

# SCHOTT & LITES

A D V O C A T E S

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TO: All Members, Assembly Committee on Transportation

FROM: Tim Schott, California Association of Port Authorities (CAPA)

RE: **SB 764 (Lowenthal) – OPPOSE (6/19)**

DATE: June 19, 2006

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On behalf of the California Association of Port Authorities, which is comprised of the state's eleven publicly-owned, commercial deep water ports, we regretfully oppose SB 764 (Lowenthal). SB 764 requires the Ports of Los Angeles and Long Beach to operate in a manner such that the emissions from port operations do not exceed a 2001 baseline by 2010..

While we commend the intentions of this bill, the ports have no regulatory over vessels, terminal equipment, trains, and trucks – the sources in which almost all of the emissions from port-related operations are produced. Given our lack of jurisdiction and limited ability to improve air quality in a short period of time, our ports will be subject to a number of legal challenges. If unable to achieve the no-net-increase mandate, our ports will likely be sued for violating California law. Alternatively, if our ports try to control the flow of goods to meet the mandate, they will be sued for violating international agreements and federal law or for violating existing contracts with port tenants; tenant contracts are generally long term, 15-30 years, and do not contain limits on the number of ship calls, container movements or truck trips allowed through port facilities.

Most importantly, **we believe important goods movement-related sources will be precluded from receiving bond money for air quality improvements should this bill pass.** The transportation bond proposal, as presented in Chapter 25, Statutes of 2006 (SB 1266, Perata), includes a specific allocation of \$1 billion for emission reductions from activities related to the movement of freight. The bond bill specifies, however, that funds be used only for **“emission reductions not otherwise required by law or regulation”**. If SB 764 is to become law the California Air Resources Board would not be allowed to allocate the bond funds for air quality improvements related to the principal emission sources calling at the Ports of Los Angeles and Long Beach. Not only would our trade economy be devastated by the bill, but the local communities in port areas would not benefit from the important air quality improvement funds included in the transportation bond.

Air quality is an important issue for our industry, as evidenced by the attached list of programs in place at our ports. The Ports of Long Beach and Los Angeles and their tenants continue to make historic progress in the emissions mitigation arena through significant, voluntary air quality improvement programs in which they have embarked.

For example, the Port of Long Beach has entered into a number of *voluntary* “Green Leases”, in which tenants have demonstrated a significant commitment to mitigating environmental challenges at their terminals. To require the ports – local subdivisions of the state – to force certain technologies and practices on nationally- and internationally-regulated entities poses a great threat to the progress we are forging as an industry.

At the Port of Los Angeles, APM Terminals, the port's largest container terminal, just announced a pilot environmental initiative expected to remove nearly 400 tons of vessel-related emissions from the Maersk fleet that calls at the ports of Los Angeles and Oakland. The Port also has committed \$23 million to replace a fleet of 18 harbor locomotives with "clean-diesel" and alternative-fuel locomotives, as well as nearly \$60 million to accelerate the implementation of emission reductions through the utilization of new and cleaner-burning cargo-handling equipment. The California Air Resources Board and APL are moving forward on retrofitting the 4,500-TEU APL Korea container ship with slide valves and use of onboard fuel emulsification technology. Participating with APL are the air pollution control districts from Santa Barbara, Ventura, and San Luis Obispo counties and the Bay Area. Other parties involved include the California Air Resources Board, the Maritime Administration, the U.S. Environmental Protection Agency, and the L.A.-Long Beach ports.

In addition, the California Air Resources Board (ARB) has proven to be a strong leader in combating air emissions. The board this year approved the *Emission Reduction Plan for Ports and Goods Movement (ERP)*, which plans to reduce statewide emissions 20-40% below the 2010 targets for all pollutants, and to reduce South Coast NOx emissions below the preliminary 2015 and 2020 targets for that region (the plan can be viewed at: <http://www.arb.ca.gov/planning/gmerp/gmerp.htm>). The Board in December 2005 also approved regulations for Mobile Cargo Handling Equipment at Ports and Intermodal Rail Yards, and is currently soliciting public comment on a Proposed Regulation to Reduce Emission from Auxiliary Diesel Engines and Diesel-Electric Engines Operated on Ocean Going Vessels, and has produced other reports on cold ironing and port truck mitigation strategies. The ARB, UC Riverside and the Pacific Merchant Shipping Association are also conducting comparative emissions testing of diesel and LNG cargo handling equipment. The ARB deserves an opportunity to implement ERP and its regulations: to legislate a conflicting goal undermines the quality work of ARB staff and the industry which has worked closely with them.

The Ports do not create growth; they respond to it. If growth is limited at our ports, and yet population and other commercial activity continue to grow, goods will likely enter the Los Angeles area via other gateways, traveling greater distances and utilizing dirtier sources of transportation (i.e. trucks). Although vessels are a significant source of pollution, as measured per ton, goods arriving via ship produce fewer emissions than those arriving via truck.

We believe that through working together, California's ports, the international goods movement industry, and state and federal agencies with jurisdiction over mobile sources, can greatly improve air quality without devastating the international trade economy that is fueling much of our state's current economic recovery.

We respectfully request your NO vote on SB 764. Should you have any questions, please do not hesitate to contact Tim Schott at