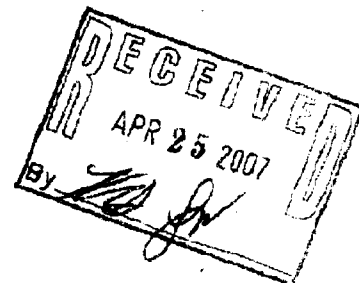




The Port of Long Beach

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April 20, 2007



Honorable Alan Lowenthal
Chair, Senate Transportation and Housing Committee
State Capitol, Room 2032
Sacramento, CA 95814

RE: SB 974 (Lowenthal) - SUPPORT (IF AMENDED)

Dear Senator Lowenthal:

It was a pleasure meeting with you and Mayor Foster recently to discuss SB 974, and conceptually container fees is an issue that we can all agree is important. At the April 16th meeting of the Port of Long Beach Board of Harbor Commissioners, the Board voted to support SB 974, only if amended. The Board's decision is predicated upon your office amending the bill to address the following issues:

1. The bill must require that user fee funds be spent where collected.
2. The bill must allow the use of user fee funds for port-related highway projects, such as the Gerald Desmond Bridge replacement project and the SR47 project.
3. The bill must not restrict the use of user fee funds if Clean Air Action Plan (CAAP) emission reduction goals are not achieved due to circumstances beyond the reasonable control of the Ports.

While the Port is supportive of the goals enumerated in the SB 974 amendments, our concerns are related to the unintended consequences and their broader application. Recently, the South Coast Air Quality Management District (AQMD) adopted bond funding conditions that are similar to the approved amendments in SB 974. Unfortunately, those conditions create a number of obstacles for both the Port and the City of Long Beach in implementing its air quality improvement programs. Those conditions placed similar constraints on the use funds for rail infrastructure projects.

As one example, language regarding rail infrastructure could be interpreted to restrict funding for projects like the Alameda Corridor East if the U.S. Environmental Protection Agency (EPA) failed to promulgate strict and timely locomotive standards. It now appears that EPA will not meet those goals. As a result, if those conditions were adopted many rail mitigation projects important to communities throughout the South Coast Air Basin could be in jeopardy. Again, the Port supports the goals of both the AQMD conditions and the amendments to SB 974, but remains concerned that as worded the amendments hold the Port to a standard that may be beyond its control.



Below please find two alternatives to the language incorporated in the bill:

Alternative Version 1:

(e) On January 1, 2009, and annually thereafter, the Ports of Long Beach and Los Angeles shall report to the commission and the board on the implementation of the most recently approved San Pedro Bay Clean Air Action Plan. Each port shall report to the commission and board on whether the emission reductions for the source specific categories have been achieved by:

- (1) Heavy-duty vehicles.
- (2) Cargo handling equipment.
- (3) Harbor craft.
- (4) Locomotives.

Alternative Version 2:

(e) On January 1, 2009, and annually thereafter, the Ports of Long Beach and Los Angeles shall report to the commission and the board on the implementation of the most recently approved San Pedro Bay Clean Air Action Plan. Each port shall report to the commission and board on whether the emission reduction goals for the source specific categories have been achieved as follows:

- (1) Heavy-duty vehicles by 2012.
- (2) Cargo handling equipment, 2011.

If any of the source specific emission reduction goals have not been met, due to circumstances outside of the control of the ports, the commission shall weigh the Ports' ability to achieve the emission reduction when determining whether to award funding to any project.

The reasons for these necessary amendments to the original language include:

- The CAAP does not estimate emission reductions associated with rail or harborcraft, because of the speculative nature of the emission reductions, and therefore the Ports have no control over these sources.
- While rail emission reductions are not quantified (with the exception of Pacific Harbor Line), the rail measures are dependent on EPA regulatory action.
- The California Environmental Quality Act (CEQA) will ensure that all projects are mitigated. As described in the CAAP, CAAP measures will be incorporated into each CEQA document and subsequent lease.
- The CAAP is dependent on lease requirements and, hence, project approvals. If a project is delayed (i.e. Middle Harbor), the Port will be unable to meet the emission reduction goals outlined.
- Some events are beyond the Ports control. Pacific Harbor Line's (PHL) agreement, which is included in the CAAP, requires the use of emulsified diesel fuel. Unfortunately, the vendor has removed the product from the market as of January 1, 2007. As a result, we will not be able to achieve all the emission reductions described for PHL.
- The Port faces serious litigation challenges that may take years to resolve and may tie-up programs like Heavy Duty Vehicle-1 and prevent implementation or, potentially much worse, courts may rule against the Port.

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- Emission reductions associated with low sulfur, distillate marine fuels are dependent on the fuel availability. If the fuel availability study being conducted jointly by California Air Resources Board (CARB) and the ports reveal insufficient fuel to meet our demands, the Port would not meet its estimated emission reductions.

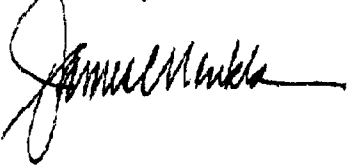
The Port of Long Beach is committed to improving air quality in the greater Long Beach and Los Angeles metropolitan area and has voluntarily developed a number of aggressive programs aimed at significantly reducing emissions. As you may know, the Ports of Long Beach and Los Angeles are being studied and emulated by national and international ports in regards to our programs. We are proud that our dedication to these goals has resulted in the Ports becoming the standard for environmentally-friendly Port operations.

The Board is prepared and willing to work with you, Mayor Bob Foster and members of the Long Beach City Council to amend SB 947 in an effort to collectively develop a bill that addresses air quality and congestion challenges, ultimately benefiting the region, state and nation.

Thank you for your consideration and leadership. We will continue to monitor the bill as it moves through the legislative process. Should you have any questions, please do not hesitate to contact me or Dick Steinke, our Executive Director, at 562-590-4100.

We look forward to discussing these conditions with you further.

Respectfully,



James C. Hankla
President

cc: Long Beach Board of Harbor Commissioners
Members of the California Senate Environmental Quality Committee
The Honorable Jenny Oropeza, California State Senate
The Honorable Edward Vincent, California State Senate
The Honorable Betty Karmette, California State Assembly
The Honorable Laura Richardson, California State Assembly
The Honorable Mervyn Dymally, California State Assembly
The Honorable Bob Foster, Mayor, City of Long Beach
Honorable Members of the City Council, City of Long Beach
Mr. Gerald R. Miller, City Manager, City of Long Beach
Mr. Anthony Gonsalves, Sacramento Advocate, Port of Long Beach