



November 8, 2017

Damian Breen
Deputy Air Pollution Control Officer
Bay Area Air Quality Management District
375 Beale Street, Suite 600
San Francisco, CA 94105

Subject: BAAQMD November 3, 2017 Letter ("BAAQMD Letter") Regarding Ordinance and Resolution to approve Lease with CenterPoint-Oakland Development I, LLC for a Transload and Distribution Facility on the Former Oakland Army Base

Dear Mr. Breen,

Thank you for your letter regarding Agenda Item 5.1 on the November 9, 2017 Board meeting. Port staff have reviewed the letter in detail and have provided a response to each comment. Our review confirms that the Port is in compliance with the requirements of the Standard Conditions of Approval/Mitigation Monitoring and Reporting Program (SCA/MMRP) prepared by the City of Oakland for its 2012 OAB Project Initial Study/Addendum and adopted by the Board of Port Commissioners in 2012. As you know from our ongoing Port-BAAQMD-City of Oakland Working Group, the Port is committed to working with the BAAQMD and CARB to identify additional emissions reduction strategies to further reduce health risk and emissions through, among other means, identifying feasible, readily available, and cost effective technologies.

In the attached copy of the BAAQMD Letter, the Port has assigned a number to each BAAQMD comment; the responses corresponding to each number are shown below.

1. The Port has already developed and funded emissions reduction programs identified in the Oakland Army Base (OAB) Environmental Report (EIR) SCA/MMRP, and continues to do so consistent with the schedule for implementation shown in the SCA/MMRP. For this reason, there is no requirement or justification for the Board to postpone the approval of the CenterPoint Lease as BAAQMD has requested. As background, the City of Oakland certified the OAB EIR and adopted mitigation measures in 2002 to redevelop the OAB, including logistics facilities, such as warehouses. The Board of Port Commissioners adopted its Maritime Air Quality Improvement Plan ("MAQIP") in 2009, following extensive stakeholder participation. The MAQIP sets a goal of reducing diesel particulate matter ("DPM") by 85% from 2005 levels by 2020. Following its adoption of the 2002 OAB EIR and then the MAQIP, the Port developed, funded, and implemented specific programs to reduce air quality impacts from operations at the Port. Between 2005 and 2015, the Port reduced total DPM emissions at the Oakland Seaport, including from trucks, locomotives, cargo handling equipment, ocean going vessels, and harbor craft, by 76 percent. During the same period, SO_x emissions were reduced by 90 percent, total PM by 74 percent, NO_x by 17 percent, and CO by 28 percent. Examples of measures implemented by the Port are a \$5 million contribution to a grant program to upgrade

and replace the oldest trucks operating at the Port and a project to construct a power grid that ships can plug into at berth rather than run auxiliary diesel engines.

2. CEQA requires adoption and implementation of “feasible” mitigation measures (Section 21002.1 of the Public Resources Code); feasibility is defined in CEQA as “capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors” (Section 21061.1). Both the SCA/MMRP and MAQIP were developed with extensive stakeholder input. The MAQIP Task Force of community and other stakeholders was an indispensable part of the plan development. The Port has started a process to reconvene the MAQIP Task Force in early 2018 and begin addressing post-2020 air emissions reduction strategies and targets. The Task Force will provide the public forum for reviewing and considering feasible, readily available and cost-effective measures.
3. As discussed in Response #1, the Port has already developed emission reduction programs for Mitigation Measures 4.4-3a and 4.4-4. The Port is moving forward at the appropriate time with additional mitigation measures; see Response #4.
4. The SCA/MMRP includes a schedule component that states when a particular mitigation measure is required to be implemented; this schedule is based on the timing of impacts from new development. Table 1 lists the mitigation measures cited in your letter, when the SCA/MMRP requires implementation for each, and the current status.

Table 1. Status of Select SCAs/MMRPs		
SCA/Mitigation Measure	Schedule	Status
MM 4.4-3a (air emissions reduction program for maritime and rail operations)	Prior to starting operations	Air emissions program previously developed, funded, and under implementation. MAQIP Task Force to be reconvened in late Fall 2017-Winter 2018 to review and consider additional emissions reduction strategies.
MM 4.4-4 (truck diesel emissions reduction program)	Prior to operations	The Maritime Comprehensive Truck Management Program (CTMP.) The CTMP is already developed, funded, and under implementation.
MM 4.4-5 (recommended Transportation Control Measures [TCMs])	Prior to operations	Many individual measures, such as preferential parking for carpools, are responsibility of the developer to implement. CenterPoint lease requires compliance with all applicable MMS and SCAs, including MM 4.4-5, and the Port will coordinate with CenterPoint on incorporating and implementing appropriate TCMs. The Port and the City are jointly evaluating the feasibility and implementation approach for TCMs such as shuttle to and from West Oakland BART station.

Table 1. Status of Select SCAs/MMRPs		
SCA/Mitigation Measure	Schedule	Status
MM 4.4-6 (energy-conserving new construction)	Prior to issuance of a demolition, grading, or building permit	Measure addresses compliance with Title 24 of the Building Code regarding use of energy-conserving fixtures and designs. In addition, the CenterPoint lease includes specific energy efficiency requirements as well as compliance with LEED 2009 Core and Shell certification requirements (See Exhibit E to Agenda Item 5.1). LEED addresses energy and water efficiency, waste reduction, indoor air quality, materials and resources, and sustainable site management. Energy efficiency and LEED features will be incorporated into building/site design prior to issuance of a grading or building permit; their implementation will be verified during the construction monitoring process.
MM 5.4-1 (encourage, lobby, and potentially participate in emission reduction demonstration projects)	Pre-operations; operations	Since 2002, the Port has participated in emission reduction demonstration projects, some of which provided the foundation for the Port's broader emissions reduction programs. These include the 2007 LNG Trucks (Clean Air Logix), funded through V2K Air Quality Mitigation Program; the 2008 Alternative Shore Power System "Proof of Concept" (with Clean Air Logix); and the current GSC Logistics electric truck pilot. The Port is also working actively with BAAQMD to identify future emission reduction demonstration projects, such as the seven emissions reduction measures the Port proposed to the BAAQMD on October 18, 2017.
SCA GCC-1 (develop a GHG reduction plan)	Prior to approval of PUD	The Port will not have a PUD at the OAB and has interpreted the schedule to require completion of the GHG reduction plan prior to issuance of a building permit. The CenterPoint lease requires compliance with all applicable SCAs and MMs, including SCA GCC-1. A GHG reduction plan will be prepared for review, approval, and implementation for this project.

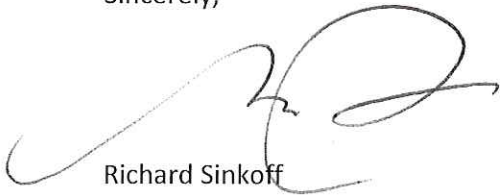
5. Note that none of the mitigation measures in the SCA/MMRP use the terms "readily available" or "cost effective." As noted in Response #2, CEQA requires implementation of feasible mitigation measures, which are capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors. The Port is working with BAAQMD on identifying feasible, readily available and cost effective strategies to reduce air emissions and submitted its first tier to the BAAQMD on October 18, 2017.
6. As noted above, the Port has developed, funded, and implemented extensive programs to reduce air emissions from the Seaport. The Port is moving forward on mitigation in compliance with the SCA/MMRP requirements and schedule. The proposed CenterPoint Lease requires the developer to comply with the SCA/MMRP. After the execution of the Lease, the developer must implement

applicable measures. Parallel to the Port's complying with the SCA/MMRP, the Port is working with BAAQMD to evaluate and identify feasible, readily available, and cost effective strategies, including potential zero and near-zero emission equipment, to further reduce air emissions. It should be noted that the SCA/MMRP mitigation measures do not specifically require zero or near-zero emission equipment, but were developed to provide flexibility to identify and implement the most effective measures over time. The Port values public input and will use the reconvened MAQIP Task Force to provide a public forum to review and consider feasible, readily available and cost-effective measures.

7. The Port fully shares the BAAQMD's commitment to continuously improve air quality and public health in West Oakland. We appreciate the acknowledgment of both Port and non-Port sources as contributors and solutions to public health concerns. As we have been discussing in our regular collaborative meetings with BAAQMD and CARB, we understand fully that grant monies are becoming available and we welcome the Air District's offer of assistance to current and prospective tenants and operators at the Port and the OAB to identify projects, partners and resources.
8. The Port takes great pride in diligent implementation of its mitigation commitments on behalf of the community and the environment. This is affirmed in our strategic plan as a guiding principle for all Port activities. The Port is committed to working closely with Port tenants and operators to fulfill all obligations of the SCA/MMRP. In addition, we seek opportunities to encourage tenants to go above and beyond requirements, consistent with our MAQIP emission reduction strategy. We look forward to working with BAAQMD to achieve further reductions in a cost-effective and feasible manner.

In closing, we appreciate the Air District's support for the Port's economic development and workforce efforts as embodied in the CenterPoint Lease. As our response letter herein explains, the Port has adopted and implemented air emission reduction programs pursuant to both the SCA/MMRP and the Port's adopted MAQIP. Looking forward, the Port is committed to working with BAAQMD and CARB toward adopting feasible, readily available, and cost effective measures for both health risk and greenhouse gas reductions. Please contact Andrea Gardner, Associate Port Environmental Planner/Scientist at 510-627-1181 if you have any questions. I also welcome hearing from you with any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Richard Sinkoff', with a large, stylized flourish extending from the end of the signature.

Richard Sinkoff
Director of Environmental Programs & Planning

Port of Oakland



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Connect with the
Bay Area Air District:



November 3, 2017

Joan H. Story
President, Board of Port Commissioners
Port of Oakland
30 Water Street
Oakland, CA 94607

Subject: Ordinance and Resolution to approve Lease with CenterPoint-Oakland Development I, LLC for a Transload and Distribution Facility on the Former Oakland Army Base

Dear Ms. Story and Members of the Board of Port Commissioners (Board):

The Bay Area Air Quality Management District (Air District) has reviewed Agenda item 5.1 on your November 9, 2017 meeting and is requesting that the Board:

- Delay approval of any resolution or ordinance on this item until the Port of Oakland (Port) has developed and funded the emission reduction programs (in concert with the City of Oakland (City)) identified by the former Oakland Army Base (OAB) Environmental Impact Report (EIR) Standard Conditions of Approval/Mitigation Monitoring and Reporting Program (SCA/MMRP); and
- Developed criteria via a public process to determine when low emission equipment or strategies are "readily available" or "cost effective."

As currently drafted, Agenda item 5.1 seeks to authorize the Port of Oakland (Port) Executive Director to enter a ground lease with CenterPoint-Oakland Development I, LLC, (the Developer) for the design, construction, finance, operation, and maintenance of a transload and distribution facility (Project). The proposed Project seeks to build a 440,800-square foot facility with approximately 140 dock doors, and parking for 365 autos and 70 trailers for warehouse, storage, other maritime trade and logistics uses. The proposed location is approximately 27 acres at the former Oakland Army Base (OAB) land the Port has named the Seaport Logistics Complex.

As stated in the Board's Agenda Report, this and any project on the former OAB is required to comply with the OAB Environmental Impact Report (EIR) Standard Conditions of Approval/Mitigation Monitoring and Reporting Program (SCA/MMRP). As you may recall, the SCA/MMRP was adopted by the Oakland City Council (City) and the Port to mitigate the significant health and air quality impacts expected to occur in the West Oakland community and impacts to regional air quality resulting from the build out of the OAB. However, many the SCA/MMRPs require the City and the Port to develop emission reduction programs that have not been developed, such as:

- MM 4.4-3a: "The Port shall develop and implement a criteria pollutant reduction program aimed at reducing or off-setting Port-related emissions in West Oakland from its maritime and rail operations to less than significant levels..."
- MM 4.4-4 "The City and the Port shall jointly create, maintain and fund on a fair share basis, a truck diesel emission reduction program. The program shall be sufficiently funded to strive to reduce redevelopment related contributions to local West Oakland diesel emissions to less than significant levels"
- MM 4.4-5: "Major developers shall fund on a fair share basis BAAQMD – recommended feasible Transportation Control Measures (TCMs) for reducing vehicle emissions from commercial, institutional, and industrial operations, as well as all CAP [Clean Air Plan] TCMs the BAAQMD has identified as appropriate for local implementation" ④
- MM 4.4-6: "...the City and Port shall implement sustainable development policies and strategies related to new development design and construction..."
- MM 5.4-1: "The City and the Port shall encourage, lobby, and potentially participate in emission reduction demonstration projects that promote technological advances in improving air quality..."
- MM GCC-1: "The project applicant shall retain a qualified air quality consultant to develop a Greenhouse Gas (GHG) Reduction Plan for City review and approval. The applicant shall implement the approved GHG Reduction Plan..."
- Some of the mitigation measures include language that would require emission reduction actions only if low emission equipment or strategies are "readily available" or "cost effective". ⑤

To date, neither the City nor the Port has developed or funded the emission reduction programs identified above or developed any criteria to determine when low emission equipment or strategies are "readily available" or "cost effective." The Air District recommends that the Port develop the emission reduction programs and guidance identified above in a forum that seeks public input prior to acting on this Project. The Air District believes that any resolution adopted by the Board relative to this project should include clear language and direction to staff and the proposed tenants/operators that ensures the maximum use of zero and near zero emission equipment at the time of building permit issuance, and requires upgrades into the future as fully zero emissions equipment options become available. ⑥

To assist the Board, City and Port in determining what is "readily available" or "cost effective," the Air District has attached its draft "BAAQMD Emissions Reductions Actions for the Port of Oakland/Former Oakland Army Base," (August 2017) document. The Air District is currently finalizing this document in consultation with both Port and City staff and expects some minor changes to it based on those discussions. However, the technology suggestions in this document

have been reviewed by the California Air Resources Board and represent what the Air District believes to be most protective of community health and air quality relative to equipment that is currently and reasonably available.

↑ ⑥

West Oakland remains the most disproportionately impacted community in the Bay Area due in part to its proximity to the Port. Since 2001, the Air District has invested over 80 million dollars of public funds to reduce diesel particulate matter (DPM) emissions from Port truck, maritime and rail operations and over \$50 million to reduce emissions on adjacent highways. In 2018, the Air District projects another approximately \$70 million dollars in incentive funds will be available for the purchase of zero and near zero emission equipment and technologies that could be used at the Port and OAB. The Air District stands ready to assist current and prospective tenants/operators at the Port and OAB in taking advantage of these funds.

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However, these incentives alone cannot address the air quality related health issues in the West Oakland community. It is important that the Board play a leadership role in reducing the impacts of the Port's operations by directing its staff to honor the spirit and letter of the mitigation measures required in the SCA/MMRP. This includes specifying requirements for zero and near zero equipment and operations as part of new leases and ordinances.

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Air District staff is available to assist the Board or Port staff with questions about these comments. If you have any questions, please contact Alison Kirk, Senior Planner, at (415) 749-5169 or akirk@baaqmd.gov.

Sincerely,



Damian Breen
Deputy Air Pollution Control Officer

Attachment: BAAQMD Emissions Reductions Actions for the Port of Oakland/Former Oakland Army Base – Draft Document (August 2017)

cc: BAAQMD Director Pauline Russo Cutter
BAAQMD Director Scott Haggerty
BAAQMD Director Rebecca Kaplan
BAAQMD Director Nate Miley
Cynthia Marvin, California Air Resources Board
Claudia Cappio, City of Oakland
Richard Grow, EPA
Matt Lakin, EPA
Ben Machol, EPA