

January 25, 2007

**MEMORANDUM**

**SUBJECT:** Documentation of Port “Green Lease” Practices

**FROM:** Kathleen Bailey, Port Sector Liaison  
Office of Policy, Economics and Innovation

**TO:** Gay MacGregor, Special Assistant  
Office of Transportation and Air Quality

This memo is in follow-up to the EPA Regional Leadership Forum on the Environmental Implications of Port Growth which was held September 6-7, 2006. At that meeting EPA Regional Administrators and other senior leaders were informed that the ports of Los Angeles (LA) and Long Beach (LB) had begun using so called “green leases”. Attendees expressed interest in the potential “use of port leases to leverage significant environmental improvement across media”. An action item was created to, “document and share best management practices”.

In order to gather information, Meredith Martino, Manager of Government Relations and Environmental Policy for the American Association of Port Authorities (AAPA) sent an e-mail to members of AAPA’s Harbors, Navigation and Environment (HNE) Committee, inviting them to share examples of green lease language or identify barriers to using green lease language. Responses were received from five ports and combined with general knowledge to summarize current industry practices.

In summary, it is common practice for ports to articulate in their leases that the tenant must comply with applicable environmental laws and regulations, but only the ports of Los Angeles (LA) and Long Beach (LB) have been found to be using additional green lease language with some of their marine terminal tenants. LA and LB are in a position to do this because of the scarcity of highly desirable land available for marine terminals in the country’s busiest import market, and because of severe air pollution and extreme pressure from regulators and other stakeholders to reduce the human health risk of port-related operations.<sup>1</sup> Other ports’ respondents noted that in order to attract and keep tenants, they don’t want to impose requirements that they perceive could give the port a competitive disadvantage. Port legal departments seem hesitant to impose requirements that exceed regulatory compliance. Furthermore, many leases are 25 or 30 years in length, so the opportunity to change them is rare; plus concern was expressed about requiring treatment technologies that may change. It is pertinent to note that some ports do require level 1 site surveys of leased land as a way of encouraging tenants to prevent soil contamination and also hold them accountable for brownfields cleanups. Finally, it is important to add that some ports are addressing expectations for improved environment performance through contracts, tariffs, Memorandums of Agreement (MOA) and voluntary programs. For example, the Port of Houston Authority is putting

environmental performance expectations for air emissions in construction contracts and in tariffs with stevedores; and the Port of Seattle has an MOA with the cruise industry which is now using low sulfur fuel and shore-side electric power for cruise ship auxiliary power needs at dock. In addition, the Port Authority of New York and New Jersey has a voluntary tenants' Green Port Program and several ports have tenants that participate in voluntary programs such as Clean Ports USA to reduce diesel emissions.

Since the focus of this memo is lease language, here is a summary of the green lease language at the ports of LA and Long Beach.

**Port of LA, P&O Nedlloyd, Berth 206-209 container terminal draft lease language:**

- Switch to low sulfur (1.5% or less) fuel in main and auxiliary engines of container ships when 40 nautical miles of the port.
- Reduce vessel speed when 40 nautical miles of the port.
- Outfit ships for Alternative Marine Power (AMP), i.e. ship to shore-side power – 30% by the end of the 2<sup>nd</sup> year, 70% by the end of the 3<sup>rd</sup> year.
- Use alternative fuel, e.g. LNG, in yard tractors.
- Use emulsified fuel and Diesel Oxidations Catalysts (DOC) on older yard equipment, where feasible.
- Use on/near dock rail.
- Use non-ozone depleting compounds in refrigerated containers.
- Use housekeeping/maintenance procedures that limit water use and minimize discharges.<sup>2</sup>

**Port of Long Beach, International Transportation Service (ITS), Environmental Covenants in the Lease for Pier G/J Terminals**

- Institute an appointment system and extended gate hours.
- Cargo handling equipment uses fuel and/or retrofit control technology to achieve at least 14% reduction in NOx emissions and at least 58% reduction of PM emissions compared with California standards.
- By Sept 2011 all diesel-powered, non-road equipment shall comply with EPA off-road standards or new vehicle standards and use fuels as described above.
- Ships use only the following fuels in auxiliary power generator motors: CARB #2 diesel, gas-to-liquid diesel, biofuels, or a marine distillate fuel, or use exhaust gas treatment technology that provides equivalent emissions reductions.
- After the city installs shore-side power, all candidate vessels use it. Candidate vessels are those calling on the premises as part of a regularly scheduled K-Line liner service.
- In the event alternative technology that achieves 90 percent or more of the emission reductions of cold ironing (shore-side power) becomes available, the tenant can request approval for its use.
- Track and report performance<sup>3</sup>

The Port of Long Beach is also developing a green lease with SSA Terminals/Matson Navigation Co. for Pier C, but details are not available.

A verbal summary of these findings was presented at the January meeting of the HNE Committee. In follow-up, Meredith Martino is checking with AAPA's Law Review Committee to see if they are interested in pursuing this issue further, i.e. looking at addressing emerging expectations for environmental performance (beyond regulatory compliance) through leases, contracts, and tariffs. This subject may potentially be addressed in the context of the work of AAPA's new Sustainability Task Force.

While it is clear that green leases are not widely used at this time, these summary findings could be used by EPA Regional Administrators to engage port leaders in a discussion about the business case for improving environmental stewardship, the tenant's role, and what approaches for working with tenants will best suit the port's environmental objectives and business model.

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<sup>1</sup> For further information, see the *San Pedro Bay Port Clean Air Action Plan*, the most comprehensive strategy to cut air pollution and reduce health risks ever produced for a global seaport complex.  
[http://www.portoflosangeles.org/environment\\_air.htm](http://www.portoflosangeles.org/environment_air.htm)

<sup>2</sup> These lease requirements were summarized from a Port of Los Angeles press release entitled, *Port of Los Angeles Harbor Commissioners Certify Environmental Impact Report with Landmark Environmental Measures*, dated January 19, 2006

<sup>3</sup> These lease requirements were summarized from attachments to the ITS lease for the Pier G/J terminals entitled, *Exhibits C and E, Environmental Covenants by Assignee*

cc

Brian Mannix  
Jay Benforado  
Chuck Kent  
Robert Benson  
Trish Koman  
Meredith Martino