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Richard Sinkoff

PORT OF OAKLAND

March 5, 2010

Ms. Barbara Van Gee
Manager
Goods Movement Programs Section
Planning and Technical Support Division
California Air Resources Board
P.O. Box 2815
Sacramento, CA 95812

RE: **Port of Oakland Comments on Staff Draft Concept Paper**
Proposition 1B: Goods Movement Emission Reduction Program
Update to Program Guidelines, CARB, February 18, 2010

Dear Ms. Van Gee:

The Port of Oakland ("Port") is pleased to submit comments on the California Air Resources Board ("CARB") Concept Paper ("Concept Paper") for the update to Proposition 1B ("Prop 1B") guidelines ("Guidelines"). We appreciate the opportunity to provide input to CARB staff, as you endeavor to improve and shape the Guidelines to reflect experience with Prop 1B grants issued in FY 2007-2008 and updated project needs in the goods movement corridors.

Given the focus on drayage trucks in the FY 2007-2008 Prop 1B round of grants and the extensive feedback CARB staff has received from the trucking community over the past year, the Port has opted to focus its comments on ships at berth, which are subject to an impending deadline that requires major investments in utility infrastructure.

GENERAL COMMENTS

When CARB adopted the "shore power" regulation ("the Regulation"), economic conditions were very different from today. The maritime industry is facing its worst financial condition in decades, with the largest of twenty-two shipping lines reporting a total of $20 billion in losses over the past year. Bankruptcy and consolidation of shipping lines are a real possibility, which may lead to significant business and revenue losses for the Port. There are very significant business decisions that will be made in the next 12 months concerning shore power funding that will affect the maritime industry, ports, and the U.S. West Coast maritime sector as a whole. Those decisions could have a significant impact on Northern California's economy and those

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communities affected by air pollution from goods movement. Projects that reduce emissions of air pollutants are financed, in whole or in part, by revenues from the private maritime industry. Therefore, the financial health of the Port and its customers is key to the continued delivery of economic and community benefits. In this economic context, timing and funding are key issues for the delivery of shore power.

Uncertainty in the amount and timing of Prop 1B awards hinders the Port's and its tenants' ability to implement shore power as quickly as possible. At the Port of Oakland, construction of the required landside infrastructure will take about four years and cost tens of millions of dollars. Decisions have to be made today to deliver infrastructure by 2014. A project of this magnitude requires a predictable and complete funding plan, and it is therefore critical that the Port know how much funding it will receive from Prop 1B sources and when it will receive the funds. We request that Prop 1B funds be directly and quickly allocated to ports so that implementation of shore power may begin.

The Guidelines do not adequately recognize that grid-based shore power is quite different than other emission control projects contemplated by the Prop 1B program. The majority, if not all, of the shoreside improvements for grid-based shore power constitute a challenge effectively faced by a few public entities (not many private "market players") that are substantively not subject to the Regulation. The Port is a public agency that manages seaport State land grants to promote trade and commerce for the benefit of the entire State. The Port does so without any direct tax subsidies. The Port of Oakland must generate all its revenues from its private sector tenants and customers. In light of this fact, current global economic challenges, and the cost of shore power infrastructure, the Port will need significant financial assistance from the State to comply with the Regulation.

The Guidelines also do not consider the significant private "match" inherent in the implementation of shore power – that is, the vessel retrofits required to plug into shore-side electrical outlets and the "outside-the-terminal" infrastructure requirements. The retrofits, for example, are financed by the private sector and should therefore be considered in the total project cost necessary to implement a shore power program. Accordingly, the Port of Oakland requests that the Guidelines be re-structured to consider the total project cost, and not merely the size and ability of a port authority to leverage Prop 1B funds with additional local and/or non-port funds.

The Guidelines also seem to favor those ports with greater financial resources, even though the requirements of the Regulation are not scaled to port size or financial capacity. Other ports with access to funding may be more competitive in the grant funding process because they can access more private/local funds and therefore demonstrate a higher cost effectiveness for every state Prop 1B dollar. As you know, the Port of Oakland is currently facing significant financial challenges with major constraints on the availability of both cash and debt. At this time, the Port does not

have a complete and full funding program for shore power. Therefore, the Guidelines will specifically disadvantage the Port of Oakland. All ports on the U.S. West Coast are important trade and national security assets for the State of California and the nation as a whole, and the Guidelines should not favor or disfavor any single port on the basis of financial capacity.

SPECIFIC AND TECHNICAL COMMENTS

Information Requested by CARB

CARB staff has requested updated shore power costs from ports and industry. The Port of Oakland estimates the installation of shore side infrastructure for grid power will cost approximately $7.5 million per berth at the Port of Oakland when all of the installation costs are considered, including the off-terminal improvements necessary to provide power to the actual berth. The Port understands that this cost may be different than that of other California ports given unique circumstances at each port. This average cost is derived from previous total project cost estimates provided to CARB and are as follows: (a) $90 million for 12 berths on 6 terminals; (b) $128 million for 18 berths on 8 terminals, (as the APL and Ports America terminals' shore power costs are not currently included in the Port of Oakland capital improvement planning and projections); and (c) $66 million for an initial "phase" of construction involving 7 berths on 6 terminals, followed by a second phase for the remainder of the berths.

Conditions for Receipt of Funding (Table 3)

1. The installation of infrastructure to provide grid-based electrical connections at each berth is a very costly project at the Port of Oakland. As you know, given the need to identify a feasible approach to shore power, the Port has been pursuing a phased approach to the construction of the required infrastructure. This approach would involve electrifying 1 berth per terminal (on average) by January 1, 2014. The remainder of the berths would be electrified by 2017 to meet the 70% plug-in requirement in the Regulation.

   An increased compliance requirement of 60% in 2014 may preclude a phased approach as envisioned if significant funds cannot be obtained that would allow a greater number of berths to be upgraded by 2014. This conclusion is based on a number of assumptions. Currently, the Regulation requires a 50% emission reduction in addition to a 50% ship visit plug-in, effective January 1, 2014. CARB assumes the grid is 90% clean (based on CARB workshop materials provided in February 2009.) Therefore, the Regulation effectively requires that 56% of the ships calling the Port plug in to the grid. With a 60% compliance requirement, the Port estimates 67% of the ships would have to plug in. Combined with uncertainties in the exact make-up of any vessel fleet calling the Port in 2014 and beyond, these

calculations lead us to preliminarily conclude that 1 berth per terminal may not be adequate for compliance in 2014 and that therefore, electrification of all berths is required. The resulting financial burden of $90 to $128 million placed on the Port and its customers in the next four years may not be feasible.

2. Conditions placed on recipients of Prop 1B funding have generally been a disincentive for the pursuit of funding and the early implementation of projects to date. If extra emission reductions are required, as CARB states in the Concept Paper, the Port of Oakland suggest the following alternative approach:

   - Aggregate emissions reductions from vessels at berth at the Port-level, with reporting maintained on a terminal/carrier basis as per the Regulation. This would provide flexibility in achieving air quality reductions in the most cost-effective manner.

   - A 50% compliance requirement in 2014 (per the Regulation), 80% in 2017 (as proposed in the updated Guidelines), and 80% in 2020 (per the Regulation). The 90% compliance requirement proposed in the updated Guidelines effectively requires that essentially 100% of the ships plug in – this is extremely aggressive and may not prove to be entirely feasible.

   - A clarification that the 3 hours allowed for vessel plug-in/un-plug do not count toward the baseline emissions that must be reduced by the percentages stipulated in the Regulation. So, for example, for a vessel in port 10 hours, the 50% reduction would be relative to the emissions that otherwise would have been emitted during 7 of the 10 hours. The Port requests this clarification because inclusion of the emissions during the 3-hour period favors certain ports over others (see below under "Operating Requirements").

Maximum Program Funding (Table 3)

1. The Guidelines, as originally drafted, assumed that it would cost approximately $5 million to electrify one berth. Therefore, the $2.5 million per berth funding cap represented about 50% of the cost of shore-side infrastructure. At the Port of Oakland, electrification of 1 berth will cost, on average, $7.5 million, which includes the significant off-terminal common infrastructure needs necessary to provide power to each berth. Therefore, the cap of $2.5 million per berth covers only about 33% of the estimated cost. The original assumptions on the per berth costs should be revised to reflect current planning estimates.

   A commitment to 50% funding assistance originally contemplated would therefore justify an increase in the Prop 1B funding cap to no less than $3.75 million per berth at the Port of Oakland. Moreover, the true total project cost (shore and ship-side improvements together) is nearly $250 million, given that the private sector may

spend an average of $1 million to retrofit each vessel that will call Oakland. This is a further indication of the amount of private and non-state funds that will be leveraged through the Prop 1B program.

2. The Port of Oakland understands that the Guidelines limit Prop 1B funding to "on-terminal" infrastructure. CARB has indicated that it understands that on-terminal infrastructure must be connected to common ("off-terminal") electrical infrastructure, irrespective of whether it is provided by the Port, PG&E, or other utility providers in California. We request that this off-terminal work clearly be deemed "eligible cost" under Prop 1B and considered under the total project basis that we have discussed in this letter.

Equipment Project Concepts

In the Concept Paper, CARB acknowledges that alternative technologies are unlikely to remain viable beyond 2016.

- If CARB is suggesting only the grid power alternative will be viable past 2016, then funding should be dedicated to grid installations; if not, the return on the investment of Prop 1B dollars will likely be sub-optimal.

- If CARB is envisioning that alternative technologies will be viable past 2016 if they can implemented, tested, and refined with Prop 1B monies between now and 2016, then we suggest CARB revise the Regulation to allow for this future unknown since decisions are being made today for the next 10+ years based on current regulatory parameters.

- If CARB wants to promote the use of Prop 1B funds for alternative technologies specifically for terminals/fleets not subject to the Regulation (which would truly be "above and beyond" what is required by law), the Port of Oakland supports this goal but recommends that these projects not compete in the same category as those for entities that are clearly subject to the Regulation.

Operating Requirements

1. The Port does not believe that the "percent of vessel visit plugged in" approach in the Regulation truly levels the playing field across ports, as CARB staff members have suggested. For example, achieving 80% reduction is much more difficult when the total berthing time is 20 hours than when it is 72 hours, if the emissions from the 3-hour period allowed for vessel plug-in/un-plug count toward the baseline emissions that must be reduced. Therefore, compliance is less burdensome at ports where fleets have the longest berthing times (in this case, the larger ports). The Port of Oakland requests clarification on this matter, and adjustment as necessary.

Seaports as "Local Agency" Applicants and Equipment Owners

1. The Port of Oakland appreciates CARB's recognition of the role of ports in accessing Prop 1B funding for shore power. However, in order to provide meaningful comment on the current proposal, the Port of Oakland requests more detailed information about what requirements CARB staff envisions for seaports that apply for Prop 1B funding as local agencies and equipment owners. The reference to a "division of responsibilities" may prove to be problematic. As CARB knows, there are a number of statutes and agreements that govern seaport operations and that may restrict the actions a port or terminal operator can implement or how those actions may be undertaken. The determination and allocation of detailed responsibilities among ports and private companies is a complex endeavor best managed by ports in conjunction with their tenants and customers, not by the Guidelines. Thus, the Port of Oakland requests a more detailed clarification on this issue.

2. The Port requests that the Guidelines be revised to include provisions for sub-granting Prop 1B funds by (for example) a port to a marine terminal tenant, in order to accommodate a case where a marine terminal/carrier wants to construct its own infrastructure. This could be particularly useful in a case where the terminal or ocean carrier has other grants that would be supplemented by Prop 1B funds.

Project Life

The Port of Oakland supports the revision of project life from 20 years to 10 years. However, the Port notes that even 10 years could be challenging as some leases at the Port expire within 3 to 4 years of the January 1, 2014 regulatory deadline.

Miscellaneous

1. Page 2 of the Concept Paper references the West Oakland health risk assessment and indicates that the contributors to West Oakland health risk were limited to the Port, two rail yards, and freeways. However, the sources in Part III of the risk assessment also included non-port vessels, truck-based businesses, distribution centers, and construction projects. These should be identified for accuracy and completeness.

2. Page 3 of the Concept Paper states that CARB regulations require the use of shore side-based electrical power for ships at dock. It is the Port of Oakland's understanding that this particular technology (i.e., grid power) is not a requirement of CARB's Regulation, although it is promoted by the Regulation's construct.

Again, on behalf of the Port of Oakland, I want to thank you for the opportunity to comment on the Concept Paper. The Port is committed to working with its tenants and customers to implement shore power as expeditiously as possible. The Port of Oakland

needs to ensure that adequate funding is made available in a practical and timely manner. Let me assure you that the Port of Oakland greatly values its collaborative relationship with CARB as our sister agencies continue to work together to improve air quality in a manner that is supportive of economic recovery and growth.

Sincerely,

Richard Sinkoff
Director
Division of Environmental Programs and Planning

cc: Cynthia Marvin, Assistant Division Chief, CARB
Omar Benjamin, Executive Director, Port of Oakland
James Kwon, Maritime Director, Port of Oakland
Delphine Prévost, Senior Maritime Projects Administrator, Port of Oakland