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December 7, 2005

VIA EMAIL

The Honorable Sunne Wright McPeak
Agency Secretary, Business, Transportation
and Housing
980 – 8th Street, Suite 2450
Sacramento, CA 95814

The Honorable Alan Lloyd
Agency Secretary, California Environmental
Protection Agency
1001 - I Street
Sacramento, CA 95814

RE: GOODS MOVEMENT ACTION PLAN PRINCIPLES

Dear Secretaries McPeak and Lloyd:

Thank you for the opportunity to comment on Draft 4 of the Goods Movement Action Plan Principles distributed at our last Goods Movement Integrating Committee Meeting. I have attached a revised version marked to show BNSF's suggested changes.

Mostly, these changes seek to clarify three points. First, we have attempted to harmonize more closely these principles with the guiding paradigm announced by Secretary McPeak at each of our meetings. BNSF strongly supports the concept of "simultaneous and continuous improvement" as defined by Secretary McPeak to mean separate but contemporaneous efforts to resolve both infrastructure needs and over-arching environmental mitigations. We believe that all participants agreed upon this approach at our first Integrating Committee meeting in Sacramento. Further, we recall that many such over-arching mitigations were suggested and endorsed by the environmental community at that meeting, such as the retrofitting of diesel dray trucks serving California ports. BNSF urges the state to commence such a program, which could resolve a crucial issue that is geographically too widespread and economically and technologically too complex for any one project to be able to address. The state's unique ability to provide a broad, speedy resolution of this problem would yield the greatest impact for the state's investment, demonstrate the action plan has momentum, and thereby increase the level of trust among the participants.

Second, BNSF does not believe that the Goods Movement Action Plan effort should result in the creation of a "super CEQA" layer of environmental review being performed on the individual critical infrastructure projects of those voluntarily participating in this statewide effort. Premature identification of mitigations for individual projects without the benefit of scientific modeling would be arbitrary and detrimental to the state's goals. Adequate review and, where necessary, the imposition of mitigation conditions already occurs under the CEQA process.

Finally, we seek to ensure that the language of these principles does not suggest that a state- or region-wide "programmatic" EIR is required for improvements to the goods movement system. BNSF believes this would be a grave mistake for the state. A "programmatic" approach would

add another layer and many years of delay to the permitting already required for vital infrastructure projects.

BNSF applauds the state's commitment to this effort and we look forward to continuing to work with you to deliver the best results for all concerned.

Sincerely,

A handwritten signature in black ink that reads "Mary Nan Doran". The signature is written in a cursive, flowing style.

Mary Nan Doran
Associate General Counsel

MND/jbs
Attachments

cc: Barry Sedlik, Undersecretary, Business, Transportation and Housing
Cindy Tuck, Assistant Secretary, California Environmental Protection Agency
Catherine Witherspoon, Executive Officer, California Air Resources Board

DRAFT 4

GOODS MOVEMENT ACTION PLAN PRINCIPLES

November 28, December 5, 2005 Version

The success of the Goods Movement Action Plan (Action Plan) will be enhanced the more the Integrating Work Group can develop a virtuous circle of actions that yield near-term benefits while providing a foundation for long-term value. Key steps in that process include establishing a broad and comprehensive framework to evaluate prospective actions, consider the range of stakeholder interests, and leverage synergies. For purposes of the Action Plan and the principles below, the term "action" includes projects, strategies, approaches, measures, application of technology and operational changes.

1. Approach infrastructure and mitigation actions on a simultaneous and continuous improvement basis. Approach funding and implementation for infrastructure and mitigation on a simultaneous basis. The State's economy and quality of life depend upon the efficient, safe delivery of goods to and from the ports and borders. At the same time, the environmental impacts from goods movement activities must be ~~reduced~~addressed to ensure protection of public health. Actions necessary to protect public health and mitigate environmental impacts must be funded and executed on a continuous basis. While infrastructure projects may have regional, statewide, ~~or~~and nationwide benefits, local public health and environmental impacts must be ~~mitigated~~taken into account.
 2. ~~Consider all goods movement infrastructure and related operations throughout the State as part of one integrated, multi-modal system regardless of funding or ownership (i.e., public, private, or mixed public-private). Such a perspective highlights~~Highlight improvements that can maximize public benefit, leverage existing assets, encourage private investment, promote stability and diversity, and expand customer choices.
 3. Avoid changes to one part of the system that damage another part of the system.
 4. Utilize the most innovative, effective and commercially proven technologies available when modifying or expanding California's goods movement system.
 5. Maintain adequate infrastructure at the ports capable of receiving, storing and distributing energy fuels. The State's interest in maintaining a reliable energy supply for its people and its economy requires that the specialized needs of delivering energy stocks be considered in land use decisions at the State's ports.
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6. Develop and apply performance metrics for both infrastructure and public health and environmental/community improvement actions.
7. Maximize existing capacity and efficiency of operations before while simultaneously undertaking needed capacity expansion.
8. Evaluate infrastructure and public health and environmental/community improvement actions on their merits first without regard to funding sources. Once relative merits are established, consider the practical concerns of funding sources and limitations when determining which choices to select.
9. Advance actions with highest rates of return – both in terms of investment and/or public health and environmental improvement. Because resources are always limited, ranking actions on a statewide basis relative to their contribution to performance improvement of the entire statewide goods movement system and relative to their potential to improve public health and environmental protection will allow public investments to be targeted to actions that advance the highest rates of return in all of these areas.
10. Recognize action benefits within, between, and among goods movement corridors that are otherwise ignored or undervalued. When action merits are evaluated by traditional metrics, the value an action may have to the State at large may not be captured. Primary examples include goods movement actions that can open bottlenecks and increase throughput for an entire transportation corridor or actions that relieve congestion and may also reduce emissions. Properly identifying benefits helps prioritize actions and secure funding for the actions that can do the most good.
11. Identify Proceed separately but simultaneously (i) to identify and fund needed infrastructure projects and (ii) to identify significant public health/environmental and community impacts, of goods movement, to provide needed resources and to implement strategies to mitigate those impacts. Air quality, public health and community impact mitigation must be fully integrated into the goods movement system improvements improvement plan. Peer-reviewed science and actual monitoring data, where available, should be used in this process. Significant public investment in emission reduction strategies such as fleet modernization, the use of cleaner fuels, the adoption of cleaner emission control technologies and innovative technologies is necessary in order for California to accommodate the expected growth in goods movement and continue progress in protecting the environment. Effort should be made to mitigate the public health/environmental and community impacts at the least cost (e.g., some strategies may be more cost-effective than other strategies). ~~However, mitigation strategies must not create localized public health and environmental impacts.~~
12. Implement community impact mitigation for existing goods movement facilities community impacts on a priority basis (i.e., address the most impacted communities first). The priorities should be based on objective criteria. The existing impacts and health risks at and adjacent to existing goods movement facilities (e.g., in close proximity to ports, railroad yards, high truck volume

freeways and at distribution centers) must be monitored and, where indicated by the data, significantly reduced. ~~While community impact mitigation is implemented on a priority basis, the need to ensure environmental justice for all Californians must be kept in mind.~~

13. Secure statewide consensus on actions when pursuing federal support. A major factor that causes California to get less than its "fair share" of federal funding is intrastate jockeying for limited federal dollars. Presenting a unified, statewide slate of actions (as most other states do) helps increase the likelihood for the State to receive its fair share allocation.
14. Instill a sense of urgency to accelerate on a simultaneous basis both action delivery and public health and environmental protection. By their nature, infrastructure actions are long lead-time endeavors that face many obstacles until they are placed into service. Relating the importance of both goods movement actions and public health and environmental improvement to the State's economic well-being will help keep actions on schedule and provide motivation for aggressive action to relieve local communities from unfavorable goods movement-related impacts.
15. Consider land use implications in goods movement decisions. Consider goods movement implications in land use decisions. The Air Resources Board's April 2005 Land Use Handbook, the Business Transportation and Housing Agency's GoCalifornia program, and other sources can aid such analyses.
16. Spur private sector investment and public-private partnerships to leverage public investment. The goods movement system is a complex supply chain of activities and facilities under private, public, and mixed public-private ownership. Gaining consensus on a statewide basis for the major elements necessary to build out the State's goods movement system helps provide the confidence needed by the private sector to determine how best to make private and public-private investments that add value to the system.
17. Provide a higher-level forum to engage cooperation outside state jurisdiction. California's goods movement system requires cooperation and support from stakeholders who are not subject to California control. These include adjacent states, the federal government, and foreign carriers. In addition, other stakeholders that operate in the State but have national or global operations (including retailers, railroads, and logistics companies) are critical participants in the process. Operating at the State level with these stakeholders improves the State's overall position as compared to merely allowing each region and locality to vie for attention or regulate separately.
18. Educate regarding workforce opportunities in the goods movement industry. There is significant job potential in this area. A defined career path and education regarding that career path are needed. Training programs are needed in the neighboring communities for safe and clean jobs. Training programs in California's universities and colleges may also be needed.

19. Seek opportunities to promote synergies with other statewide policy initiatives.
Active consideration of goods movement issues with statewide initiatives in areas such as housing, health services, land use, agriculture, international trade, economic development, military base re-use, and energy resources promotes good public policy. Most of all, achieving the Administration's purpose will require flexibility, perseverance, and commitment.

 20. ~~Solicit and consider public input, including input from communities, before making goods movement and related public health and environmental/community mitigation decisions.~~^{21.} Ensure fair treatment of people of all races, cultures and incomes with respect to the development and implementation of the Goods Movement Action Plan.
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