U.S. House of Representatives
Committee on Transportation and Infrastructure
Washington, DC 20515

James L. Oberstar
Chairman

David Heymsfeld, Chief of Staff
Ward W. McCarragher, Chief Counsel

John L. Mica
Ranking Republican Member

James W. Coon II, Republican Chief of Staff

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SUMMARY OF SUBJECT MATTER

TO: Members of the Subcommittee on Highways and Transit, Subcommittee on Railroads, Pipelines, and Hazardous Materials

FROM: Subcommittee on Highways and Transit and Subcommittee on Railroads, Pipelines, and Hazardous Materials staff.

SUBJECT: Hearing on "Confronting Freight Challenges in Southern California"

PURPOSE OF HEARING

The Subcommittee on Highways and Transit and the Subcommittee on Railroads, Pipelines, and Hazardous Materials will meet on February 20, 2009, to examine freight challenges in Southern California. The Subcommittees will hear testimony from the Executive Directors of the Port of Long Beach and the Port of Los Angeles, representatives from three local and regional governmental groups, a labor representative for workers at the ports, trucking industry representatives and independent owners and operators, as well as representatives from the two largest railroad operators serving the ports.

The Subcommittees will also consider the ports' efforts to reduce emissions from port-related activities, including from trucks that provide drayage services at the ports. Specifically, the hearing will examine the ports' effort to invest in infrastructure to increase efficiency and expand transportation options for moving freight through the ports and the region. The hearing will also examine the ports' adoption of the San Pedro Bay Ports Clean Air Action Plan, including the Plan's "Clean Trucks" program.

BACKGROUND

As the economy and population of the United States have grown, so has the nation's dependence on surface transportation infrastructure. This is particularly true for the growth in freight movement. Since 1970, imports to the U.S. have more than tripled as a share of GDP, while

exports have more than doubled. In 2002, U.S. freight carriers moved over 19 billion tons of freight valued at more than $13 trillion, and traveled over 4.4 trillion ton-miles over the nation's transportation network. The U.S. Department of Transportation estimates that by 2035, the volume of freight shipped on the U.S. intermodal transportation system will increase to 33.7 billion metric tons, worth more than $38 trillion—an increase of more than 48 percent.

Over the course of the past few decades, the United States has witnessed substantial increases in international trade volumes. According to the International Trade Administration, U.S. exports of goods and services grew by 12 percent in 2008 to $1.84 trillion, while imports increased by 7.4 percent to $2.52 trillion. Exports accounted for 13.1 percent of U.S. Gross Domestic Product in 2008. To put that in historical context, just five years earlier exports were 9.5 percent of GDP, and forty years ago they were 5.3 percent in 1968.

The growth in trade between the U.S. and China is one of the greatest developments driving the increase in overall U.S. trade. According to the U.S. Department of Commerce, in 2008 the United States imported $337.79 billion worth of goods from China, more than was imported from any other country including Canada. Meanwhile, exports to China in 2008 totaled $71.46 billion, behind just Canada and Mexico. The combined value of goods traded between the U.S. and China increased by 56 percent just from 2002 ($147.2 billion) to 2008 ($409.25 billion). Since 1981, total U.S.-China trade has grown from $5.7 billion to its current levels over $400 billion, 71 times the level recorded in 1981.

OVERVIEW OF THE SAN PEDRO BAY PORTS

The Ports of Los Angeles and Long Beach are adjacent port facilities located on San Pedro Bay in southern California. Together, they constitute the fifth busiest port complex in the world, moving some $260 billion in total trade, including handling 14.33 million 20-foot containers (commonly referred to as twenty-foot equivalent units or TEUs) in 2009. This represented approximately 40 percent of all the containers entering the United States.

In 2007, the Alameda Corridor Transportation Authority ("ACTA") released a comprehensive trade impact study which highlighted the role played by the ports of Los Angeles and Long Beach in the regional, national and global economy. The ACTA study found that more than 886,000 jobs in California are directly or indirectly related to the international trade activities at the ports. Furthermore, the report found that trade activities at these two ports generated 3.3 million jobs nationwide.

The Port of Los Angeles

The Port of Los Angeles is the busiest container port in the United States and the 13th busiest container port in the world. Its port facilities cover approximately 7,500 acres along 43 miles of waterfront property; these facilities employ approximately 16,000 people. The Port of Los Angeles is a department of the City of Los Angeles; it is managed by an executive director and administered by a five-member Board of Harbor Commissioners.

In calendar year 2008, the Port of Los Angeles handled 7.85 million TEU containers – which was a slight decline below the port's container traffic in 2007. The highest annual level of container

traffic was recorded in 2006 when 8.4 million TEU containers passed through the Port of Los Angeles. In fiscal year 2008, the port handled a total of 170 million metric revenue tons of cargo, of which 161.9 million metric tons was general cargo.

Trade with nations in the Far East accounted for 87.5 percent of the total volume of trade at the port in 2007. The top containerized imports in 2007 were furniture, apparel, and automotive parts. The top containerized exports were paper, paperboard and wastepaper followed by scrap metal, grains, wheat, and soybean products. In 2007, the port's largest trading partner was China, with imports and exports valued over $115 billion moving through the Port of Los Angeles. Japan (with goods valued at $39.2 billion) and Taiwan (at $14.6 billion) were the next biggest trading partners.

The Port of Long Beach

The Port of Long Beach is the second busiest port in the United States. It encompasses 10 piers located on more than 3,200 acres of land. In 2008, the port handled roughly 6.49 million TEU containers and a total of 87 million metric tons of cargo valued at $140 billion. On average, roughly 19,900 TEUs move through the port each day.

Operations at the Port of Long Beach support approximately 371,000 jobs in California and 1.4 million jobs nationwide. The port accounted roughly 13 percent of all containers going through the nation's ports. East Asian trade accounts for more than 90 percent of the shipments through the Port of Long Beach, with China, Japan, and South Korea ranking as the lead trade partners. The top import products going through the port were petroleum, electronics, and plastics. Meanwhile, petroleum and petroleum coke, waste paper, and chemicals represented the largest export products.

Freight Rail Service at the Ports of Los Angeles and Long Beach

Rail is an important transportation mode to move goods in and out of the Ports of Los Angeles and Long Beach ("the Ports"). The Alameda Corridor Transportation Authority reports that 41% of all marine containers received in the Ports go directly onto rail (this includes on-dock and near-dock), 23% are taken to a warehouse and then put on rail, and 36% are either consumed in the Southern California region or leave by truck to nearby locations.

The Ports are served by three railroads: a short line railroad, the Pacific Harbor Line ("PHL"); and two Class I railroads, the Union Pacific Railroad ("UP"), and the BNSF Railway ("BNSF"). Of the 13 terminals at the San Pedro Bay, 11 have access to nine on-dock rail facilities. If the terminal does not have access to an on-dock facility, the container goes to an off-terminal rail yard, either the UP's Intermodal Container Transfer Facility or the BNSF's Hobart facility, where it will then be loaded onto a train and sent to its next stop.

PHL provides rail switching services for the nine on-dock intermodal terminals and schedules and oversees all train movements within the 7,500 acre Ports complex (a total of 18 route miles or 59 track miles). PHL will crew UP and BNSF trains at the Ports' entrance, switch locomotives with UP or BNSF trains, or coordinate UP or BNSF trains operating to and from Port intermodal and bulk terminals. The tracks in the Ports complex are owned by the Ports.

Ports of Los Angeles and Long Beach Direct Intermodal Rail Volumes
2003-2007
(Marine Containers per Year)[1]

	2003	2004	2005	2006	2007
On-Dock[2]					
BNSF	591,280	781,715	977,945	1,285,111	1,181,911
UP	456,299	534,870	652,527	827,051	821,070
Total On-Dock	1,047,579	1,316,585	1,630,472	2,112,162	2,002,981
As % of Total Throughput	15.9%	18.1%	20.7%	24.1%	23.0%
Off-Dock[3]					
BNSF	760,237	774,336	781,980	808,096	789,656
UP	777,534	771,562	757,598	826,802	812,502
Total Off-Dock	1,537,771	1,545,898	1,539,578	1,634,898	1,602,158
As % of Total Throughput	23.4%	21.2%	19.5%	18.7%	18.4%
Total On & Off-Dock	2,585,350	2,862,483	3,170,050	3,747,060	3,605,139
As % of Total Throughput	39.3%	39.3%	40.2%	42.8%	41.4%
Total Port Throughput	**6,576,147**	**7,278,496**	**7,885,801**	**8,755,677**	**8,704,169**

Key Rail Facilities at the Ports of Los Angeles and Long Beach

The Ports of Los Angeles and Long Beach contain a number of rail facilities to handle the movement of freight containers to and from the ports.

- *Intermodal Container Transfer Facility ("ICTF").* The ICTF, operated by UP, is a near-dock rail yard[4] located approximately five miles from the Ports. The ICTF opened in 1986 as a multi-user facility serving numerous shipping lines. It is an important component to UP's transcontinental rail service, and relays marine cargo containers between the Ports and major rail yards near Los Angeles. The ICTF sits on over 250-acres, with on-site storage for more

[1] Source: BNSF and UP for on-dock and off-dock volumes; Ports of LA and LB for total port throughput.

[2] Cargo can be placed directly onto trains at the marine terminals' "on-dock" rail yards. On-dock rail yards are operated by marine terminals. This method of transportation is the most environmentally friendly, as it reduces truck traffic and air pollution generated by goods movement.

[3] Off-dock rail yards are used to coordinate rail deliveries to non-local destinations. Containers are delivered here by truck, then sorted and grouped by final destination. These rail yards handle Port cargo as well as domestic cargo from other sources.

[4] Cargo is often transported by truck to larger "near-dock" rail yards close to the Port. This requires a shorter local truck trip than "off-dock" rail yards or long-distance truck trips. Near-dock railyards serve multiple marine terminals.

than 3,000 containers and six rail tracks for loading, at lengths varying from 3,800 feet to 5,000 feet that can accommodate a total of 95 double-stack railcars. An adjacent storage yard can handle up to 100 double-stack railcars. The ICTF handles 100 lifts per man-hour and accommodates 70 eastbound and 70 westbound trains per week.

- *Hobart Yard.* BNSF's Hobart Yard is the largest intermodal rail yard in the United States, handling the distribution of international containers to destinations such as Chicago and Memphis. It is a 245-acre facility located in the City of Commerce, California, approximately twenty miles from the Ports. It covers 245 acres and consists of a locomotive classification yard, intermodal facilities and administrative and equipment maintenance buildings. BNSF is currently working to increase its container capacity for the Ports by developing the Southern California International Gateway ("SCIG"), a proposed near dock cargo facility estimated to handle 1.5 million TEUs[5] per year. The SCIG will increase the BNSF's use of the Alameda Corridor, eliminating millions of truck miles annually from the 710 and other local freeways, reducing congestion, improving air quality and traffic safety.

- *Global Gate Way South.* The Global Gateway South is a container facility at Pier 300 on Terminal Island. It is the largest complex of its kind in North America. The facility includes an on-dock rail yard, which offers eight loading rail tracks, each approximately 2700 feet long, and capable of handling a total of 64 five-platform double-stack railcars; 10 rail-mounted, electrically-powered intermodal cranes; a special-use rail line along the four shipping berths for the direct transfer of oversized cargo, such as heavy machinery, between ships and railcars; fully automated switching and derailing points; and a compressed-air system to charge railcar brakes.

- *Maersk On-Dock Rail Yard.* The Port of Los Angeles' largest on-dock rail yard is located at the Port's largest container terminal, the 484-acre Pier 400, operated by APM Terminals (a subsidiary of the Danish shipping line, Maersk). The Maersk Rail Yard is a 40-acre intermodal facility that includes 12 2,500 foot long loading tracks, with each track capable of handling eight 305-foot-long double-stack railcars, for a total capacity of 96 rail cars. The rail yard also has six adjacent storage tracks, each 6,400 feet long and capable of handling 21 305 foot-long double-stack railcars for a total capacity of 126 railcars.

- *Terminal Island Container Transfer Facility ("TICTF").* Two major container terminals operate out of the Terminal Island: the 162-acre Terminal Island Container Facility operated by Evergreen America Corp. and the 185-acre container terminal operated by Yusen Terminals Inc. TICTF's features include four loading rail tracks, each approximately 2,300 feet long, and capable of handling a total of 28 five-platform double-stack rail cars; five adjacent storage rail tracks, each approximately 2,300 feet long, and capable of handling a total of 35 five-platform double-stack rail cars; dedicated arrival rail track with a 28 five-platform rail car capacity; and dedicated departure rail track with a 28 five-platform rail car capacity.

[5] A TEU, or Twenty-foot Equivalent Unit, is an inexact unit of cargo capacity often used to describe the capacity of container ships and container terminals. It is based on the volume of a 20-foot long shipping container, a standard-sized metal box which can be easily transferred between different modes of transportation, such as ships, trains and trucks.

- *Yang Ming/China Shipping On-Dock Rail Yard.* Yang Ming Line, a Chinese transportation company, operates a 130-acre container terminal in the Port of Los Angeles. The container facility includes three loading rail tracks, each approximately 3,000 feet long, and capable of handling a total of 27 five-platform double-stack railcars; three adjacent storage rail tracks, each approximately 3,000 feet long, and capable of handling a total of 27 five-platform double-stack railcars; dedicated departure rail track with a 27 five-platform railcar capacity; and dedicated rail track to facilitate switching between loading and storage rail tracks.

Freight Rail Congestion at the Ports

Freight rail congestion is a growing problem at the Ports. For example, BNSF's Hobart Yard is nearing capacity, necessitating the development of the Southern California International Gateway, which is described above. The primary cause of freight rail congestion at the Ports is due to the failure of freight rail infrastructure investment to keep pace with growing exports and imports at the Ports.

Additionally, the US rail system has decreased in size, resulting in a situation where there are just two major Class I railroads serving the West (UP and BNSF) and two major Class I railroads serving the East (CSX and Norfolk Southern). The mileage of Class 1 track has also dropped, due to abandonments and spin-offs to regional and short line railroads. In 1970, there were 206,000 route miles of Class I track; today there is 161,114 route miles of track. According to Drewry Supply Chain Advisors, the railroads have increased their prices rather than invest in more capacity.[6] The situation is exacerbated by domestic traffic – notably coal and food – which is also seeking to shift to rail, putting more pressure on supply.

The rail network, too, experiences operational inefficiency that can constrain freight mobility. The Government Accountability Office reported that private rail companies might be able to serve their customers more efficiently if they instituted collaborative operational processes, such as sharing terminal facilities for a fee, which could allow more rail companies' access to customers near specific terminals or reciprocal switching.[7] For example, one rail company could deliver, for a fee, railcars to another rail company's customers. The Alameda Corridor Transportation Authority also reported that some ocean going container traffic is being diverted to other ports due to increases in long-haul intermodal rail rates.[8]

While container traffic volumes into the Ports are expected to continue to grow, the importance of rail to the Ports may diminish. Many goods currently delivered to the Ports are delivered to the East Coast. This is because cargo ships originating in Asia cannot compete with rail in delivering goods to the East Coast or Europe.

However, the Panama Canal is increasing its capacity to accommodate cargo ships from a maximum of 4,800 TEUs to over 13,000 TEUs. This is a significant development since previously

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[6] Drewry Supply Chain Advisors, "U.S. Transpacific Intermodal Today and Tomorrow" Sept. 2008.

[7] Government Accountability Office, "Freight Railroads: Industry Health Has Improved, but Concerns about Competition and Capacity Should Be Addressed." http://www.gao.gov/new.items/d0794.pdf

[8] Moffatt & Nichols Economic Group, "West Coast Trends," Alameda Corridor Transportation Authority, August 14, 2008. http://www.calchamber.com/caltrade/Documents/081408-ACTA-diversion-and-lovolume-study_minArt13.pdf

many cargo ships were too large to navigate the Panama Canal. If the Canal's increased capacity occurs, hardly any ships will be too big for the Canal. As a result, many cargo ships will bypass the Ports of Los Angeles and Long Beach for different destinations.

According to Drewry Supply Chain Advisors, if the Canal succeeds in getting 13,000 TEU ships through its new locks, then the Ports of Los Angeles and Long Beach will only be cost competitive to destinations are far west as Denver, Albuquerque and El Paso, since it will be just as cost effective for a shipper to deliver goods to the East Coast Ports and then send them east – being halfway between the West and Gulf coasts, inland costs will largely cancel each other out.

COMMUNITY IMPACTS OF FREIGHT VOLUME AT THE PORTS

While the San Pedro Bay Ports provide the Southern California region with tremendous economic activity, job creation, and tax revenues, the region pays a heavy price for serving as the nation's largest trade terminal. Heavy congestion on the region's roadways along with exposure to goods movement related pollution present serious threats to the region's mobility and environment.

Impacts on Congestion

Port-related commerce is connected directly and indirectly with tens of billions of dollars in industry sales each year throughout the region, which translates into hundreds of thousands of local jobs and billions of dollars in wages, salaries, and taxes. However, freight traffic also imposes costs upon the broader region. The Alameda Corridor Transportation Authority (ACTA) estimates that two million TEUs per year travel from the ports to the Inland Empire, the heavily-populated portion of Riverside and San Bernardino counties that is home to over 350 million square feet of warehousing. Most of this port-related freight traffic is transported on the heavily-traveled I-710, I-10 and I-60 freeways, adding to regional traffic congestion.

The 2007 Urban Mobility Report by the Texas Transportation Institute provides us with a grim illustration of the impact of this failure to invest in our surface transportation network. The wasted fuel and time translated into a total congestion cost of $78.2 billion in 2005—$5.1 billion higher than a year earlier. Overall, congestion in 2005 caused a total of 4.2 billion hours of travel delay that resulted in an additional 2.9 billion gallons of fuel being used while shippers, travelers and commuters are stranded in traffic and not moving.

Commuters in the Los Angeles-Long Beach-Santa Ana area spent an average of 72 hours a year stuck in congestion while wasting an annual average of 57 gallons of fuel. That is the highest levels in any major metropolitan area of the country and over 20 percent higher than the second most congested area of San Francisco-Oakland for both figures. Since 1982 the average annual time spent stuck in congestion for the region has increased by 60 percent. In 2005, commuters in this region wasted 490.5 million hours in travel delays and consumed an unnecessary 384 million gallons of fuel at a total congestion cost to the region of $9.325 billion.

Los Angeles is also home to the worst physical bottleneck in the United States located at the intersection of US 101 and I-405. At this location alone, drivers face 27.144 million hours of delay annually. Overall, Los Angeles is home to five of the top thirteen worst physical bottlenecks in the country with a total of 103.452 million annual hours of delay in 2004.

Impacts on Air Quality and Public Health

Air pollution from international goods movement activities at the ports is a major public health problem for the Southern California area. The Southern California region has consistently ranked as having the worst air quality and congestion in the nation. California's transportation sector is the leading source of greenhouse gas (GHG) emissions in the state, contributing over 40 percent of the state's annual GHG emissions.

Local criteria air pollutants, toxic air contaminants and GHG emission pose a serious threat to the health of southern California's residents, communities and the quality of the region's environment. The communities surrounding these ports are burdened with the environmental damages and degraded air quality produced by the heavy traffic of trucks, railroads, and shipping vessels associated with trade traffic at the ports.

A report presented by the California Air Resources Board assessed small particle ("PM2.5") health effects and found an extreme disproportionate exposure in the South Coast Air Basin relative to other parts of the state and the rest of the country. Port activities are estimated to contribute roughly 25 percent of overall PM2.5. The report found that as a result of high exposure levels in the region, every year 5,400 residents die prematurely, 2,400 are hospitalized, 140,000 experienced asthma and lower respiratory symptoms, and workers in the region lost 980,000 work days.

EFFORTS TO ADDRESS FREIGHT MOVEMENT CHALLENGES IN SOUTHERN CALIFORNIA

To mitigate the growing congestion levels on the Southern California roadways and environmental damages threatening local health and safety, state, local and regional governments have undertaken a number of policy and infrastructure initiatives. These range from investments in expanded highway and freight rail infrastructure capacity to innovative initiatives to reduce emissions from port related vehicles.

The Alameda Corridor

The Alameda Corridor is a 20-mile-long rail cargo expressway linking the ports of Long Beach and Los Angeles to the transcontinental rail network near downtown Los Angeles. It is a series of bridges, underpasses, overpasses and street improvements that separate freight trains from street traffic and passenger trains, facilitating a more efficient transportation network. The project's centerpiece is the Mid-Corridor Trench, which carries freight trains in an open trench that is 10 miles long, 33 feet deep and 50 feet wide between State Route 91 in Carson and 25th Street in Los Angeles. Construction on the Corridor began in April 1997, and it opened for operation in April 2002. With its opening, the Corridor replaced over 200 at-grade highway/rail crossings, and it has served to significantly reduce traffic congestion and air and noise pollution previously caused by idling trains, trucks and cars.[9]

[9] Alameda Corridor Transportation Authority (www.acta.org)

The Alameda Corridor is the primary conduit to move rail freight into and out of the Ports of Los Angeles and Long Beach. It handles an average of 37.6 trains per day, moving 10,536 TEUs daily. The UP and BNSF share the Alameda Corridor through trackage rights with the Authority. In addition to the Alameda Corridor, BNSF can also move freight rail between the transcontinental rail network and the Ports via a BNSF branch line that loops west of Los Angeles. Further, the UP also has access to a branch line that loops east of Los Angeles to the Ports.

In addition to its operational and environmental benefits, the Alameda Corridor is also notable for the innovative structure through which it was financed. The Corridor was built by the Alameda Corridor Transportation Authority (ACTA), a joint powers authority governed by the cities of Los Angeles and Long Beach, the ports of Los Angeles and Long Beach, and the Los Angeles County Metropolitan Transportation Authority. The Corridor was funded with a complex financing package that depended upon a combination of bond proceeds, State and local grants, and the Department of Transportation's (DOT) issuance of a $400 million direct loan with a variety of favorable conditions (including a flexible repayment structure and a subordinate lien). The project was completed on time and under budget, and ACTA repaid its DOT loan in full. This successful use of Federal credit assistance served as a model for the subsequent Transportation Infrastructure Finance and Innovation Act (TIFIA), through which DOT was authorized to provide various forms of Federal credit support for major transportation investments of critical national significance.

The Alameda Corridor-East (ACE) Project

The Alameda Corridor-East (ACE) Project, currently under construction, is designed to extend the Alameda Corridor over 70 miles of mainline railroad in the San Gabriel Valley. The ACE Project includes a number of different construction projects, ranging from safety upgrades and traffic signal measures to grade separations at highway/rail crossings. The project received $155 million in Congressionally-directed funding through the Projects of National and Regional Significance (PNRS) Program authorized by the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU). However, with an estimated total project cost of over $1 billion, the ACE Project still requires additional funding.

To date, ACE has completed safety improvements at 39 crossings. Construction is complete for the first four grade separations, and underway or funded for the next six of 20 planned grade separation projects. The remaining 10 grade separations are on hold pending availability of funding.[10]

Funding Infrastructure Investment Needs In and Around the Ports

The Ports of Los Angeles and Long Beach have identified extensive infrastructure needs in and around the port facilities, including the Gerald Desmond Bridge Replacement,[11] the SR-47 Expressway, the Navy Way/Seaside Avenue Interchange, the South Wilmington Grade Separation, the I-110 Connectors Program, and the development of an on-dock rail system.

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[10] Alameda Corridor-East Construction Authority (www.theaceproject.org).

[11] The Gerald Desmond Bridge received $100 million in Congressionally-directed funding through the PNRS Program. However, the estimated cost of replacing the bridge exceeds $800 million, leaving the project still in need of significant additional funding.

In an effort to generate revenue to support the development of this infrastructure, the Ports of Los Angeles and Long Beach have approved an "infrastructure cargo" fee that will be applied to containers moving through the ports. Additionally, the State of California considered, but ultimately rejected, legislation that would have created a container fee at the Ports of Los Angeles, Long Beach, and Oakland to support infrastructure projects and projects intended to mitigate the environmental impacts of port operations. These fees are described in more detail below.

Ports of Los Angeles and Long Beach Infrastructure Fees

Beginning July 1, 2009, the ports of Los Angeles and Long Beach will each assess an "infrastructure cargo" fee on containers moving through the ports to support the construction of designated infrastructure projects. The fees approved by ports are expected to be $6 per 20-foot TEU in 2009, but the fees can fluctuate based on the funding needs of infrastructure projects in progress. The fees were originally proposed to be levied at $15 per TEU, and to be imposed beginning on January 1, 2009. However, in December 2008 the two ports reduced the fees and delayed their implementation in response to the continued economic downturn and a recognition that the projects that would be funded with the fees were likely to require additional time to complete their required planning and environmental reviews. A fact sheet authored by the Port of Los Angeles anticipates that the fee will grow to $18 in 2010 and 2011 but could fall to $14 in 2012.

California State Container Fee

During its 2006 and 2008 sessions the California state legislature considered bills that would have established State-imposed container fees and used their proceeds to fund freight and environmental projects. The legislature passed such a bill in 2006, which was vetoed by Governor Arnold Schwarzenegger. After revising the bill in response to objections by the Governor and Southern California lawmakers, the legislature passed another version of a container fee bill in August 2008. This bill would have would required the Ports of Los Angeles, Long Beach, and Oakland to begin collecting a container fee of up to $30 per 20-foot TEU by January 1, 2009, and would have split the fee proceeds between freight transportation projects and projects to mitigation port-related air pollution.

Governor Schwarzenegger vetoed the latest container fee bill on September 30, 2008, arguing that it "does not provide necessary assurances that projects [funded by the fee] will achieve the greatest cost-effectiveness, emission reductions, and public health protection ... does not adequately provide the San Joaquin Valley with access to funds to reduce pollution ... and would not provide any mechanism for the coordination and integration of infrastructure projects." The primary author of both the 2006 and 2008 bills, Senator Alan Lowenthal (D-Long Beach), has indicated that he will not re-submit a similar bill in the upcoming legislative session.

2006 Infrastructure Bond Bill

In 2006 California voters approved the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006, typically referred to as "Proposition 1B." Proposition 1B authorized the State to issue almost $20 billion in general obligation bonds, including $2 billion in bonds to establish a Trade Corridor Improvement Fund (TCIF), which would be used to support freight transportation projects. These funds, administered by the California Transportation

Commission, may be for freight projects in a variety of transportation modes, including state highway improvements and projects to improve the freight rail system, the capacity and efficiency of seaports, and airport ground access. According to the California Legislative Analyst's Office, a non-partisan fiscal and policy advisor to the State legislature, the TCIF approach represents a substantial change from California's traditional program for funding transportation. Prior to Proposition 1B, the State had not funded projects such as freight rail improvements, and had not dedicated funding specifically to trade corridor mobility.[12]

In addition to the TCIF, Proposition 1B also authorized the issuance of $1 billion to fund projects to reduce emissions and improve air quality in trade corridors. The California Air Resource Board is responsible for administering the use of this funding.

San Pedro Bay Ports Clean Air Action Plan

Together, the Ports of Los Angeles and Long Beach have adopted a plan, titled the San Pedro Bay Ports Clean Air Action Plan, for reducing polluting air emissions at the ports. Full implementation of the plan's components is expected to require the combined expenditure of billions of dollars from all participating sources, including the ports, the State of California, and industries that work in and around the ports of Los Angeles and Long Beach. The plan's components are expected to cut emissions of particulate matter from port-related sources by 47 percent within five years. The plan will also reduce emissions of nitrogen oxides by 12,000 tons per year and reduce emissions of sulfur oxides by 8,900 tons per year.

The specific components of the plan include the following:

- Requiring the use of clean diesel trucks at the ports (the "Clean Truck" initiative).
- Requiring the use of low sulfur fuels during transits close to the ports and requiring reductions in transit speeds – and providing shore-side electricity to vessels docked at ports (so that they do not have to idle their engines to generate electricity).
- Replacing or retrofitting cargo-handling equipment to meet stricter air emissions standards.
- Requiring the use of cleaner locomotives in the port complexes, including requiring the use of cleaner fuels and equipment that treats the exhaust produced by locomotives.

Clean Truck Programs

One of the centerpieces of the Clean Air Action Plan are the implementation by the Port of Los Angeles and the Port of Long Beach of Clean Truck programs, which are designed to reduce the emissions of trucks used in port properties by more than 80 percent below current emissions levels. The programs will achieve these reductions by replacing (or retrofitting) as many as 16,000 trucks by the year 2012.

The Clean Truck programs developed by each of the Ports of Los Angeles and Long Beach are described in more detail below. The two plans are similar – but not identical – and individual

[12] Legislative Analyst's Office analysis of the California 2008-2009 Budget bill.

trucking companies wishing to carry cargo in each port must enter into a separate concession agreement with each port.

Port of Los Angeles Clean Truck Program

Under the terms of its Clean Truck program, since October 1, 2008, the Port of Los Angeles has forbidden the entrance of trucks built before 1989. Beginning January 1, 2010, the Port will ban the entrance of all trucks built before 1993 and all trucks built between 1994 and 2003 that have not been retrofitted with emissions control technologies. Beginning January 1, 2012, the Port will ban the entrance of any truck, regardless of age, that is not in compliance with the 2007 Federal Clean Truck Emissions Standard.

According to data issued by the Port of Los Angeles, there are approximately 1,000 Licensed Motor Carriers (LMCs) currently coordinating the drayage provided by 17,000 owner-operator truckers in the Port of Los Angeles. The Port states that this is "a financially unstable, inefficient system that perpetuates the use of cheap, high-polluting and poorly maintained trucks." The Clean Truck Program seeks to remedy this problem by limiting port access to trucks operating under concession agreements with the Port, and offering these concession agreements only to LMCs who have "direct control over employee drivers." The concession plan will phase in its new employment requirements between 2008 and 2012. Individual truck owner-operators that are not LMCs and not subject to a concession agreement currently retain their eligibility to operate at the Port. However, they will lose this eligibility once the employment requirements are fully phased into effect.

Under the terms of the concession plan, LMCs will be required to pay $2,500 for a five-year concession and to pay an annual fee of $100 for each truck they operate. Concessionaires will also be required to meet specified safety and security standards and hold required licenses and insurance policies. In exchange for complying with these requirements, concessionaires will be eligible to receive grants from the Port of Los Angeles Clean Truck Fund (described below) to cover up to 80 percent of the cost of purchasing a truck that complies with the new 2007 emissions standards. Entities that do not receive funding for the purchase of a new truck will be eligible to receive $5,000 for every truck built prior to 1989 that they turn in for scrapping. Additionally, certain older trucks will be eligible to receive funding to cover the installation of equipment that will make emissions compliant with the 2007 emissions standards.

Beginning February 18, 2009, the Port of Los Angeles will collect a "Clean Truck Fee" of $35 from cargo owners for each TEU of containerized cargo loaded in the port; this fee will not apply to cargo moving on a train or cargo moved from one terminal to another terminal within the port complex. Collection of the Clean Truck Fee was originally scheduled to begin in November 2008, but was delayed twice due to extended Federal Maritime Commission (FMC) review.[13] The fee will be collected until 2012, when the entire fleet of trucks serving the Port of Los Angeles will be required to meet 2007 emissions standards. The funds collected from this fee will be deposited in a Clean Truck Fund and will be used to assist LMCs in purchasing clean trucks. Trucks privately

[13] The FMC is an independent regulatory agency responsible for enforcing U.S. shipping laws. The FMC reviews agreements made by ports, liner services, and other maritime entities – many of which enjoy some immunity from anti-trust provisions – to assess their compliance with U.S. law, including whether they may result in an unreasonable increase in transportation costs or a decrease in transportation services.

funded by LMCs that meet the requirements of the Clean Truck program will be exempted from the container fee.

Port of Long Beach Clean Truck Program

Since October 1, 2008, the Port of Long Beach has banned the entry of trucks of model year 1988 and older as part of the Port's Clean Trucks Program. Beginning January 1, 2010, trucks of model year 1993 and older will be forbidden from serving the Port of Long Beach – together with trucks from model years 1994 through 2003 that have not been retrofitted with emissions control technology. Beginning January 1, 2012, any truck not meeting the model year 2007 federal truck emission standard will be forbidden from serving the Port of Long Beach.

Under the Port of Long Beach's Clean Truck program, only LMCs holding concessions issued by the Port of Long Beach will be able to provide drayage services at that port. However, in Long Beach, unlike at the Port of Los Angeles, LMCs holding a concession agreement will be allowed to dispatch either employee-operators or owner-operators to serve the Port. Owner-operator truck drivers serving the port will be required to enter their truck in the Port Drayage Truck Registry.

LMCs seeking a concession will be required to pay an application fee of $250 for a concession lasting 5 years; they will also be required to pay a fee of $100 per year for each truck they operate at the port. Concessionaire employees and owner-operators dispatched by concessionaires will be offered financial assistance through two different programs to assist them in purchasing clean trucks. Concessionaires can participate in a lease-to-own program, through which they can trade in an old truck and make monthly payments ranging between $500 and $600 for the lease of a new diesel truck or make monthly payments ranging between $500 and $1000 for the lease of a new liquefied natural gas (LNG) powered truck. These leases will last for seven years. At the end of the lease period, concessionaires will be eligible to purchase their leased truck by paying half of the remaining cost of the truck. Conversely, concessionaires can trade in an old truck and receive a grant that will cover up to 80 percent of the purchase cost of a new clean truck.

Like the Port of Los Angeles, on February 18, 2009, the Port of Long Beach is scheduled to begin collecting a $35 fee for each 20-foot TEU ($70 per 40-foot TEU) loaded in the port. The fee will not be applied to containers that move through the port by train. These container fees will be collected in a fund that will be utilized to pay for concessionaires' lease-to-own program and truck purchase grants.

Containers carried on privately financed LNG-powered trucks will not be charged a container fee. Containers carried on privately financed diesel-powered trucks will pay half the standard container fee. For each privately financed clean truck that entered service after October 1, 2008, the truck's owner will be required to provide proof that they have removed from service another truck that did not meet the 2007 federal emissions standards.

Lawsuit Challenging Clean Truck Programs

On July 28, 2008, the American Trucking Associations (ATA) filed a complaint for declaratory judgment and injunctive relief in the U.S. District Court for the Central District of California against the Board of Harbor Commissioners of the City of Los Angeles, the Board of

Harbor Commissioners of the City of Long Beach, the cities of Los Angeles and Long Beach, and the Harbor Department of the City of Long Beach. The ATA alleged that the concession plans approved by the Ports of Los Angeles and Long Beach would "unlawfully re-regulate the federally-deregulated trucking industry and, effective October 1, 2008, bar more than one thousand licensed motor carriers from continuing to enter and service routes in interstate commerce directly to and from the ports of San Pedro Bay."

The suit alleged that the Ports of Los Angeles and Long Beach have violated the Federal Aviation Administration Authorization Act, P.L. 103-305, which states that a "State, political subdivision of a State, or political authority of 2 or more States may not enact or enforce a law, regulation, or other provision having the force and effect of law related to a price, route, or service of any motor carrier." The suit further alleged that the concession plans impose unreasonable burdens on interstate commerce under the Commerce Clause of the U.S. Constitution and 49 U.S.C. §14504a.

Importantly, the ATA lawsuit challenged only the concessions portion of the Clean Truck programs. The suit did not challenge the schedule for banning older trucks from the ports.

In August 2008 the U.S. District Court of California ruled in affirmation of the two ports' right to implement their Clean Truck Plan. The ATA is currently seeking from the U.S. Court of Appeals both a reversal of the lower court ruling and in injunction to stop the Clean Truck Plan from being implemented. Oral arguments in that case are scheduled to begin on March 4.

PREVIOUS COMMITTEE ACTION

The Subcommittee on Highways and Transit previously held a hearing on June 24, 2008 to examine the role of the surface transportation network in moving people and freight.

The Subcommittee on Highways and Transit previously held a hearing on April 24, 2008 to examine freight mobility issues facing the nation's surface transportation system.

The Subcommittee on Highways and Transit previously held a hearing on April 9, 2008 to examine transportation challenges of metropolitan areas.

The Subcommittee on Highways and Transit previously held a hearing on June 7, 2007 to examine the issues of congestion and mobility on the nation's surface transportation system.

WITNESSES

PANEL I

Dr. Geraldine Knatz
Executive Director
Port of Los Angeles
San Pedro, CA

Mr. Richard D. Steinke
Executive Director
Port of Long Beach
Long Beach, CA

Mr. Hasan Ikhrata
Executive Director
Southern California Association of Governments
Los Angeles, CA

The Honorable Anne Bayer
President, Board of Directors
Gateway Cities Council of Governments
Paramount, CA

The Honorable David Spence
President, Board of Directors
San Gabriel Valley Council of Governments
Pasadena, CA

Ms. Anne Mayer
Executive Director
Riverside County Transportation Commission
Riverside, CA

PANEL II

Mr. Nate Asplund
Director of Public-Private Partnerships
Burlington Northern Santa Fe Corporation
Fort Worth, TX

Mr. Robert W. Turner
Senior Vice President - Corporate Relations
Union Pacific Corporation
Omaha, NE

Mr. Randall J. Clifford
Chairman
Ventura Transfer Company
Long Beach, CA

Mr. Joe Rajkovacz
Regulatory Specialist
Owner-Operator Independent Drivers Association
Grain Valley, MO

Mr. Chuck Mack
Vice President, Western Region
International Brotherhood of Teamsters
Washington, DC