



December 8, 2017

VIA ELECTRONIC MAIL to [ryan.fitzpatrick@dot.gov](mailto:ryan.fitzpatrick@dot.gov) and [farrell.ericka@epa.gov](mailto:farrell.ericka@epa.gov)

Ryan Fitzpatrick  
Departmental Office of Civil Rights  
U.S. Department of Transportation  
1200 New Jersey Avenue, S.E.  
Washington, D.C. 20590

Ericka Farrell  
External Civil Rights Compliance Office  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460

Re: Investigation of West Oakland Title VI Administrative Complaint (DOT# 2017-0093, EPA File Nos. 13R-17-R9 (City of Oakland) and 14R-17-R9 (Board of Port Commissioners and Port of Oakland)).

Dear Mr. Fitzpatrick and Ms. Farrell:

On our last call, your agencies invited Complainants, West Oakland Environmental Indicators Project, to offer ideas on the types of actions that the City and Port of Oakland should be taking to address the disproportionate impacts suffered by the community of West Oakland as a result of the City and Port's discriminatory development actions. We have taken that invitation seriously and compiled a list of recommended actions that must be taken to end these discriminatory practices and address the harms that have resulted. This list was compiled from actions being taken in other port communities, recommendations and actions by local and state agencies, and the community's own experience with the decisionmaking process in Oakland.

The attached list organizes these recommendations under three broad goals: (1) moving freight sources to zero-emission technologies; (2) addressing the current freight-related impacts in the West Oakland community; and (3) creating a meaningful process for community engagement in future decisionmaking. Below we have organized this list into those actions that can be started immediately with no significant resources and those that are longer term efforts.

Immediate Actions	Near-Term Actions	Long-Term Actions
<ul style="list-style-type: none"> <li>• Create a Mayor’s Sustainable Freight Advisory Committee to provide input and oversight on Port and City planning efforts. The Committee should include designated seats for community members.</li> <li>• Engage in a community-based effort that brings stakeholders together to create a shared vision of the future of West Oakland. Establish standing, facilitated meetings with all stakeholders including representatives from the City, Port, other local, state and federal agencies, businesses, unions, and impacted residents, and connect with broader planning efforts underway with the Alameda County Transportation Commission.</li> <li>• End practice of piecemealing mitigation planning between construction and operation air quality reviews.</li> <li>• Provide notice and at least 30 days of comment period on all relevant planning or land-use decisions.</li> <li>• End practice of conditional use permitting to allow incompatible freight operations in the community.</li> <li>• 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.</li> </ul>	<ul style="list-style-type: none"> <li>• Conduct new environmental review (EIR) 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.</li> <li>• Prepare Clean Air Action Plan with interim targets for replacing all port equipment and drayage trucks with zero-emissions vehicles and equipment.</li> <li>• Prepare new traffic and transportation plan to route truck traffic away from disadvantaged communities.</li> <li>• Use parking, route, and idling restrictions to move incompatible freight activities out of the community.</li> <li>• Improve signage to avoid any confusion over such parking, route, and idling restrictions.</li> <li>• Provide supportive services within Port properties.</li> <li>• 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.</li> <li>• Work with utilities to develop electrical infrastructure plans to support port electrification by 2018. Maximize use of distributed renewable and storage resources at the Port.</li> <li>• Commit to renewable energy projects to mitigate impacts and facilitate transition of trucks and other equipment to zero-emission technologies.</li> </ul>	<ul style="list-style-type: none"> <li>• Replace all cargo handling equipment with zero-emissions equipment by 2030</li> <li>• Allow only zero-emission drayage trucks to service the port by 2035</li> </ul>

<ul style="list-style-type: none"> <li>• 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.</li> <li>• 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.</li> <li>• Deny Port access to, or report, any truck not in compliance with ARB regulations.</li> <li>• Provide regular reporting on progress and compliance with emission reduction requirements.</li> </ul>	<ul style="list-style-type: none"> <li>• Set aside land for green infrastructure and truck charging stations.</li> <li>• Implement a 100 zero-emission truck commercialization pilot program by 2023</li> <li>• Require all ships to use shore power or at-berth emission reduction technology by 2023</li> <li>• 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.</li> <li>• Adopt indirect source emission caps by 2020 to encourage efficiency and emission reductions within the port.</li> </ul>	
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To support these actions, we have also attached a collection of resources to validate the feasibility of these requests. A large part of the frustration with the City and Port of Oakland is their resistance to the clear tide of change that is happening at ports and in the freight sector. Their consistent decisions to do the bare minimum and to ignore opportunities for advanced technologies would never stand in other communities, and are in stark contrast to the activities happening in other port communities. We are concerned that the current Truck Management Plan process initiated by the City will be yet another example of the City artificially limiting the scope of its efforts in order to promote the appearance of progress while avoiding the real change necessary to address impacts in the community.

We do not offer this list as a menu from which the City or Port should select individual actions, but instead encourage your agencies to use this list as a roadmap or vision for what must be done to finally address the systematic neglect of the West Oakland community. We are happy to discuss any and all of these recommendations.

Thank you for this opportunity to share the community's perspective and expertise on these issues.

Sincerely,

A handwritten signature in black ink that reads "Paul Cort". The signature is written in a cursive, slightly slanted style.

Paul Cort

## ATTACHMENT

### 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.
- (2) Commit to allow only zero-emission drayage trucks to service the port by 2035.
- (3) Prepare a Clean Air Action Plan with interim targets for achieving these 2030 and 2035 commitments.
- (4) Implement a 100 zero-emission truck commercialization pilot program by 2023.
- (5) Require all ships to use shore power or an at-berth emission reduction technology by 2023.
- (6) Adopt indirect source emission caps by 2020 to encourage efficiency and emission reductions within the port.
- (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.
- (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.
- (9) Provide space for truck supportive services within Port properties.
- (10) Set aside land for green infrastructure and truck charging stations.

(11) Provide regular reporting on progress and compliance with emission reduction requirements.

(12) 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.

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

### **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.

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

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

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

(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.

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

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

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

(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.

(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.

**The City and Port Must Create More Meaningful Processes for Community Input on Decisionmaking**

(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.

(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.

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

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