Federal Action General Conformity Calculation Methodology*

The Federal action associated with the Port of Los Angeles (POLA) San Pedro Waterfront Project requires a general conformity determination for submittal to the U.S. Environmental Protection Agency (USEPA) in order to comply with the requirements of the general conformity regulations and to obtain a permit from the U.S. Army Corps of Engineers (USACE). This memo documents the methods and results used to calculate pollutant emissions from the Federal action for use in this general conformity determination. The determination will be published with the Final EIS/EIR.

- The analysis is built upon information presented in the San Pedro Waterfront Project EIS/EIR (EIS/EIR).
- Annual emissions for all elements of the proposed project and the Alternative 5 – No Federal Action were provided by iLanco Environmental.

General Conformity Process

The first step in the general conformity process is to determine if emissions of the pollutants of concern are above the de minimis emission rates defined in the general conformity regulations. This step is referred to as the Applicability Analysis. The pollutants of concern in the South Coast Air Basin (SCAB) are ozone (and its precursors), NO_2 (and its precursor), CO, PM_{10} and $PM_{2.5}$ (and its precursors). The precursors of ozone include NOx and ROG; the precursor of NO_2 is NOx; and the precursors of $PM_{2.5}$ include NOx, SOx, ROG, and ammonia, along with directly emitted $PM_{2.5}$. Due to the severity of the ozone nonattainment designation, the de minimis emission rates for NOx and ROG as ozone precursors (10 tpy) are much more stringent than the de minimis emission rates for NOx and ROG as PM2.5 precursors (100 tpy) or NO_2 precursors (100 tpy NOx). Therefore, the de minimis emission rates for NOx and ROG will be 10 tpy of each as ozone precursors.

Calculation Method

Analysis began with information presented in the San Pedro Waterfront EIS/EIR and emissions by project element provided by iLanco Environmental. The only change to the data for the Final General Conformity Determination is that the construction begins two (2) years later than was as assumed on the EIS/EIR. Specifically, for the Final General Conformity Determination, construction is assumed to occur from 2011 through 2016, not 2009 through 2014. The emission factors and emissions were not revised, since the factors for 2009 through 2014 would be conservative (higher than) factors for 2011 through 2016. The proposed project as presented in the EIS/EIR contains 40 elements. Elements 5 and 6, the Millenium and Crowley office buildings are no longer part of the proposed project and emissions associated with these buildings are not part of this analysis. The emissions inventories provided by iLanco Environmental are presented as totals for each project element and were not broken down by equipment. Therefore an estimate is not possible at this time of emissions attributable to heavy-duty trucks, mobile or offroad equipment, or commercial boats for comparison to the USEPA-approved SIP, and the CARB-approved 2007 Air Quality Management Plan.

Resulting Total and Yearly Emissions Caused by the Federal Action

The total emission rates caused by the Federal action are summarized in **Table 1** below. The proposed project and Alternative 5 emissions provided by iLanco Environmental and the summary spreadsheet tables are presented in **Exhibit C1 and C2**. Total emissions for each pollutant caused by the Federal action are compared to the general conformity de minimis emission rates to determine if total Federal action emissions are significant. The total Federal action emissions for ROG, CO, and NO_x exceeded this threshold. Because the de minimis emission rates are in tons of pollutant per year (tpy), annual ROG, CO, and NO_x emissions were assessed for each year of the Federal action. Emissions for each year were then compared to the de minimis emission rates. **Table 2 and 3** show that for ROG and CO respectively, the de minimis emission rates are not exceeded in any year. **Table 4** shows that the de minimis emission rate for NOx is exceeded in 2011 through 2015, with the peak year of construction emissions occurring in 2011.

Exhibits

Exhibit C.1: Proposed Project Annual Emissions
Exhibit C.2: Alternative 5 No Federal Action Annual Emissions

Table 1: Federal Action Construction Total Criteria Pollutant Emissions (tons)

Construction Phase & Activity	ROG	CO	NOx	SOx	PM10	PM2.5
Proposed Project[d]	31	231	371	<1	119	34
Alternative 5 – No Federal Action	12	118	153	<1	86	21
TOTAL FEDERAL ACTION POLLUTANT EMISSIONS (tons)[a]	19	114	218	<1	33	13
General Conformity de minimis Threshold (tpy)[b]	**10**	**100**	**10**	**100** (as PM2.5)	**70**	**100**
Were the General Conformity de minimis thresholds exceeded?[c]	**Yes**	**Yes**	**Yes**	**No**	**No**	**No**

a. Emissions shown are for entire construction duration, not peak annual.

b. The de minimis rates are meant to be compared to peak annual emissions. If total project emissions exceed the de minimis emission rates, then annual emissions will be determined.

c. Federal action ROG, CO, and NOx emissions exceeded the threshold; peak annual ROG, CO, and NO_x emissions will be calculated (see Tables 2-4).

d. Project elements 5 - Maritime Office Building – Crowley and 6 - Maritime Office Building – Millenium are no longer part of the proposed project and have been removed from all the calculation of proposed project and Federal Action emissions.

Table 2: Federal Action Construction ROG Emissions (tons/year)

Construction Phase & Activity	Year of Construction 2011	2012	2013	2014	2015	2016
Proposed Project[d]	6.6	4.6	9.4	3.1	6.8	0.9
Alternative 5 – No Federal Action	0.9	3.3	4.6	1.0	2.2	0.4
ANNUAL FEDERAL ACTION POLLUTANT EMISSIONS (tpy)	**5.7**	**1.3**	**4.8**	**2.1**	**4.6**	**0.6**
Was the General Conformity de minimis emission rate (10 tpy) exceeded?	**No**	**No**	**No**	**No**	**No**	**No**

Table 3: Federal Action Construction CO Emissions (tons/year)

Construction Phase & Activity	Year of Construction 2011	2012	2013	2014	2015	2016
Proposed Project[d]	35.3	37.7	74.6	34.8	39.6	9.3
Alternative 5 – No Federal Action	5.4	26.8	45.8	16.9	18.4	4.5
ANNUAL FEDERAL ACTION POLLUTANT EMISSIONS (tpy)	**30.0**	**10.9**	**28.8**	**17.9**	**21.1**	**4.8**
Was the General Conformity de minimis emission rate (100 tpy) exceeded?	**No**	**No**	**No**	**No**	**No**	**No**

Table 4: Federal Action Construction NOx Emissions (tons/year)

Construction Phase & Activity	Year of Construction 2011	2012	2013	2014	2015	2016
Proposed Project[d]	75.8	55.8	111.1	39.6	77.0	11.7
Alternative 5 – No Federal Action	10.9	40.6	54.4	11.6	31.4	4.3
ANNUAL FEDERAL ACTION POLLUTANT EMISSIONS (tpy)	**64.9**	**15.2**	**56.7**	**27.9**	**45.6**	**7.4**
Was the General Conformity de minimis emission rate (10 tpy) exceeded?	**Yes**	**Yes**	**Yes**	**Yes**	**Yes**	**No**

	Proposed Project	Lifetime Project Emissions (grams)					
		2011-2016					
Element		Mitigated Emissions					
ID	Element Name	VOC	CO	NOX	SO2	PM10	PM2.5
1	1 - Catalina Express Terminal	239,548	1,900,250	3,597,777	3,618	1,340,249	354,039
2	2 - Cruise Ship Terminal Berth 91-93	-	-	-	-	-	-
3	3 - Cruise Ship Parking Facilities	604,202	9,287,535	6,317,309	14,185	2,288,841	577,979
4	4 - North Harbor	3,907,940	16,718,412	36,840,244	41,038	5,147,721	2,140,801
~~5~~	~~5 - Maritime Office Building - Crowley~~						
~~6~~	~~6 - Maritime Office Building - Millenium~~						
7	7 - Maritime Office Building - Lane Victory	86,894	878,833	1,540,246	2,358	94,254	49,773
8	8 - Downtown Harbor	1,844,560	8,409,097	19,015,252	16,716	1,759,718	881,195
9	9 - 7th Street Harbor	1,212,048	5,810,160	13,224,852	11,572	1,146,107	591,227
10	10 - 7th Street Pier	908,997	5,131,098	11,605,752	10,258	486,892	401,095
11	11 - Downtown Square	100,355	650,594	1,402,356	1,703	116,430	47,177
12	12 - Downtown Water Feature	70,802	455,307	969,329	1,185	34,909	23,369
13	13 - John S. Gibson Park	100,302	655,387	1,413,675	1,764	91,609	41,908
14	14 - Ralph J. Scott Fireboat Museum	275,353	1,551,050	3,408,876	3,647	215,344	136,029
15	15 - Maritime Museum Renovation	-	-	-	-	-	-
16	16 - Maritime Office Building - L.A. Maritime Institute	145,016	1,115,180	1,977,467	2,561	157,568	66,705
17	17 - Maritime Office Building	-	-	-	-	-	-
18	18 - Ports O' Call Promenade - Phase 1	1,553,319	10,089,280	17,852,969	19,749	2,005,229	818,986
19	19 - Ports O' Call Promenade - Phase 2	1,517,507	10,200,041	16,249,965	22,711	4,436,705	1,314,147
20	20 - Ports O' Call Promenade - Phase 3	1,069,570	7,600,150	13,492,716	21,127	659,821	495,002
21	21 - Southern Pacific Railyard Demolition	154,341	828,552	2,141,183	2,663	1,518,640	348,904
22	22 - Fisherman's Park	408,239	2,940,191	5,494,123	7,205	235,047	139,781
23	23 - Ports O' Call Redevelopment without restaurant	-	-	-	-	-	-
24	24 - Ports O' Call Redevelopment Phase 1	828,273	11,595,805	9,104,926	20,052	9,201,330	2,069,910
25	25 - Ports O' Call Redevelopment Phase 2	1,446,784	13,915,211	16,884,178	31,463	1,733,076	711,374
26	26 - Ports O' Call Redevelopment with Restaurant	164,546	2,210,967	2,273,577	5,557	1,922,150	445,620
27	27 - Ports O' Call Redevelopment Phase 3	560,777	6,034,391	7,220,347	16,129	363,062	239,779
28	28 - Red Car Maintenance Facility	365,861	2,654,393	5,101,980	6,250	157,921	117,457
29	29 - Westway Terminal Demolition	616,255	2,970,909	7,301,028	8,027	5,402,486	1,258,854
30	30 - City Dock No. 1 Promenade	1,443,045	12,281,192	17,334,837	22,753	6,462,846	1,884,341
31	31 - Outer Harbor Cruise Ship Terminal - Berth 45-50	4,536,314	33,360,202	58,567,181	69,718	14,502,659	4,916,559
32	32 - Outer Harbor Park and Promenade	462,335	5,304,069	5,460,417	10,382	3,043,898	731,185
33	33 - San Pedro Park	466,069	5,259,426	5,365,893	10,536	10,828,621	2,340,972
34	34 - Salinas De San Pedro/Youth Camp Promenade	1,427,447	10,067,074	19,909,332	24,627	2,093,587	1,087,398
35	35 - Sampson Way Roadway Improvements	486,237	3,772,024	6,680,292	8,949	1,184,387	357,669
36	36 - Red Car Line Extension Sampson Way to 22nd St.	393,231	5,205,901	4,353,660	9,209	5,861,081	1,291,192
37	37 - Red Car Line Extension 22nd St. to Cabrillo Beach	435,279	5,190,207	4,927,169	10,025	15,350,830	3,272,797
38	38 - Red Car Line Extension Outer Harbor	318,395	2,579,235	4,188,591	5,895	3,351,456	767,874
39	39 - Red Car Line Extension City Dock No. 1	207,435	2,407,534	3,541,131	5,987	2,571,330	603,753
40	40 -Berth 240 Fueling Station	133,513	834,429	1,774,713	2,286	2,392,068	527,138
	Total, grams	28,357,276	209,029,656	334,758,628	449,617	105,765,805	30,524,852
	Total, tons	31	231	371	0	119	34
	Source: iLanco Enviromental						

	Proposed Project												
		2011						2012					
Element		Mitigated Emissions						Mitigated Emissions					
ID	Element Name	VOC	CO	NOX	SO2	PM10	PM2.5	VOC	CO	NOX	SO2	PM10	PM2.5
1	1 - Catalina Express Terminal	231,921	1,687,857	3,565,628	3,359	645,346	209,275	7,627	212,392	32,149	259	694,903	144,764
2	2 - Cruise Ship Terminal Berth 91-93	-	-	-	-	-	-	-	-	-	-	-	-
3	3 - Cruise Ship Parking Facilities	243,218	2,820,500	2,745,572	4,636	597,039	168,407	360,984	6,467,035	3,571,737	9,549	1,691,801	409,571
4	4 - North Harbor	-	-	-	-	-	-	-	-	-	-	-	-
~~5~~	~~5 - Maritime Office Building - Crowley~~												
~~6~~	~~6 - Maritime Office Building - Millenium~~												
7	7 - Maritime Office Building - Lane Victory	-	-	-	-	-	-	-	-	-	-	-	-
8	8 - Downtown Harbor	1,685,197	7,232,831	17,178,799	14,126	1,076,896	703,997	159,362	1,176,266	1,836,453	2,591	682,822	177,199
9	9 - 7th Street Harbor	1,188,912	5,388,779	13,066,691	11,009	743,578	504,058	23,136	421,381	158,161	564	402,529	87,169
10	10 - 7th Street Pier	854,747	4,562,734	10,955,163	9,240	431,831	379,078	54,250	568,364	650,589	1,018	55,062	22,017
11	11 - Downtown Square	-	-	-	-	-	-	96,748	563,454	1,375,118	1,540	46,743	32,323
12	12 - Downtown Water Feature	-	-	-	-	-	-	68,434	392,451	955,598	1,084	24,452	20,937
13	13 - John S. Gibson Park	-	-	-	-	-	-	95,773	560,946	1,368,551	1,541	42,031	31,117
14	14 - Ralph J. Scott Fireboat Museum	-	-	-	-	-	-	265,017	1,350,747	3,321,001	3,340	136,317	117,682
15	15 - Maritime Museum Renovation	-	-	-	-	-	-	-	-	-	-	-	-
16	16 - Maritime Office Building - L.A. Maritime Institute	-	-	-	-	-	-	43,265	304,650	631,143	723	28,083	16,093
17	17 - Maritime Office Building	-	-	-	-	-	-	-	-	-	-	-	-
18	18 - Ports O' Call Promenade - Phase 1	1,105,737	6,909,458	12,736,502	12,905	1,269,219	569,064	447,582	3,179,821	5,116,467	6,844	736,010	249,922
19	19 - Ports O' Call Promenade - Phase 2	-	-	-	-	-	-	114,716	832,504	1,420,733	1,567	275,714	102,137
20	20 - Ports O' Call Promenade - Phase 3	-	-	-	-	-	-	-	-	-	-	-	-
21	21 - Southern Pacific Railyard Demolition	154,341	828,552	2,141,183	2,663	1,518,640	348,904	-	-	-	-	-	-
22	22 - Fisherman's Park	-	-	-	-	-	-	378,538	2,596,438	5,032,156	6,516	207,639	127,131
23	23 - Ports O' Call Redevelopment without restaurant	-	-	-	-	-	-	-	-	-	-	-	-
24	24 - Ports O' Call Redevelopment Phase 1	-	-	-	-	-	-	474,590	4,402,908	5,262,395	8,791	2,748,653	665,227
25	25 - Ports O' Call Redevelopment Phase 2	-	-	-	-	-	-	72,996	648,556	833,769	1,347	71,402	29,439
26	26 - Ports O' Call Redevelopment with Restaurant	-	-	-	-	-	-	-	-	-	-	-	-
27	27 - Ports O' Call Redevelopment Phase 3	-	-	-	-	-	-	-	-	-	-	-	-
28	28 - Red Car Maintenance Facility	-	-	-	-	-	-	311,806	2,130,049	4,278,471	5,163	127,959	98,219
29	29 - Westway Terminal Demolition	535,142	2,620,439	6,375,292	6,929	4,920,195	1,140,533	81,113	350,470	925,736	1,098	482,291	118,321
30	30 - City Dock No. 1 Promenade	-	-	-	-	-	-	223,054	1,738,409	2,961,716	3,048	611,161	228,891
31	31 - Outer Harbor Cruise Ship Terminal - Berth 45-50	-	-	-	-	-	-	140,130	1,100,937	1,718,905	2,172	551,810	161,857
32	32 - Outer Harbor Park and Promenade	-	-	-	-	-	-	45,837	349,239	568,632	804	132,726	37,184
33	33 - San Pedro Park	-	-	-	-	-	-	46,212	354,465	575,307	823	452,538	103,552
34	34 - Salinas De San Pedro/Youth Camp Promenade	-	-	-	-	-	-	-	-	-	-	-	-
35	35 - Sampson Way Roadway Improvements	-	-	-	-	-	-	298,130	1,682,235	3,752,178	4,638	379,120	146,125
36	36 - Red Car Line Extension Sampson Way to 22nd St.	-	-	-	-	-	-	235,772	2,067,389	2,749,878	4,283	1,662,025	393,606
37	37 - Red Car Line Extension 22nd St. to Cabrillo Beach	-	-	-	-	-	-	62,709	419,625	796,213	1,047	537,467	125,007
38	38 - Red Car Line Extension Outer Harbor	-	-	-	-	-	-	55,363	331,398	707,049	891	284,160	71,113
39	39 - Red Car Line Extension City Dock No. 1	-	-	-	-	-	-	-	-	-	-	-	-
40	40 -Berth 240 Fueling Station	-	-	-	-	-	-	-	-	-	-	-	-
	Total, grams	5,999,215	32,051,149	68,764,831	64,866	11,202,745	4,023,316	4,163,146	34,202,129	50,600,105	71,240	13,065,418	3,716,601
	Total, tons	7	35	76	0	12	4	5	38	56	0	14	4
	Source: iLanco Enviromental												

	Proposed Project												
		2013						2014					
Element		Mitigated Emissions						Mitigated Emissions					
ID	Element Name	VOC	CO	NOX	SO2	PM10	PM2.5	VOC	CO	NOX	SO2	PM10	PM2.5
1	1 - Catalina Express Terminal	-	-	-	-	-	-	-	-	-	-	-	-
2	2 - Cruise Ship Terminal Berth 91-93	-	-	-	-	-	-	-	-	-	-	-	-
3	3 - Cruise Ship Parking Facilities	-	-	-	-	-	-	-	-	-	-	-	-
4	4 - North Harbor	-	-	-	-	-	-	323,987	1,434,683	3,229,688	3,142	297,355	166,949
~~5~~	~~5 - Maritime Office Building - Crowley~~												
~~6~~	~~6 - Maritime Office Building - Millenium~~												
7	7 - Maritime Office Building - Lane Victory	-	-	-	-	-	-	30,719	236,239	561,199	763	17,638	14,713
8	8 - Downtown Harbor	-	-	-	-	-	-	-	-	-	-	-	-
9	9 - 7th Street Harbor	-	-	-	-	-	-	-	-	-	-	-	-
10	10 - 7th Street Pier	-	-	-	-	-	-	-	-	-	-	-	-
11	11 - Downtown Square	2,011	47,756	16,336	85	36,312	7,760	1,597	39,384	10,902	78	33,375	7,095
12	12 - Downtown Water Feature	1,308	34,270	8,006	52	5,454	1,275	1,059	28,586	5,724	48	5,002	1,157
13	13 - John S. Gibson Park	2,555	52,225	27,666	116	25,871	5,671	1,974	42,215	17,458	107	23,707	5,120
14	14 - Ralph J. Scott Fireboat Museum	7,920	131,606	76,963	202	45,852	11,183	2,417	68,697	10,912	105	33,175	7,164
15	15 - Maritime Museum Renovation	-	-	-	-	-	-	-	-	-	-	-	-
16	16 - Maritime Office Building - L.A. Maritime Institute	98,660	719,491	1,334,325	1,709	87,667	41,580	3,091	91,040	11,998	129	41,818	9,033
17	17 - Maritime Office Building	-	-	-	-	-	-	-	-	-	-	-	-
18	18 - Ports O' Call Promenade - Phase 1	-	-	-	-	-	-	-	-	-	-	-	-
19	19 - Ports O' Call Promenade - Phase 2	1,364,555	8,238,009	14,682,853	19,555	3,070,398	981,374	38,235	1,129,528	146,378	1,590	1,090,593	230,636
20	20 - Ports O' Call Promenade - Phase 3	-	-	-	-	-	-	-	-	-	-	-	-
21	21 - Southern Pacific Railyard Demolition	-	-	-	-	-	-	-	-	-	-	-	-
22	22 - Fisherman's Park	29,701	343,753	461,967	689	27,408	12,650	-	-	-	-	-	-
23	23 - Ports O' Call Redevelopment without restaurant	-	-	-	-	-	-	-	-	-	-	-	-
24	24 - Ports O' Call Redevelopment Phase 1	265,967	5,175,238	2,768,629	7,923	4,546,952	989,955	87,716	2,017,658	1,073,903	3,338	1,905,726	414,729
25	25 - Ports O' Call Redevelopment Phase 2	852,738	7,174,343	8,809,031	15,797	868,010	357,653	521,049	6,092,313	7,241,378	14,319	793,665	324,282
26	26 - Ports O' Call Redevelopment with Restaurant	-	-	-	-	-	-	-	-	-	-	-	-
27	27 - Ports O' Call Redevelopment Phase 3	-	-	-	-	-	-	-	-	-	-	-	-
28	28 - Red Car Maintenance Facility	54,055	524,345	823,509	1,088	29,962	19,238	-	-	-	-	-	-
29	29 - Westway Terminal Demolition	-	-	-	-	-	-	-	-	-	-	-	-
30	30 - City Dock No. 1 Promenade	1,147,826	8,408,879	14,098,122	16,707	3,454,107	1,149,826	72,165	2,133,905	274,999	2,997	2,397,578	505,625
31	31 - Outer Harbor Cruise Ship Terminal - Berth 45-50	2,924,369	18,982,336	35,466,202	41,673	7,441,699	2,639,193	1,471,814	13,276,929	21,382,074	25,872	6,509,150	2,115,509
32	32 - Outer Harbor Park and Promenade	342,117	3,283,186	4,088,386	6,771	1,553,943	396,445	74,381	1,671,643	803,400	2,807	1,357,229	297,556
33	33 - San Pedro Park	368,392	3,483,156	4,532,948	7,421	5,452,131	1,210,498	51,466	1,421,805	257,638	2,292	4,923,952	1,026,922
34	34 - Salinas De San Pedro/Youth Camp Promenade	-	-	-	-	-	-	-	-	-	-	-	-
35	35 - Sampson Way Roadway Improvements	185,776	2,031,683	2,912,584	4,198	745,041	198,800	2,331	58,106	15,530	113	60,226	12,744
36	36 - Red Car Line Extension Sampson Way to 22nd St.	150,637	2,946,563	1,571,770	4,628	3,862,530	827,020	6,822	191,950	32,012	298	336,525	70,566
37	37 - Red Car Line Extension 22nd St. to Cabrillo Beach	312,253	3,046,641	3,854,081	6,239	6,404,406	1,396,974	47,436	1,346,205	215,497	2,057	6,315,367	1,315,056
38	38 - Red Car Line Extension Outer Harbor	263,032	2,247,837	3,481,542	5,004	3,067,296	696,762	-	-	-	-	-	-
39	39 - Red Car Line Extension City Dock No. 1	-	-	-	-	-	-	35,847	282,395	618,545	879	119,353	37,414
40	40 -Berth 240 Fueling Station	132,422	811,365	1,764,896	2,226	1,802,388	404,746	1,091	23,064	9,816	60	589,680	122,393
	Total, grams	8,373,872	66,871,317	99,014,921	139,858	40,725,039	10,943,856	2,774,107	31,563,281	35,909,233	60,935	26,261,434	6,562,269
	Total, tons	9	75	111	0	47	13	3	35	40	0	30	7
	Source: iLanco Enviromental												

	Proposed Project												
		2015						2016					
Element		Mitigated Emissions						Mitigated Emissions					
ID	Element Name	VOC	CO	NOX	SO2	PM10	PM2.5	VOC	CO	NOX	SO2	PM10	PM2.5
1	1 - Catalina Express Terminal	-	-	-	-	-	-	-	-	-	-	-	-
2	2 - Cruise Ship Terminal Berth 91-93	-	-	-	-	-	-	-	-	-	-	-	-
3	3 - Cruise Ship Parking Facilities	-	-	-	-	-	-	-	-	-	-	-	-
4	4 - North Harbor	3,449,895	13,864,403	31,670,557	34,191	3,124,148	1,576,649	134,058	1,419,326	1,939,998	3,705	1,726,218	397,204
~~5~~	~~5 - Maritime Office Building - Crowley~~												
~~6~~	~~6 - Maritime Office Building - Millenium~~												
7	7 - Maritime Office Building - Lane Victory	53,359	558,192	966,683	1,447	52,323	29,665	2,816	84,402	12,364	147	24,293	5,395
8	8 - Downtown Harbor	-	-	-	-	-	-	-	-	-	-	-	-
9	9 - 7th Street Harbor	-	-	-	-	-	-	-	-	-	-	-	-
10	10 - 7th Street Pier	-	-	-	-	-	-	-	-	-	-	-	-
11	11 - Downtown Square	-	-	-	-	-	-	-	-	-	-	-	-
12	12 - Downtown Water Feature	-	-	-	-	-	-	-	-	-	-	-	-
13	13 - John S. Gibson Park	-	-	-	-	-	-	-	-	-	-	-	-
14	14 - Ralph J. Scott Fireboat Museum	-	-	-	-	-	-	-	-	-	-	-	-
15	15 - Maritime Museum Renovation	-	-	-	-	-	-	-	-	-	-	-	-
16	16 - Maritime Office Building - L.A. Maritime Institute	-	-	-	-	-	-	-	-	-	-	-	-
17	17 - Maritime Office Building	-	-	-	-	-	-	-	-	-	-	-	-
18	18 - Ports O' Call Promenade - Phase 1	-	-	-	-	-	-	-	-	-	-	-	-
19	19 - Ports O' Call Promenade - Phase 2	-	-	-	-	-	-	-	-	-	-	-	-
20	20 - Ports O' Call Promenade - Phase 3	684,476	4,734,612	8,696,217	12,657	435,740	335,502	385,094	2,865,538	4,796,499	8,470	224,081	159,500
21	21 - Southern Pacific Railyard Demolition	-	-	-	-	-	-	-	-	-	-	-	-
22	22 - Fisherman's Park	-	-	-	-	-	-	-	-	-	-	-	-
23	23 - Ports O' Call Redevelopment without restaurant	-	-	-	-	-	-	-	-	-	-	-	-
24	24 - Ports O' Call Redevelopment Phase 1	-	-	-	-	-	-	-	-	-	-	-	-
25	25 - Ports O' Call Redevelopment Phase 2	-	-	-	-	-	-	-	-	-	-	-	-
26	26 - Ports O' Call Redevelopment with Restaurant	164,546	2,210,967	2,273,577	5,557	1,922,150	445,620	-	-	-	-	-	-
27	27 - Ports O' Call Redevelopment Phase 3	287,464	3,090,303	3,908,282	8,258	190,207	127,740	273,313	2,944,088	3,312,065	7,871	172,855	112,039
28	28 - Red Car Maintenance Facility	-	-	-	-	-	-	-	-	-	-	-	-
29	29 - Westway Terminal Demolition	-	-	-	-	-	-	-	-	-	-	-	-
30	30 - City Dock No. 1 Promenade	-	-	-	-	-	-	-	-	-	-	-	-
31	31 - Outer Harbor Cruise Ship Terminal - Berth 45-50	-	-	-	-	-	-	-	-	-	-	-	-
32	32 - Outer Harbor Park and Promenade	-	-	-	-	-	-	-	-	-	-	-	-
33	33 - San Pedro Park	-	-	-	-	-	-	-	-	-	-	-	-
34	34 - Salinas De San Pedro/Youth Camp Promenade	1,380,499	9,283,846	19,379,435	23,118	1,726,110	996,379	46,948	783,228	529,896	1,509	367,477	91,019
35	35 - Sampson Way Roadway Improvements	-	-	-	-	-	-	-	-	-	-	-	-
36	36 - Red Car Line Extension Sampson Way to 22nd St.	-	-	-	-	-	-	-	-	-	-	-	-
37	37 - Red Car Line Extension 22nd St. to Cabrillo Beach	12,881	377,736	61,378	682	2,093,590	435,760	-	-	-	-	-	-
38	38 - Red Car Line Extension Outer Harbor	-	-	-	-	-	-	-	-	-	-	-	-
39	39 - Red Car Line Extension City Dock No. 1	159,441	1,767,791	2,866,039	4,466	1,315,253	329,089	12,147	357,348	56,547	642	1,136,724	237,249
40	40 -Berth 240 Fueling Station	-	-	-	-	-	-	-	-	-	-	-	-
	Total, grams	6,192,561	35,887,848	69,822,170	90,375	10,859,521	4,276,404	854,376	8,453,932	10,647,369	22,344	3,651,648	1,002,406
	Total, tons	7	40	77	0	12	5	1	9	12	0	4	1
	Source: iLanco Enviromental												

	Alternative 5 No Federal Action	Lifetime Emissions					
		2011-2016					
Element		Mitigated Emissions					
ID	Element Name	VOC	CO	NOX	SO2	PM10	PM2.5
1	1 - Catalina Express Terminal	-	-	-	-	-	-
2	2 - Cruise Ship Terminal Berth 91-93	417,181	5,254,422	4,797,181	9,304	5,767,550	1,278,928
3	3 - Cruise Ship Parking Facilities	302,101	4,643,767	3,158,655	7,092	1,144,420	288,989
4	4 - North Harbor	-	-	-	-	-	-
5	5 - Maritime Office Building - Crowley	-	-	-	-	-	-
6	6 - Maritime Office Building - Millenium	-	-	-	-	-	-
7	7 - Maritime Office Building - Lane Victory	-	-	-	-	-	-
8	8 - Downtown Harbor	-	-	-	-	-	-
9	9 - 7th Street Harbor	-	-	-	-	-	-
10	10 - 7th Street Pier	-	-	-	-	-	-
11	11 - Downtown Square	100,355	650,594	1,402,356	1,703	116,430	47,177
12	12 - Downtown Water Feature	70,802	455,307	969,329	1,185	34,909	23,369
13	13 - John S. Gibson Park	100,302	655,387	1,413,675	1,764	91,609	41,908
14	14 - Ralph J. Scott Fireboat Museum	-	-	-	-	-	-
15	15 - Maritime Museum Renovation	-	-	-	-	-	-
16	16 - Maritime Office Building - L.A. Maritime Institute	-	-	-	-	-	-
17	17 - Maritime Office Building	-	-	-	-	-	-
18	18 - Ports O' Call Promenade - Phase 1	-	-	-	-	-	-
19	19 - Ports O' Call Promenade - Phase 2	-	-	-	-	-	-
20	20 - Ports O' Call Promenade - Phase 3	-	-	-	-	-	-
21	21 - Southern Pacific Railyard Demolition	154,341	828,552	2,141,183	2,663	1,518,640	348,904
22	22 - Fisherman's Park	408,239	2,940,191	5,494,123	7,205	235,047	139,781
23	23 - Ports O' Call Redevelopment without restaurant	-	-	-	-	-	-
24	24 - Ports O' Call Redevelopment Phase 1	828,273	11,595,805	9,104,926	20,052	9,201,330	2,069,910
25	25 - Ports O' Call Redevelopment Phase 2	1,446,784	13,915,211	16,884,178	31,463	1,733,076	711,374
26	26 - Ports O' Call Redevelopment with Restaurant	164,546	2,210,967	2,273,577	5,557	1,922,150	445,620
27	27 - Ports O' Call Redevelopment Phase 3	560,777	6,034,391	7,220,347	16,129	363,062	239,779
28	28 - Red Car Maintenance Facility	365,861	2,654,393	5,101,980	6,250	157,921	117,457
29	29 - Westway Terminal Demolition	616,255	2,970,909	7,301,028	8,027	5,402,486	1,258,854
30	30 - City Dock No. 1 Promenade	1,443,045	12,281,192	17,334,837	22,753	6,462,846	1,884,341
31	31 - Outer Harbor Cruise Ship Terminal - Berth 45-50	-	-	-	-	-	-
32	32 - Outer Harbor Park and Promenade	462,335	5,304,069	5,460,417	10,382	3,043,898	731,185
33	33 - San Pedro Park	466,069	5,259,426	5,365,893	10,536	10,828,621	2,340,972
34	34 - Salinas De San Pedro/Youth Camp Promenade	1,427,447	10,067,074	19,909,332	24,627	2,093,587	1,087,398
35	35 - Sampson Way Roadway Improvements	486,237	3,772,024	6,680,292	8,949	1,184,387	357,669
36	36 - Red Car Line Extension Sampson Way to 22nd St.	393,231	5,205,901	4,353,660	9,209	5,861,081	1,291,192
37	37 - Red Car Line Extension 22nd St. to Cabrillo Beach	435,279	5,190,207	4,927,169	10,025	15,350,830	3,272,797
38	38 - Red Car Line Extension Outer Harbor	318,395	2,579,235	4,188,591	5,895	3,351,456	767,874
39	39 - Red Car Line Extension City Dock No. 1	207,435	2,407,534	3,541,131	5,987	2,571,330	603,753
40	40 -Berth 240 Fueling Station	-	-	-	-	-	-
	Total, grams	11,175,292	106,876,558	139,023,858	226,757	78,436,667	19,349,232
	Total, tons	12.32	117.81	153.25	0.25	86.46	21.33
	Source: iLanco Enviromental						

	Alternative 5 No Federal Action												
		2011						2012					
Element		Mitigated Emissions						Mitigated Emissions					
ID	Element Name	VOC	CO	NOX	SO2	PM10	PM2.5	VOC	CO	NOX	SO2	PM10	PM2.5
1	1 - Catalina Express Terminal	-	-	-	-	-	-	-	-	-	-	-	-
2	2 - Cruise Ship Terminal Berth 91-93	-	-	-	-	-	-	252,896	2,528,736	2,880,561	4,884	2,424,364	553,299
3	3 - Cruise Ship Parking Facilities	121,609	1,410,250	1,372,786	2,318	298,520	84,204	180,492	3,233,518	1,785,869	4,774	845,901	204,786
4	4 - North Harbor	-	-	-	-	-	-	-	-	-	-	-	-
5	5 - Maritime Office Building - Crowley	-	-	-	-	-	-	-	-	-	-	-	-
6	6 - Maritime Office Building - Millenium	-	-	-	-	-	-	-	-	-	-	-	-
7	7 - Maritime Office Building - Lane Victory	-	-	-	-	-	-	-	-	-	-	-	-
8	8 - Downtown Harbor	-	-	-	-	-	-	-	-	-	-	-	-
9	9 - 7th Street Harbor	-	-	-	-	-	-	-	-	-	-	-	-
10	10 - 7th Street Pier	-	-	-	-	-	-	-	-	-	-	-	-
11	11 - Downtown Square	-	-	-	-	-	-	96,748	563,454	1,375,118	1,540	46,743	32,323
12	12 - Downtown Water Feature	-	-	-	-	-	-	68,434	392,451	955,598	1,084	24,452	20,937
13	13 - John S. Gibson Park	-	-	-	-	-	-	95,773	560,946	1,368,551	1,541	42,031	31,117
14	14 - Ralph J. Scott Fireboat Museum	-	-	-	-	-	-	-	-	-	-	-	-
15	15 - Maritime Museum Renovation	-	-	-	-	-	-	-	-	-	-	-	-
16	16 - Maritime Office Building - L.A. Maritime Institute	-	-	-	-	-	-	-	-	-	-	-	-
17	17 - Maritime Office Building	-	-	-	-	-	-	-	-	-	-	-	-
18	18 - Ports O' Call Promenade - Phase 1	-	-	-	-	-	-	-	-	-	-	-	-
19	19 - Ports O' Call Promenade - Phase 2	-	-	-	-	-	-	-	-	-	-	-	-
20	20 - Ports O' Call Promenade - Phase 3	-	-	-	-	-	-	-	-	-	-	-	-
21	21 - Southern Pacific Railyard Demolition	154,341	828,552	2,141,183	2,663	1,518,640	348,904	-	-	-	-	-	-
22	22 - Fisherman's Park	-	-	-	-	-	-	378,538	2,596,438	5,032,156	6,516	207,639	127,131
23	23 - Ports O' Call Redevelopment without restaurant	-	-	-	-	-	-	-	-	-	-	-	-
24	24 - Ports O' Call Redevelopment Phase 1	-	-	-	-	-	-	474,590	4,402,908	5,262,395	8,791	2,748,653	665,227
25	25 - Ports O' Call Redevelopment Phase 2	-	-	-	-	-	-	72,996	648,556	833,769	1,347	71,402	29,439
26	26 - Ports O' Call Redevelopment with Restaurant	-	-	-	-	-	-	-	-	-	-	-	-
27	27 - Ports O' Call Redevelopment Phase 3	-	-	-	-	-	-	-	-	-	-	-	-
28	28 - Red Car Maintenance Facility	-	-	-	-	-	-	311,806	2,130,049	4,278,471	5,163	127,959	98,219
29	29 - Westway Terminal Demolition	535,142	2,620,439	6,375,292	6,929	4,920,195	1,140,533	81,113	350,470	925,736	1,098	482,291	118,321
30	30 - City Dock No. 1 Promenade	-	-	-	-	-	-	223,054	1,738,409	2,961,716	3,048	611,161	228,891
31	31 - Outer Harbor Cruise Ship Terminal - Berth 45-50	-	-	-	-	-	-	-	-	-	-	-	-
32	32 - Outer Harbor Park and Promenade	-	-	-	-	-	-	45,837	349,239	568,632	804	132,726	37,184
33	33 - San Pedro Park	-	-	-	-	-	-	46,212	354,465	575,307	823	452,538	103,552
34	34 - Salinas De San Pedro/Youth Camp Promenade	-	-	-	-	-	-	-	-	-	-	-	-
35	35 - Sampson Way Roadway Improvements	-	-	-	-	-	-	298,130	1,682,235	3,752,178	4,638	379,120	146,125
36	36 - Red Car Line Extension Sampson Way to 22nd St.	-	-	-	-	-	-	235,772	2,067,389	2,749,878	4,283	1,662,025	393,606
37	37 - Red Car Line Extension 22nd St. to Cabrillo Beach	-	-	-	-	-	-	62,709	419,625	796,213	1,047	537,467	125,007
38	38 - Red Car Line Extension Outer Harbor	-	-	-	-	-	-	55,363	331,398	707,049	891	284,160	71,113
39	39 - Red Car Line Extension City Dock No. 1	-	-	-	-	-	-	-	-	-	-	-	-
40	40 -Berth 240 Fueling Station	-	-	-	-	-	-	-	-	-	-	-	-
	Total, grams	811,092	4,859,240	9,889,261	11,910	6,737,355	1,573,640	2,980,464	24,350,284	36,809,196	52,272	11,080,631	2,986,275
	Total, tons	0.89	5.36	10.90	0.01	7.43	1.73	3.29	26.84	40.58	0.06	12.21	3.29
	Source: iLanco Enviromental												

	Alternative 5 No Federal Action												
		2013						2014					
Element		Mitigated Emissions						Mitigated Emissions					
ID	Element Name	VOC	CO	NOX	SO2	PM10	PM2.5	VOC	CO	NOX	SO2	PM10	PM2.5
1	1 - Catalina Express Terminal	-	-	-	-	-	-	-	-	-	-	-	-
2	2 - Cruise Ship Terminal Berth 91-93	164,286	2,725,686	1,916,619	4,420	3,343,186	725,629	-	-	-	-	-	-
3	3 - Cruise Ship Parking Facilities	-	-	-	-	-	-	-	-	-	-	-	-
4	4 - North Harbor	-	-	-	-	-	-	-	-	-	-	-	-
5	5 - Maritime Office Building - Crowley	-	-	-	-	-	-	-	-	-	-	-	-
6	6 - Maritime Office Building - Millenium	-	-	-	-	-	-	-	-	-	-	-	-
7	7 - Maritime Office Building - Lane Victory	-	-	-	-	-	-	-	-	-	-	-	-
8	8 - Downtown Harbor	-	-	-	-	-	-	-	-	-	-	-	-
9	9 - 7th Street Harbor	-	-	-	-	-	-	-	-	-	-	-	-
10	10 - 7th Street Pier	-	-	-	-	-	-	-	-	-	-	-	-
11	11 - Downtown Square	2,011	47,756	16,336	85	36,312	7,760	1,597	39,384	10,902	78	33,375	7,095
12	12 - Downtown Water Feature	1,308	34,270	8,006	52	5,454	1,275	1,059	28,586	5,724	48	5,002	1,157
13	13 - John S. Gibson Park	2,555	52,225	27,666	116	25,871	5,671	1,974	42,215	17,458	107	23,707	5,120
14	14 - Ralph J. Scott Fireboat Museum	-	-	-	-	-	-	-	-	-	-	-	-
15	15 - Maritime Museum Renovation	-	-	-	-	-	-	-	-	-	-	-	-
16	16 - Maritime Office Building - L.A. Maritime Institute	-	-	-	-	-	-	-	-	-	-	-	-
17	17 - Maritime Office Building	-	-	-	-	-	-	-	-	-	-	-	-
18	18 - Ports O' Call Promenade - Phase 1	-	-	-	-	-	-	-	-	-	-	-	-
19	19 - Ports O' Call Promenade - Phase 2	-	-	-	-	-	-	-	-	-	-	-	-
20	20 - Ports O' Call Promenade - Phase 3	-	-	-	-	-	-	-	-	-	-	-	-
21	21 - Southern Pacific Railyard Demolition	-	-	-	-	-	-	-	-	-	-	-	-
22	22 - Fisherman's Park	29,701	343,753	461,967	689	27,408	12,650	-	-	-	-	-	-
23	23 - Ports O' Call Redevelopment without restaurant	-	-	-	-	-	-	-	-	-	-	-	-
24	24 - Ports O' Call Redevelopment Phase 1	265,967	5,175,238	2,768,629	7,923	4,546,952	989,955	87,716	2,017,658	1,073,903	3,338	1,905,726	414,729
25	25 - Ports O' Call Redevelopment Phase 2	852,738	7,174,343	8,809,031	15,797	868,010	357,653	521,049	6,092,313	7,241,378	14,319	793,665	324,282
26	26 - Ports O' Call Redevelopment with Restaurant	-	-	-	-	-	-	-	-	-	-	-	-
27	27 - Ports O' Call Redevelopment Phase 3	-	-	-	-	-	-	-	-	-	-	-	-
28	28 - Red Car Maintenance Facility	54,055	524,345	823,509	1,088	29,962	19,238	-	-	-	-	-	-
29	29 - Westway Terminal Demolition	-	-	-	-	-	-	-	-	-	-	-	-
30	30 - City Dock No. 1 Promenade	1,147,826	8,408,879	14,098,122	16,707	3,454,107	1,149,826	72,165	2,133,905	274,999	2,997	2,397,578	505,625
31	31 - Outer Harbor Cruise Ship Terminal - Berth 45-50	-	-	-	-	-	-	-	-	-	-	-	-
32	32 - Outer Harbor Park and Promenade	342,117	3,283,186	4,088,386	6,771	1,553,943	396,445	74,381	1,671,643	803,400	2,807	1,357,229	297,556
33	33 - San Pedro Park	368,392	3,483,156	4,532,948	7,421	5,452,131	1,210,498	51,466	1,421,805	257,638	2,292	4,923,952	1,026,922
34	34 - Salinas De San Pedro/Youth Camp Promenade	-	-	-	-	-	-	-	-	-	-	-	-
35	35 - Sampson Way Roadway Improvements	185,776	2,031,683	2,912,584	4,198	745,041	198,800	2,331	58,106	15,530	113	60,226	12,744
36	36 - Red Car Line Extension Sampson Way to 22nd St.	150,637	2,946,563	1,571,770	4,628	3,862,530	827,020	6,822	191,950	32,012	298	336,525	70,566
37	37 - Red Car Line Extension 22nd St. to Cabrillo Beach	312,253	3,046,641	3,854,081	6,239	6,404,406	1,396,974	47,436	1,346,205	215,497	2,057	6,315,367	1,315,056
38	38 - Red Car Line Extension Outer Harbor	263,032	2,247,837	3,481,542	5,004	3,067,296	696,762	-	-	-	-	-	-
39	39 - Red Car Line Extension City Dock No. 1	-	-	-	-	-	-	35,847	282,395	618,545	879	119,353	37,414
40	40 -Berth 240 Fueling Station	-	-	-	-	-	-	-	-	-	-	-	-
	Total, grams	4,142,654	41,525,561	49,371,196	81,139	33,422,610	7,996,156	903,843	15,326,165	10,566,985	29,334	18,271,705	4,018,265
	Total, tons	4.57	45.77	54.42	0.09	36.84	8.81	1.00	16.89	11.65	0.03	20.14	4.43
	Source: iLanco Enviromental												

	Alternative 5 No Federal Action												
		2015						2016					
Element		Mitigated Emissions						Mitigated Emissions					
ID	Element Name	VOC	CO	NOX	SO2	PM10	PM2.5	VOC	CO	NOX	SO2	PM10	PM2.5
1	1 - Catalina Express Terminal	-	-	-	-	-	-	-	-	-	-	-	-
2	2 - Cruise Ship Terminal Berth 91-93	-	-	-	-	-	-	-	-	-	-	-	-
3	3 - Cruise Ship Parking Facilities	-	-	-	-	-	-	-	-	-	-	-	-
4	4 - North Harbor	-	-	-	-	-	-	-	-	-	-	-	-
5	5 - Maritime Office Building - Crowley	-	-	-	-	-	-	-	-	-	-	-	-
6	6 - Maritime Office Building - Millenium	-	-	-	-	-	-	-	-	-	-	-	-
7	7 - Maritime Office Building - Lane Victory	-	-	-	-	-	-	-	-	-	-	-	-
8	8 - Downtown Harbor	-	-	-	-	-	-	-	-	-	-	-	-
9	9 - 7th Street Harbor	-	-	-	-	-	-	-	-	-	-	-	-
10	10 - 7th Street Pier	-	-	-	-	-	-	-	-	-	-	-	-
11	11 - Downtown Square	-	-	-	-	-	-	-	-	-	-	-	-
12	12 - Downtown Water Feature	-	-	-	-	-	-	-	-	-	-	-	-
13	13 - John S. Gibson Park	-	-	-	-	-	-	-	-	-	-	-	-
14	14 - Ralph J. Scott Fireboat Museum	-	-	-	-	-	-	-	-	-	-	-	-
15	15 - Maritime Museum Renovation	-	-	-	-	-	-	-	-	-	-	-	-
16	16 - Maritime Office Building - L.A. Maritime Institute	-	-	-	-	-	-	-	-	-	-	-	-
17	17 - Maritime Office Building	-	-	-	-	-	-	-	-	-	-	-	-
18	18 - Ports O' Call Promenade - Phase 1	-	-	-	-	-	-	-	-	-	-	-	-
19	19 - Ports O' Call Promenade - Phase 2	-	-	-	-	-	-	-	-	-	-	-	-
20	20 - Ports O' Call Promenade - Phase 3	-	-	-	-	-	-	-	-	-	-	-	-
21	21 - Southern Pacific Railyard Demolition	-	-	-	-	-	-	-	-	-	-	-	-
22	22 - Fisherman's Park	-	-	-	-	-	-	-	-	-	-	-	-
23	23 - Ports O' Call Redevelopment without restaurant	-	-	-	-	-	-	-	-	-	-	-	-
24	24 - Ports O' Call Redevelopment Phase 1	-	-	-	-	-	-	-	-	-	-	-	-
25	25 - Ports O' Call Redevelopment Phase 2	-	-	-	-	-	-	-	-	-	-	-	-
26	26 - Ports O' Call Redevelopment with Restaurant	164,546	2,210,967	2,273,577	5,557	1,922,150	445,620	-	-	-	-	-	-
27	27 - Ports O' Call Redevelopment Phase 3	287,464	3,090,303	3,908,282	8,258	190,207	127,740	273,313	2,944,088	3,312,065	7,871	172,855	112,039
28	28 - Red Car Maintenance Facility	-	-	-	-	-	-	-	-	-	-	-	-
29	29 - Westway Terminal Demolition	-	-	-	-	-	-	-	-	-	-	-	-
30	30 - City Dock No. 1 Promenade	-	-	-	-	-	-	-	-	-	-	-	-
31	31 - Outer Harbor Cruise Ship Terminal - Berth 45-50	-	-	-	-	-	-	-	-	-	-	-	-
32	32 - Outer Harbor Park and Promenade	-	-	-	-	-	-	-	-	-	-	-	-
33	33 - San Pedro Park	-	-	-	-	-	-	-	-	-	-	-	-
34	34 - Salinas De San Pedro/Youth Camp Promenade	1,380,499	9,283,846	19,379,435	23,118	1,726,110	996,379	46,948	783,228	529,896	1,509	367,477	91,019
35	35 - Sampson Way Roadway Improvements	-	-	-	-	-	-	-	-	-	-	-	-
36	36 - Red Car Line Extension Sampson Way to 22nd St.	-	-	-	-	-	-	-	-	-	-	-	-
37	37 - Red Car Line Extension 22nd St. to Cabrillo Beach	12,881	377,736	61,378	682	2,093,590	435,760	-	-	-	-	-	-
38	38 - Red Car Line Extension Outer Harbor	-	-	-	-	-	-	-	-	-	-	-	-
39	39 - Red Car Line Extension City Dock No. 1	159,441	1,767,791	2,866,039	4,466	1,315,253	329,089	12,147	357,348	56,547	642	1,136,724	237,249
40	40 -Berth 240 Fueling Station	-	-	-	-	-	-	-	-	-	-	-	-
	Total, grams	2,004,831	16,730,642	28,488,712	42,081	7,247,310	2,334,588	332,408	4,084,665	3,898,508	10,021	1,677,056	440,307
	Total, tons	2.21	18.44	31.40	0.05	7.99	2.57	0.37	4.50	4.30	0.01	1.85	0.49
	Source: iLanco Enviromental												

Attachment B
Southern California Association of Governments Correspondence

SOUTHERN CALIFORNIA

ASSOCIATION of GOVERNMENTS

Main Office

818 West Seventh Street

12th Floor

Los Angeles, California

90017-3435

t (213) 236-1800

f (213) 236-1825

www.scag.ca.gov

November 5, 2007

Dr. Spencer D. MacNeil, Senior Project Manager
U.S. Army Corps of Engineers, Los Angeles District
P.O. Box 532711
Los Angeles, CA 90053-2325

EIS for Berths 136-147 [TraPac] Container Terminal Project

Dear Dr. MacNeil,

The following is intended to confirm the use of port transportation data in regional transportation and air quality management plans.

The Ports of Los Angeles/Long Beach (POLA/POLB) submit transportation data to the Southern California Association of Governments (SCAG) to account for current and projected port activity. In particular, the POLA/POLB cargo growth is accounted for in the Regional Transportation Plan (RTP) via traffic (truck and auto) volumes provided to SCAG.

The port activity data have been provided to the South Coast Air Quality Management District and incorporated into the recently approved 2007 South Coast Air Quality Management Plan (AQMP), and will also be included in the upcoming 2008 RTP. The Ports' data have been previously incorporated into the 1994, 1998, 2001, and 2004 RTPs and into the corresponding AQMPs.

If you have any questions in regard to this information, please feel free to contact me at (213) 236-1884.

Sincerely,

Jonathan Nadler
Program Manager, Air Quality & Conformity

c: Deng Bang Lee, SCAG
Janna Sidley, POLA
Kerry Cartwright, POLA

Attachment C

USACE Guidance Concerning Implementation of EPA's Clean Air Act General Conformity Rule

DEPARTMENT OF THE ARMY
U.S. Army Corps of Engineers
WASHINGTON, D.C. 20314-1000

REPLY TO
ATTENTION OF:

20 APR 1994

CECC-E

MEMORANDUM FOR ALL MAJOR SUBORDINATE COMMANDERS, AND DISTRICT COMMANDERS

SUBJECT: EPA's Clean Air Act (CAA) General Conformity Rule

1. In the Federal Register of November 30, 1993, the U.S. Environmental Protection Agency (EPA) published its final General Conformity Rule to implement Section 176(c) of the Clean Air Act (CAA) for geographic areas designated as "nonattainment" and "maintenance" areas under the CAA. EPA's final rule addresses how Federal agencies are to demonstrate that activities in which they engage conform with applicable, Federally-approved CAA state implementation plans. Because these agency conformity determinations can sometimes take considerable time and cost thousands of dollars to produce, and because failure to produce and sign an adequate conformity determination where one is required can create a serious legal vulnerability for a Corps project or permit, the Corps must ensure full and careful compliance with the new EPA Final Rule.

2. The enclosed guidance document has been prepared to assist Corps Divisions and Districts in understanding and complying with the subject rule. This guidance document is introductory in nature, and cannot be considered a substitute for careful reading of and compliance with the rule itself. (See 58 Fed.Reg. 63214 et seq.)

3. One of the primary subjects discussed in the enclosed guidance document is how the General Conformity Rule relates to the Corps regulatory program under Sections 9 and 10 of the Rivers and Harbors Act of 1899, Section 404 of the Clean Water Act, and Section 103 of the Ocean Dumping Act. As soon as practicable I intend to promulgate another guidance document providing more detailed instructions on how Corps personnel should deal with CAA conformity considerations regarding Corps Civil Works projects during the planning process, including preparation of CAA conformity determinations where that is necessary.

4. Although the attached document is rather "legalistic" in nature, it should be broadly distributed within the Corps family (e.g., counsel, regulatory, planning, operations, etc.). This guidance also contains important policy considerations, and thus has been fully coordinated with the Office of the Assistant Secretary of the Army (Civil Works) and with the Director of Civil Works.

5. My points of contact for this guidance are Lance Wood and Bill Sapp, CECC-E; their telephone number is (202) 272-0035.

FOR THE COMMANDER:

Lester Edelman

Encl

LESTER EDELMAN
Chief Counsel

CECC-E

EPA'S FINAL CLEAN AIR ACT GENERAL CONFORMITY RULE

I. INTRODUCTION.

In the Federal Register of November 30, 1993, the U.S. Environmental Protection Agency (EPA) published its final General Conformity Rule[1] to implement section 176(c) of the Clean Air Act (CAA)[2] for geographic areas designated as "nonattainment" and "maintenance" areas under the CAA. EPA's final rule addresses how Federal agencies are to demonstrate that activities in which they engage conform with applicable, Federally approved CAA state implementation plans.[3] Because these agency conformity determinations can sometimes take considerable time and cost thousands of dollars to produce[4], and because failure to produce and sign an adequate conformity determination where one is required can create a serious legal vulnerability for a Corps project or permit, the Corps must ensure full and careful compliance with the new EPA final rule.

EPA's final rule was promulgated to implement CAA section 176(c), which was added to the Clean Air Act in 1977[5] to require that Federal agencies assure that activities they engage in are in conformance with Federally-approved CAA state implementation plans.[6] This requirement is clearly triggered whenever a Federal

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[1] 58 Fed. Reg. 63214 (November 30, 1993).

[2] Clean Air Act § 176(c), 42 U.S.C. § 7506 (1993).

[3] 58 Fed. Reg. 63214 (November 30, 1993). Section 110 of the Clean Air Act requires that all states and the District of Columbia develop state implementation plans for EPA approval that provide detailed accounts of how the state will attain the National Ambient Air Quality Standards throughout the state. 42 U.S.C. § 7410 (1993).

[4] The EPA estimated in its proposed rule that a conformity determination would cost approximately $5,000, whereas an extensive conformity determination would cost $50,000. 58 Fed. Reg. 13848 (March 15, 1993). Department of Defense estimates double the figures supplied by the EPA.

[5] Pub. L. 95-95, § 176(c) (1977).

[6] Section 176(c)(1) provides in relevant part that:

> No department, agency, or instrumentality of the Federal Government shall engage in, support in any way or provide financial assistance for, license or permit, or approve,

(continued...)

agency engages in a Federal project, but it is also triggered whenever a Federal agency permits, licenses, funds, or approves a non-Federal undertaking. The Corps' Clean Water Act (CWA) section 404 permits, Rivers and Harbors Act of 1899 Section 10 permits, and Ocean Dumping Act Section 103 permits fall under this latter category.

II. APPLICABILITY.

A. EXEMPTIONS AND PRESUMPTIONS. As you study the final rule and its preamble, the first general subject to consider is the "applicability" of the rule. The new rule applies generally to Federal actions except for those covered by EPA's transportation conformity rule[7], actions with associated emissions below the de minimis levels specified at 40 CFR 91.853, certain classes of actions designated at 40 CFR 91.853 as exempted or presumed to conform, and actions that the new rule "grandfathers" at 40 CFR 91.850. A number of Corps activities may fit within the long list of "exempted" or "presumed to conform" activities. For example, note the specific exemption provided for maintenance dredging and debris disposal actions.

B. GRANDFATHER CLAUSE. As you consider the "grandfather provision", remember that it describes the specific circumstances where a Federal action need not comply with the new general conformity rule, but the Corps might nevertheless have to create and sign a CAA conformity determination to show compliance with the statutory mandate of CAA Section 176(c). However, that conformity determination would not have to comply with the specific procedural requirements of the new EPA regulation. Also note that the second basis provided in the rule for grandfathering, i.e., the three-part requirement of 40 CFR 93.150(c)(2), requires that an environmental analysis had to be commenced prior to January 31, 1994, or that a contract to develop a specific environmental analysis was awarded prior to January 31, 1994. The reference in that section to the date of December 30, 1993, was an error. The EPA has since corrected that date to January 31, 1994, by publishing the correction in the Federal Register, i.e., January 31, 1994. Moreover, that same section requires that a CAA conformity

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[6](...continued)
any activity which does not conform to an implementation plan after it has been approved or promulgated under section 110. . . . The assurance of conformity to such an implementation plan shall be an affirmative responsibility of the head of such department, agency or instrumentality.

C.A.A. § 176(c)(1), 42 U.S.C. § 7506 (1993).

[7]See 40 CFR Part 51, subpart T.

determination demonstrating compliance with the statutory mandate of CAA Section 176(c) be signed by March 15, 1994.

C. ATTAINMENT VERSUS NON-ATTAINMENT AREAS. Also regarding applicability, note that the new CAA General Conformity Rule applies only to Federal actions in CAA non-attainment areas and in those attainment areas subject to maintenance plans required by CAA Section 175A (i.e., "maintenance areas"; see 58 Fed. Reg. 13841) . EPA has announced its intentions to do another rulemaking at a later date describing how CAA Section 176(c) will be applied to CAA attainment areas, in general.

III. REQUIREMENTS OF THE NEW RULE.

To fully understand the requirements of the rule, you must carefully study both the rule itself and the explanatory guidance provided in the preamble. In the near future, the Office of the Chief Counsel expects to provide additional guidance that will assist Corps personnel who must prepare CAA conformity determinations, especially for Corps planning studies, feasibility reports, and the like. In this guidance, I only wish to emphasize a few important aspects of the rule, to ensure understanding of those matters throughout the Corps, for both our projects and our regulatory responsibilities.

A. CONFORMITY DETERMINATIONS. The basic requirement of the General Conformity Rule is stated at 40 CFR 93.150(b): "A Federal agency must make a determination that a Federal action conforms to the applicable implementation plan in accordance with the requirements of this subpart before the action is taken." (emphasis added). Obviously, to implement that mandate we must turn to the definition of "Federal action" provided at 40 CFR 93.152:

> **Federal action** means any activity engaged in by a[n] ... agency ... of the Federal Government, or any activity that a[n] ... agency ... supports in any way, provides financial assistance for, licenses, permits, or approves.... Where the Federal action is a permit, license, or other approval for some aspect of a non-Federal undertaking, the relevant activity is the part, portion, or phase of the non-Federal undertaking that requires the Federal permit, license, or approval."

B. DIRECT EMISSIONS. Regarding what air emissions must be considered in a CAA conformity determination, the rule defines two classes: direct emissions, and indirect emissions. The definition of "direct emissions" is straightforward: "Direct emissions" means those emissions of a criteria pollutant or its precursors that are caused or initiated by the Federal action and occur at the same time and place as the action." (40 CFR 93.152)

C. INDIRECT EMISSIONS. In contrast, the definition of "indirect emissions" needs careful study: "indirect emissions"

means those emissions of a criteria pollutant or its precursors that: (1) Are caused by the Federal action but may occur later in time and/or may be further removed in distance from the action itself but are still reasonably foreseeable; and (2) The Federal agency can practicably control and will maintain control over due to a continuing program responsibility of the Federal agency." (40 CFR 93.152; emphasis added.) Note that the second, limiting part of that definition is crucial, since the underlined words provide essential restrictions on how far the Corps' responsibilities extend regarding documenting and controlling indirect emissions. Those restrictions from the rule's definition of "indirect emissions" are especially important, given the General Conformity Rule's broad, "but for" definition of the term "caused by": "Caused by, as used in the terms 'direct emissions' and 'indirect emissions,' means emissions that would not otherwise occur in the absence of the Federal action."[8] This definition of the term "caused by" can be characterized as a "but for" approach to the concept of causation, because, standing alone, it would require the Corps to take responsibility for all indirect emissions that would not occur without (i.e., "but for") the Corps permit or project. If the General Conformity Rule did not contain the various limiting provisions discussed herein, that "but for" approach to defining "caused by" would have made the Corps responsible for dealing with potential emissions that might not occur "but for" the Corps project or permit, but which might be substantially removed in time and/or distance from the Corps action; those emissions would be almost impossible for the Corps to predict, document, or control through mitigation measures.

Consequently, it is of considerable importance to the Corps Civil Works program that everyone understand and make proper use of the restrictions noted above in the definition of "indirect emissions" when deciding whether or how we need to prepare a CAA conformity determination. Of course, the Corps must consider the "direct emissions" caused by our proposed project or activity, or by the specific activity requiring a Corps permit. However, the final General Conformity Rule does not require the Corps to document or analyze any "indirect emissions" unless we determine that it would be practicable for the Corps to control them, and that the Corps would maintain control over them due to a continuing Corps program responsibility. As we shall discuss later, we expect that the Corps will not be legally required under the General Conformity Rule to analyze, document, and seek mitigation measures for indirect emissions for many Corps project-related actions, and for the vast majority of actions requiring Corps permit authorization, since often it will not be practicable for the Corps to control such emissions, and frequently the Corps will not have a continuing program responsibility to maintain control over them.

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[8] 40 CFR 913.152 (1994).

The logic behind the limitation on what "indirect emissions" the Corps must analyze, document, and seek mitigation measures to reduce, is explained in the preamble to EPA's rule, as follows:

> The EPA does not believe that it is reasonable to conclude that a Federal agency "supports" an activity by third persons over whom the agency has no practicable control--or "supports" emissions over which the agency has no practicable control, based on the mere fact that, if one inspects the "causal" chain of events, the activity or emissions can be described as being a "reasonably foreseeable" result of the agency's actions.
>
> In fact, achievement of the clean air goals is not primarily the responsibility of the Federal government. Instead, Congress assigned that responsibility to the State and local agencies.... Where the Federal control over the resultant emissions is relatively minor, the problem is likely caused by multiple pollution sources and a solution may be impossible unless it is directed at all the contributing sources. This role is given to the State and local agencies by Congress and should not be interpreted as the Federal agencies' role under section 176(c).[9]

IV. CORPS IMPLEMENTATION OF THE EPA GENERAL CONFORMITY RULE.

A. CORPS PROJECTS VERSUS NON-FEDERAL ACTIVITIES NEEDING CORPS PERMIT AUTHORIZATION.

From a legal point of view, many of the limitations on Corps responsibilities for documenting and mitigating for indirect emissions (as discussed above) apply to both Corps Civil Works projects and to Corps regulatory program actions regulating non-Federal activities. Nevertheless, there are some significant distinctions that must be made, as a practical matter, regarding how often and in what circumstances the Corps will voluntarily choose to go beyond our strict legal obligations under the General Conformity Rule regarding CAA analyses of indirect emissions. As we explain at some length hereinafter, for practical reasons, policy reasons, and legal reasons, we are not required to, and thus we will not, prepare CAA conformity determinations for the vast majority of the approximately 100,000 activities that we must authorize yearly through the Corps regulatory program. We intend to assert and make full use of the various exemptions and limitations written into the General Conformity Rule that apply to our regulatory program, which exemptions and limitations will usually lead us to conclude that the emissions we are responsible for fall below the de mimimis exemption level. Among the many reasons why this approach is necessary and appropriate is the fact

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[9] 58 Fed. Reg. 63220 (November 30, 1993)

that we must provide relatively expeditious decisions for non-Federal activities that require Corps permit authorization, and because all of the non-Federal activities that require Corps permits are fully subject to the CAA authorities of the U.S. EPA and of the state and local governments.

In contrast, some Corps water resource development projects go through lengthy planning processes, with full-scale NEPA Environmental Impact Statements, coordination with numerous state and Federal agencies, etc. Moreover, many of our water resource development projects are subject to litigation brought by project opponents. Consequently, wherever it is practicable and appropriate, the Corps will go beyond our strict legal obligations under the General Conformity Rule, and we will prepare CAA conformity determinations that consider indirect emissions that would follow from our project, even where it is debatable whether we could "practicably" control those indirect emissions, and even where it is debatable whether the Corps has a continuing program responsibility to control those indirect emissions. In other words, we should err on the side of caution in writing CAA conformity determinations for large-scale Corps projects, and in coordinating those determinations with the U.S. EPA and with state and local clean air agencies. However, whenever the Corps does voluntarily choose to go beyond our obligations under the General Conformity Rule while preparing a CAA conformity determination, the fact that we are voluntarily going beyond our understanding of our legal obligations must be clearly stated in our public documentation.

When the Corps prepares a CAA conformity determination for a Corps project in the planning stage, and in that conformity determination we voluntatily address all indirect emissions that would be "caused by" our project, that will provide us the valuable opportunity to demonstrate that any short-term increase in emissions from project construction will be entirely or partially offset by decreases in long-term, "without project condition" emissions, due to increased efficiencies (for example, through more efficient port operations from a port improvement project). Also, when we prepare a CAA conformity determination that deals with all indirect emissions that can reasonably be said to be "caused by" our project, our project can be presented to the state CAA authority and specifically approved as part of the state implementation plan, along with any necessary state revisions to that SIP necessary to accommodate the Federal project and all associated indirect emissions. Development and coordination of our CAA conformity determination should be undertaken as early as possible in the planning stage for a large-scale or litigation-prone Corps project. The resulting documentation will be extremely useful to help defend our project from potential litigation challenging compliance with the CAA. On the other hand, for small-scale Corps projects, covered only by environmental assessments and findings of no significant impact, and where no CAA-related litigation can be anticipated, we can probably rely only on the

exemptions found in the General Conformity Rule, and need not necessarily prepare a full-blown CAA conformity determination voluntarily addressing various indirect emissions. Please feel free to consult the points of contact provided in this guidance if you are in doubt about whether a particular Civil Works activity should be covered by a CAA conformity determination voluntarily covering indirect emissions.

B. THE CORPS REGULATORY PROGRAM.

One crucial aspect of this guidance involves how we expect all Corps offices to implement the CAA General Conformity Rule regarding non-Federal activities requiring authorization under the Corps regulatory program. Of course, if another Federal agency requires a Corps permit for one of its activities or projects, that Federal agency is fully responsible for ensuring compliance with CAA Section 176(c), and the Corps can adopt and rely upon that agency's conformity determination, or upon whatever waiver or presumption under the CAA General Conformity Rule that agency believes will satisfy CAA Section 176(c). However, for non-Federal activities, the Corps must take responsibility for whatever CAA conformity determination may be necessary. Nevertheless, for the reasons explained hereinafter, the new rule and its preamble clearly indicate that the vast majority of activities needing Corps permit authorization will not require a CAA conformity determination, because practically all of those activities will fall below the de minimis threshold levels for emissions specified at 40 CFR 93.153.

C. SCOPE OF ANALYSIS. One feature of EPA's final General Conformity Rule that clearly demonstrates that the Corps will not have to perform many conformity determinations is the rule's definition of the term "Federal action". The final rule's definition clearly distinguishes between large Federal projects, such as a Federally funded and Federally controlled military base, versus non-Federal undertakings that simply require a Federal permit. Oftentimes in the latter case, the Federal agency only has to permit a minor part, portion, or phase of a much larger non-Federal undertaking. To reflect the limited Federal responsibility under the CAA derived from such Federal permits, the EPA definition of "Federal action" indicates that, in complying with section 176(c), Federal regulatory agencies are only responsible for analyzing the emissions resulting from the "part, portion, or phase" of the non-Federal undertaking that they permit. To deal with this important point, the EPA added the following sentence to the final rule's definition of "Federal action":

> Where the Federal action is a permit, license, or other approval for some aspect of a non-Federal undertaking, the relevant activity is the part, portion, or phase of

the non-Federal undertaking that requires the Federal permit, license, or approval.[10]

As you can see, the legal principle behind the quoted sentence is the same principle that supports the "narrow scope of analysis" approach for our NEPA documents reflected at Appendix B of 33 CFR Part 325, paragraph 7.b. and the "permit area" approach used to limit Corps responsibilities in Appendix C, implementing the National Historic Preservation Act.[11] The rule of administrative law and practice created by the sentence just quoted from EPA's definition of "Federal action" is that, for the limited and particular purposes of the CAA Conformity Rule and for every Corps CAA conformity determination for a Corps regulatory action under this rule, the Corps will always use a narrow "scope of analysis" for purposes of CAA Section 176(c), even if we choose to use a broader scope of analysis for purposes of NEPA, the public interest review, or the 404(b)(1) analysis for that same permit case.

This narrow scope of analysis for purposes of the CAA conformity analysis is always appropriate, for several reasons. For example, the Corps regulators have no expertise or authority allowing them to evaluate or control air emissions from the larger, overall projects, such as a shopping center, that may require a Corps permit for one phase or portion of that larger project (e.g., placement of fill material on which part of the shopping center will later be constructed and operated). In contrast, the state and EPA clean air authorities have broad, general authority, expertise, and responsibility to evaluate and control air emissions from the larger, overall projects, such as shopping centers, regardless of whether part of all of such a shopping center happens to be constructed on fill material permitted by the Corps of Engineers.

D. CONFORMITY DETERMINATIONS FOR CORPS PERMITS CASES WILL BE NECESSARY VERY RARELY. The sentence quoted above from EPA's definition of "Federal action" may well be the most important provision of the General Conformity Rule relating to the Corps regulatory program, because this provision, in conjunction with the restrictive language discussed above from the definition of "indirect emissions", means that very rarely will the Corps have to prepare a CAA conformity determination document for a Corps regulatory action. The reasons for this conclusion are reflected in the following case example, provided by EPA in the preamble of the final General Conformity Rule. In this example, the EPA shows the close relationship between the sentence quoted above from the definition of "Federal action" and the restrictive language from the definition of "indirect emissions", as follows:

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[10] 58 Fed. Reg. 63248 (November 30, 1993).

[11]. 55 Fed. Reg. 27000 (June 29, 1990)

> [In the final rule] the definition of "Federal action" is revised by adding the following sentence to the end of the definition in the [proposed rule]: Where the Federal action is a permit, license, or other approval for some aspect of a nonfederal undertaking, the relevant activity is the part, portion, or phase of the nonfederal undertaking that requires the Federal permit, license or approval. The following examples illustrate the meaning of the revised definition.
>
> Assume, for example, that the [Corps] issues a permit and that permitted fill activity represents one phase of a larger nonfederal undertaking; i.e., the construction of an office building by a nonfederal entity. Under the conformity rule, the [Corps] would be responsible for addressing all emissions from that one phase of the overall office development undertaking that the [Corps] permits; i.e., the fill activity at the wetland site. However, the [Corps] is not responsible for evaluating all emissions from later phases of the overall office development (the construction, operation, and use of the office building itself), because later phases generally are not within the [Corps'] continuing program responsibility and generally cannot be practicably controlled by the [Corps].[12]

The conclusion to be drawn regarding the preamble's case example is that the Corps almost certainly would not have to prepare a CAA conformity determination for that permit action described in the preamble, because the direct emissions from the fill activity would be relatively minor, and thus in all probability they would fall below the de minimis levels exempted by 40 CFR 93.153. Moreover, in this example one cannot identify any indirect emissions for which the Corps would be responsible.

E. "PART, PORTION, OR PHASE" OF A LARGER UNDERTAKING. The preamble for the final rule provides several other important explanatory passages that accurately describe the limited nature of the responsibilities the Corps must fulfill as we operate our regulatory program in compliance with EPA's General Conformity Rule. As the EPA states in the preamble, the "inclusive definition" that EPA had published for public comment in the proposed rule to define the term "indirect emissions" would have been overly burdensome and inappropriate for regulatory programs that might have to "document the air quality affects from tens of thousands of public and private business activities each year, even where the associated Federal action in extremely minor."[13] The EPA

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[12] 58 Fed. Reg. 63227 (November 30, 1993).

[13] 58 Fed. Reg. 63219 (November 30, 1993).

goes on to use the Corps in an illustration of this point by explaining that:

> [T]he Army Corps of Engineers estimates that 65,000 of their regulatory actions would have required a conformity review in 1992 under the inclusive definition. The [Corps] permits are often limited to a small portion of a much larger project and, thus, may not be the best mechanism to review the larger project: e.g., one river crossing for a 500 mile gas pipeline or a half-acre wetland fill for a twenty acre shopping mall.[14]

As the EPA explains here, it would be impractical to force a Federal regulatory agency like the Corps to do potentially time-consuming and costly air quality analyses when the activity that agency permits may be a very minor aspect of a much larger non-Federal undertaking, and when that specific activity needing a Corps permit may have little or no effect on air quality.

F. CONTINUING PROGRAM RESPONSIBILITY. The EPA also used the Corps in an illustration to explain the phrase "continuing program responsibility" in the definition of the term "indirect emissions". In their example the EPA explains that only if the Corps were to impose conditions on a permit as part of its responsibilities under its regulatory program and these permit conditions, in and of themselves, would lead to an increase in the air emissions caused by the activity, would the Corps be required to include the air emissions caused by its permit conditions in our CAA conformity analysis.[15] However, the preamble to EPA's rule makes clear that normally the Corps is not responsible for indirect emissions related to activities needing Corps permits:

> j. Exclusive definition [for the term "indirect emissions"]--types of Federal actions not covered. The following types of Federal actions, among others, are not covered by the conformity rule under the exclusive definition approach [i.e., the approach adopted in the final rule]....(3) Certain indirect emissions related to a [Corps of Engineers] permit for the discharge of dredged or fill material. The indirect emissions from development activities related to [Corps] permit actions are not subject to the continuing program responsibility of the [Corps], or cannot be practicably controlled by the [Corps].[16]

The EPA preamble also recognizes that the Corps has an explicit exemption from the conformity rule where:

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[14] 58 Fed. Reg. 63219 (November 30, 1993).

[15] 58 Fed. Reg. 63220 (November 30, 1993).

[16] 58 Fed. Reg. 63224 (November 30, 1993).

> The indirect emissions from development activities related to [Corps] permit actions are not covered where such emissions are not subject to the continuing program responsibility of the [Corps], or cannot be practicably controlled by the [Corps].[17]

The EPA then goes on in the preamble to explain the changes in the definition for the term "indirect emissions" that EPA adopted in its final General Conformity Rule (i.e., the "exclusive" definition). Again it uses the Corps in an illustration. The EPA points out that conformity analyses are not required when Federal actions are incidental to later development by private parties. As the EPA states:

> ...this approach would not require a conformity analysis for certain Federal actions that are necessary for, but incidental to, subsequent development by private parties. For example, the exclusive definition does not generally require that a [Corps] fill permit needed for a relatively minor part, portion, or phase of a twenty acre development on private land would somehow require the [Corps] to evaluate all emissions from the construction, operation, and use of that larger development.[18] (emphasis added)

Here the EPA explains that the "activity" contemplated under section 176(c) in many cases is properly limited to the particular "part, portion, or phase" of a non-Federal action that is actually permitted by the regulatory agency (i.e., the Corps). As the EPA goes on to explain:

> The person's [i.e., permit applicant's] activities that fall outside the Federal agency's continuing program responsibility to control are subject to control by state and local agencies.[19]

As indicated above, generally speaking the Corps does not have a continuing program responsibility to measure, monitor, control, or mitigate for air emissions that may result from the construction or operation of a non-Corps facility (such as a shopping center, factory, or non-Federal port), even though some part, portion, or phase of that facility requires a permit from the Corps. Under the CAA, the state and local clean air authorities have full responsibility and authority to deal with those emissions, and to prevent or condition the construction of the non-Federal facility as necessary to deal with those air emissions. Under the General

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[17] 58 Fed. Reg. 63224 (November 30, 1993).

[18] 58 Fed. Reg. 63222 (November 30, 1993).

[19] 58 Fed. Reg. 63222 (November 30, 1993)

Conformity Rule the Corps (1) must consider direct emissions from only the particular part, portion, or phase of the larger, non-Federal facility that we permit; and (2) we must consider indirect emissions from that same part, portion, or phase, and then only to the extent that we can practicably control them, and have a continuing program responsibility to control them.

G. CORPS DOCUMENTATION OF COMPLIANCE WITH CAA SECTION 176(C)

For any permit case where the Corps reasonably determines that the emissions from the particular "part, portion, or phase" of a larger, non-Federal undertaking, needing a Corps permit, would fall below the de minimis threshold levels of 40 CFR 93.153, the Corps will not have to conduct a technical analysis to document that the emissions from the proposed undertaking would not exceed the de minimis thresholds. This conclusion is supported by the following example taken from EPA's preamble to the General Conformity Rule:

> Example 4: Where a [Corps of Engineers] permit is needed to fill a wetland so that a shopping center can be built on the fill, generally speaking, the [Corps] could not practicably maintain control over and would not have a continuing program responsibility to control indirect emissions from subsequent construction, operation, or use of that shopping center. Therefore, only those emissions from the equipment and motor vehicles used in the filling operation, support equipment, and emissions from movement of the fill material itself would be included in the analysis. If such emissions are below the de minimis levels described below for applicability purposes (section 51.858), no conformity determination ... would be required for the issuance of the ... permit.[20]

The same point is made elsewhere in the preamble to the General Conformity Rule, as follows:

> Most Federal actions result in little or no direct or indirect air emissions. The EPA intends such actions to be exempted under the de minimis levels specified in the rule and, thus, no further analysis by the Federal agency is required to demonstrate that such actions conform.... Further, the EPA believes that Federal actions which are de minimis should not be required by this rule to make an applicability analysis. A different interpretation could result in an extremely wasteful process which generates vast numbers of useless conformity statements. Paragraphs (c)(1) and (2) of Section 51.853 are added to the final rule to provide that de minimis actions are exempt from the requirements of this rule. Therefore, it is

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[20] 58 Fed. Reg. 63223 (November 30, 1993).

not necessary for a Federal agency to document emissions levels for a de minimis action.[21]

Although we expect that the vast majority of activities needing Corps permits will not need CAA conformity determinations for the reasons explained above, nevertheless, for any permit case where litigation can be anticipated if the Corps issues the permit, the permit administrative record should explain our limited CAA responsibilities under the CAA General Conformity Rule, and the basis for our conclusion that the relevant emissions would be de minimis. That explanation often may need to include a discussion of why it would not be "practicable" for the Corps to control certain specified indirect emissions, and why the Corps does not have a continuing program responsibility to control such indirect emissions, and why our CAA responsibilities are limited to the particular "part, portion, or phase" of a larger undertaking requiring Corps permit authorization.

V. CONCLUSION.

Because of the various provisions discussed above, we expect that very few Corps permit actions will require CAA conformity analyses, and that our CAA conformity determinations will normally conclude that the air emissions relevant to our permit action are safely below the final rule's de minimis levels. It seems that the only time that the Corps will have to do a full-scale CAA conformity determination in a permit case is when the emissions associated with the particular activity needing the Corps permit, or the particular activity required by Corps permit conditions (e.g., the placement of the fill, or the construction of the structure in the water, or the actual dredging and disposal operation, or implementation of the required mitigation plan) are so substantial that those emissions would exceed the de minimis thresholds by themselves. This conclusion flows logically from the provisions discussed above from EPA's final rule and preamble, based in part on the principle of limited Corps responsibilities under the CAA.

Nevertheless, the practical necessity that the Corps will use a "narrow scope of analysis" to limit our requirements under the CAA conformity rule must not lead the Corps necessarily to use such a narrow scope of analysis for purposes of the Corps' other responsibilities under other aspects of the public interest review or the 404(b)(1) Guidelines. Because the Corps has ample discretion to adopt and use a broader scope of analysis for purposes of NEPA, the Endangered Species Act, etc., we will not use the CAA conformity determination as an excuse or occasion to reduce our more wide-ranging reviews and responsibilities under those other statutes and regulations.

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[21] 58 Fed. Reg. 63228-63229 (November 30, 1993).

The Corps' very limited expertise, authority, and continuing program responsibilities regarding air emissions fully justifies our using a narrow scope of analysis for purposes of compliance with CAA Section 176(c). In contrast, our broader, traditional responsibility, authority, and expertise to regulate activities affecting aquatic resources will often justify our using a broader scope of analysis to consider effects of a proposed undertaking on aquatic resources, endangered species, etc. Thus, for any particular permit case, the Corps will implement the CAA General Conformity Rule by focusing on only the specific part, portion, or phase of the larger undertaking that requires our permit authorization. Nevertheless, we often will consider all direct and indirect effects of the larger undertaking when evaluating effects on the aquatic environment.

Corps Headquarters points of contact for this guidance are Lance Wood and Bill Sapp of the Office of the Chief Counsel (CECC-E); their telephone number is (202) 272-0035. However, non-counsel Corps employees should only contact them in conjunction with district/division counsel to ensure proper coordination.

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Attachment D

Determination from SCAQMD that San Pedro Waterfront Federal Action Conforms to the SIP

South Coast
Air Quality Management District
21865 Copley Drive, Diamond Bar, CA 91765-4178
(909) 396-2000 • www.aqmd.gov

January 4, 2011

Spencer D. MacNeil, D. Env.
Senior Project Manager
U.S. Army Corps of Engineers
Los Angeles District Regulatory Division
2151 Alessandro Drive, Suite 110
Ventura, CA 93001

Re: Response to the Final General Conformity Determination of the San Pedro Waterfront Project at the Port of Los Angeles

Dear Mr. MacNeil,

South Coast Air Quality Management District (District) staff has reviewed the Final General Conformity Determination of the San Pedro Waterfront Project at the Port of Los Angeles. For the general conformity determination, staff evaluated the emissions estimated from the project. Based on the data provided, construction emissions are estimated to be below the extreme ozone nonattainment de minimis thresholds for all criteria pollutants except NOx. The project is anticipated to generate temporary (years 2011 through 2015) construction NOx emissions which exceed the de minimis threshold (10 tons per year) prescribed by federal conformity regulations.

EPA's General Conformity rule (40 CFR part 93, subpart B, and 40 CFR Part 51, Subpart W, as adopted by reference in SCAQMD Rule 1901, September 1994, hereafter cited to as 40 CFR Part 93) establishes an applicability test for determining which Federal actions are subject to the conformity requirement. If a proposed action would result in emissions increases less than identified de minimis thresholds, then no conformity determination need be made. If emissions from a proposed action would exceed the de minimis threshold for any given pollutant (or precursor) for which the area is maintenance or nonattainment, then the Federal Agency must make a positive conformity determination for that pollutant(s) on the basis of one of the criteria listed in 40 CFR 93.158 before the project can proceed.

In this instance, the U.S. Army Corps of Engineers (USACE) and the Port of Los Angeles (POLA) determined that the San Pedro Waterfront Project would exceed the de minimis

threshold for emissions of oxides of nitrogen (NO_x) (as a precursor to ozone), and must make a conformity determination for that pollutant using one of the criteria under 40 CFR 93.158. From the data presented to District the estimated construction NOx emissions from this project are 64.9 tons per year for 2011, 15.2 tons per year, 56.7 tons per year, 27.9 tons per year, and 45.6 tons per year for years 2012 to 2015 respectively. The project emissions are above the extreme ozone nonattainment classification NOx de minimis threshold of 10 tons per year. Emissions increases of the other pollutants would be below the applicable de minimis thresholds.

The USACE and POLA based their general conformity assessment on the latest approved air quality plan, 1997/99 SIP, for the South Coast Air Basin (SCAB). As stated in the document, at the time that SCAQMD prepared the 1997 AQMP, LAHD had not yet announced its intention to undertake the Project. To be consistent with the conformity criterion in 40 CFR 93.158(a)(5), the USACE and POLA requested the District to consider whether the San Pedro Waterfront project could be found to "result in a level of emissions which, together with all other emissions in the nonattainment (or maintenance) area, would not exceed the emissions budgets specified in the applicable SIP." See 40 CFR 93.158(a)(i)(5)(A). The existing General Conformity budgets for the South Coast come from the 1997/99 South Coast Ozone SIP. EPA believes that these budgets are lower than current emissions estimates, and thus do not provide a basis for making a positive conformity determination. However, the criterion under 40 CFR 93.158(a)(5) also provides that a State can commit to revising the SIP in such a way as to accommodate a Federal action, and the SIP commitment itself provides the basis for a positive conformity determination. [See 40 CFR 93.158(a)(5)(i)(B)]. The District believes that the necessary SIP revision called for under 40 CFR 93.158(a)(5)(i)(B) has already been satisfied through submittal of the 2007 South Coast SIP and the 2007 State Strategy.

In addition to accommodating the emissions increases, the 2007 AQMP also fulfills the other elements identified in 40 CFR 93.158(a)(5)(i)(B) for SIP revisions that may be relied upon by Federal agencies to make a positive conformity determination. Each of the elements is discussed below.

(1) A specific schedule for adoption and submittal of a revision to the SIP which would achieve the needed emissions reductions prior to the time emissions from the Federal action would occur;

A schedule for adoption and submittal of a SIP revision is unnecessary because the necessary SIP revisions have already been submitted. Specifically, the 2007 AQMP was adopted by the District on June 1, 2007, and by CARB on September 27, 2007, and was submitted to EPA on November 28, 2007. The 2007 State Strategy, upon which the 2007 AQMP relies in part, was adopted on September 27, 2007, and submitted to EPA on November 16, 2007. An amendment to the 2007 State Strategy was submitted to EPA on August 12, 2009.

(2) Identification of specific measures for incorporation into the SIP which would result in a level of emissions which, together with all other emissions in the nonattainment or maintenance area, would not exceed any emissions budget specified in the applicable SIP;

The 2007 AQMP and 2007 State Strategy set forth new and amended control measures and strategies intended to meet, among other requirements, the requirement to demonstrate reasonable further progress (RFP) and attainment of the 1997 8-hour ozone standard. Specifically, Chapter 4 of the 2007 AQMP, and the Proposed State Strategy for California 2007 State Implementation Plan (release date April 26, 2007)(as revised per CARB Resolution 07-28), describe in detail the control strategies that the District and CARB have adopted to demonstrate RFP and attainment of the 1997 8-hour ozone standard.

(3) A demonstration that all existing applicable SIP requirements are being implemented in the area for the pollutants affected by the Federal action, and that local authority to implement additional requirements has been fully pursued;

Tables 1-2 and 1-3 of the 2007 AQMP show the progress that the District and CARB have made in adopting control measures set forth in previous plans for the South Coast. See Chapter 7 of the 2007 AQMP for a specific discussion of the issue of plan implementation. Appendix VI of the 2007 AQMP includes a Reasonably Available Control Measure (RACM) demonstration that indicates that no other measures could be adopted that would advance the attainment date by a year.

CARB is also acting on its current SIP commitments, as demonstrated in the Status Report on the State Strategy for California's 2007 State Implementation Plan (SIP) and Proposed Revision to the SIP Reflecting Implementation of the 2007 State Strategy, submitted to U.S. EPA on August 12, 2009. The status report identified rules adopted by CARB that will provide 87 percent of the needed reductions in nitrogen oxides (NOx) that the state committed to in order to attain the PM2.5 standard in the South Coast Air Basin in 2014.

(4) A determination that the responsible Federal agencies have required all reasonable mitigation measures associated with their action; and

As part of a conformity evaluation, it maybe necessary for the Federal agency to identify mitigation measures and mechanisms conform to the applicable enforcement. USACE identified various air quality mitigation measures which were described in the Final EIS/EIR (USACE/LAHD 2008 and 2009) to meet CEQA mitigation requirements. The CEQA related mitigation measures will be implemented and enforced by the City of Los Angeles Harbor Department. The USACE has determined that the project, which incorporates the above referenced CEQA mitigation measures, will conform to the Clean Air Act, and that no mitigation under general conformity regulations (40 CFR 51.860) or U.S. EPA guidance is required.

(5) Written documentation including all air quality analyses supporting the conformity determination;

The submittals of the 2007 AQMP and 2007 State Strategy contain detailed technical information documenting the emissions projections and modeling input and output upon which the plans are based. See, for example, the 2007 AQMP, Chapters 3 ("Base Year and Future Emissions") and 5 ("Future Air Quality"), and their related Appedices III and V, respectively.

Furthermore, staff believes this project conforms to the 2007 AQMP for the following reasons:

1) The emissions associated with the project were envisioned in the 2007 AQMP through the projection of ports expansion and construction activities provided by the Southern California Association of Governments (SCAG). The emissions growth projections were directly incorporated in the 2007 AQMP air quality attainment demonstrations.

2) The economic downturn provides an ample margin in which to accommodate the unanticipated emissions from the unforeseen projects in the Basin. To cite the effect of the economic downturn on the aircraft emissions projections in the 2007 AQMP:

   The Federal Aviation Administration (FAA) recently revised its national growth projections downwards from previous estimates that were used in developing the 2007 AQMP. Based on the latest FAA forecasts, which now predict a 24 percent growth rate at LAX from 2002 to 2015, compared to the previous forecast of 36 percent, the 2007 AQMP overestimates NOx emissions at LAX by roughly 435 tons per year.

   Given the margin created from FAA's revised forecast, staff believes the emissions increase in NOx due to the San Pedro Waterfront project should be accommodated in the 2007 AQMP budgets, even with the inclusion of the emissions from the other aircraft related general conformity projects submitted to District since the 2007 AQMP submittal.

3) The increase in construction emissions due to this project is a nominal portion of the total SCAB baseline emissions for the 2007 AQMP inventories and will result in a minimal impact to ambient air quality. Because of the economic downturn, the projected 2007 AQMP emissions have been not been realized and the revised projections lower regional estimated emissions. As a consequence, the project emissions are not expected to lead to an exasperation of the regional air quality or jeopardize the regional air quality attainment demonstrations.

In conclusion, the District has concluded the San Pedro Waterfront Project at the Port of Los Angeles would be accommodated by the 2007 South Coast SIP (i.e., 2007 AQMP and 2007 State Strategy), and that the 2007 South Coast SIP satisfies the individual

elements for SIP revisions that may be relied upon for conformity determinations, as set forth in 40 CFR 93.158(a)(5)(i)(B). Furthermore, this Final General Conformity Determination conforms to federal conformity regulations and has been conducted in accordance with the requirements of 40 CFR parts 6, 51, and 93.

If you have any questions, please contact me at (909) 396-3155 or jcassmassi@aqmd.gov or contact Ms. Kathy Hsiao at (909) 396-3056 or khsiao1@aqmd.gov.

Sincerely,

Joseph C. Cassmassi
Planning and Rules Manager
Planning, Rule Development & Area Sources
South Coast Air Quality Management District

cc: Barbara Baird, SCAQMD
Elaine Chang, SCAQMD
Kathy Hsiao, SCAQMD
Sylvia Oey, CARB
Wienke Tax, USEPA Region 9
Jefferson Wehling, USEPA Region 9
Earl Withycombe, CARB

Attachment E

Listing of Changes Made to the Draft General Conformity Determination

Attachment E
Listing of Changes Made to the Draft General Conformity Determination

Listing of Changes Made to the Draft General Conformity Determination

E.1 Global Changes

The following changes were made throughout the general conformity determination:

- The cover page and all footers were revised to indicate that this document is now the "final" general conformity determination.
- References to "this draft" document in the text have been revised to "this final" document.
- References to 40 C.F.R. § 51.851 through 51.859 have been revised to 40 C.F.R. § 93.151 through 93.159.

E.2 Specific Changes

The specific changes noted below indicated text additions with *italic font* and text deletions with ~~strikeout font~~.

- Cover Page, date changed: *May 2011* ~~September 2009~~
- Page i: Deleted Sections 5.2.1.2 through 5.2.1.5 from the Table of Contents due to changes in Section 5.2.1.
- Page ii: Added Attachments D and E to list of Attachments:
  Attachment D Determination from SCAQMD that San Pedro Waterfront Federal Action Conforms to the SIP
  Attachment E Listing of Changes Made to the Draft General Conformity Determination
- Page ii: Deleted Tables 4-3 through 5-3 from the List of Tables due to changes in Sections 4 and 5.
- Section 1, 2nd paragraph, changed 1st sentence (Page 1-1):
  ~~At issue for the~~*The* Port of Los Angeles San Pedro Waterfront Project (hereinafter the Project) ~~is~~*will require* the issuance of a USACE permit, pursuant to Section 404 of the Clean Water Act, Section 10 of the Rivers and Harbors Act, and Section 103 of the Marine Protection, Research, and Sanctuaries Act.
- Section 1, 2nd paragraph, added last sentence (Page 1-1):
  Attachment D provides correspondence received from the South Coast Air Quality Management District (SCAQMD) with documentation supporting the conformity determination for the Federal action. Attachment E provides a list of the changes made to the draft general conformity determination to create this final general conformity determination.

- Section 1.1, added new Section 1.1 (Page 1-2):
  1.1 Transportation Conformity Requirements
  The U.S. Environmental Protection Agency (EPA) promulgated two regulations to address the conformity requirements of the Clean Air Act. On November 24, 1993, EPA promulgated final transportation conformity regulations at 40 C.F.R. Part 93 Subpart A to address Federally-assisted transportation plans, programs, and projects. These regulations have been revised several times since they were first issued to clarify and simplify them. On September 14, 1994, the South Coast Air Quality Management District (SCAQMD), which oversees air quality management in the South Coast Air Basin (SCAB) of California, adopted these regulations by reference as part of Rule 1902. The SCAQMD rule has also been amended since its original issuance. Although, in general, a seaport development project may require or rely on improvements in roadway or transit infrastructure, a determination of transportation conformity related to such improvements would typically be addressed by the Federal Highway Administration (FHWA) or the Federal Transit Administration (FTA) as part of a regional transportation plan or regional transportation improvement program and not as a stand-alone project. SCAG, the regional metropolitan planning organization (MPO), has indicated that POLA growth in truck and automobile traffic is accounted for in the 2008 Regional Transportation Plan (RTP, SCAG 2008) (SCAG 2007) for which a transportation conformity determination has been issued (see Section 3.1); therefore, it would not be necessary to include on-road emissions associated with construction material deliveries, on-road debris hauling, and worker commute trips in the general conformity evaluation because this portion of the Federal action is considered to conform to the SIP (40 C.F.R. § 93.158(a)(5)(ii)). Attachment B includes the SCAG statements.

- Section 1.2, moved Section 1.1 to 1.2 (Page 1-2):
  ~~1.1~~*1.2 General Conformity Requirements*

- Section 1.2, changed and split 1st paragraph as follows (Page 1-2):
  On November 30, 1993, the ~~U.S. Environmental Protection Agency (~~EPA~~)~~ promulgated final general conformity guidance to the states at 40 C.F.R. Part 51 Subpart W to develop general conformity regulations for all Federal activities except those covered under transportation conformity. On September 14, 1994, South Coast Air Quality Management District (SCAQMD) adopted these regulations by reference as part of Rule 1901*, and EPA approved this rule as part of the California SIP on April 23, 1999 (64 FR 19916). Parallel general conformity regulations at 40 C.F.R. Part 93 Subpart B apply in areas where EPA has not approved general conformity requirements to the state's implementation plan. On April 5, 2010, EPA promulgated revised general conformity requirements at 40 C.F.R. Part 93 Subpart B (75 FR 17254). In the same action, EPA eliminated most of the general conformity requirements under 40 C.F.R. Part 51 Subpart W, because they were mostly duplicative of the requirements at 40 C.F.R. Part 93 Subpart B, and revised 40 C.F.R. § 51.851 to remove the obligation for states to include general conformity requirements in their implementation plans. The revised regulations took effect on July 6, 2010.*

The general conformity regulations apply to a Federal action in a nonattainment or maintenance area if the total of direct and indirect emissions of the relevant criteria pollutants and precursor pollutants caused by the Federal action equal or exceed certain de minimis rates, thus requiring the Federal agency to make a determination of general conformity. Even if the total direct and indirect emissions of any pollutant from a Federal action does not equal or exceed the de minimis rates, but represents ten percent or more of a nonattainment or maintenance area's total emissions of that pollutant, the action is considered regionally significant and the Federal agency must make a determination of general conformity. By requiring an analysis of direct and indirect emissions, EPA intended the regulating Federal agency to make sure that only those emissions that are reasonably foreseeable and that the Federal agency can practicably control subject to that agency's continuing program responsibility will be addressed.

- Section 1.2, last paragraph, changed 2nd sentence (Page 1-3):
  According to EPA guidance (EPA 1994), before any approval is given for a Federal action to go forward, the regulating Federal agency must apply the applicability requirements found at 40 C.F.R. §93.153(b) to the Federal action ~~and/or determine the regional significance of the Federal action pursuant to 40 C.F.R. § 51.853(j)~~ to evaluate whether, on a pollutant-by-pollutant basis, a determination of general conformity is required.

- Section 2, 1st paragraph, changed 1st sentence (Page 2-1):
  In accordance with applicable general conformity regulations and guidance, including USACE guidance dated April 20, 1994 (*USACE 1994;* see Attachment C), when a general conformity determination is necessary, …

- Section 2.1, 3rd paragraph, changed last sentence and added Footnote 1 (Page 2-2):
  The Federal action is expected to spread into ~~several~~*multiple* phases over a six-year period (~~2009 to 2014~~*2011 to 2016*).[1]

  [1] *For the evaluation contained in this Final General Conformity Determination, it was assumed that all aspects of the Project would be constructed between 2011 and 2016. However, as of the time of publication of this document, LAHD plans to complete Phase 1 of the Project by 2016 but now expects to delay commencement of Phase 2 until 2018, the completion of which may extend until 2030. Therefore, the timing and amounts of peak emissions analyzed in this evaluation are conservative. Prior to commencement of construction on Phase 2 of the Project, USACE would consult with SCAQMD to review the expected construction emissions associated with the Federal action to verify that they are still accommodated in the approved SIP or proposed revision to the SIP at the time. See Section 7.3 for a discussion of the conditions that could require a reevaluation of general conformity for the Federal action.*

- Section 2.1, 4th paragraph, changed first sentence and added new second sentence (Page 2-2):
  The Federal action includes construction of in-water and over-water structures

and the transport and disposal of dredged material at ~~various~~ *the LA-2 and/or LA-3* disposal sites in the open ocean. *It also includes beneficial reuse within POLA, such as nourishment at Cabrillo Beach, with upland disposal of contaminated sediments should they be present.*

- Section 2.1, 5th paragraph, changed 1st and 2nd sentences (Page 2-2):
  The LAHD has prepared an extensive list of mitigation measures that it proposes to implement as part of the proposed action to satisfy requirements of the California Environmental Quality Act (CEQA), and for the general conformity evaluation, the construction measures are considered *design features as* part of ~~p~~Project construction ~~as designed~~. These mitigation measures were developed from reviews of mitigation measures and plans used at other seaports and extensions of ongoing LAHD environmental policies (including implementation of the Sustainable Construction Guidelines (POLA 2007)~~)~~ *and the San Pedro Bay Ports Clean Air Action Plan (POLA/POLB 2006*

- Section 2.1, MM-AQ-3, changed 2nd paragraph (Page 2-2):
  Prior to and including December 31, 2011: All on -road heavy-duty diesel trucks with a gross vehicle weight rating (GVWR) of 19,500 pounds or greater used on site or to transport materials to and from the site ~~shall~~ *must contain an EPA 2004 engine model year or newer in order to* comply with EPA 2004 on-road emission standards ~~and be the cleanest available for PM_{10} (0.10 g PM_{10}/bhp-hr) and NO_x (2.0 g NO_x/bhp-hr). In addition, all on-road trucks shall be outfitted with the BACT devices certified by CARB~~.

- Section 2.1, MM-AQ-3, changed 3nd paragraph (Page 2-2):
  From January 1, 2012 on: All on-road heavy-duty diesel trucks with a ~~gross vehicle weight rating (~~GVWR~~)~~ of 19,500 pounds or greater used on site or to transport materials to and from the site shall comply with EPA 2010 on-road emission standards, where available. In addition, all on-road trucks shall be outfitted with the BACT devices certified by CARB.

- Section 2.1, MM-AQ-4, changed 2nd paragraph (Page 2-3):
  Prior to and including December 31, 2011: All off-road diesel-powered construction equipment greater than 50 hp, except derrick barges and marine vessels, shall meet the Tier 2 *offroad* emission ~~standards as defined in the EPA Nonroad Diesel Engine Rule~~. In addition, all construction equipment shall be outfitted with the BACT devices certified by CARB. *Any emissions control device used by the contractor shall achieve emissions reductions that are no less than what could be achieved by a Level 2 or Level 3 diesel emissions control strategy for a similarly sized engine as defined by CARB regulations.*

- Section 2.1, MM-AQ-4, changed 3rd paragraph (Page 2-3):
  From January 1, 2012 through December 31, 2014: All off-road diesel-powered construction equipment greater than 50 hp ~~shall meet Tier 3 emission nonroad emission standards as defined in the EPA Nonroad Diesel Engine Rule~~, *except*

derrick barges and marine vessels, shall meet Tier 3 emission off-road emission standards. In addition, all construction equipment shall be outfitted with the BACT devices certified by CARB. *Any emissions control device used by the contractor shall achieve emissions reductions that are no less than what could be achieved by a Level 3 diesel emissions control strategy for a similarly sized engine as defined by CARB regulations.*

- Section 2.1, MM-AQ-4, added new 4th paragraph (Page 2-3):
  From January 1, 2015 on: *All off-road diesel-powered construction equipment greater than 50 hp shall meet Tier 4 emission standards, where available. In addition, all construction equipment shall be outfitted with the BACT devices certified by CARB. Any emissions control device used by the contractor shall achieve emissions reductions that are no less than what could be achieved by a Level 3 diesel emissions control strategy for a similarly sized engine as defined by CARB regulations.*

- Section 2.1, MM-AQ-4, changed last paragraph (Page 2-3):
  Construction equipment shall incorporate, where feasible, emissions savings technology such as hybrid drives and specific fuel economy standards. In addition, idling shall be restricted to a maximum of five minutes when not in use.

- Section 2.1, MM-AQ-5, added new 2nd sentence (Pages 2-3 and 2-4):
  The construction contractor shall designate personnel to monitor the dust control program and to order increased watering or other dust control measures, as necessary, to ensure a 90 percent control level; their duties shall include holiday and weekend periods when work may not be in progress.

  Section 2.1, MM-AQ-6, deleted last paragraph(Page 2-4):
  ~~LAHD shall coordinate with USACE to implement a process by which to select additional BMPs to further reduce air emissions during construction. The LAHD, in coordination with USACE, shall determine the BMPs once the contractor identifies and secures a final equipment list.~~

- Section 2.1, changed second-to-last paragraph and added new last paragraph(Pages 2-4 and 2-5):
  The reader should refer to the *Final* EIS/EIR (USACE/LAHD ~~2008 and~~ 2009) for additional details on these mitigation measures. All of the mitigation measures that the USACE has relied upon in this ~~draft general conformity determination will become construction specifications via modifications to the Plan and Specifications. These provisions~~ *final general conformity determination are CEQA-related mitigation measures that were expressly adopted by LAHD in approving the overall Project and certifying the Final EIR. As such, those mitigation measures are fully enforceable under Cal. Pub. Res. Code § 21081.6. California regulations also require compliance with mitigation requirements as stated in a mitigation monitoring and reporting program (MMRP); see 14 C.C.R. §§ 15091(d) and 15097(c)(3). The Project MMRP (LAHD 2009), which incorporates all of the mitigation measures that the USACE has relied upon in this final general conformity determination as design features, describes LAHD's lead responsibility for administering the program, the timing of*

implementation, monitoring frequency, and actions indicating compliance. These provisions, through the written commitment of LAHD in the Project MMRP, ensure that the measures will be properly implemented through incorporating mitigation measures into all construction bid specifications for the Project.

Finally, the emission factors for construction equipment will decrease into the future due to current CARB regulations (such as the in-use off-road diesel-fueled fleets rule, 13 C.C.R. Article 4.8) that have emission limits and reduction goals phased in over time. Therefore, even if the project construction schedule were to slip (see Footnote 1 on page 2-2), the peak year construction emissions would not be higher than the emissions identified in Section 4 of this final general conformity determination.

- Section 2.2, 1st paragraph, changed 1st and last sentences (Page 2-5):
  A joint Draft EIS/EIR was published for public review and comment in September 2008 (USACE/LAHD 2008) providing a co-equal analysis of the Project and six alternatives; ~~with~~ the Final EIS/EIR ~~being~~ *was* published ~~currently~~ *in September 2009* (USACE/LAHD 2009). The USACE is the lead agency for the NEPA analysis documented in the Environmental Impact Statement (EIS). ~~The City~~ LAHD is the lead agency for the CEQA analysis documented in the Environmental Impact Report (EIR).

- Section 2.2, 2nd paragraph, added new last sentence (Page 2-5):
  Since publication of the draft general conformity determination, the Port has informed USACE that the Crowley and Millenium marine office buildings are no longer part of the San Pedro Waterfront Project. Therefore, emissions associated with construction of these two buildings are no longer included in the Federal action emissions.

- Section 3.1, 2nd paragraph, changed 4th sentence and added new 5th sentence (Page 3-1):
  On June 5, 2008, the ~~Federal Highway Administration~~ *FHWA* issued a finding that the 2008 RTP conforms to the applicable state implementation plan (i.e., transportation conformity determination). *Subsequently, SCAG has issued three amendments to the 2008 RTP and the FHWA has issued positive transportation conformity determinations for each amendment.*

- Section 3.1, 3rd paragraph, changed 1st sentence (Page 3-1):
  The 2008 RTP indicates that container volume processed by the San Pedro Bay ports (Port of Los Angeles and Port of Long Beach*), as a measure of goods movements within southern California,* grew by almost 60 percent between 2000 and 2006, and it is expected to nearly triple by 2035.

- Section 3.2, 1st paragraph, changed second-to-last sentence and added new last sentences (Page 3-2):
  The emission estimation techniques used in this evaluation are generally consistent with those used in preparing the *Draft and Final* EIS/EIR (USACE/LAHD 2008 and 2009, *respectively*). *Since publication of the draft general*

conformity determination, the Port has informed USACE that the Crowley and Millenium marine office buildings are no longer part of the San Pedro Waterfront Project. Therefore, emissions associated with construction of these two buildings are no longer included in the Federal action emissions.

- Section 3.3, 1st paragraph, changed 2nd sentence (Page 3-2):
  Specifically, these scenarios must include emissions from the Federal action for the following years: (1) for nonattainment areas, the year *specified in the applicable SIP or* mandated in the Clean Air Act for attainment and for maintenance areas, the farthest year for which emissions are projected in the approved maintenance plan; …

- Section 3.3, Table 3-1 (Page 3-2):
  -Greatest Emission Year changed from ~~2009~~ to *2011*;
  -Years Analyzed for General Conformity changed from ~~2009, 2010~~ to *2011*;
  -and modified footnote c:
  c. The ~~2009~~ *2011* inventories will be estimated by interpolating between the ~~2008 and 2010~~ *2010 and 2020* inventories presented in Appendix III.

- Section 3.3, Table 3-2 (Pages 3-2 and 3-3):
  -Attainment/Maintenance date changed from ~~2020~~ to *2023*;
  -Greatest Emission Year changed from ~~2009~~ to *2011*;
  -Years Analyzed for General Conformity changed from ~~2009, 2010, 2011, 2014~~ to *2011, 2014*;
  -modified footnote a:
  a Federal action construction does not extend beyond ~~2014~~ *2016*; therefore, no comparisons to budgets for milestone years beyond ~~2014~~ *2016* (2017, 2020, 2023, and 2030) are included.;
  modified footnote c:
  c The current classification of the region is ~~Severe-17~~ *Extreme*, which indicates an attainment year of June ~~2021~~ *2024*. Since the ozone season extends into the autumn, attainment must be demonstrated by the end of the ozone season in ~~2020~~ *2023*.;
  and deleted footnote d:
  ~~d The 2009 AQMP inventories will be estimated by interpolating between the 2008 and 2010 inventories presented in Appendix III.~~

- Section 4.1, changed 2nd paragraph and added footnote 2 (Page 4-1):
  That portion of the SCAB encompassing POLA is in an area that is designated as being in nonattainment of the NAAQS for O_3 (eight-hour average), PM_{10}, and $PM_{2.5}$. In addition, the severity of the nonattainment status for this area has been classified as "~~severe~~ *extreme*" for O_3[2] and "serious" for PM_{10} ~~and~~ *but* it is not ~~otherwise~~ classified for $PM_{2.5}$. On July 24, 1998, this area was re-designated from nonattainment to attainment/maintenance status for NO_2 by EPA (63 FR 39747). More recently, the area was re-designated by EPA from nonattainment to attainment/maintenance for CO (72 FR 26718), effective June 11, 2007. The area is

in attainment of the NAAQS for SO_2 ~~and Pb~~. Thus, for purposes of the general conformity requirements, this evaluation addresses NO_2, O_3 (eight-hour average), CO, PM_{10}, and $PM_{2.5}$. ~~On August 18, 2009, the Acting Administrator for EPA Region 9 signed a proposed rule to grant a request from the state of California to reclassify the SCAB as "extreme" for O_3. Since such a reclassification would lower the general conformity de minimis threshold for O_3 and extend the mandatory attainment date, if this rule is promulgated as a final rule before the final general conformity determination (GCD) for San Pedro Waterfront is published, these changes will be incorporated into the final GCD.~~

[2] *On May 5, 2010, EPA promulgated a rule to reclassify the SCAB from "severe-17" to "extreme" for O3; this rule was effective on June 4, 2010 (75 FR 24409). Because such a reclassification lowers the general conformity de minimis threshold for O3 and extends the mandatory attainment date, these changes have been incorporated into the final GCD. Also, see the discussion in Section 4.3.*

- Section 4.1, 2nd paragraph, changed last two sentences (Page 4-1):
  On ~~August 18, 2009, the Acting Administrator for~~ *May 5, 2010,* EPA ~~Region 9 signed~~ *promulgated* a ~~proposed~~ rule to grant a request from the state of California to reclassify the SCAB as "extreme" for O_3*; this rule was effective on June 4, 2010 (75 FR 24490). Because*~~, Since~~ such a reclassification ~~would~~ lowers the general conformity de minimis threshold for O_3 and extends the mandatory attainment date, ~~if this rule is promulgated as a final rule before the final general conformity determination (GCD) for San Pedro Waterfront is published,~~ these changes ~~will be~~ *have been* incorporated into the final GCD.

- Section 4.2, 1st paragraph, change last sentence (Page 4-2):
  However, the emissions *that would be* caused by the Federal action do not meet any of these exempt categories (except maintenance dredging and associated debris disposal pursuant to 40 C.F.R.93.153(c)(2)(ix)).

- Section 4.2, 5th paragraph (4th bullet), changed sentence (Page 4-2):
  - Actions which include major *or minor* new or modified sources requiring a permit under the New Source Review (NSR) program *or the Prevention of Significant Deterioration (PSD) program* (40 C.F.R. § 93.153(d)(1)).

- Section 4.2, 6th paragraph (5th bullet), changed sentence (Page 40-2):
  - Actions in response to emergencies ~~or natural disasters (40 C.F.R. §51.853~~ *which are typically commenced on the order of hours or days after the emergency and, if applicable, which meet the requirements of 40 C.F.R. § 93.153(e) (40 C.F.R. § 93.153*(d)(2)).

- Section 4.3, 1st paragraph, changed 1st sentence (Page 4-2):
  The general conformity requirements will apply to ~~a~~ *the* Federal action for each pollutant *or precursor* for which the total of direct and indirect emissions caused by the Federal action equal or exceed the de minimis emission rates shown in **Table 4-1**.

- Section 4.3, added new 2nd paragraph (Page 4-3):
  The region in which the project is located had until recently been classified as a "severe" nonattainment area for the eight-hour O_3 NAAQS, which carries a 25 tpy de minimis emission rate for NO_x and VOC. However, SCAQMD recently requested re-classification (bump up) to "extreme" nonattainment for the eight-hour O_3 NAAQS in the 2007 AQMP, and EPA approved the bump up which was effective June 4, 2010. The "extreme" nonattainment classification for O_3 carries a 10 tpy de minimis emission rate for NO_x and VOC.

- Section 4.3, Table 4-1 (Page 4-3):
  - Changed SCAB Attainment Status Designations for Ozone from Nonattainment/~~Severe-17~~ to Nonattainment/*Extreme*;
  - Changed De Minimis Emission Rate for Ozone from ~~25~~ to *10* (tpy)
  - Changed Footnote "a" (Page 4-4):
  a. U.S. EPA has~~ proposed to~~ reclassi*fied*~~y~~ the South Coast Air Basin as an "extreme" nonattainment area for the eight-hour ozone NAAQS *(75 FR 24409, May 5, 2010), effective June 4, 2010*~~(74 FR 43654, August 27, 2009). When finalized, t~~*T*his reclassification ~~will lower~~ *lowers* the general conformity de minimis emission rate for NOx and VOC to 10 tpy. The Federal action associated with the San Pedro Waterfront project already requires a full general conformity evaluation under the "severe-17" classification; therefore, the~~ anticipated~~ change in classification ~~would~~ *does* not change the requirement for, or analyses included in, the general conformity evaluation provided in this document.

- Section 4.3, last paragraph, added new last sentence (Page 4-4):
  Ammonia emissions are not associated with the sources that are included in the Federal action (CARB 2009), therefore, no further analysis is conducted for ammonia as a $PM_{2.5}$ precursor.

- Section 4.4, deleted entire section:
  ~~4.4 Regional Significance~~
  ~~Even if a Federal action is less than the applicable de minimis emission rate for a given pollutant, the general conformity requirements state that a regionally significant action must undergo a conformity evaluation. A regionally significant action is one for which the total of direct and indirect emissions represent ten percent or more of the nonattainment or maintenance area's emissions inventories for all sources (as identified in the applicable SIP for stationary point, mobile, and area sources) for that pollutant. EPA guidance also indicates that any milestone emissions inventory in the applicable SIP should also be considered when evaluating regional significance (EPA 1994).~~

- Renumbered Sections ~~4.5, 4.5.1, 4.5.2,~~ and ~~4.5.3~~ to *4.4, 4.4.1, 4.4.2*, and *4.4.3* (Pages 4-4 and 4-5).

- Section 4.4, 1st paragraph, deleted 2nd sentence and changed 3rd sentence (Page 4-4):

~~Where the total of direct and indirect emissions attributable to the Federal action were found to be excluded from the general conformity requirements because they are below the de minimis emission rates for a pollutant, the total of direct and indirect emissions for that pollutant were compared to the nonattainment or maintenance area's emission inventory for that pollutant to determine whether it is regionally significant. Those pollutants that could not be excluded from applicability by both of these mechanisms~~ *Those pollutants that could not be excluded from applicability by this mechanism* underwent a complete general conformity evaluation consistent with the procedures in Section 3 above using the methods in Attachment A and the criteria in Section 5 below.

- Section 4.4.1, changed 1st paragraph (Page 4-4):
  Attachment A ~~presents~~ *contains a discussion of* the ~~calculations~~ *approach* used to estimate emissions *for this general conformity evaluation and the resulting emission inventories* associated with the proposed Federal action. ~~Equipment~~ *In general, the equipment* parameters and construction activities have been described in the *Final* EIS/EIR (USACE/LAHD ~~2008 and~~ 2009).). *As noted in Section 3.2 above, the Project no longer includes two of marine office buildings originally planned; therefore, emissions for construction of these buildings are no longer included.* This information has been incorporated into the emission calculations presented in Attachment A, and summarized below.

- Section 4.4.2, 1st paragraph, changed last sentence (Page 4-4):
  Off-site construction-related *on-road* emission sources (e.g., construction worker commute trips, material delivery hauling trips, debris/spoils disposal hauling trips) are assumed to be accounted for in the conforming 2008 RTP *(due to the extensive discussions of, and plans for growth in, goods movement in the SCAG region presented in that document, and the SCAG statements included in Attachment B)*, and they are therefore excluded from consideration of general conformity herein (40 C.F.R. § 93.158(a)(5)(ii)).

- Section 4.4.2, 2nd paragraph, changed 2nd and 3rd sentences (Page 4-4):
  These data show that annual emissions from construction activities would exceed the conformity de minimis emission rates for NOx in ~~2009,~~ 2011~~, 2012, and 2013~~ *through 2015*. Peak annual NOx emissions of 64.9 tons are predicted to occur in ~~2009~~ *2011*.

- Section 4.4.2, Table 4-2 (Page 4-5):
  - Changed construction years and updated construction emissions,
  - Updated the current General Conformity de minimis emission rate (tpy) for VOC and NOx from ~~10~~ tpy to *25* tpy.

- Section 4.4.3:
  - Deleted entire section:
  ~~4.5.3 Regional Significance~~
  ~~The peak annual direct and indirect emissions of VOC, CO, SOx, PM10, and~~

~~PM2.5 for the Federal action are compared to the regional emissions inventories of these pollutants prepared by SCAQMD for the SCAB. Two comparisons are presented, using data taken from the 1997 Air Quality Management Plan (AQMP) (SCAQMD 1996), which contains the currently approved SIP budgets, and from the 2007 AQMP (SCAQMD 2007). The lowest annual emissions from each of these documents between 2009 and 2014 are used for this calculation. The results of this comparison are summarized in Table 4-3. As one can see, the peak annual emissions from the Federal action are much less than ten percent of the SCAB annual emissions inventories. Therefore, the Federal action is not regionally significant for emissions of VOC, CO, SOx, PM10, or PM2.5 (or PM2.5 precursors).~~
- Deleted Table 4-3.

- Renumbered Section ~~4.4.4~~ to *4.4.3*.

- Section 4.4.3, 2nd paragraph, changed ~~severe-17~~ to *extreme*.

- Section 5.1.1, 3rd paragraph, last three sentences (Page 5-2):
  The *disapproved portions of the* 2003 AQMP ~~was~~ *were* not required under the Clean Air Act, ~~therefore~~ *because they represent revisions to previously approved SIP elements. Therefore*, the disapprovals ~~do not~~ *neither* trigger sanctions clocks nor EPA's obligation to promulgate a Federal implementation plan *for lack of an approved SIP. Because* ~~Since~~ the 2003 AQMP rate-of-progress and attainment demonstrations were not approved by EPA, the 1997/1999 SIP remains the currently applicable SIP for ~~ozone~~ *O_3 (one-hour)*.

- Section 5.1.1, 4th paragraph, changed 2nd sentence and added new last sentence (Page 5-2):
  On August ~~18~~ *27*, 2009 *(74 FR 43654)*, ~~the Acting Administrator for~~ *EPA* ~~Region 9 signed a~~ proposed ~~rule~~ to grant a request from the state of California to reclassify the SCAB to "extreme" nonattainment for eight-hour O_3, and it has signaled that it will take action on the 2007 AQMP in a separate rulemaking. *On May 5, 2010 (75 FR 24409), EPA promulgated the reclassification of the SCAB to "extreme" nonattainment for O3, effective on June 4, 2010.*

- Section 5.1.2, 2nd paragraph, changed 1st sentence (Page 5-2):
  To support the general conformity determination, the USACE *provides documentation from the SCAQMD that* demonstrates ~~herein that the emissions of NO_x (as an O_3 precursor) caused by~~ *that the 2007 AQMP represents a written commitment for a revision to the SIP to accommodate* the Federal ~~action either will result in a level of emissions which, together with all other emissions in the nonattainment area, will not exceed the emissions budgets specified in the approved SIP~~ *action's emissions* (criterion at 40 C.F.R. § ~~51.858~~ *93.158*(a)(5)(~~i~~)~~(A))~~ ~~or, in the alternative, will not exceed the emissions budgets specified in the 2007 AQMP,~~*(B),* see Section 5.2 below).

- Section 5.1.2, 3rd paragraph (or 1st bullet), added last sentence (Page 5-2):
  This SIP applies to the one-hour O_3 NAAQS; while the 2007 AQMP contains an attainment demonstration for the eight-hour O_3 NAAQS, EPA has not yet taken action on the proposed SIP revision which incorporates the 2007 AQMP.

- Section 5.1.2, last paragraph, deleted 2nd sentence (Page 5-3):
  ~~This evaluation will make comparisons both to applicable emissions inventories in the current EPA-approved SIP and to applicable emissions inventories contained in the 2007 AQMP.~~

Sections 5.2, 5.2.1, and 5.2.1.1,
- Rewrote entire sections (Pages 5-3 through 5-6) and deleted 5.2.1.1 Section heading:
5.2 Comparison to SIP Emissions Inventories
Under the general conformity regulations, a Federal action can be determined to conform to the applicable SIP for O3 if the action is specifically identified and accounted for in the SIP's attainment demonstration or reasonable further progress milestone, or in a facility-wide emission budget included in the SIP; if the total of direct and indirect emissions from the action are fully offset within the same nonattainment area by a revision to the applicable SIP or a similarly federally enforceable measure; or if the state agency responsible for the SIP determines and documents that the total of direct and indirect emissions from the action can be accommodated within the SIP emissions budgets. The Federal action described herein is not specifically identified or accounted for in the approved SIP, and USACE does not plan to rely on emission offsets to demonstrate conformity. The following discussion summarizes a determination from the SCAQMD (Attachment D), the agency responsible for developing the SCAB portion of the SIP, that demonstrates the Federal action as described herein conforms to the SIP..

5.2.1 NOx Emissions from Construction Sources Under the Federal Action
At the time that SCAQMD prepared the 1997 AQMP, LAHD had not yet announced its intention to undertake the Project. Therefore, it is evident that the EPA-approved SIP does not contain specific estimates of emissions for construction activities under the Project.

As noted in the preceding section, the most recent EPA-approved SIP at the time of the release of the final general conformity determination must be used for emission budget analyses. The 1997 AQMP together with supplemental information form the basis for the current, EPA-approved O3 SIP as noted in Section 5.1.2. However, as noted by SCAQMD (Attachment D), EPA believes that current emissions estimates for the SCAB already exceed the emissions budgets in the approved SIP. Therefore, SCAQMD cannot determine or document that the total of direct and indirect emissions for the Federal action, together with all other emissions in the nonattainment area, would not exceed the emissions budgets specified in the approved SIP.

The general conformity evaluation and findings below are based on a determination by SCAQMD (Attachment D) that the 2007 AQMP represents a written commitment for a SIP revision that accommodates the Federal action's emissions.

Specifically, at 40 C.F.R. § 93.158(a)(5)(i)(B), where the State determines that the total of direct and indirect emissions from a Federal action, together with all other emissions in the

nonattainment area, would exceed the emissions budgets specified in the approved SIP, the State can make a written commitment to EPA to accommodate a specific project's emissions via a SIP revision. Such a SIP revision would include:

(1) a specific schedule for adoption and submittal of a revision to the SIP which would achieve the needed emission reductions prior to the time emissions from the Federal action would occur; (2) identification of specific measures for incorporation into the SIP which would result in a level of emissions which, together with all other emissions in the nonattainment or maintenance area, would not exceed any emissions budget specified in the applicable SIP; (3) a demonstration that all existing applicable SIP requirements are being implemented in the area for the pollutants affected by the Federal action, and that local authority to implement additional requirements has been fully pursued; (4) a determination that the responsible Federal agencies have required all reasonable mitigation measures associated with their action; and (5) written documentation including all air quality analyses supporting the conformity determination.

As noted by SCAQMD (Attachment D), it believes the necessary SIP revision called for under 40 C.F.R. § 93.158(a)(5)(i)(B) has already been satisfied through submittal of the 2007 AQMP (and the 2007 State Strategy and subsequent related documents upon which the 2007 AQMP relies in part) as a proposed SIP revision for the SCAB and that the 2007 AQMP accommodates the O3 precursor emissions from the Federal action.

Regarding item (1) above, a schedule for adoption and submittal of a SIP revision is unnecessary because the necessary SIP revisions have already been submitted; see discussion in Section 5.1.1.

Regarding item (2) above, Chapter 4 of the 2007 AQMP sets forth new and amended control measures and strategies that SCAQMD and CARB have adopted to meet the requirement to demonstrate reasonable further progress and attainment of the 1997 eight-hour O3 NAAQS. The USACE believes that, when implemented, these measures would result in emissions from the Federal action, along with all other emissions in the nonattainment area, that would not exceed any emissions budget.

Regarding item (3) above, Chapter 7 of the 2007 AQMP includes specific discussions of the issue of plan implementation; also, CARB is acting on its current SIP commitments as evidenced in recent submittals to EPA. The USACE believes that these conditions demonstrate appropriate implementation of existing SIP requirements.

Regarding item (4) above, SCAQMD believes that the Project, as described in the Final EIS/EIR, now includes all reasonable CEQA-related mitigation measures and that those measures will be implemented and enforced by LAHD.

Regarding item (5) above, in addition to the detailed technical documentation in the 2007 AQMP that supports the proposed SIP revision, including emissions projections and modeling input and output, the USACE understands that SCAQMD believes the 2007 AQMP accommodates the emissions from the Federal action. In particular, the emissions associated with the Project were envisioned in the 2007 AQMP through the growth projection of port expansion and construction activities provided by SCAG. SCAG recently noted (SCAG 2007) that current and projected activity levels at the Port of Los Angeles and

Port of Long Beach are routinely submitted by the ports to SCAG and incorporated into the RTP. Specifically, SCAG indicated that Port of Los Angeles-forecasted activity levels have been incorporated into the 1994, 1998, 2001, 2004, and 2008 RTPs. Because the 2004 RTP was used to develop the 2007 AQMP emission inventories (SCAQMD 2007, Appendix III) and growth on the project site has been part of those plans, it is evident that the 2007 AQMP should contain estimates of emissions for construction activities under any of the build alternatives, including the Federal action addressed herein.

In addition, the current economic recession is providing margin to accommodate unanticipated emissions in the SCAB. The recession has produced lower cargo handling activities at the Ports of Los Angeles and Long Beach. This economic downturn has provided temporary emission reductions that will "offset" near-term increases in construction emissions from the proposed Federal action. Annual Port of Los Angeles container volume dropped each calendar year since the peak in 2006 of 8.47 million twenty-foot equivalent units (TEUs) (POLA 2010). By 2008, container volume had dropped by more than 600,000 TEUs/year from 2006, approximately a 7 percent reduction (POLA 2010). The 2009 container volume was 14 percent below the 2008 volume and 20 percent below the 2006 volume (POLA 2010). These reductions in container volume equate to substantial de facto reductions in emissions and, more importantly, are counter to the growth rates assumed in either the approved SIP or 2007 AQMP. While the growth rates assumed in the SIP or AQMP may resume in future years, it will proceed from a lower baseline than before, and there is no evidence at this time to expect that growth rates will accelerate to regain the projected emission levels included in either the approved SIP or 2007 AQMP for the years addressed in this evaluation.

The most recent emission inventory for the Port of Los Angeles is for the 2008 calendar year (POLA 2009), which indicates that the Port of Los Angeles NOx emissions averaged 2 tons per 1000 TEUs. The 2009 container volume was 20 percent below the 2006 volume, representing a reduction of over 1.7 million TEUs and a reduction of 3,400 tons of NOx per year. This substantial reduction in container volumes would more than compensate for the entire Federal action emissions of roughly 217 tons of NOx over the six years of construction.

Lastly, the increase in construction emissions due to the Project is a nominal portion of the total baseline emissions for the 2007 AQMP emissions inventories and will result in a minimal impact to ambient air quality in the SCAB.

Based on the foregoing reasons, SCAQMD has concluded (Attachment D) that the emissions from the Federal action addressed herein would be accommodated by the proposed 2007 SIP revision and that that SIP revision may be relied on by the USACE to make a positive general conformity determination. Therefore, the Federal action conforms to the approved SIP through the SCAQMD's written commitment for a SIP revision and satisfies the conformity demonstration requirement under 40 C.F.R. § 93.158(a)(5)(i)(B).

-Deleted Tables 5-1 and 5-2.

- Deleted Sections 5.2.1.2 through 5.2.1.5
  ~~5.2.1.2 Comparison of Project Emissions with 2007 AQMP Budgets~~
  ~~If the 2007 AQMP (e.g., reasonable further progress schedules, attainment and~~

~~maintenance demonstrations, and contingency measures) were to be approved by EPA as the applicable SIP, the general conformity regulations would require evaluating the total of direct and indirect emissions for the Federal action for the mandated attainment year for a severe-17 nonattainment area (2021), the year of maximum project emissions (2009), and any years for which the SIP identifies an emissions budget (40 C.F.R. § 51.859(d)). Because the construction would finish well before 2021, there is no analysis of emissions for that year in this evaluation. For the years of construction planned under the Federal action, the applicable emission budgets in the 2007 AQMP include 2010, 2011, and 2014.~~

~~Table 5-3 summarizes the comparison of estimated NOx emissions from construction activities under the Federal action to the applicable source types under the 2007 AQMP for the years noted in Table 3-2 above. It should be noted that the emissions for those source types taken from the 2007 AQMP may represent more than construction-related emissions since these source types are not exclusive to construction equipment and activities. Because the AQMP for the SCAB has to accommodate many planned and some unplanned construction projects, the construction-related emissions inventories included in the AQMP are very substantial. Despite the fact that the Federal action would require a substantial program of construction, one can note that its emissions would be very small compared to the emissions inventories in the AQMP (i.e., less than 0.12% relative contribution). For that reason, it is reasonable to assume that the emissions from construction activities under the Federal action can be accommodated in future emissions growth from the construction sector within the 2007 AQMP. Therefore, it can be inferred that the construction-related NOx emissions for the Federal action, taken together with NOx emissions for all other construction sources in the SCAB, would not exceed the NOx emissions budgets for construction-related source types specified in the 2007 AQMP (SCAQMD 2007).~~
~~Table 5-3~~

~~5.2.1.3 Port Growth Included in Regional Transportation Plans~~
~~As provided by law (California Health and Safety Code sections 40464, 40465), SCAG develops the activity factors (growth rates) that are used to develop the emission inventories used in air quality plans for Los Angeles County and the SCAB. In addition, SCAG's 2004 Interim Regional Transportation Plan (RTP) growth projections used in the development of the 2007 AQMP and the 2008 RTP directly incorporated the projected transportation-related emissions growth from POLA projects into its regional assessment (SCAG 2007). While the temporary construction emissions from the Project were not included in the 2007 AQMP as a line item, SCAG included the emissions as a component of its County- and Basin-wide construction growth projections that were used in the 2007 AQMP. The projected growth rates developed by SCAG for the 1997 and 2007 AQMPs and associated RTPs are not tied to specific construction categories but to the overall projected change in construction activities for County and Basin levels. SCAG has affirmed that the respective growth rates for POLA construction activity were incorporated in each of the RTPs (SCAG 2007).~~

~~5.2.1.4 Recession-Induced Emission Reductions at the Ports~~

~~The current economic recession has produced lower cargo handling activities at the Ports of Los Angeles and Long Beach. This economic downturn has provided temporary emission reductions that will "offset" near-term increases in construction emissions from the proposed Federal action. Annual Port of Los Angeles container volume dropped each calendar year since the peak in 2006 of 8,469,853 twenty-foot equivalent units (TEUs) (POLA 2009). By 2008, container volume had dropped by more than 600,000 TEUs/year from 2006, approximately a 7 percent reduction (POLA 2009). The 2009 container volume to-date (January through July) is almost 16 percent below the 2008 volume and almost 19 percent below the 2006 volume for the same time period (POLA 2009). These reductions in container volume equate to substantial reduction in emissions and, more importantly, are counter to the growth rates assumed in either the approved SIP or 2007 AQMP.~~

~~The most recent emission inventory for the Port of Los Angeles is for the 2007 calendar year (POLA 2008), which indicates that the Port of Los Angeles NOx emissions averaged 2.2 tons per 1000 TEUs. If the 2009 container volume remains at 19 percent below the 2006 volume, this would represent a reduction of over 1.6 million TEUs and a reduction of 3,540 tons NOx per year. The container volumes at the Ports are not expected to grow again until after 2010. This substantial reduction in container volumes would more than compensate for the entire Federal action emissions of roughly 220 tons over the six years of construction.~~

~~5.2.1.5 State SIP Revision~~

~~In the general conformity regulations, at 40 C.F.R. 51.858(a)(5)(i)(B), the State can incorporate a specific project's emissions into the SIP via a SIP revision. Such a SIP revision would include:~~

~~(1) a specific schedule for adoption and submittal of a revision to the SIP which would achieve the needed emission reductions prior to the time emissions from the Federal action would occur; (2) identification of specific measures for incorporation into the SIP which would result in a level of emissions which, together with all other emissions in the nonattainment or maintenance area, would not exceed any emissions budget specified in the applicable SIP; (3) a demonstration that all existing applicable SIP requirements are being implemented in the area for the pollutants affected by the Federal action, and that local authority to implement additional requirements has been fully pursued; (4) a determination that the responsible Federal agencies have required all reasonable mitigation measures associated with their action; and (5) written documentation including all air quality analyses supporting the conformity determination.~~

~~Short of a written document from the State, the 2007 AQMP meets all of the requirements laid out above. The Federal action, through growth projections for Port of Los Angeles projects, were included in the 2007 AQMP, which represents~~

~~a SIP revision incorporating the project. The 2007 AQMP includes all of the necessary elements for the requested redesignation to "extreme" nonattainment classification for the 8-hour ozone NAAQS (74 FR 43654). Therefore, the Federal action conforms to the approved SIP through the 2007 AQMP SIP revision and satisfies the conformity demonstration requirement under 40 C.F.R. 51.858(a)(5)(i)(B).~~

- Section 5.2.2, 1st paragraph, changed last sentence (Page 5-6):
  However, these future construction and operational emissions will remain subject to the continuing program responsibility of LAHD, as the local agency with lease and development control over projects in the Port of Los Angeles, and numerous CEQA-related mitigation measures, including many focused on limiting air emissions, will have to be implemented, maintained, and monitored pursuant to ~~an~~ *the* MMRP in ~~a~~ *the* certified Final EIR for these actions *(see Section 2.1 for further discussion)*.

- Section 6, 1st paragraph, minor revisions in paragraph (Page 6-1):
  As part of a conformity evaluation, it may be necessary for the Federal agency to identify mitigation measures and mechanisms for their implementation and enforcement. For example, if a Federal action does not initially conform to the applicable SIP, mitigation measures could be pursued. If mitigation measures are used to support a positive conformity determination, the Federal agency must obtain a written commitment from the entity required to implement these measures *prior to a positive conformity determination*, and the Federal agency must include the mitigation measures as conditions in any permit or license granted for the Federal action (40 C.F.R. § 93.160). Mitigation measures may be used in combination with other criteria to demonstrate conformity. The Federal action, as evaluated herein, assumes various air quality mitigation measures as described in the *Final* EIS/EIR (USACE/LAHD ~~2008 and~~ 2009) to meet CEQA requirements are part of the Project. Based on CEQA provisions that mitigation measures be required in, or incorporated into, the project (14 C.C.R. § 15091(a)(1)), ~~the City~~ *LAHD* will implement, maintain, monitor, and enforce these CEQA-related air quality mitigation measures pursuant to the MMRP, which ~~will be~~ *are* included in the certified Final EIR~~for the Project~~; see Section 2.1 for more information on the CEQA-related mitigation measures. The USACE recognizes the LAHD, as the local responsible agency, will implement, maintain, monitor, and enforce numerous mitigation measures, including many focused on limiting air emissions, as required by a certified Final EIR; however, the USACE lacks continuing program responsibility, control, and enforcement capability over mitigation measures not related to project construction activities in or over water as well as those continuing after construction activities in and over water are completed. *Because the USACE has determined that the Federal action, which incorporates the above-mentioned CEQA-related mitigation measures as design features of the Project, will conform to the Clean Air Act*, no mitigation, as defined under the general conformity regulations (40 C.F.R. § 93.160) or guidance (EPA 1994), are required to support a positive general conformity determination.

- Section 7, changed various sentences in 1st three paragraphs (Page 7-1):

  To support a decision concerning the Federal action, the USACE is issuing this *final*~~draft~~ general conformity determination for public *disclosure purposes*~~ review and comment. The USACE will also make public its final general conformity determination for this action~~.

  7.1 Draft General Conformity Determination

  The USACE ~~is providing~~ *provided* copies of the draft general conformity determination to the appropriate regional offices of EPA, any affected Federal land manager, as well as to CARB, SCAQMD, and SCAG for a 30-day review. The USACE ~~is~~ also ~~placing~~ placed a notice in a daily newspaper of general circulation in the SCAB announcing the availability of the draft general conformity determination and requesting written public comments for a 30-day period.

  7.2 Final General Conformity Determination

  The USACE ~~will provide~~ *is providing* copies of the final general conformity determination to the appropriate regional offices of EPA, any affected Federal land manager, as well as to CARB, SCAQMD, and SCAG, within 30 days of its promulgation. The USACE ~~will~~ *is* also ~~place~~ *placing* a notice in a daily newspaper of general circulation in the SCAB announcing the availability of its final general conformity determination within 30 days of its promulgation. As part of the general conformity evaluation, the USACE ~~will document~~ *has documented* its responses to all comments received on the draft general conformity determination and will make both the comments and responses available upon request by any person within 30 days of the promulgation of the final general conformity determination.

- Section 7.2, changed section title and 1st paragraph (Page 7-1):
  7.3 ~~Frequency~~ Reevaluation of General ~~Conformity Determinations~~
  The general conformity regulations state that~~ the status of~~ *once* a~~ specific~~ conformity determination *is completed, that determination is not required to be reevaluated if the responsible Federal agency has maintained a continuous program to implement the action, the determination has not lapsed, or any modification to the Federal action does not result in an increase in emissions above the de minimis emission rates (40 C.F.R. § 93.157(a)). The conformity status of a Federal action automatically* lapses five years~~ after~~ *from* the date~~ of public notification for the~~ *a* final general conformity determination *is reported*, unless the *Federal* action has been completed or a continuous program~~ has been~~ *to implement the Federal action has* commenced~~ to implement the action~~ (40 C.F.R. § 93.157(b)). Because the Federal action envisions a development program extending beyond five years, it is important to note that the final general conformity determination will remain active only under this "continuous program to implement.

- Section 8, changed 1st paragraph (Page 8-1):
  As part of the environmental review of the Federal action, the USACE conducted a general conformity evaluation pursuant to ~~SCAQMD Rule 1901 and~~ 40 C.F.R. Part ~~51~~ *93* Subpart ~~W~~ *B*. The general conformity regulations apply at this time to any action at POLA requiring USACE approval because the SCAB where POLA is situated is a nonattainment area for O_3, PM_{10}, and $PM_{2.5}$; and a maintenance area for NO_2 and CO. The USACE conducted the general conformity evaluation following all regulatory criteria and procedures and in coordination with EPA, CARB, ~~and~~ SCAQMD*, and SCAG*. The USACE proposes that the Federal action as designed will conform to the ~~approved SIP~~ *SIP's purpose of eliminating or reducing the severity and number of violations of the NAAQS and achieving expeditious attainment of such standards*, based on the findings below:

- Section 8, changed 2nd paragraph (1st bullet) (Page 8-1):
  The Federal action is not subject to a general conformity determination for CO, VOC (as an O_3 and $PM_{2.5}$ precursor), NO_x (as a $PM_{2.5}$ precursor), PM_{10}, $PM_{2.5}$, or SO_x (as a $PM_{2.5}$ precursor) because the net emissions associated with the Federal action are less than the general conformity de minimis thresholds ~~and they are not regionally significant~~.

- ~~Section 8, deleted 3rd paragraph (2nd bullet) (Page 8-1):~~
  ~~– The Federal action conforms to the SIP for NOx (as an O3 precursor) because the net emissions associated with the Federal action, taken together with all other NOx emissions in the SCAB, would not exceed the emissions budgets in the approved SIP for the years subject to the general conformity evaluation.~~

- Section 8, changed 4th paragraph (3rd bullet) (Page 8-1):
  The Federal action, along with all ~~of~~ *activity at* the Port of Los Angeles ~~projects, were included~~, *is addressed* in the 2007 AQMP, which represents a *proposed* SIP revision *for the 1997 eight-hour O_3 NAAQS* incorporating the ~~p~~*P*roject. The 2007 AQMP includes all of the necessary elements for the requested redesignation to "extreme" nonattainment classification for the eight-hour O_3 NAAQS (74 FR 43654)*, and EPA has granted that request*. Therefore, the Federal action conforms to the approved SIP through the 2007 AQMP *proposed* SIP revision and satisfies the conformity demonstration requirement under 40 C.F.R. 93.158(a)(5)(i)(B).

- Section 8, changed last paragraph (Page 8-1):
  Therefore, USACE herewith concludes that the Federal action as designed conforms to the purpose of the ~~approved~~ SIP, and it is consistent with all applicable requirements.

- Section 9, added the following references (Pages 9-1 through 9-3):

  40 C.F.R. Part 93 Subpart A. Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Laws.

40 C.F.R. Part 93 Subpart B. Determining Conformity of General Federal Actions to State or Federal Implementation Plans.

58 FR 13846. Determining Conformity of General Federal Actions to State or Federal Implementation Plans. Notice of Proposed Rulemaking. March 15, 1993.

58 FR 63241. Determining Conformity of General Federal Actions to State or Federal Implementation Plans. Final Rule. November 30, 1993

64 FR 19916. Approval and Promulgation of Implementation Plans for Arizona and California; General Conformity Rules. April 23, 1999.

75 FR 17254. Revisions to the General Conformity Regulations; Final Rule. April 5, 2010.

75 FR 24409. Designations of Areas for Air Quality Planning Purposes; California; San Joaquin Valley, South Coast Air Basin, Coachella Valley, and Sacramento Metro 8-Hour Ozone Nonattainment Areas; Reclassification. May 5, 2010.

Los Angeles Harbor Department (LAHD). 2009. Mitigation Monitoring and Reporting Program – San Pedro Waterfront Project, Environmental Impact Report (EIR). September. Web site: http://www.portoflosangeles.org/EIR/SPWaterfront/FEIR/Draft_MMRP.pdf .

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Starcrest Consulting Group, LLC. 2007. Port of Los Angeles Inventory of Air Emissions – 2005. September.

- Revised Attachment A – Port of Los Angeles San Pedro Waterfront Federal Action General Conformity Calculation Methodology and Results: Changed all construction period dates to be consistent with the text and assumptions of this final general conformity determination, that construction now occurs between 2011 and 2016.

- Added Attachment D - Determination from SCAQMD that San Pedro Waterfront Federal Action Conforms to the SIP.

- Added Attachment E - Listing of Changes Made to the Draft General Conformity Determination.