



BAY AREA  
AIR QUALITY  
MANAGEMENT  
DISTRICT

April 10, 2018

Paul Cort  
EARTHJUSTICE  
50 California Street  
San Francisco, CA 94111

Subject: EARTHJUSTICE Letter of December 8, 2017 Regarding the West Oakland Title VI Administrative Complaint and Subsequent Meeting on February 7, 2018.

Dear Mr. Cort:

Bay Area Air Quality Management District (Air District) staff has reviewed the list of recommended strategies that EARTHJUSTICE has developed to reduce toxic air contaminants (TAC) and particulate matter (PM) emissions in the West Oakland community on behalf of the West Oakland Environmental Indicators Project (WOEIP). As we discussed at our meeting on February 7, 2018, Air District staff overall supports the recommended strategies with a few minor modifications to some of the recommendations. We have provided our recommended modifications, in **bold** and *italic* text, in the list of strategies EARTHJUSTICE provided in the attachment to this letter.

The Draft Environmental Impact Report (DEIR) for the Oakland Army Base (OAB) identified significant air quality impacts associated with the proposed development of the property. In approving the OAB project, both the City of Oakland and Port of Oakland adopted a comprehensive list of mitigation measures that would be required of new development to reduce the air quality impacts from this project in the West Oakland community. As you are aware, the West Oakland community is the most disproportionality impacted community for TACs and PM in the Bay Area, and the location of substantial efforts by the Air District to reduce public exposure to these pollutants. Air District staff believes that all the recommended strategies you have identified are technically feasible to implement and are consistent with the requirements of the Mitigation Monitoring and Reporting Program for the OAB DEIR and the requirements listed in the Lease Disposition and Development Agreement for the City's portion of the OAB.

Air District staff is available to discuss any of our suggested edits to the list of recommended strategies and we look forward to working with EARTHJUSTICE, WOEIP, the City of Oakland and the Port of Oakland in the implementation of these and other emission reduction strategies. The Air District has available grant funding available to assist with the projects proposed in this letter and is happy to work with the City, Port and local community to determine how these funds could

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be applied to reduce emissions and health risk in West Oakland. If you have any questions please contact Dave Vintze, Air Quality Planning Manager, at 415-749-5179, or at [dvintze@baaqmd.gov](mailto:dvintze@baaqmd.gov).

Sincerely,



Damian Breen  
Deputy Air Pollution Control Officer



Gregory Nudd  
Deputy Air Pollution Control Officer

cc: BAAQMD Director Pauline Russo Cutter  
BAAQMD Director Scott Haggerty  
BAAQMD Director Rebecca Kaplan  
BAAQMD Director Nate Miley  
Libby Schaff, Mayor, City of Oakland  
Cynthia Marvin, California Air Resources Board  
Ryan Fitzpatrick, U.S. DOT  
Ericka Farrell, U.S. EPA  
Darin Ranelletti, City of Oakland  
Chris Lytle, Executive Director, Port of Oakland

## ATTACHMENT

(The list of strategies outlined below were developed by EARTHJUSTICE and contained in a letter to federal agencies to resolve the Title VI Administrative Complaint between WOEIP and the City of Oakland and Port of Oakland. Air District staff were asked by WOEIP and EARTHJUSTICE to review the list of strategies and assesses their feasibility of implementation and effectiveness in reducing air pollution from future development at the Oakland Army Base on the West Oakland Community. Air District staff responses are immediately below each numbered strategy in “bold” and “*italic*” text.)

### Actions for Addressing West Oakland Civil Rights Complaint

#### The Port of Oakland Must Move to Zero-Emissions

State and local air agencies in California have acknowledged the need to move our freight system to zero-emissions in order to reduce air toxics, achieve air quality standards, and meet our greenhouse reduction targets. The Ports of Los Angeles and Long Beach, led by the mayors of those cities, have embraced zero-emission goals as part of their long-term Clean Air Action Plan. Yet the City and Port of Oakland continue to focus on emission reduction targets that are based on outdated health risk assessment data and that are no longer adequate to address the health crisis in the surrounding community. A true vision for addressing the legacy of the Port’s pollution must start with the goal of zero emissions from all Port equipment and the mobile sources that serve the Port. The following demands are based on commitments, agency recommendations, and projects underway at other ports, and technologies already available

(1) Commit to replace all cargo handling equipment with zero-emissions equipment by 2030.

*Based on recent regulatory recommendations by the ARB, existing zero emissions yard hostler, forklift and crane technology, the Air District believes that current technologies exist to meet this requirement by 2030.*

(2) Commit to allow only zero-emission drayage trucks to service the port by 2035.

*This requirement should be phased in with 20% by 2025, 60% by 2030 and 100% by 2033*

(3) Prepare a Clean Air Action Plan with interim targets for achieving these 2030 and 2035 commitments.

*Mitigation measures for the OAB require to City and Port to develop, fund and “continually update” emission reduction plans, which to date have not been prepared.*

(4) Implement a 100 zero-emission truck commercialization pilot program by 2023.

*Air District grants are available to partially fund this recommendation and the technologies exist to make this a robust demonstration.*

(5) Require all ships to use shore power or an at-berth emission reduction technology by 2023.

*The California Air Resources Boards at berth regulation currently requires that 70% of emissions from engines on cargo container and ocean liner at berth be reduced and that by 2020, 80% of emissions from those engines be reduced. The Air District believes that this regulation should be extended to cover bulk, tanker and rolloff/roll-on vessels at all California ports.*

*However, due to operational constraints on some older vessels it may not be possible for them to use shore power. Use of "bonnets" or other capture technology may allow for capture of emissions from some of these vessels. The Air District would recommend that this language be modified to state: "to the maximum extent possible" all emissions from vessels at berth be reduced to zero by 2030.*

(6) Adopt indirect source emission caps by 2020 to encourage efficiency and emission reductions within the port.

*Indirect source emission caps should be included in the Clean Air Action Plan identified in recommendation # 3 above. Projects above the emission caps should pay into a local emission offset fund.*

(7) Work with the relevant utilities to develop electrical infrastructure plans to support port electrification. Such plans should maximize the use distributed renewable and storage resources at the Port. Initial plans should be presented for Board consideration in 2018.

*Air District staff recommends that electrical infrastructure plans be incorporated into the Clean Air Action Plan identified in recommendation # 3 above.*

(8) Require electrification of locomotives that do not leave port facilities and require emission capture technologies for other locomotives while at port facilities. Adopt strategies for encouraging turnover of all Tier 3 and older locomotives by 2020.

*While electrification of captive locomotives, such as switchers at railyards would offer the maximum health protection to the West Oakland community, such a project would likely take multiple years and require significant investment to implement. In the interim, Air District staff believes that significant emissions reductions and health benefits can be achieved by the use of Tier 4 and California Air Resources Board proposed Tier 5 locomotives in switcher and rail service at the current Oakland railyard.*

*Additionally, while capture systems can reduce emissions from locomotives, the Air District has found, through its work in support of the pilot emissions capture system deployed at the Roseville railyard, that:*

- *Emissions capture systems are difficult to move across multiple railyards tracks; and*
- *They are difficult to position correctly in order to have significant emissions benefits.*

*Therefore, the Air District would only recommend such devices in a very limited number of applications - where locomotives stop in the same exact spot on each of their trips or where the emissions capture device could be relocated to capture 100% of the emissions from the locomotives stack.*

(9) Provide space for truck supportive services within Port properties.

*Consistent with OAB mitigation measures to reduce emissions from trucks in the West Oakland Community.*

(10) Set aside land for green infrastructure and truck charging stations. Provide regular reporting on progress and compliance with emission reduction requirements.

*Consistent with OAB mitigation measures to reduce emissions from trucks*

(11) Continue ARB spot inspection program by collecting and reporting information on trucks with excess smoke, improper emissions control labels, evidence of tampering, and noncompliance with regulations requiring soot filters on trucks and transport refrigeration units.

*Consistent with OAB mitigation measures to reduce emissions from trucks.*

(12) Report or deny access to any truck not in compliance with ARB regulations.

*Consistent with OAB mitigation measures to reduce emissions from trucks.*

### **The City and Port Must Address Port Impacts on the Community**

The City must take steps to address the harmful environmental legacy that has been created in the surrounding communities by the Port. In addition, going forward, the City must ensure that Port development and Community development are coordinated to avoid spillover effects on the community and take advantage of opportunities that can be achieved by redevelopment at the Port. The following demands are all within the authority of the City to address:

(1) Conduct new Environmental Impact Review for current proposed development of Oakland Army Base. Include alternatives that support moving freight activities and services out of the surrounding communities onto Port and OAB properties.

*Air District staff recommends that if the City and Port cannot meet the mitigation*

*requirements that they agreed to when they approved the OAB project and certified the FEIR, new environmental review should be prepared for all new development in the OAB.*

*Environmental conditions have changed substantially since the previous environmental analysis was prepared in 2012. There are new more stringent particulate matter and ozone national ambient air quality standards that will be more difficult to attain with build out of the OAB as currently envisioned. In addition, new State planning requirements to improve local community health were approved through AB 617, which includes the West Oakland Community that will be adversely impacted with development at the OAB.*

(2) End practice of piecemealing mitigation planning between construction and operation air quality reviews.

*Air District staff recommends that the OAB mitigation measures requiring development of emission reduction plans and the funding of strategies to reduce truck emissions should be completed in a public process before any additional development plans or tenant improvements are approved.*

(3) Commit to renewable energy projects to mitigate impacts and to facilitate transition of trucks and other equipment to zero-emission technologies.

*Consistent with OAB mitigation measures to reduce emissions from trucks.*

(4) Prepare new traffic and transportation plan to route truck traffic away from disadvantaged communities.

*Air District staff recommends that this measure be completed prior to approving any new development or occupancy permits for the OAB.*

(5) Use zoning authority and incentives such as small business loans and subsidies to move freight and supporting service activities away from disadvantaged communities and to appropriate locales.

*Consistent with OAB mitigation measures to reduce emissions/exposure from trucks.*

(6) End practice of conditional use permitting to allow incompatible freight operations in the community.

*Consistent with OAB mitigation measures to reduce emissions and exposure from trucks.*

(7) Use parking, route, and idling restrictions to move incompatible freight activities out of the community.

*Consistent with OAB mitigation measures to reduce emissions and exposure from trucks.*

(8) Improve signage to avoid any confusion over such parking, route, and idling restrictions.

*Consistent with OAB mitigation measures to reduce emissions and exposure from trucks.*

(9) Enforce truck parking, route, and idling restrictions. This includes training enforcement personnel, taking enforcement delegation as necessary to enforce specific requirements, and providing funding for enforcement personnel.

*Consistent with OAB mitigation measures to reduce emissions and exposure from trucks.*

(10) Work with community to design and install network of air monitoring sensors, and commit to using data to design and assess impacts of mitigation measures.

*Air District staff supports this recommendation*

### **The City and Port Must Create More Meaningful Processes for Community Input on Decision Making**

(1) The Mayor should create a Sustainable Freight Advisory Committee to provide input and oversight on Port and City planning efforts. The Committee should include designated seats for community members.

*Air District staff supports this recommendation*

(2) The City should engage in a community-based effort that brings stakeholders together to create a shared vision of the future of West Oakland. The process should include standing, facilitated meetings with all stakeholders including representatives from the City, Port, other local, state and federal agencies, businesses, unions, and impacted residents.

*Air District staff supports this recommendation. The current OAB stakeholder process does not accommodate meaningful input from the community stakeholders on proposed development within the OAB. A new stakeholder process should be initiated and integrated with the stakeholder process currently being developed for the AB 617 Community Health Protection Action Plan underway for the West Oakland Community.*

(3) Planning should connect with broader planning efforts underway with the Alameda County Transportation Commission.

*Air District staff supports this recommendation.*

(4) The City should provide notice and at least 30 days of comment period on all relevant planning or land-use decisions.

*Air District staff supports this recommendation*