

September 10, 2019

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Comments Re: SUPPLEMENTAL APPLICATION Oakland Sports and Mixed-Use Project at Howard Terminal (Oakland Athletics) (#2019039102)

Dear Director Gordon,

On behalf of the members of the Pacific Merchant Shipping Association (PMSA), thank you for the opportunity to submit these comments on the SUPPLEMENTAL APPLICATION submitted by the Oakland Athletics (the "A's") on August 26, 2019 related to their proposed "Oakland Sports and Mixed-Use Project at Howard Terminal" (Application #2019039102).

Despite the submission of new and additional data, the A's Supplemental Application still fails to meet the basic standards required by AB 734, AB 900, and the AB 900 Guidelines: the proposal does not meet the threshold "Project" definition, omits critical components necessary to analyze AB 734's performance criteria under AB 900 Guidelines, and lacks an evidentiary foundation for making the findings required.

In many respects, the information provided in the Supplemental Application raises new and additional questions about the A's intended Project. The lack of comprehensive data and fully developed analysis of baseline considerations that would be basic, critical components of any forthcoming Draft EIR much less a comprehensive Application under this section, confirm ineligibility for AB 734 streamlining and demonstrate that the request for the Governor to make findings regarding this project is premature.

PMSA incorporates by reference its prior comments of June 3, 2019 on the Original Application and focuses these new comments on the additional data and arguments submitted by the A's in the Supplemental Application.

The Application, As Supplemented, Still Does Not Present an Eligible “Project” Pursuant to §21168.6.7(a)(3), Does Not Provide the Evidence Necessary to Support §21168.6.7(e)(1) Findings, Still Fails to Conform to the AB 900 Guidelines pursuant to §21168.6.7(e)(2), and Is Still Ineligible for A Discretionary Project Certification Pursuant to §21168.6.7(d)

The A’s Application is only eligible if it “meets all of the” required components listed in Public Resources Code §21168.6.7(a)(3)(A).¹ The A’s Supplemental Application still fails to meet all of the components.

• **(ii) – “The project does not result in any net additional emissions of greenhouse gases ... ”**

The proposed Howard Terminal project is a development which would substantially increase GHG emissions, and the A’s Supplemental Application still fails to submit a set of mitigation measures and offsets that will reduce those increases to meet the requirements of AB 734.

The A’s novel attempt to claim GHG offset credits from the Vistra Power Company battery power conversion project must be denied. California ISO in March 2018 approved the PG&E proposed “Oakland Clean Energy Initiative” (OCEI) as part of its 2017-2018 ISO Transmission Plan (pp. 124, 128-129, 132). The California ISO recommendation for approval was based on the finding “that the OCEI project address[ed] all reliability issues identified in the Oakland area without local generation.” This finding and the subsequent approval of the OCEI was specifically promulgated in order to utilize clean energy resources which would allow PG&E to retire its Reliability-Must-Run contract with the Dynegy-owned jet fuel generator peaker plant. This now retired jet-fuel fired peaker plan is now the Vistra asset at Howard Terminal that is the subject of this request.

At the time, PG&E described its OCEI as the first time that local clean-energy resources were “proactively deployed as an alternative to fossil-fuel generation” for transmission reliability in PG&E’s service area. As a result, rather than replacing the peak power from the former Dynegy plant with other fossil-fuel generated power, PG&E was given the approval to find local clean energy resources, including energy storage, efficiency, and electric system upgrades to ensure local grid reliability. In 2018, PG&E announced that it intended to seek cost recovery for its battery storage components of the OCEI with the Federal Energy Regulatory Commission, and for other distributed energy resources with the CPUC, and that the project would be fully online by 2022.

In March 2019, California ISO approved the 2018-2019 ISO Transmission Plan which affirmed the current OCEI and made some alterations to the scope of the plan with respect to the energy storage portion of the project “to allow for the most cost-effective combination of resources.” (pg. 123)

Given the prior approvals of the OCEI, the power generation components of the current Vistra plant have already been taken off-line. The Oakland A’s and Vistra should not now be allowed to seek GHG credits for battery storage at this facility as if the conversion to battery storage is a replacement of the GHGs associated with the prior jet fuel peaker plant. They are not.

¹ All statutory references remain to the Public Resources Code unless otherwise noted.

This plant's direct and primary emissions reductions were already achieved when California ISO approved the OCEI for PG&E in 2018, which shuts down the facility RMR agreement by 2022. Consistently, and as the Supplemental Application admits (pg. 3), Vistra would "not receive any RPS credits for the conversion to battery power." Moreover, as the Supplemental Application also discloses, "much of the electricity stored in the battery ESS is likely to be produced through OCEI." (Exhibit A, pg. 4/8)

Vistra's expectation that it can now create offset credits for the A's by threatening to bring back on-line a gas-fired peaker plant in 2022, or its claim that it was not consulted by anyone or it was unaware of the end of the Dynegy RMR contract in 2022 run counter to the facts. Certainly the implication that the California ISO approval to phase-out and the subsequent statement by PG&E that it is going to ratepayers to fund the alternative capacity necessary to retire the necessity for utilization of the fossil-fuel generated power from this plant means that these offset credits, as proposed by the A's in the Supplemental Application, run the risk of being double counted.

Instead of creating a new renewable power source, the agreement described in the Supplemental Application looks more like a basic financing and land development plan. While it is certainly important and necessary to have effective battery storage online in Oakland to maintain both the grid reliability and storage of sustainable and renewable source power under the OCEI, Vistra's letter makes it clear that the primary source of funds from the Oakland A's to Vistra are not in exchange for power generation, but instead for a land purchase and lease deal which involves the renovation of several buildings currently on Vistra's property.

Whether the A's would be a direct customer of the power stored in the batteries in Vistra's site after the purchase and lease deal should be considered completely independently of whether the Oakland A's or some other private developer had purchased and renovated these properties. AB 734 and AB 900 do not contemplate offset credits to be generated by collateral land transactions or by providing financing. And, likewise, as a final, practical matter, if the A's are also simply a customer paying for power ultimately directly from Vistra, then they should likewise not receive any offset credits just for being a power purchaser or customer.

This proposal presents the only specific, local GHG reduction strategy identified by the A's in the Supplemental Application or the original Application outside of their traffic management plan.

The A's still refuse to count the emissions increases resulting from the Project and still overcount the credits that it awards itself as an off-set to its project impacts. The A's Supplemental Application continues to defend its practice of picking and choosing GHG emissions impacts between the project's two impacted locations in order to minimize emissions and to maximize credits.

In order to ensure that "the project ***does not result in any*** net additional emissions of greenhouse gases" (emphasis added) the A's must evaluate the resulting GHG impacts of this project – before and after - at two locations – both at the Howard Terminal and at the Coliseum. Unfortunately, the Supplemental Application continues to defend its original methodology and refuses to include the net GHG emissions at both sites from before and after the project.

The A's still refuse to analyze GHG emissions from the displacement of current operations at the Howard Terminal. The A's Supplemental Application offers no analysis of or accounting for these impacts. Despite the obvious potential for congestion and GHG impacts posed by the displacement of over 325,000 truck moves at the present Howard Terminal, the A's are rooted in their desire to affirmatively ignore these impacts in this Application.

The Supplemental Application simply refuses to acknowledge that this displacement could occur because it will not even acknowledge that there are potential impacts that can even be analyzed. The A's claim that lack of specificity by the Port about alternative trucking locations or the duration that trucks have been utilizing the terminal space for trucking purposes are somehow relevant to the question of whether or not the A's need to analyze the baseline GHGs related to their project. (Supplemental Application, pg. 2 "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.")

Neither of these excuses are compelling or probative of any value under AB 734 or AB 900. It is the Applicant's responsibility to present the facts necessary for CARB, OPR, and the Governor to make findings. Whether or not a 3rd party makes it easy for an analysis about impacts to be made or not, or whether or not the existing uses with GHG impacts were there for 5 years before the project or 50 years before the project, these are not situations which prevent an applicant from making an informed analysis of emissions. These excuses are simply relevant to the baseline GHG question.

The A's Supplemental Application attempts to simply assume away the need to evaluate the GHG impacts associated with the current operations on Howard Terminal. The A's also assert that no analysis of existing uses at Howard Terminal and related GHGs are necessary because their "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." (Supplemental Application, pp. 2-3)

As we pointed out in our previous comment letter, an analysis of GHG impacts from the displacement of trucks from existing Howard Terminal uses is necessary to be analyzed because all potential GHG impacts must first be identified before they can be mitigated or off-set as part of the project eligibility review process. It is simply not credible for the A's to argue that the introduction of significant new traffic patterns which divert the business of 325,000 truck transactions at the Port each year could not possibly result in substantial increases in congestion, VMT, and ultimately GHG, diesel PM, and criteria pollutant emissions in the process.

The A's argument that it can avoid a GHG analysis because repositioned truck traffic flow is "continued elsewhere on Port property and not eliminated altogether" flies in the face of both logic and the baseline requirements of CEQA and AB 734 and AB900. Certainly, one can imagine if the effort to relocate 325,000 annual truck moves "elsewhere on Port property" was done poorly or in an already congested area of the Port, or elsewhere in the West Oakland community, what the vastly different levels of Delay, and resulting GHG impacts could be.

The inquiry does not end with the answer to the question of whether the existing use is continued or eliminated, instead the inquiry proceeds to the next question of how these project impacts on the current uses, either continued or eliminated, increase or decrease GHG emissions. This is the analysis that the A's are steadfastly refusing to do and to incorporate into their GHG baseline.

Obviously, an analysis must be done on the current trucking operations on site prior to making findings regarding the GHG impacts which might be related to those current trucking operations. Without the inclusion of and those impacts in the project's GHG baseline it is impossible to know what impacts are to be reduced or offset.

With respect to freight traffic impacts of an operational A's project at Howard Terminal, the Supplemental Application analysis is inadequate. The A's traffic and GHG consultants have finally included some information on the impacts of this project on freight from the Port of Oakland, identifying truck delays and GHG impacts.

Unfortunately, the total extent of their analysis of the impacts of their massive new project and its interaction with millions of annual truck trips is limited to one page of tables on delay and related GHGs (Table OP-11, Supplemental Exhibit A) and two pages of a minimal traffic evaluation at a limited number of intersections, including some not even in the Port area or on an overweight corridor (pp. 61-62, Supplemental Exhibit D). Fortunately, even the cursory review afforded by these documents show an exceptionally wide range of substantial impacts from up to average increases of truck idling delays of up to 12.9 hours per day or, with some mitigations and signalizations, reduced delays of 1.5 hours per day. This analysis found significant GHG impacts from these levels of delay.²

Based on these limited analyses, the A's concluded (Supplemental Application, pg. 4) that "potential delays would be de minimis following proposed signalization in the area." OP-11 even predicts that truck traffic in the Port and Howard Terminal areas at rush hour would actually improve and traffic congestion would decrease with the new development with minor mitigation.

Since the A's conclusions of de minimis impacts and improved traffic flow were based on minimal traffic inputs, limited intersection evaluations aimed primarily at passenger vehicle traffic flows, and cursory data, it is obvious that the Supplemental Application does not include an adequate traffic study upon which to rely with respect to GHG impacts.

Due in large measure to the lack of progress made by the A's and the City in the preparation of the Draft EIR, the acknowledgement by the Port of the need to address truck questions in the project EIR as part of its Seaport Compatibility Measures process (see more below), the Port of Oakland has hired an independent transportation engineering firm to do a full and complete evaluation of the

² This raises an obvious question: *If the A's can model truck delay and GHG emissions as speculative impacts near Howard Terminal post-project on the thinnest of analytical data fields, why can't they model truck delay and GHG emissions as baseline conditions around Howard Terminal pre-project based on current and actual truck operations and on the strength of existing data?*

likely truck, freight, and port traffic impacts of the project, evaluate congestion and its related emissions. We have been informed by the Port that this study is currently underway.

Because we anticipate that the Port's study will provide the basis for a much more detailed and robust evaluation of GHG impacts associated with delay and congestion, and because this Application is only eligible upon the presentation of such an evaluation, OPR and CARB must wait until after completion of the Port's transportation study.

With respect to the omission of future Coliseum emissions, the A's have also refused to acknowledge future GHGs associated with this site. The A's claim that they do not need to analyze or account for future GHG emissions from the site because they do not have development rights to the property, and it is already subject to an EIR. (Supplemental Application, pg. 4) Like the excuses made for the lack of analysis of GHG baseline impacts at Howard Terminal, none of these arguments are relevant to the threshold eligibility question of net GHGs under AB 734 and AB 900.

In fact, these arguments are even less compelling at the Coliseum than they are at Howard Terminal: the Supplemental Application does not deny that the A's are seeking to acquire the ownership interests necessary to redevelop that Coliseum, which is a location that has already received numerous environmental clearances.³

To the extent that the original Application and this Supplemental Application both rest on the fallacy that there will be no future GHGs associated with the redevelopment of the current Coliseum location, regardless of whether the A's are the master developer or not, the Application is not eligible for consideration under AB 734 and AB 900.

The Supplemental Application does not address GHG emissions baseline and Transportation Demand Management (TDM) at the new Howard Terminal project location should both include higher numbers of on-site parking spaces. The Supplemental Application does not dispute that the initial plans for Howard Terminal will have 6800-6900 on-site parking spaces, that these parking spots are not included in the GHG projections, and that due to the maritime reservation buffer zone these on-site parking spaces will likely exist for the first 10 years of an agreement regarding the stadium. A conservative approach would include an allocation of GHGs and vehicle trips to these additional parking spaces both to the GHG baseline projections and to the TDM baseline for the entirety of the project. This is especially important since the requirements for the ballpark must be achieved within one-year of the first season, and the maritime reservation area will require execution of a buffer zone much longer than the A's projected first season in its new stadium.

³ As we noted in our prior comment letter, the A's have expressed a public intent to control the redevelopment of the Coliseum location, have tied Coliseum redevelopment to their housing/office/stadium proposal at Howard Terminal, and released plans for their redevelopment project for the Coliseum property. The Supplemental Application does not address these intentions or plans, and instead argues that the evaluation of GHGs is not required unless and until it can address questions of site control and development rights.

- **(iii) – “The project has a transportation management plan ... achieves a 20-percent reduction in the number of vehicle trips ... as compared to operations absent the transportation management plan...”**

The Supplemental Application TMP and VTR still utterly fails to acknowledge that this Project is being built amidst a working seaport and ignores all potential interactions with freight transportation. While there is a minimal and insufficient attempt to acknowledge that there will be some truck congestion impacts in this Application (see discussion of OP-11 above), freight impacts at the Port of Oakland and surrounding the Howard Terminal are still generally ignored in the TMP. Other than reviewing a handful of intersection LOS data, there are no specific provisions for management of issues related to truck ingress and egress from marine terminals, train or rail impacts, navigational impacts, or for other cost or service delay impacts to freight transportation in the intermodal supply chain served by the Port of Oakland.

The Supplemental Application also fails to acknowledge one major changed condition in its project scope since its prior AB 734 Application submitted in March: the Seaport Compatibility Measures requirement imposed on the A's by the Port of Oakland's Board of Port Commissioners on May 13th when it adopted a non-binding Term Sheet and Exclusive Negotiating Agreement with the Applicant for the project in your DEIR process. In the scope of that Agreement, the Port Commissioners agreed to the inclusion of a provision which requires the inclusion of Seaport Compatibility Measures to the Howard Terminal project. (Supplemental Application, Exhibit I, pg. 32)

These Seaport Compatibility Measures have been identified by the Port Commissioners as critical to the preservation of the existing maritime business of the Port of Oakland. As described in the Term Sheet it is now the intent of the Port that the Howard Terminal project should 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 must now address these four critical components, these are material changes to the scope of the project and must be addressed in the DEIR. These conditions and requirements were not yet proposed at the time of the DEIR NOP, but they are now requirements of the Port to consummate a project entitlement. For purposes of AB 734, this means that these measures – or the lack of these measures as reflected in the current submission – may have significant bearing on the project's eligibility or the ability to make the findings necessary.

These Measures may impact AB 734 eligibility and findings in multiple categories of review as the Seaport Compatibility requirements will address issues beyond the physical, environmental, geographic, and technical scope of issues described as project components in the current DEIR NOP, including project components which will address uses of maritime facilities, cargo truck routes, Port operations, and off-site impact mitigations. Specifically, in addition to the TDM, these Seaport Measures may also impact the GHG eligibility criteria as well as the jobs findings.

This is a fundamental consideration for the project, its scope, and terms – nearly all 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. The Port is presently working with a group of stakeholders to set up a timeline and industry meeting process in order 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 the A's to assert here that their TDM, GHG, and jobs analysis are based on a complete and accurate project description. Just as the prior DEIR scoping project description is now inaccurate and incomplete, so are this AB 734 which does not reflect significant portions of the project which have not yet been identified.

Like the situation with the Port's own traffic engineering study, this Application is only eligible upon the presentation of the completion of the underlying work which defines the project and its related impacts. The A's Application should be delayed until foundational issues are fully addressed.

The Gondola component of the TMP, which is not mentioned once in the Supplemental Application cover letter, is also missing from the City's revised Downtown Oakland Specific Plan. The Supplemental Application and its transportation evaluation in Exhibit D still relies on the construction of a gondola system as its vision of a mass transit system to move thousands of people an hour from downtown Oakland BART stations, over a freeway and an Class I rail line, to Jack London Square near the Howard Terminal project site. The Gondola service is listed as an important TMP and VTR measure (Exhibit D, Table ES-1) and is acknowledged as a critical component of Measures meant to drive transit "by providing an alternative to walking, improving the convenience and attractiveness of taking BART." (Supplemental Exhibit D, Table 7) The Supplemental Application clearly concludes that the Gondola is a preferred alternative to street bus shuttles given a 6,000-rider capacity versus 2,200 for bus shuttles, "a faster travel time than the shuttle," and with "greater capacity and convenience." (Supplemental Exhibit D, pg. 26).

Yet, there is virtually no information associated with the Gondola, its feasibility, its timeline for construction, or how or where it would be built, managed or operated. It is entirely unclear whether this project would even be entitled or provided with the critical public infrastructure including space for landings and towers in existing public rights of way. The most recent draft of the Downtown Oakland Specific Plan, released on August 30, 2019, has not one mention of even the potential for a Gondola system down Washington Street in its Mobility element. (pp. 97-133) Copy of the DOSP Draft here: <https://www.oaklandca.gov/documents/draft-dosp-eir>

Given the success of the TMP's BART usage rates for the ballpark TMP is tied up in the Gondola concept, it is imperative for the A's to commit to a transportation plan which is demonstrably actionable not just a flight of fancy.

This is a potentially critical impact criteria for transportation connections not just on game days but as both the primary public transit option for residents, workers, patrons, and guests for non-ballpark

uses on-site at Howard Terminal on a day-to-day basis. For non-ballpark development residents and patrons, the Gondola represents the single largest new point of access to mass transit and largest reduction in automobile uses at 10% trip reductions. (Supplemental Exhibit D, pg. 49)

The A's should not propose alternative transportation measures for their TMP that they do not intend to pursue, or which do not have a high likelihood of actual construction and operation. The A's Application should not be approved on the basis of the Gondola's significant contribution to ballpark and non-ballpark VTR if they cannot first demonstrate that the concept would be consistent with and included in at least a preliminary draft of the Downtown Oakland Specific Plan, which is currently subject to its 45-day public review period.

The A's Supplemental Application now predicts that BART usage rates for the new ballpark will be even higher than before and well in excess of current usage at the Coliseum. Despite the factors depressing the number of BART patrons in Project 1.0 to 17%-22% (Supplemental Exhibit E, Table 4), the TMP now predicts that BART mode share percentages under Project 2.0 will grow to projected rates of up to 42% of all attendees at Howard Terminal (Table 8). This is predicted even though BART is not proximate or convenient to the new Howard Terminal site. To come to the conclusion in Project 2.0 that a future Howard Terminal stadium which is further from and more *inconvenient to BART* will now see a BART mode share more than double than current BART mode share at the Coliseum, which has a proximate and *convenient BART* station, is not backed by any evidence in the Application.

While there is no evidence submitted for why the bases for Project 1.0's estimations for depression of BART usage, and common sense, should be ignored upon the application of surcharges and geofencing to TNCs in Project 2.0, at least there is now an explanation and theory:

"BART mode share under Project 2.0 is estimated to be higher than existing conditions at the Coliseum despite the longer walking distance between the nearest BART station and the ballpark at Howard Terminal because the introduction of the TMP makes automobile modes of travel also less convenient than they are at the Coliseum. For example, the measure limiting the number of parking spaces available for personal vehicles means that many drivers would have to walk long distances from off-site parking garages. Similarly, the measure that manages TNC operations with a fee and geofence means that potential users would have to either pay premium pricing or walk a long distance." (Supplemental Exhibit D, pg. 31)

The assumptions which underlie these estimations of usage and walking, increased BART usage rates, and the shift away from alternatives based on existing modes of transportation, were apparently informed by the "Atlanta Ballpark Relocation Trip Distribution Case Study" (Supplemental Exhibit D, Attachment B).

The evaluation of trips and modes is informed by this case study which "assessed whether and to what extent the Atlanta Braves' move resulted in a distributional shift of attendees towards areas that were closer to the new ballpark and away from areas that were further away from the new ballpark." (Attachment B, pg. 1)

However, the Atlanta case study does not make a good case study for mode shift evaluations in Oakland. The Atlanta Braves moved from a downtown stadium in its urban core with parking and transit options to a suburban stadium not even in the same County as Atlanta some 15 miles away. The new stadium only has one MARTA bus line which serves it from greater metro Atlanta. While Turner Field was mired in traffic and served by approximately 5,000 parking spaces controlled by the Braves and another 3,500 nearby, the new SunTrust Park out in the suburbs has 11,000 parking spaces controlled by the Braves and a total of 30,000 parking spaces within 2 miles of the stadium.

Because the Atlanta case study concerns a move away from downtown opposite of the move to Howard Terminal, the results seem like more of a model of what NOT to do with urban stadium planning.

The Application acknowledges this by stating that “[a]lthough the Atlanta case study concerns a move away from downtown to a more outlying location rather than a move from an outlying location to near downtown, as with the move to Howard Terminal, the results still provide relevant information about the elasticity of attendee origins for those who drive.” (Attachment B, pg. 1)

The relevance of this case study is doubtful. Elasticity is a concept of comparative value and choice. In Atlanta, the choices now are essentially only drive or stay home. In Oakland, the A’s are listing 7 separate mode considerations for stadium accessibility (for example, see Supplemental Exhibit D, Table 4), all of which may potentially present different access point costs and choices for consumers. Is staying on a BART train an extra three stops from Fremont really a cost-decision point like that of driving an extra 15 miles through metro Atlanta? Obviously, they are nothing alike.

The A’s should base their transportation and trip generation models on evaluations of the creation of new stadium and mixed use projects moving into urban cores with multiple competing transportation modes as their case study, not the move of the Atlanta Braves to a suburban stadium almost entirely serviced by private automobiles.

The requirements of the City of the Oakland to achieve a 20% TMP under existing City ordinances are a baseline required to be met independent of any consideration of AB 734 obligations. In our earlier comment letter, we applied the plain language of AB 734 to challenge the A’s presumption that simple compliance with the existing City requirements was sufficient for calculating the 20% TMP requirements and asked that OPR analyze the statute for the scope of its proper application.

The Supplemental Application objected to this observation as “incorrect and without a basis in law” but then itself provides no citations to any law to support its position. To the contrary, our comments have a clear basis in the law, as they were taken directly from the plain reading of the statutory language of AB 734 which specifically requires an actual plan “that achieves a 20 percent reduction in the number of vehicle trips collectively by attendees, employees, visitors, and customers **as compared to operations absent the transportation management plan...**”

This clearly directs an analysis which compares the AB 734 20% TMP against a project baseline which represents what the project would look like without the application of the statute; in other words, the baseline condition independent of the granting of CEQA streamlining privileges.

While the Supplemental Application cites no law to support its claim that the plain reading of the statute is incorrect it nonetheless claims that “although the City has adopted standards conditions of approval that are generally applied to proposed development projects within the City, both the Port and the City have authority to fashion project-specific conditions of approval, as well as mitigation measures as part of the CEQA review.” (Supplemental Application, pg. 5; citing City of Oakland letter, Supplemental Exhibit E)

This is misleading. The argument is not about whether agencies have discretion to choose what elements are included in its mitigation or transportation demand management programs, it is whether it has the discretion to utilize a TDM as a standard condition of approval. The only evidence offered by the Supplemental Application in response to the citation of AB 734, is the letter from the City of Oakland. This letter, which confuses the discretion to fashion specific conditions of approval with the actual requirements to meet its own standards for the application of the specific conditions of approval, also cites no law.

We do not understand how the A’s and the City fail to cite to the relevant local rules which control these decisions.

By Ordinance, there is no staff discretion with respect to the implementation of a Standard Condition of Approval. §17.130.070 of the Oakland Municipal Code requires that “[a] **development application must comply with all current and applicable City of Oakland uniformly applied development standards, typically imposed as Standard Conditions of Approval**, including those development applications ‘deemed approved’ under the State Permit Streamlining Act (Government Code section 65920 et. Seq., as it may be amended).”

To establish these Standard Conditions of Approval, the City of Oakland adopted its *Transportation Impact Review Guidelines* for Land Use Development Projects on April 14, 2017 for the express purpose of providing “direction on the scope of study that the City of Oakland requires in evaluating the potential transportation impact of proposed land use development projects.” (pg. 1)

In Section 4, entitled “Transportation and Parking Demand Management,” the Guidelines clearly specify that “[p]er city of Oakland Standard Conditions of Approval, all land use projects that generate more than 50 net new a.m. or p.m. peak hour vehicle trips must prepare a Transportation and Parking Demand Management (TDM) Plan ... [which] records the project sponsor’s commitment to implement strategies to achieve the goals described below.” (pg. 14) For any “Projects generating 100 or more ... peak hour vehicle trips” the project must achieve a “20 percent VTR.” (id.) The City of Oakland *Transportation Impact Review Guidelines* can be found at <http://www2.oaklandnet.com/government/o/PBN/OurOrganization/PlanningZoning/OAK060501> .

The Supplemental Application's description of its Project 1.0 methodology further confirms that it uses an unrealistic, fictionalized version of a project, not an actual project baseline. Of course, the TMP and TDM measures need a baseline upon which to measure their percentage reductions. But it is imperative that the baseline be realistic and not imaginative – otherwise developers can give themselves an easy way out; setting unreasonably high transportation numbers from which they scale down to manageable numbers, as opposed to the more challenging task of starting with typical, realistic, and manageable numbers from which they must make difficult decisions to meet their mark.

The A's Supplemental Application argues that their Project 1.0 is not a fictionalized imaginative project, but of course it is; in this case, had the Legislature never adopted AB 734, the baseline for the environmental analysis of the stadium would never have been Project 1.0, it would already be a Project 2.0 operation under City requirements.

When the Supplemental Application (pg. 6) notes that Project 1.0 is reflective of "extant conditions at the Coliseum and elsewhere in the City" it agrees with PMSA that underlying project baseline should be what could be entitled without the application of AB 734 and AB 900. Unfortunately for the A's, in the City of Oakland, that means an existing TMP and TDM measures have already been applied to the project.

Given these directions in current local ordinance, the Project 1.0 baseline that the Oakland A's are attempting to justify using as the basis for its 20% VTR is entirely fictitious. It cannot exist under the application of local planning law. Whatever project is entitled under current law, independent of the application of AB 734, will already be at the 20% VTR identified by the A's as Project 2.0.

This position is agreed to by the A's in a likely admission against interest in its Supplemental Application (pg. 6) when it asserts this description of its process: "Absent an effort to reduce vehicle trips, the Project would reflect extant conditions at the Coliseum and elsewhere in the City. Project 2.0 reflects reductions in project parking that reduce parking below fan and market supply in competing product types."

PMSA agrees with this assessment but only because there is no discretion in Oakland to fashion any other outcome; the only discretion here is whether to subsequently apply for AB 734 status. As we had pointed out in our previous submission, to presume otherwise defies the basic precepts underlying CEQA analysis: that the analysis must be rooted in actual existing conditions, not speculative conditions. Finally, had the Legislature intended for the City's existing requirements to suffice as a "check-the-box" for the City's TMP, instead of a separate AB 734-required set of detailed requirements, it would have written paragraph (3)(A)(iii) similarly to (3)(A)(iv), but it did not.

Certainly, it is possible that a compounded second 20% TMP may be required⁴ or it may not be, perhaps the 20% TMP standards can be evaluated under two separate metrics with many of the same components, that is up to OPR and CARB to determine.

⁴ For purposes of clarification, a 20% on 20% reduction is a compounded 36% reduction, not 40% as claimed.

However these standards are practically applied, it is significant and a legal threshold question relevant to this evaluation: can the A's simply turn to the City's TMP as a carte blanche substitute for the requirements of state law?

We are quite sure that the answer to that question is "no" and that it should be the responsibility of the project Applicant to identify the baseline conditions that can actually exist on the ground prior to the implementation of a AB 734 or AB 900 TMP first and foremost prior to the application of a percentage to vehicle reductions.

- **(v) – "The project is subject to a comprehensive package of community benefits approved by the Port of Oakland or City Council of the City of Oakland..."**

AB 734's language is unequivocal: a package of community benefits must have been "approved" to meet the "Project" definition. No comprehensive package of community benefits has been approved for this project and no evidence of such a package was included in the Application.

The Supplemental Application (pg. 8) defends this by arguing that "no discretionary approval of the Project or any aspect of it, including the community benefits package discussed in AB 734, will be issued or rendered until completion of the CEQA review." This is just simply not the threshold for review under AB 734 or AB 900, nor under CEQA. Projects need to be evaluated based on a stable and relatively specific project description. While those project descriptions are subject to change, it is imperative that the public as well as project proponents know what is being evaluated with a level of certainty. This, by definition, must occur PRIOR to CEQA review – not at its completion.

To take the argument of the A's on this point to its logical conclusion on its own project, one might ask the question: if no aspect of any discretionary action can be formed and subject to public review until completion of the CEQA review, how is it possible that the Port and A's entered into the Non-Binding, Tentative Port Term Sheet which includes prospective lease rates, public amenities, and financial terms?

It is not enough to say that there will a community benefits package under AB 734, in broad strokes. An initial and detailed review of community benefits that will accompany the project must be approved and submitted along with the balance of the Supplemental Application by the A's.

The A's Application also remains materially and substantively defective with respect to each of the following requirements of subdivision §21168.6.7(d):

- **(1) – "The project creates high-wage, highly skilled jobs ... permanent jobs for Californians, and helps reduce unemployment."**

The A's Supplemental Application still provides virtually no evidence of that the project creates permanent jobs for Californians and helps reduce unemployment. The language of AB 734 requires that all provisions of this requirement be met prior to certification.

The A's submitted a letter (Supplemental Exhibit K) that confirms that the team "will continue to employ approximately 1,605 employees from the baseball operations at the proposed ballpark." (Supplemental Application, pg. 8) But it makes no affirmative case for any of these required findings and provides no evidence of the actual economic benefits of the project.

Meanwhile, the A's are essentially just moving jobs from one end of Oakland to another. AB 734 and AB 900 were not written to facilitate the moving of jobs from one location in California to another, rather it is intended to support the creation of new, permanent jobs.

The A's with respect to the environmental impacts of this project (Supplemental Application, pp. 4-5) are applicable here. The A's considered it unnecessary to evaluate the GHG impacts of their workers at Howard Terminal because "[t]he trips associated with the Oakland A's activities at the Coliseum are already trips occurring in the Oakland area and those trips will move to the Project Site upon development of the Project."

The corollary must hold true for the finding of the creation of new jobs: The jobs associated with the Oakland A's activities at the Coliseum are already trips occurring in the Oakland area and those trips will move to the Project Site upon development of the Project.

Without actual evidence, aside from a note from the Oakland A's themselves, of employment characteristics of the project it is hard to see how a factual finding can be made on this point.

Moreover, we would request that a comparison of employment opportunities created by the project and existing maritime and logistics jobs put at risk by the project be considered prior to any findings being made pursuant to this section.

- **(3) – "The project applicant demonstrates compliance with clauses (i) to (iii), inclusive of subparagraph (A) of paragraph (3) of subdivision (a) and mitigation measures, to the extent feasible, to reduce any additional greenhouse gas emissions from the project, including greenhouse gas emissions from employee transportation. "**

As noted in prior comments and in this letter, **GHGs will increase under this Project and there is no evidentiary basis in the Application for evaluating proposed mitigation measures.** The A's Application delivers a project that would result in a massive and significant increase in GHG Emissions.

The Supplemental Application is also silent on the identification of "measures that will reduce the emissions of greenhouse gases in the project area and in the neighboring communities of the baseball park," as well as emissions reductions measures which are required "[t]o maximize public health." In addition, an Application must consider "criteria air pollutant and toxic air contaminant emissions reductions," and for the express purposes of improving public health, a plan of instituting mitigation measures must "reduce the emissions" in both the project area and "neighboring communities." The Supplemental Application simply does not attempt to address in any detail the question of how to provide the emissions reductions necessary to comply with the air quality requirements of AB 734.

The Supplemental Application is also silent on the fact that this proposal seeks to introduce 3,000 new units of housing into an AB 617-designated community. OPR and CARB should consult with the BAAQMD regarding ATCM exposures and other AB 617-related criteria for the Howard Terminal location prior to any consideration of whether or not the project's proposed mitigations actually are measures which will reduce emissions such that public health is maximized consistent with the state's policies that are now being introduced pursuant to AB 617 and consistent with the proposed West Oakland Community Action Plan.

PMSA is a member of a large coalition of port business and labor interests who have recently submitted comments regarding the public health impacts associated with the A's project to the BAAQMD in the context of the discussion of the WOCAP Draft Plan.

A copy of these comments is attached.

In Conclusion, the Supplemental Application should be denied.

AB 734 and AB 900 require a more robust and early disclosure of those evaluations and their related mitigations than otherwise required under CEQA. As a result, the streamlining process can provide expedited review during the post-adoption phase of review of a Final EIR, but only because it requires additional work to be completed prior to publication of a Draft EIR.

Here, even after an additional 5 months of time to provide analytical review of many issues which are fundamental to basic Draft EIR preparation, the Supplement Application by the Oakland A's still does not show evidence of the completion of this additional work during its current Draft EIR phase.

Based on the preceding, the Supplemental Application by the Oakland A's fails to meet AB 734 and it should be denied.

Please feel free to contact me regarding this or any other matters related to the proposed project at Howard Terminal via email at mjacob@pmsaship.com or phone at 510-987-5000 at any time.

Sincerely,



Mike Jacob
Vice President & General Counsel

Attachment

cc: Air Resources Board, ab900arbsubmittals@arb.ca.gov



September 9, 2019

Alison Kirk & Ada Marquez
 Principal Environmental Planners
 Bay Area Air Quality Management District
 375 Beale Street, Suite 600
 San Francisco, CA 94105
WestOaklandPlan@baaqmd.gov

Comments on the “West Oakland Community Action Plan” Draft Plan and Draft EIR

The undersigned organizations, businesses and unions represent interested stakeholders in Oakland’s thriving seaport and intermodal transportation sector. We are committed to the success of the Port of Oakland and our role as partners in a seaport which is the largest logistics and supply-chain enterprise in Northern California. The Port of Oakland’s customers are ultimately responsible for over 27,000 jobs, \$2.5 billion in local income, \$500 million in local purchases, and \$280 million in state and local taxes.

We are also proud of our collective track records to dramatically and significantly reduce air emissions from seaport operations. From 2005 to 2017 seaport emissions initiatives and air quality improvement efforts in Oakland have yielded successful reductions of 91% in SOx, 80% in Diesel Particulate Matter, and 30% in NOx. More impressive still, these reductions occurred while overall container volumes increased by 6.5% over the same period. By conservative estimates, the international trade community and intermodal supply chain has collectively invested over \$5 billion in efforts to reduce air emissions from seaport operations over the past 15 years in California alone.

It is because of our long history of investing, working, and living in California’s port communities and our experiences with the need to significantly invest in improved local air quality that we are also aware of the importance of addressing incompatibility of our industrial uses and local residential uses in nearby communities and neighborhoods.

Under AB 617, it is incumbent on everyone to work together to address the air quality issues related to land use conflicts, including those which result in proximity-based residential impacts. Our industry is working hard in Oakland to preserve the existing industrial buffer zones, maintain infrastructure separations, and to stop residential encroachment that would exacerbate these impacts.

To the extent that the West Oakland Community Action Plan (WOCAP) also proposes to protect local residential areas through the separation of these incompatible land uses, we respectfully request that the Plan be sufficiently revised to ensure that the City of Oakland does not create new neighborhoods in locations which will *unnecessarily expose* thousands of new residents to industrial emissions and *increase* the conflicts between incompatible residential and industrial land uses within West Oakland.

Incompatible Land Uses

Evaluation of incompatible land uses which result in proximity-based exposures to sensitive receptors are what drive analyses of potential localized impacts under AB 617 generally and the CARB Community Air Protection Blueprint. Consistently, avoidance, mitigation, and preventing incompatible land uses and the subsequent detrimental impacts on air quality and public health which can result from these instances of incompatibility are a central part of the proposed WOCAP:

“Reducing exposure of the most vulnerable members of the community is a priority of this Plan. Steering Committee members helped identify sensitive receptor locations in West Oakland and developed strategies to reduce exposure in these areas.” (PROXIMITY-BASED GOALS, pg. 4-5)

The Plan is therefore built around a focused review of geographical impacts to West Oakland residents and to achieve “Proximity-based Goals” one of the challenges acknowledged by this Plan is the need to minimize the impacts of incompatible land uses.

When analyzing existing land uses, it is necessary to acknowledge that these issues are challenging in large part because both sets of competing uses are lawfully permitted, previously approved, and have utility to a community. For example, current residential uses have every right to seek to improve the living conditions of their neighborhoods as do current industrial businesses have every right to continue to operate and grow their local economy. Neither use is better or worse than the other but when made proximate to one another they create negative incompatibilities.

The WOCAP seeks to address this tension of competing and incompatible uses through supplemental and mitigating measures which may alleviate the tension of these uses in existing residential areas of West Oakland. However, what the WOCAP fails to provide for are the equally important policies which will avoid the encroachment of new residential housing into existing industrial areas.

The creation of new housing in industrial zones and the elimination of industrial buffers would immediately escalate land use conflicts and result in substantial increases in the exposure for sensitive receptors in West Oakland and which can threaten existing jobs and businesses. These outcomes are antithetical to AB 617, CARB guidance and the stated policy outcomes and goals of the WOCAP.

Therefore, for this Plan to be effective at achieving its goal of minimizing proximity-based residential impacts, it must address not just impacts on existing residential uses from existing industrial uses but also affirmatively limit the introduction of new residential uses into areas of existing industrial operations and encroachment into the existing industrial buffer zones.

Newly Proposed Residential Districts Would Create Additional AB 617 Impact Zones Which Are Unaccounted For in the WOCAP and Undermine WOCAP Goals

The Goals of the WOCAP are to “protect and improve community health by eliminating disparities in exposure to local air pollution” to specific 2025 and 2030 benchmarks. The “2025 targets are to improve air quality exposure in West Oakland neighborhoods so that *all* neighborhoods meet the exposure conditions of today’s *average* West Oakland neighborhood.”

The City of Oakland is currently considering two proposals for the creation of new residential communities within the WOCAP AB 617 planning area. These proposals would create new and presently unaccounted-for residential impact zones by 2025.

Specifically, the City is considering two new residential zones and concentrations of new sensitive receptors in the WOCAP which are not currently covered by an existing identified Impact Zone:

- Howard Terminal. The Oakland A’s are proposing to site at Howard Terminal a development with 3,000 new residential units, a 35,000 seat open-air stadium, public recreation spaces, a hotel, and 1.5 million square feet of commercial office and retail space. This project is currently in the exploratory environmental phase with the City of Oakland potentially considering a General Plan amendment (<https://www.oaklandca.gov/documents/notice-of-preparation-of-draft-eir-for-the-oakland-waterfront-ballpark-district-project>).
- Jack London Maker District. The City is proposing to create a “Jack London Maker District” in its draft Downtown Oakland Specific Plan. (<https://www.oaklandca.gov/topics/downtown-oakland-specific-plan>) This area, which straddles into the AB 617 WOCAP area, would eliminate the current buffer zone between Seaport uses and residential uses by separating those industrial operations from Downtown and Jack London Square encroachment.

These two proposed project areas are contiguously located within the southeast corner of the currently identified WOCAP area. However, neither of these areas are currently identified in the WOCAP as Residential Zones or locations of Sensitive Receptors. As annotated with the red circles over the SE corner of the “AB 617 West Oakland” area (WOCAP Figure 2-3), these represent potential new “Zone 8” for Howard Terminal and “Zone 9” for the Jack London Maker District:

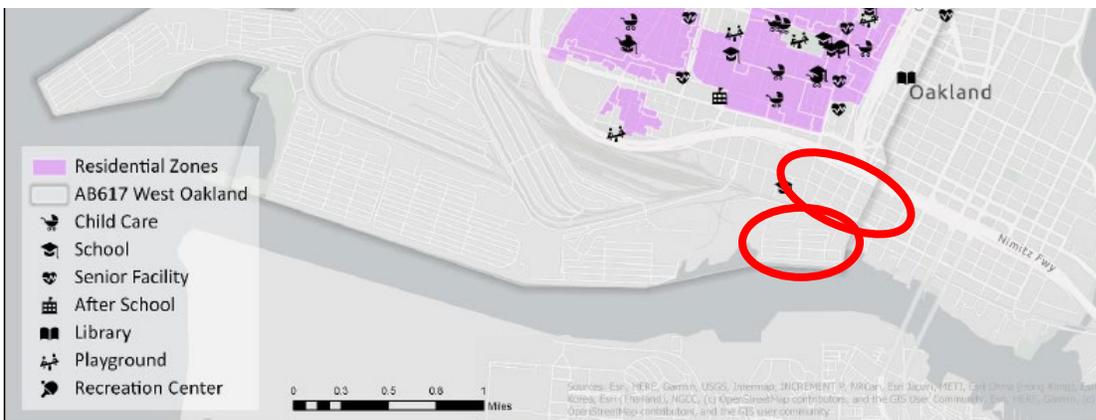
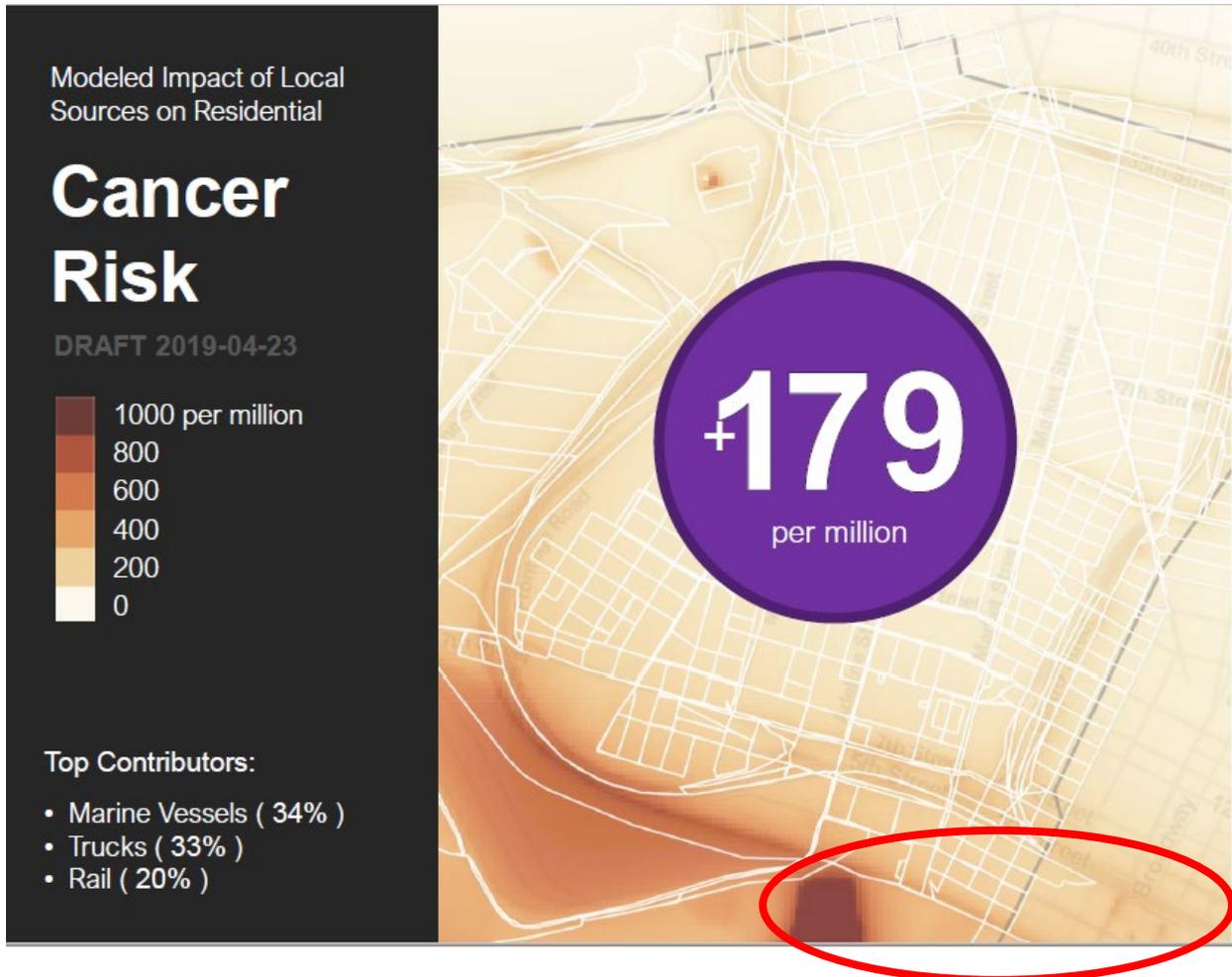


Figure 2-3. Residential Zones and Sensitive Receptors in West Oakland

The BAAQMD’s models which are underlying the WOCAP have identified these as areas which are highly susceptible to additional air quality impacts. In fact, the Southeast corner of the planning area has the *highest* potential impacts of anywhere within the West Oakland area. As noted on the BAAQMD “Cancer Risk Draft 2019-04-23” modeling map, presented to the District Board on May 1, 2019 in advance of the WOCAP release, the area immediately upwind of Howard Terminal and the Jack London Maker District areas is the only area in which a “Modeled Impact of Local Sources on Residential Cancer Risk” of at least 1,000 per million exists in the local West Oakland modeling domain:



The existing emissions profiles for these proposed residential zones would be greater than the exposure profiles for all other existing zones. These zones would be facially out of compliance with the WOCAP goals and have estimated excess cancer risk profiles many times greater than most of the existing impact zones in West Oakland. Revised Figure 5-13 below illustrates just how far these proposed new residential zones would be out of compliance with the WOCAP goals and how they compare to the existing residential zones identified in the WOCAP:

FIGURE 5-13 (revised) - Including Proposed New Residential Zones
 Adding the proposed new residential communities currently being contemplated by the City of Oakland within the AB 617 WOCAP area:
 - Oakland A's proposed 3,000 housing units at Howard Terminal ("Zone 8")
 - Downtown Oakland Specific Plan "Jack London Maker District" ("Zone 9")

Estimated Excess Cancer Risk (30-yr, per million, modeled Local Sources only)
BAAQMD Modeled Impact (DRAFT 2019-04-23)

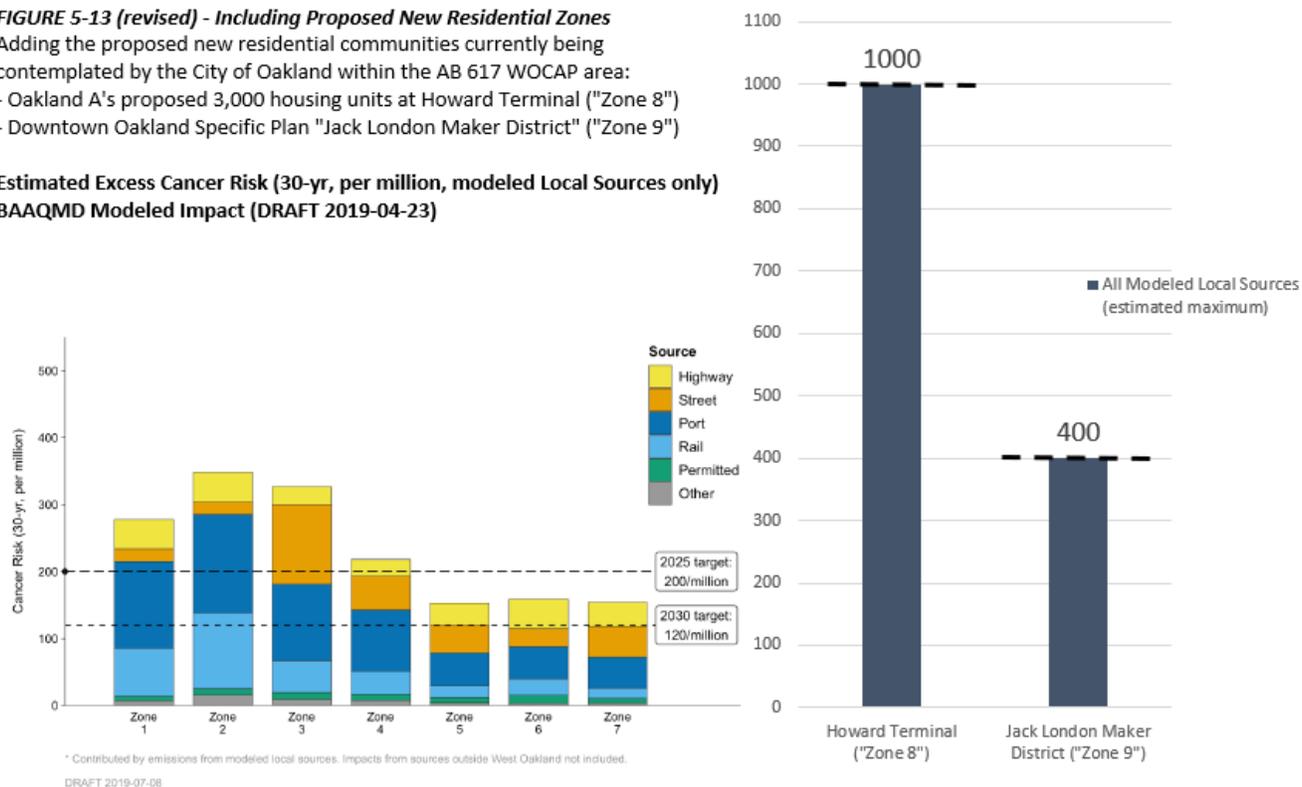


Figure 5-13. Targets and Source Apportionment for Cancer Risk in 2017 (Baseline)

Moreover, these risk profiles are based solely on modeled local sources of cancer risk and only those PM impacts which were included in the community scale modeling. They do not account for other PM impacts which are potentially more impactful to these new residential areas than any of the other existing neighborhoods in West Oakland.

For example, by far and away, the largest local source of PM2.5 by volume in West Oakland is “Commercial cooking” with 20.63 tons per year, compared to the next highest sources of PM2.5 of “Street: Road dust” at 14.74 tpy and “Highway: Non-truck vehicles” at 12.22 tpy. (WOCAP Table 5-2) But, commercial cooking emissions are not included in the community-scale modeling. The Plan surmises that commercial cooking emissions, despite their volume, may be of less consequence to most of the residents of West Oakland “especially given that the majority of commercial cooking facilities are generally downwind of the West Oakland community.” (Appendix A, pg. A-107)

This will not necessarily be true for the Howard Terminal or the Jack London Maker District, because of their location at the extreme southeast corner of the WOCAP planning area. As the WOCAP points out, winds in West Oakland are “most frequent from the west and west-northwest at speeds of 2.0-6.0m/s (4.5 – 13.4 mph) (Figure 3-2).” (Appendix A, pg. A-57, A-58):

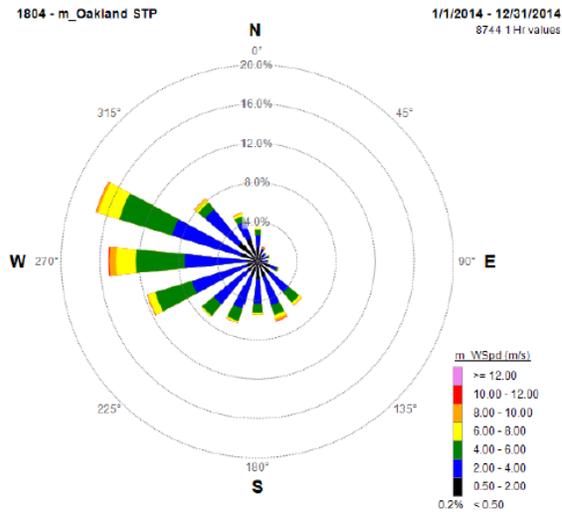


Figure 3-2. Annual windrose at the Oakland Sewage Treatment Plant (OST) in 2014. Compass sectors indicate the direction from which the wind is blowing. The percentage of calm winds ($WSpd < 0.5 \text{ m/s}$) are also indicated.

As a result of the prevailing WNW winds, most emissions will be blown to the ESE. This is the precise location of the proposed Howard Terminal and Jack London Makers District residential zones.

Not surprisingly, these are also the same areas of the most impactful concentration of existing emissions which are already modeled. There is no rational reason to presume that this corner of West Oakland will not also be the recipient of the emissions from currently non-modeled emissions, such as those from “commercial cooking” given that this category is the most prolific source of local PM2.5 emissions in West Oakland.

Growing and Maintaining Industrial Uses in Industrial Areas With Minimal Congestion Threatened by Howard Terminal and Jack London Maker District Proposals

The A’s proposed project at Howard Terminal will displace an active truck staging yard which has successfully removed many trucks from the West Oakland community. The Jack London Makers District threatens to limit the usage and supporting warehouse infrastructure surrounding the Port’s main overweight truck corridors. When both of these current truck zones would then be opened up to new residential development, it is not just the impacts on the new residents that would be significant, but the WOCAP should also evaluate the impacts that these new residential developments will have on displacing and creating congestion in existing freight operations that in turn impact existing West Oakland residents and exacerbate AB 617-related concerns and issues.

Howard Terminal currently handles over 325,000 trucking transactions every year and the 3rd street overweight corridor facilitates tens of thousands of truck moves that must be handled in near proximity to the Port. When these development proposals displace these operations, it will inevitably lead to increased pressure to find additional truck parking, develop new truck, chassis, container, and equipment staging facilities, new port-supporting and industrial warehouse space, and transloading and street-turn areas. Such pressures will likely result in increased truck congestion, increased truck hours of delay, degraded levels of service on truck-intense intersections, and the resulting increased idling and emissions associated with all such introductions of unnecessary transportation inefficiencies and vehicle conflicts.

The displacement of truck parking and truck services in Howard Terminal, and the existing Port-support areas and in the current industrial buffer along 3rd street west of Broadway slated for residential conversion, runs directly counter to the land use strategies proposed by the WOCAP.

Specifically, the Howard Terminal and Jack London Maker District proposals run directly counter to WOCAP Land Use Strategies #5 and #6 and #8, which seek to minimize truck services located within the freeway boundaries and to move those activities to the Port, Army Base and its related industrial-service

areas along the 3rd Street corridor, such that “any relocated businesses do not cause exposure issues at the new location.” In addition, WOCAP Land Use Strategy #26 calls specifically for a yard almost exactly along the lines of the current operations at Howard Terminal, and that this facility will be at a logistics center which is not adjacent to West Oakland residents.

In addition to existing truck displacement issues, there will be new and additional local vehicle traffic going to and from these new development parcels, and this additional traffic will create additional, new truck congestion and idling emissions. These impacts have not been thoroughly analyzed yet for either of the projects. However, even the minimal nod given to the issue of new truck congestion by the Oakland A’s recent AB 900/AB 734 submission to the state Office of Planning and Research (evaluation of only 7 truck intersections and presumption that the project’s improvements actually decrease truck delays) highlights the challenge that should be considered as part of the WOCAP. The “Emissions from Port Truck Idling Delays Due to Project” evaluation of Howard Terminal would result in increases of at least 27 mt of CO₂e annually. (A’s Supplemental AB 734 Application, Exhibit A, Table OP-11) (http://www.opr.ca.gov/ceqa/docs/ab900/20190827-AB_734_OaklandAthletics_Exhibit_A-Supplemental_GHG_Memo.pdf)

Further, emissions from construction were not included in the WOCAP model. The WOCAP found that because “construction activity is highly transient, changing in scope and location from year to year” it would not include these emissions due to “uncertainties with 2017 emissions estimates and the spatial distribution of construction activities in the community.” (WOCAP, Appendix A, A-108) However, they are nonetheless a significant factor for local emissions impacts directly, and when there is a large, intense multi-year project – such as that proposed at Howard Terminal - the activity is not transient, it is of a known and planned scope, and concentrated in the community. In the A’s Supplemental AB 734 Application, Table 4 makes these emissions impacts plain:

Table 4. Emissions Sources
Oakland Waterfront Ballpark District Project
Oakland, California

Proposed Project		
Type	Source	Description
Construction	Off-Road Equipment	Direct emissions from diesel off-road equipment exhaust; Indirect emissions from electricity use for electric off-road equipment
	On-Road Mobile Sources	Direct emissions from running, idling, and starting exhaust

And, Table 6, summarizes the CO₂e emissions anticipated by the construction at Howard Terminal:

Table 6. Construction GHG Emissions
Oakland Waterfront Ballpark District Project
Oakland, California

Year	CO ₂ e Emissions (MT/year)			
	Diesel Off-Road Equipment	Electric Off-Road Equipment	On-Road Vehicles	Total
2020	366	0	36	402
2021	2,560	17	2,738	5,315
2022	2,814	71	3,205	6,089
2023	1,976	24	1,768	3,768
2024	2,287	0	1,346	3,632
2025	2,151	149	1,818	4,117
2026	2,926	193	1,893	5,012
2027	1,895	44	1,232	3,171
Total GHG Emissions from Construction (MT)				31,507

If the A's OPR submission can analyze the CO2e impacts of its project, there is no reason that the WOCAP emissions of interest including DPM or PM2.5 cannot be likewise estimated and projected. Since these impacts can therefore be anticipated, they should be articulated, measured and captured in the WOCAP. Otherwise, the WOCAP is proposing penalizing freight-related emissions sources doing business at marine terminals in the Port of Oakland but ignoring residential-construction related emissions sources doing business at a marine terminal in the Port of Oakland.

That's a double whammy for the Port and for the community; these construction activities, especially in the heart of a working seaport, will not only displace trucking facilities but will also result in residual delays and congestion of trucks and vehicle traffic off-site and in West Oakland generally. These same residual delays will not only make it harder for port trucks to conduct business in Oakland and increase expenses, but this congestion will have even greater residual congestion impacts on the community and community air quality will suffer as well.

CONCLUSION

Given all these factors, it is readily obvious that the creation of these new residential areas will expose thousands of potential new residents to air emissions at potentially impactful levels and render the WOCAP ineffective at reaching its goals in 2025 and 2030.

It is critical that we work to avoid developments which are antithetical to the purpose of AB 617, the stated goals of the WOPAC, and to the public health of residents and the economic health of the Northern California megaregion. We look forward to working with the BAAQMD, WOEIP, and other stakeholders to avoid these unnecessarily backward outcomes.

Sincerely,

***Agriculture Transportation Coalition
American Waterways Operators
BNSF Railway
California Trucking Association
Customs Brokers and Forwarders Association of Northern California
Devine Intermodal
GSC Logistics
Harbor Trucking Association
Inlandboatmen's Union of the Pacific
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***