



September 10, 2019

Kate Gordon, Director  
 Office of Planning and Research  
 State of California  
[California.Jobs@opr.ca.gov](mailto:California.Jobs@opr.ca.gov)

PUBLIC COMMENT - Supplemental Application of Oakland A's for Certification of the "Oakland Sports and Mixed-Use Project at Howard Terminal" (Application #2019039102)

Dear Director Gordon,

Thank you for providing the public the opportunity to comment on the Supplemental Application by the Oakland A's regarding their proposed project at Howard Terminal in the Port of Oakland.

Our diverse coalition of business, labor, maritime and shipping stakeholders finds that the Supplemental Application by the Oakland A's to be inadequate and that it fails to meet the basic criteria necessary for AB 734 and AB 900 CEQA expedited review. We respectfully request that this project not be certified.

This Supplemental Application did not address the fundamental problems with the project or with the Oakland A's original application:

- The A's refuse to acknowledge the existing freight operations at Howard Terminal and the displacement and disruption that will occur within the Port of Oakland, including an accounting for increased GHGs or community impacts which would result from this displacement
- The A's rely on a transportation analysis which reaches bizarre conclusions, and therefore does not capture the likely truck congestion and traffic along with associated emissions

Moreover, the Application is likely premature on all of these points since the Port of Oakland has now required that the A's negotiate Seaport Compatibility Measures as part of their entitlement process. This requirement was created in May 2019, well after the initial Application but prior to submission of this Supplemental Application. The Seaport Compatibility Measures process is only now just getting underway and it will not be until that process is concluded that the true scope and nature of the project, including many of the fundamental aspects required to be analyzed by OPR and CARB prior to certification, will be final.

- **The A's refuse to acknowledge the existing freight operations at Howard Terminal**

The A's have not analyzed the disruption that its project will create within the Port of Oakland, including an accounting for the potential for increased GHGs or community impacts which would result from the displacement of the existing trucking, training, and transloading activities which occur at Howard Terminal.

The Supplemental Application's outright dismissal of the need to even analyze, much less account for, these critical impacts is stunning (at pp 2-3):

*The Port has been unable to specify where the trucks may park in the future, so it is not possible to speculate as to their future location or routes, but we would note that the use of Howard Terminal for the existing breakdown and repackaging is only approximately 5 years old, indicating the fluidity of Port uses and locations. In light of the recent genesis of this use at Howard Terminal, the analysis assumes that the existing truck movements to pick up and drop off containers would continue elsewhere on Port property and not be eliminated altogether. Consequently, no credit is taken for the reduction of emissions associated with the existing Howard Terminal uses. In addition, we would note that while the future travel patterns and truck parking locations are somewhat speculative, the arrival of the goods at Port locations is a known factor. To the extent such activities continue in the future after the Project is established at Howard Terminal, the trucks still must come to Port properties to procure the goods for storage and transport. Additionally, the trucks will continue to transport those goods from the Port to locations throughout the Bay Area and there is no evidence to suggest that the relocation of the repackaging activities to another Port location would affect that existing activity in any way.*

There are over 325,000 annual gate moves by trucks at Howard Terminal. The services provided here are indeed critical to successful Port operations, but the A's dismiss the entirety of the existing operations and simply assume that there will be no impacts.

The purpose of the AB 734/AB 900 certification process is to force BOTH the early analysis of potential project impacts AND to provide for methods and procedures by which project impacts will be addressed. In the case of GHGs, the actual impacts must be identified and the control methodology specified so as to allow a finding of net neutral GHGs.

Here the A's do neither. They simply dismiss any impacts from the displacement of trucks at Howard Terminal because they have "no evidence" of an issue, but in the same paragraph they defend their position of not having to even conduct a baseline analysis which might produce that very "evidence."

As the A's Supplemental Application admits, the Port is unable to specify where these trucks will go and, if these moves are not eliminated entirely, then these trucks will still need to go somewhere other than Howard Terminal. However convenient their assumption that these truck moves "would continue elsewhere on Port property" we all know that this is not the case. Howard Terminal IS that special location on Port property, and no others have been identified because no others exist.

Even if there are some offsetting yards are found or made available within the Port, the necessary result of the loss of Howard is that a majority of trucks will need to find other private yards and will increasingly find themselves on the freeway and on local roads between container moves at the Port

rather than between a marine terminal and Howard Terminal. We will have less capacity to do equipment, chassis, and container-load staging at the Port during off-peak travel times, weeknights, and weekends, and force more trucks back onto the highways to a yard in another community or directly to servicing cargo owners. This will increase GHGs, increase congestion, increase local community exposure to criteria pollutants, and increase costs, while decreasing economic competitiveness and decreasing air quality.

Imagine if there were a new project which proposed to create a new truck yard with 325,000+ gate transactions a year created at Port of Oakland. And the EIR for this the project argued that none of the vehicle and truck congestion and traffic impacts, along with their associated GHG emissions, need to be analyzed or mitigated because “the trucks still must come to Port properties to procure the goods for storage and transport” and, not to worry, “the trucks will continue to transport those goods from the Port to locations throughout the Bay Area” regardless, so no EIR analysis of impacts is necessary.

That would be laughable. And, it is exactly what the A’s are saying about their project here.

• **The A’s have a transportation analysis that is wholly inadequate**

The Supplemental Application dismisses claims that there will be any significant delays, congestion or transportation impacts on Port operations (at pg. 4):

*“Any potential delays would be de minimis following proposed signalization in the area, as addressed in the Supplemental GHG Memo in greater detail.”*

However, upon closer inspection of the Supplemental Exhibits, the dearth of analysis regarding the transportation impacts of this project on freight operations at the Port in general is almost as shocking as the conclusions this analysis reaches.

The Transportation summary of existing truck traffic was limited to only 7 intersections and is principally focused on impacts between 3pm and 8pm. (Sec. 5.2.1 and Table 26, Supplemental Exhibit D, page 61). Then the ONLY transportation analysis completed after the presentation of this exceptionally limited data set was to analyze the “non-ballpark development” impact on these intersections “with the added traffic from the non-ballpark development.” (Sec. 5.2.2, Tables 27-28, Supplemental Exhibit D pp. 61-62)

The related GHG analysis of “Idling Emissions from Delays to Port Trucks” is based on this same data set and analysis. Yet, this analysis is focused on GHG delays along with various ballgame scenarios. (Table OP-11, Supplemental Exhibit A)

**Table OP-11. Idling Emissions from Delays to Port Trucks  
Oakland Waterfront Ballpark District Project  
Oakland, California**

Intersection <sup>1</sup>	Daily Delay <sup>2</sup> (idle-hr/day)		
	Full Buildout No Ballgame	Full Buildout Plus Weekday Day Ballgame	Full Buildout Plus Weekday Evening Ballgame
Adeline Street and 3rd Street	-1.5	3.5	6.7
Adeline Street and 5th Street	8.1	4.9	1.6
Market Street and 3rd Street	10	18.6	12.9
Market Street and 5th Street	2.0	3.7	4.1
Martin Luther King Jr. Way and 3rd Street	-0.84	0.4	-0.56
Martin Luther King Jr. Way and 5th Street	0.93	2.5	2.0
Broadway and 5th Street	-1.3	-4.9	-4.1
<b>Activity (days/yr)</b>	<b>206</b>	<b>14</b>	<b>41</b>

The results of these two data tables are bizarre.

For instance, this analysis points to significant delays at the main Adeline Street access point to the Oakland Inner harbor marine terminals and railyards as well as up and down the 3<sup>rd</sup> Street corridor when the project is fully built out:

- At full buildout total DAILY DELAY at the Adeline and 5<sup>th</sup> Street intersection, even on days without a ballgame, will see new idling from trucks exceed **over 8 hours per day**. This is the main 880-S on-ramp and off-ramp access point for trucks to and from the largest and busiest terminals at the Port, along with the main off-ramp for Downtown Oakland and tube access to Alameda. These delays persist for 206 weekdays per year. However, when the additional vehicular traffic, plus bicycles and pedestrians heading to West Oakland BART associated with game days, are added to the mix the projected delays decrease to **4.9 hours** of additional delay per day.
- On days with a ballgame, DAILY DELAY at the Market and 3<sup>rd</sup> Street intersection, would increase truck idling time by **over 18 hours per day** on game days, but then decrease to **10 hours per day** on no ballgame days. A trend completely opposite of that just blocks down the street.

But, just several blocks down from both these intersections, at the crossroads leading up and over the UP tracks and into the Port itself (not surprisingly, the busiest intersection identified in Table 26), we are supposed to believe that the intersection at Adeline and 3<sup>rd</sup> Street will actually see a **REDUCTION** in congestion of 1.5 hours per day.

Therefore, the conclusion to be drawn from this study is that on non-game days, after adding the residents of 3,000 units of housing, workers and shoppers at 1.5 million square feet of commercial office and retail space, a hotel, and – the City and the A’s hope – tourists, restaurant goers, shoppers, and people exploring and enjoying waterfront parks and open space to Howard Terminal, that at the peak of rush hour, between 5-6 PM, the busiest truck intersection identified in this study will actually see decreases in congestion and delay. (Table 27 and Table 28; improvement in Levels of Service for this intersection from a LOS of “E” to a “B”).

The explanation given (in OP-11 Footnote 2) is that “negative truck delays indicate a decrease in truck delays due to Project TDM measures, including improved signalization.” Both intersections on Adeline are, naturally, already signalized.

### **3) The A’s Supplemental Application is Premature Given their Outstanding Task of Negotiating Seaport Compatibility Measures With the Port of Oakland**

At the time of the first A’s Application to OPR in March 2019 the team and the Port of Oakland were still operating under an initial Exclusive Negotiating Agreement. Subsequently, as noted in the Supplemental Application, on May 13, 2019, the Port of Oakland adopted a non-binding Term Sheet and Exclusive Negotiating Agreement with the A’s.

The Supplemental Application makes much of the fact that there is a preliminary agreement to negotiate future Community Benefits within the scope of the Term Sheet (Supplemental Exhibit I, pg

31). What the A's fail to mention is that the Port also required a provision which requires the inclusion of Seaport Compatibility Measures to the Howard Terminal project. (Supplemental Exhibit I, pg 32).

These Seaport Compatibility Measures have been identified by the Port as critical to the preservation of the existing maritime business of the Port of Oakland. As described, the Howard Terminal project can only go forward after ensuring that it will have no material "impact or interfere with the Port's use or operations" in four key areas:

- (i) current or future use of the Port by users of maritime facilities
- (ii) health and safety of Port labor and operators
- (iii) protections from future claims by Howard Terminal residents and users
- (iv) reduction of congestion and avoiding conflict on cargo truck routes

To the extent that the Port requires that the A's must now address these four critical components, these will be material changes to the scope of the project and must be addressed in the EIR.

Obviously, these conditions and requirements did not exist at the time of the initial Application submission but they are now requirements of the Port to consummate a project entitlement, and must be considered as part of any Supplemental Application and analysis of GHG impacts, jobs impacts, community benefits, and related provisions of AB 734 and AB 900 review.

The requirements will address issues beyond the physical, environmental, geographic, and technical scope of issues described as project components in the DEIR NOP, including project components which will address uses of maritime facilities, cargo truck routes, Port operations, and off-site impact mitigations. This is a fundamental consideration for the project, its scope, and terms – nearly all of the subjects of potential Seaport Compatibility Measures are in excess and beyond the description of the existing project parameters under which the current DEIR is being drafted and upon which this Supplemental Application is based.

The maritime industry stakeholders signed onto this letter are all currently engaged with the Port of Oakland and its leadership in the initiation of the formal process at the Port of Oakland to complete this task. This will require the Port to work with us to identify issues, discuss potential impacts, create a basis for negotiation of these Seaport Compatibility Measures with the Oakland A's, and then actually negotiate these measures with the Oakland A's.

Until the formal process of developing Seaport Compatibility Measures is complete and the resulting negotiations with the Oakland A's have been concluded, it is impossible for any of the data projections and assumptions made here to have a complete and accurate project description. The project estimates and related findings that OPR, CARB and the Governor are now being asked to make prematurely will, by definition, be inaccurate, inadequate, and incomplete.

### **Conclusion**

When an Application is submitted prematurely and prior to completely setting the project description and scope for their project EIR, they also cannot quantify and claim the baseline criteria necessary for the AB 900 and AB 734 findings, and their Application should be denied. Likewise, applicants cannot simply assume away impacts or engage in overly-simplistic analyses which produce obviously wrong results would be inconsistent with the requirements of AB 734 and AB 900.

Within the process of adopting AB 900 and AB 734 for expedited CEQA review, the Legislature made it the job of OPR and CARB to review these Applications, to force project Applicants to analyze impacts which they might otherwise try to ignore, and to expect that all potential project impacts be proactively addressed. Only after this initial review can the Governor even consider making findings that would confer these benefits on a project.

When an Applicant fails to properly analyzes the anticipated impacts from their Project, such as coming to the inconceivable conclusion that traffic in the Port of Oakland will actually *improve* at its busiest intersections as a result of this project, or refuses to properly analyzes the anticipated impacts from their Project, such as the A's refusal to even acknowledge that there is a Howard Terminal truck-displacement problem to analyze, their Application should be denied.

The fact that the obvious outcomes of this project are missing from this evaluation should continue to raise red flags for everyone. The A's should at least be required to investigate, analyze, and estimate the impacts from the displacement of the existing operations at Howard Terminal and finalize agreements with the Port which will identify the nature and scope of these impacts on the intermodal supply chain before their Application can be considered complete.

Sincerely,

***Agriculture Transportation Coalition  
American Waterways Operators  
California Trucking Association  
Devine Intermodal  
GSC Logistics  
Harbor Trucking Association  
International Longshore and Warehouse Union – Local 10  
International Organization of Masters, Mates & Pilots  
Pacific Merchant Shipping Association  
Quik Pick Express, LLC  
SSA Terminals  
Transportation Institute  
Union Pacific Railroad***