

**Senate Committee on Transportation & Housing Subcommittee on
California Ports & Goods Movement**

“Goods Movement Strategic Solutions”

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***Room 112, State Capitol
Sacramento, California***

SENATOR ALAN LOWENTHAL: Welcome, everyone. I'm very pleased to welcome everyone to the Senate Committee on Transportation & Housing Subcommittee on California Ports and Goods Movement hearing. We are going to be talking today about goods movement strategic solutions. I'm going to make a few opening remarks, then we are going to talk about some of the impacts of user fees on goods movement and, hopefully, have an open discussion about user fees. That will be the first part of our discussion.

The second part of our discussion will be on PierPASS. Then we are going to have public comments and maybe have a discussion, see how much time we have left, and so we will try to get out of here at a reasonable time.

First, there will be members coming in and out. I want to thank those people who are here from the audience. I will say that it is a very busy time in the Legislature. We are trying to get our budgets completed this week, so that we can send them on to conference committee. All members are either working on budget issues or other issues, so I hope that they will be able to attend this hearing.

I would like to begin by saying that this is a very exciting time in the State of California to be talking about goods movement and the whole issue of goods movement strategic solutions. I have been working very hard in the Senate on Senate Bill 9 and Senate Bill 19. Senate Bill 9 addresses the implementation of the Legislature's guidelines for the \$2.1 billion investment for trade corridor improvement account. Senate Bill 19 will set the terms and conditions for the California Air Resources Board (CARB) to deal with the \$1 billion investment for air quality reductions related to goods movement. The \$3.1 billion goods movement and air quality reduction investment is part of the historic \$19.9 billion transportation infrastructure bond that the people of California wisely

approved last November. Given the extensive planning effort that has been developing for the past number of years, (the Governor's "Goods Movement Action Plan", California Marine and Intermodal Transportation System Advisory Council [CALMITSAC] report, the ports of Los Angeles and Long Beach's "Clean Air Action," and the South Coast Air Quality Management District's, "Air Emission Plan," the people of California have said that they, too, wish to participate in this process and want to see the improvement of goods movement in the state, trade corridors, and the reduction of emissions.

As a legislator, representing the harbor district of Long Beach and having represented the Port of Los Angeles, I have come to realize that while it is crucially important that we create and promote the logistics industry and maintain California's leadership role as the gateway for the movement of goods for the nation our infrastructure is woefully inadequate. The growth has been staggering. We have a public health crisis of a magnitude that we have never known before. I must state that the data is beginning to become incontrovertible. We now lose, statewide, depending on who's estimates are referenced, but public health-wise, we lose somewhere around 5,400 deaths prematurely a year that are related to pulmonary disorders. We know that 70 percent of the particulates in the air in the five counties of Southern California are due to particulates that are emitted in some way due to goods movement from the ports of Los Angeles and Long Beach to the Inland Empire. We have 92 percent lung development in our children. We have some of the highest asthma rates in the nation. We have premature and high rates of cancer, throat cancers and lung cancers which can not necessarily be attributed to genetic causes or other biological causes, but environmental causes. As I pointed out before, 70 percent of the particulates in the Southern California are due to mobile sources and the primary culprit of over two-thirds of the mobile sources are the trains, the ships, the trucks, the equipment, and the harbor craft that are related to goods movement.

So, we have this emerging trend in trade and creation of the center logistics that has been developing for the last 20-25 years. As a result, we have this tremendous problem of congestion on all our freeways and a tremendous public health crisis. The California Air Resources Board estimates that by the year 2020 our public health bill for the treatment of disorders due primarily from diesel particulates that generated from goods movement, will be about \$200 billion. We as a state are either going to pay in the front end or the back end. Right now, we are paying on the back end and this situation is intolerable and must be changed. We have, and as an elected representative, I have a responsibility to my constituents to make sure that we move goods efficiently and effectively and that we also reduce the emissions and protect our citizens and reduce the tremendous congestion.

Over the past number of years, I have introduced a number of pieces of legislation that deal with goods movement and air quality, truck idling, helping the industry promote off peak hours, no net increase and container fees. I have done all this with the focus of promoting better practices, creating better infrastructure, and reducing air pollution. That has been my emphasis. I continue to do this, and I will tell you that a number of years ago, when I spoke about these issues in the State Legislature I was a voice in the wilderness, I was alone. But, now it is, I think, within this State Legislature the highest priority to solve these problems and to protect California's economic interest, but also its public health interest.

We are here today to look at the options that we have. I am a promoter of one of the options. I would like to hear what other people think about other kinds of options, because we as a state have a real commitment to solve these problems. And that is really why we are here today.

I want to welcome all the speakers to this discussion. I have Jeff Brown on my right. Jeff is one of the senior consultants with the Committee on Transportation & Housing and on the Subcommittee on California Ports & Goods Movement; and on my left is Norman Fassler-Katz, also a senior consultant on the committee and all the way to the left is Carrie Cornwell. Carrie is the chief consultant for the Committee on Transportation & Housing.

Our first speaker today on impacts of user fees on goods movement is Paul Bingham, Principal for Global Trade and Transportation Practice with Global Insights.

MR. PAUL BINGHAM: Thank you, Mr. Chairman. I appreciate the opportunity to address the committee today. My role in this, I viewed, is trying to start with painting the big picture. I'm coming from an economic forecasting firm that does a lot of work looking at these issues and doing projections from the sight of the economy. I prepared a presentation with some graphics to present some of these ideas and communicate some of the message, some of which will not be new to you, but as we move forward in the presentation, we might see some more specifics around California that maybe will provide some new insights (*See Background Material and Witness Presentations*).

I would like to start with this slide where I portray the largest view I can of what is going on with the United States economy with relationship to trade. This is a graphic that goes back to 1975. The share of the United States economy that is devoted to imports and exports; the exports in blue and the imports in red; and you can see our forecast to the right

there going on out to 2015 is for continuation of this very long-term trend of an increasing share of the United States economy being tied to trade. This is no more a reflection than the globalization of our economy, the increasing importance of trade to the economy and behind this comes all the other economic indicators that fall into the composition of our economy including employment; income by families; the mix of industry sectors and their focus in terms of having an international versus a domestic orientation. What this really is showing is that the projection is going to continue and that every year the international trade component of our economy becomes more important and more critical. So, obviously the infrastructure and the ability to handle this growing trade also grows in importance every year as a greater percentage of the jobs and the greater percentage of the population and their own economic well being are tied to trade.

If I take that total trade number, and try to decompose it into let us translate it just into the goods trade that moves in containers, these are the boxes that move through the big container ports here in California and the other major ports around the world. In this graphic I'm showing that this globalization of trade and the impacts of the rate of growth of trade are not unique to California let alone the United States. In the bars at the bottom is our estimate of the entire world economy. It is actually a forecast of the world Gross Domestic Product (GDP), if you will, and looking back just to 1996. But, that line at the top is a representation of the volume of trade measured in the Twenty Foot Equivalent Units (TEUs), the box counts of those container boxes coming across the docks of the ports. The point is that every single year even in the global recession year of 2001, it is almost a multiple of that growth in the economy that has been the growth in volume of that container trade.

The point of this is that to understand that the pressures on the container facilities, the infrastructure that handles them and the portion of trade which moves in these container boxes is growing much faster than the economy as a whole, and therefore, increasing in its importance to the economy, not just of the United States, but of its trade partners.

The reasons for this growth being so much higher than the economy of the whole are more than just the demand for these consumption goods themselves. In other words, if we thought of, well, why do you trade? It is to purchase goods that have some advantage to you over goods that you can purchase that are produced domestically. Or conversely, that you find a market in which you can sell goods you produce, but we have seen that the growth in container volumes have exceeded this underlying growth in actual goods consumption. The reasons for that are several. I have indicated here whether they are a positive or negative influence by the direction and the color of the arrows on the left. These are things that

we are all familiar with. It is the advancement of global logistics sourcing by industry where companies and individual procurement managers within companies are looking beyond their own borders. The emergence of global trading blocks and the liberalization of trade moves to facilitate regional trade across groupings of countries or even globally through organizations such as the World Trade Organization. Also, the trade facilitation measures that are necessary in terms of the structure and the institutional factors which affect the ease of trade such as the harmonization of trade and regulatory policies.

Since 9/11, we have also seen an advancement that has had a side benefit in terms of promoting trade. This is the establishment of trade security standards and the acceleration of information flows about trade, which make the transaction cost associated with a trade transaction lower than they would have been had we not made these investments.

These investments have all promoted the pace of change and accelerated trade, but at the same time, we have started to run into some impediments to growth in trade, especially from the container trade perspective. Those include the increasing freight traffic and growing congestion along the corridors and ports and border crossings. Within the United States, we saw this most alarmingly in 2004, obviously, with the congestion we saw in the Southern California ports. But, we have also seen that the dollar exchange rate has declined against our trade partner currencies, which has made our imported goods more expensive at least for those foreign producers that are not willing to accept lower profits to hold onto market share. That has impeded the ability of the United States to take advantage of further trade opportunities overseas, but actually has a flip side benefit, in that it actually makes our exporters more competitive and helps promote trade of our exporters.

Now, if we turn just to California and we look back over a similarly long term, really back to the beginning of very large scale containerization of trade in the early 1980s, I have graphed on this chart two separate measures on two axes. The red on the right is the percent of the United States total represented by the goods handled by California ports. You can see that that has risen over time back from being around 20 percent or 30 percent of trade spiking a little bit in those very low volume days in the early 1980s up to where today almost 40 percent of all U.S. trade is handled by California.

SENATOR LOWENTHAL: That represents over 40 per cent trade through California?

MR. BINGHAM: That is correct. This is all California ports and not just San Pedro Bay. This is everything from the perishables that come

through San Diego on up to the traffic that moves in large volume through Oakland.

But, the volumes there in the bar show the real acceleration, this doubling or tripling, if you want to go back far enough in terms of the volumes, that doubling in 10 years, and if I carried this forward in terms of forecast, we would see a sustained and tremendous growth rate. The left scale is the millions of the Twenty Foot Equivalent Units (TEUs) measures of boxes which we are all very familiar with in terms of the pressures that are there. The point to take away from this is the importance to the country, not to just California as a whole of this trade as these volumes have grown, but the volume that is being handled for the rest of the country has actually increased.

There is a flip side to that which is important to understand and that this cargo is not only to serve California consumers, but the California trade logistics industry sectors are benefiting from being paid to be engaged in the servicing of the rest of the country by providing access to these cargos at a very efficient and low cost for the rest of the country.

I want to move quickly to just a few examples of some of the underlying trends that are happening that may affect the future of the growth path of this trade. I'm starting here with looking at the United States' largest overseas trade partner. This is number two to Canada as far as a trade partner. But, from an ocean trade perspective, it is now China. If we can decompose the trade between the United States and China by category, if we look at import market penetration from China, going back to 1995, so more than 10 years ago, the point is that the Chinese have been able to successively capture a greater share of the United States total imports in various categories to where as today, for example, in footwear, the large majority, in fact, almost what you could consider a market saturation level of imports are coming from China.

That is not really a surprise. We are aware of them as a tremendously large concentrated source of production for export to the United States. But, the flip side of that is, if we look going into the future, we will not see the same growth in market share and the same, therefore, concentrated growth in trade in these commodities from China, as we have seen in the past, because the trade growth rates will slow down to the level of the increases in our consumption based on the growth of our income and our population in the country.

There is some contrast, quickly looking at some other categories where, if we look back in 1995, the Chinese penetration of our market was tiny. Very little production was going on in China for export to the United States. We can see that both of these categories that I have picked out also show some rapid increases. If we look, for example, at the bottom

one of very high tech goods of semi-conductors and parts, even today they are less than just about a third of the sourcing into the United States market for imports. So, there is a lot of additional potential for China to capture market share in the future. There is no guarantee that they will and we are in fact forecasting that they will gain some share. There is potential for additional growth in trade concentrated with China on the transpacific which adds to the future pressure on the gateway ports handling that trade.

One last slide looking at China, if we turn around and look at the importance of the United States to China, and I have tried to portray this in terms of the line graph that goes from the upper left down to the lower right measured against the right axis of the United States' share of Chinese exports, the United States is now actually becoming less important to China as a trade partner. The share of Chinese exports that is destined to be sold in the United States is falling and we are forecasting that it is going to continue to fall. That is even at the same time, if we look at the bars there, that the scale on the left are the units of trade increase and we are seeing that they still forecast a substantial increase in the volumes of imports, here actually a tripling of United States imports from China.

What I want you to take away from this, though, is from the big picture foreign policy perspective. Overtime, other countries are becoming more important to China and our country's ability to influence what China does is diminished. We are still, by and far, China's biggest trade partner. But, the point is, that over time, they are finding other alternative markets in which to sell their goods.

SENATOR LOWENTHAL: They are just growing at such a rate that they are becoming the world power.

MR. BINGHAM: They are becoming the world's factory floor. They are selling into Africa and to Latin America and to other countries. The point of that is if there are market share impediments in terms of their ability to sell into the United States, it is not as if they have to learn how to sell into other markets. They are already very proactively pursuing export sales into other markets overseas.

I have got just a few more slides to present. One is turning around to the cost side of what goes on in transportation in the economy. If we went back to the 1980s, with the federal deregulation of freight transportation across the modes, and we mapped this concept here of the total logistics costs, we would have seen a great decline from the period of the 1980s through about 2003. This is a measure that is put together by the Council of Supply Chain Management Professionals which attempts to

capture the biggest picture cost to the economy of the cost of logistics, in other words, sourcing goods. That includes components that are not just transportation costs which I'm going to go into subsequently. What I want you to take away from here, is just in the last two years, and for the first time in almost two decades, we are seeing a significant upturn in these total logistics costs. That is significant from the perspective of the decision makers in individual companies that are trying to manage these costs. For many of these managers, their whole career they have enjoyed decreasing logistics costs and now we are faced for the first time with questions from their management, how come your budget for transport is increasing this year? Why are these logistics costs going up? We believe one of the factors at work, besides energy costs in this increase in logistics costs, is the cost that is imbedded now in the transportation system in terms of risk minimization around congestion and some of the impediments to freight transport moving smoothly through the infrastructure. As I mentioned previously, the composition of those logistics costs are still dominated by transportation. This pie chart shows the proportions of the components of the total logistics cost measures, including taxes, depreciation, insurance, logistics administration, and warehousing, which sometimes is mentioned as a significant component of it, is actually only eight percent. Transportation costs are still the single largest and very significant portion of logistics costs. So, the sensitivity to transportation costs from this increase in total logistics costs is increasing from the perspective of those companies engaged in trade and movement of goods.

Now, two final slides on issues that are going to affect the profile and the shape of future trade demand through California ports. The first, is something that some of us have started to pay attention to more recently than we had years ago, the expansion of the Panama Canal, which has tremendous significance potentially for California, as a gateway competitor, in providing capacity to serve the United States gateway market of goods coming over the transpacific. If we compare the composition of trade through the Panama Canal in 2005, with our forecast of the composition of trade through 2025, and this includes in it an assumption that the Panama Canal is successful in expanding with the addition of a third set of locks sometime in the next decade.

SENATOR LOWENTHAL: Do we have any idea how close they are to that?

MR. BINGHAM: They have all the proposals for work and are engaging right now in the engineering contracting. They believe the initial funding that they are generating themselves will be enough to get started very soon, within a year or two. They are still expecting to complete the expansion somewhere between 2014 and 2015. Even skeptics of the

Panama Canal Authority's ability to manage a project of this size and magnitude are no longer so doubtful that they will eventually be able to pull this off.

This is an enormously expensive undertaking, as you can imagine. Many billions of dollars and an enormous amount of money spent both on the actual physical construction and on environmental mitigation steps that are being required by potential lenders to support this. There is an enormous amount of international equity investment available to the Panamanians and they have attracted an enormous amount of interest from literally dozens of potential foreign equity investors, many of whom are not in the United States. These investors are looking to participate in this in terms of achieving some of the gains from the toll revenue, which is earned by the services provided by the Panama Canal.

The point I wanted to make with this slide is that blue part of the pie, the container traffic, which is about a third of the tonnage in 2005, most all of this expansion is actually aimed at handling this container trade. That is where the Panamanians are seeing the growth. They are forecasting it is going to shift from this one-third to almost 60 percent by 2025. This reflects the faster growth in those sorts of commodities and the ability of the Panamanians, they believe, to provide services that at the toll rates they expect to charge, to pay off the expenditure of actually constructing this canal will return a positive contribution to the Panamanian economy, as their most significant asset over the long term.

This is the view of a potential competitor from just the all water route side, if you will, to realize the potential to allow ships to travel from Asia around to the Gulf or the east coast of the United States. There are some other ports that are now proposed for other gateways into North America. I have just one slide on this. I could have also have added one in Canada that would have picked up a port that is going to be opening later this year up in British Columbia. I'm starting here with this map of Mexico to show that there are some proposed additional services to reach into the United States market from ports in Mexico. The ones identified here: Manzanillo, Lazaro Cardenas, and at the very bottom there actually is not so much a port facility that feeds into a rail line into the United States, but what is called the alpha omega line is actually a very old rail line that is a trans isthmus line that provides really a competition to the Panama Canal. In other words, this is a bridge between the Pacific and Atlantic Oceans that could potentially carry cargo across Mexico to ocean-borne vessels that would then take the cargo on into a United States port somewhere on the Gulf or potentially on the Atlantic coast.

As container volumes continue to grow, the opportunities are there for investors, they believe, to potentially capture some of that growth and for

some of the hinterlands that they intend to reach, for example, Texas, that they believe they are at competitive distances with all water services costs going up through Panama. We have already heard the Kansas City Southern railroad out of Kansas is very aggressively marketing one of these routes that they control on the rail side all the way down to Mexico. There have been substantial foreign port operator investments in these ports, partially at least publicly stated with the intent of eventually serving the United States.

I should add one caveat that today all of these facilities really only service the Mexican market. There has been tremendous growth in these ports, but the growth has come from the diversion out of the United States of the cargoes that previously were transshipped into Mexico through United States' ports to direct services that now call on these ports from Asia.

SENATOR LOWENTHAL: The Mexican market will continue to grow, as well?

MR. BINGHAM: Absolutely. And that is a very important consideration. I did not highlight them here, but we could put in the golden triangle of Mexico City, Guadalajara and the Monterey markets, which these ports serve today. That will be the majority, we believe, a future demand for the capacity provided at these ports. I do not want to overstate the significance of them, but on the other hand, they will be and they are intending to at least try to find some niche opportunities to penetrate into the United States market with carriers today that perhaps are bringing their cargoes through United States ports.

I highlighted some of the investors in Punta Colonet up on the left. We have seen recently the Union Pacific railroad make some public statements about pulling out of the deal with Hutchinson, but we believe there are many other potential investors that are looking at this very seriously. We do not know eventually who is going to actually shake out as a potential investor. The level of interest and the seriousness and the experience of the companies involved, make us believe that there is a real potential for the Punta Colonet port to come on stream and actually get constructed. I will not venture a guess as to when that could happen, but if it does, that is a port that really does not serve the main Mexican market. The only real reason to build that port is to feed cargo into the United States through a Mexican gateway through a rail system build out into the hinterlands of the United States.

Punta Colonet is actually south of Ensenada. There is no port there today. It is a greenfield harbor where they would be building a port from scratch where there is no local community.

SENATOR LOWENTHAL: Have you been able to project volumes through California ports and Mexican ports?

MR. BINGHAM: The volume projections that we have done in a number of different contexts, if we look out say, 10 or 15 years, are in excess of the existing announced and planned capacity of the sum of all of these ports from Mexico all the way up to British Columbia. But, there is an important caveat to that. That is with capacity assumptions made on today's productivity and throughput at the existing ports, not only in the United States, but also in Mexico and in Canada. As we will talk about later, obviously, with PierPASS, there are potentially some operational changes that would substantially increase the effective throughput capacity without expanding the acreage throughput of the terminals in these ports.

SENATOR LOWENTHAL: So, whatever the reason, whatever we do, even with the global economy, globalization and the other ports that will be developed, we are still talking about the potential of California's trade still doubling or tripling?

MR. BINGHAM: Absolutely.

SENATOR LOWENTHAL: So, we are still going to grow even with all of this.

MR. BINGHAM: The underlying demand is there. I'm not predicting that it will be carried by a California port gateway, however. The point of this slide really is to say that there will be an increasing number of alternatives for the traffic that could be characterized as discretionary through California ports today. If I'm an importer in New York City or even in Chicago, I do not really care what port my cargo comes through. In the long run, there is the ability of companies to change their distribution networks and to feed their distribution centers through other ports. That is really the point of this slide that in the long run the current practices and infrastructure tied to using California as that primary gateway. If I went back to my slide showing 40 percent of the U.S. imports, there is no guarantee that in the long run that percentage stays where it is.

SENATOR LOWENTHAL: I'm just raising the issue, is that with this growth even with California ports and the United States ports, we may not be able to handle the tremendous volume in and of itself. No one is saying that there will be less business going on.

MR. BINGHAM: That is true.

SENATOR LOWENTHAL: The growth exceeds the projections?

MR. BINGHAM: Well, hopefully not of ours, but you are correct.

SENATOR LOWENTHAL: People still want reliability and so you have a phenomenal amount of infrastructure that needs to be developed.

MR. BINGHAM: There is no question that the demand is far exceeding the pace of the collective infrastructure development on the entire Pacific Coast.

SENATOR LOWENTHAL: They are not the only place that has infrastructure needs. I mean, the infrastructure needs are overwhelming.

MR. BINGHAM: Whether we are talking Delta Port in Vancouver or Seattle/Tacoma or Oakland, you are right. Up and down the coast we have problems where the demand exceeds the long term capacity that is projected today. But, I do not want to overstate the case in terms of saying that there is no choice other than a California port. If that is understood, okay.

That concludes my presentation, Senator.

SENATOR LOWENTHAL: Thank you, Paul. Next, we have Robin Lanier.

MS. ROBIN LANIER: Thank you for this opportunity to appear before you, Senator.

SENATOR LOWENTHAL: Senator Torlakson has just joined us.

MS. LANIER: Senator, I represent the Waterfront Coalition. We have written comments that we have submitted in advance and I intend to summarize those written comments. I will not read them and I will be very brief.

The Waterfront Coalition is a group of concerned business interests representing shippers, transportation providers, and others in the transportation supply chain. We represent virtually all players in the transportation chain, but our board of directors is dominated by the folks who own the cargo and move the cargo and so when I speak, I'm going to be speaking mostly from the view of cargo owners.

Senator, as you know, we have had long conversations about Senate Bill 974, the container fee bill that is currently under legislative consideration.

SENATOR LOWENTHAL: Over the years, Robin, as a result of these conversations, we have become close.

MS. LANIER: Right. And as you know, we have some objections to that container tax.

SENATOR LOWENTHAL: Fee. We call it a fee, please.

MS. LANIER: Yes, I know. This is the debate. And we have articulated those reasons a number of times. I do not want to spend a lot of time talking about that bill. Instead, what I would like to do is to talk about a proposal that the Waterfront Coalition and four or five other organizations put forward at the end of March. I have a copy of it that I would love to have inserted into the record of this hearing (*See Background Material and Witness Presentations*).

SENATOR LOWENTHAL: Certainly. We have a copy of that and we will have it inserted into the record.

MS. LANIER: The proposal covers two issues that I know are near and dear to your heart. One is how to pay for infrastructure, and the second is how to address the diesel emissions issue from trucks operating in the harbors of California. Our proposal on the infrastructure side lays out a series of principles for public/private partnerships, and also identifies a number of projects which I will get into in just a moment.

In 2005, the Waterfront Coalition published another white paper called, "A Call to Action," in which we had a much larger group of projects that included some Northern California projects, as well as projects across the country. One of the things I want to point out here is that in that particular paper, we did not talk much about the financing of those projects. We really thought fundamentally it was important to know what your shopping list was before you went to the store. We needed to have some idea about what each of those projects cost. We still actually believe that. We believe that it is important to focus on the projects that in fact, this debate is very often about reaching consensus on projects before we get to the point of how much is it going to cost. Fundamentally, that is where we, I think, have a disagreement about proposals to just impose a fee or a tax, without specifically talking about what projects we are interested in, because the folks I represent want to make sure that certain projects are built.

In addition, I think with the addition of our proposal here on diesel trucks, the Waterfront Coalition in any case has moved into a new area of public policy that we have never spoken on before, and that is environmental issues. In fact, environmental issues were not even part of our mission statement until 2006, and it was a growing recognition on the part of cargo owners that addressing harbor drayage trucks and diesel emissions in the ports were fundamental to also being able to move forward with infrastructure projects.

Our proposal really puts, I think, the rubber to the road, with respect to things that we think are really important. It provides you a very short list of projects we think are very important, and it provides an industry proposal for getting rid of dirty trucks operating in California.

I would like today, very briefly, to put some numbers to this, so that you have an idea of what this is going to cost. We actually have spent some time over the last few weeks trying to do that. Let me start with the truck program first. We asked our members to go back to their drayage companies and their ocean carriers to get an idea of what it would cost to replace trucks operating in Southern California. We focused on Southern California. We recognized that there is an issue in Northern California, but we were focusing primarily on Southern California.

SENATOR LOWENTHAL: To what standard?

MS. LANIER: What we asked our people to do was to assume that they would have to move to a 2007 standard diesel truck, because we had to ask them something. That is an assumption. I have to say that the proposal that we put forward asked for a state standard on diesel trucks. We have not spoken about what that standard should be. To be honest with you, we really have no opinion about what those standards should be. We would like to be assured that we are operating and moving our cargo in clean trucks. The folks I represent, the cargo owners, anyway, do not own trucks, and so do not really have much of a dog in that fight in terms of what the standards should be, except that we will pay for it at the end of the day. So, obviously what standard is imposed will have an impact on dray rates.

Knowing that the proposal that we put out was going to have some impact on dray rates and being a prudent business organization, we went to our members and we said you need to go talk to your trucking companies and you need to ask them a series of questions. We actually put out a series of questions that we asked our members to go and talk to their trucking companies about. We then asked them to share information about what the costs of our proposal were and other proposals that had been put out. The answer that came back was that if

we were to replace trucks with 2007 diesel trucks, the dray rates, without any other program in place, for Southern California would increase by \$100-\$150 a dray.

We went back to our members and said that is the price tag for this program and no one batted an eye. I have talked to many brand name companies, brand name manufacturers, retailers, consumer product importers and exporters, and you know, the bottom line here is that they all agree that trucks need to be cleaned up and they all believe that the most sustainable way to clean up the trucks is for the state to regulate and set a standard and then get out of the way and let industry pay for it. That including the cost of replacing the trucks, and in effect, internalizing the external cost of the dirty truck is the only sustainable way to move forward. The other proposals that are out there turn out to be much more expensive and much less direct in addressing this problem.

We have now had a series of meetings with the California Air Resource Board (CARB) and others in which we have tried to impress upon them the fact that the way to look at truck replacement in California is not to look at owner/operators, but to recognize that there is a stream of customers that need to have trucking. You saw the slides. We have a lot of trade coming through these ports. They depend upon the drayage community and if you say that the drayage community has to run clean trucks, whatever that means, we will find clean trucks to run and we will find drivers to sit in those clean trucks. Our estimate is the cost of that will be about \$150 a dray.

SENATOR LOWENTHAL: How much will that cost?

MS. LANIER: How much will that generate?

SENATOR LOWENTHAL: How much does it cost?

MS. LANIER: That is going to be built in the rate. I mean, I think it is very important for people to understand. We have a lot of conversations here in Sacramento about fees and taxes and ways to collect money from various entities for some process. I think with truck replacement, we need to treat the trucks exactly like we treat every other industry that we set standards for. We have to say trucks need to meet a certain standard, whatever that standard is. Then we have to expect that the business community is going to find a way to meet that standard. The cost of meeting that standard is going to be built into the rate itself. Anything other than that, like a fee that you would collect, is not really sustainable. Building the cost of operating and cleaning up trucks into the dray rate is the way to go. There is one other advantage of this. You

do not spend any of the billion dollars in bond money that has been identified for emissions reductions. You do not spend a dime of it on replacing trucks. You have got the industry itself paying for that mitigation, and that means you have more money to spend on things like grade crossings and other projects. We really feel very strongly about this.

SENATOR LOWENTHAL: I know you do. I just want to ask a few questions about that. One is we have identified not just drayage trucks that need to be replaced. So, that is not the total thing that is the state's responsibility.

The second part is, right now, undeniably the owner/operator system that we have is paid the least. They do not have a way of raising their standard. What you are saying is that will be passed along. Yet, right now, their costs and the difficulty in obtaining drivers are not being passed on. Why do you think it is going to be passed along?

MS. LANIER: Because it will be and because of the charts that Paul showed you. If I'm a manufacturer making widgets in Kansas City and I have a supply chain that has three hours of parts available at any one time. I have a constant stream of containers with the inputs to production to that manufacturing plant in Kansas City. I'm relying on a portion of that on a drayman and a truck. I'm shutting down that line if I do not have a truck to move the freight. So, what I'm saying is that if the state says the truck has to meet X standard, we will find a way to meet the X standard. Now our proposal has some ideas in it about how to do that.

SENATOR LOWENTHAL: I just want to say one thing, though, in responding. There are other proposals that would also talk about the replacement of the trucks that cost a lot less than that. Let us say Senate Bill 974 which has \$30 a Twenty Foot Equivalent Unit (TEU).

MS. LANIER: But there is no guarantee that that money goes to truck replacement

SENATOR LOWENTHAL: Yes there is.

MS. LANIER: There is no guarantee.

SENATOR LOWENTHAL: What you are saying right now is you are going to raise just for the drayage fee, just for the trucks, you are going to raise the price to \$150? However, with the state's proposal or other proposals the drayage fee is much less. How does that not move the cargo elsewhere?

MS. LANIER: My point, sir—

SENATOR LOWENTHAL: Why would not people go someplace else?

MS. LANIER: The point is that every other proposal that has been put on the table costs more. I know it is counter intuitive, but Senate Bill 974, first of all, is an unconstitutional tax and there is no guarantee it goes where it should. It is an administrative cost that collects the fee and then put it in a place and spends it on something else. What I'm saying is that if you simply go to the point and say we want to clean up the trucks and the trucks have to meet X standard and get out of the way, the industry will pay for it. You do not have to collect a tax, and it will cost a lot of money and we are willing to pay. The proposal put in place by and recommended by the ports of Los Angeles and Long Beach.

SENATOR LOWENTHAL: Right, take that proposal.

MS. LANIER: We asked our members to find out what the cost of that proposal is, because it is quite anti-competitive in the way it would go forward. It would require some following of assets that are publicly bought with a public subsidy, which we have fundamental problems with. The cost of that program is \$250-\$300 a dray. And at \$250 and \$300 a dray we will divert. At \$100-\$150 we are still below the studies that are out there that say trade will divert.

SENATOR LOWENTHAL: I just want to ask, putting aside the issue of the constitutionality and putting aside that you are worried that the money is going to be diverted, what is the difference between \$30 a container versus \$150 a container?

MS. LANIER: Well, you can not replace trucks at \$30 a container.

SENATOR LOWENTHAL: Well, we believe we can.

MS. LANIER: Well, with all respect, sir, you cannot replace trucks for \$30 a container. That is not even the proposal that the ports have put forward. The ports have put forward a proposal that would collect \$30 and combine it with bond money to purchase trucks.

SENATOR LOWENTHAL: We are talking about combining with bond funds.

MS. LANIER: To purchase trucks and then require a new regulatory scheme to follow those trucks will cost \$300 a dray. I mean, the impact on the final rate is going to be \$300 a dray, and that is not \$30.

SENATOR LOWENTHAL: That is the port proposal.

MS. LANIER: That is the port proposal?

SENATOR LOWENTHAL: Right.

MS. LANIER: Your proposal is not going to be sufficient to buy enough trucks and also pay for infrastructure. So, the point here is that if you want to replace trucks, it is going to cost a lot of money. The cheapest way to replace trucks is to set a standard and get out of the way and let the industry pay for cleaner trucks. It will cost approximately \$100-\$150 a dray. That is what the industry has said they are willing to pay. I suspect some people will move elsewhere, but there is still a lot of fixed investment here, mostly in the warehouse community, that is using dray trucks, that really do not have a whole lot of choice. The \$100 or \$150 is still within the limits of studies that have been done that indicated these costs would not have much impact on moving trade elsewhere.

SENATOR LOWENTHAL: The way we have done PierPASS and I know we are getting ahead, instead of asking the truck drivers to pay for the drayage, why do not just pay into or have a PierPASS like system?

MS. LANIER: We are not asking the truck drivers to pay. We are asking the motor carrier industry to pay.

SENATOR LOWENTHAL: Who is paying?

MS. LANIER: We are telling the motor carrier industry that my folks have a relationship with, that they must run trucks that meet a certain standard. It is like saying to the ocean carriers you have to meet a standard. The industry will figure out a way to meet that standard just like they figured out a way to meet hours of service or any other standard that is out there.

SENATOR LOWENTHAL: You are saying they are going to raise the rates?

MS. LANIER: They will raise the rates to pay for it.

SENATOR LOWENTHAL: You will then pay these raised rates?

MS. LANIER: We will pay raised rates.

SENATOR LOWENTHAL: So, I'm just saying why do you not just pay those rates into a fund and do it correctly?

MS. LANIER: Because we need the standard.

SENATOR LOWENTHAL: Even with the standard.

MS. LANIER: We need a statewide standard.

SENATOR LOWENTHAL: Let us say we did a standard.

MS. LANIER: It is much more direct to set a standard and let the market pay for the trucks. That is the way it is done for virtually every other industry in California. That is the way the California Air Resources Board (CARB) does it for every other industry. For some reason we have decided trucks are a special case, and from my perspective, trucks are not a special case. If the state wants cleaner trucks, the state needs to regulate the trucks. We have asked, by the way, for a statewide standard, not just a harbor standard. We have also suggested that there be a mitigation fee collected that would drive change at the harbor faster than it would otherwise by making dirty trucks expensive to operate. So, there would be a lot of market pressure to move to cleaner trucks.

From our perspective, which is actually from the tax payers' point of view, it is a much cheaper way to do it. It is a little more expensive for us, but any program that has been put out there to replace trucks is expensive. We believe this is less expensive than other programs to replace trucks. Not only that, it is all private money.

Let us go to the infrastructure just briefly. We identified six or seven projects in our paper. This is the short list of projects. We do have a longer list of projects. We have been asked by folks in Sacramento to be as brief as possible in terms of our projects, because, you know, the Goods Movement Action Plan has billions and billions of dollars of projects.

SENATOR LOWENTHAL: These are all highway projects?

MS. LANIER: No, these are highway and rail projects. Our projects include two rail projects and the rest are highway projects.

Our top priorities are the Southern California International Gateway project which is a near dock rail yard in Los Angeles, and improvements to the Intermodal Container Transfer Facility (ICTF) that the Union Pacific railroad runs that is also near dock.

SENATOR LOWENTHAL: Okay, so five of six projects.

MS. LANIER: These are two very high priority projects. These are rail projects. They will be funded entirely out of private contributions by the railroads. In terms of the price per container, it is hard to figure out what that would be. But, there would be some price per container. Obviously there would be some gains from those projects, because it would speed cargo. We would not have to go up to Hobart and other places. So, hard to tell what the price tag in the rate would be for those projects, but there is clearly a significant private contribution in the form of rail money for those projects. There is no public money at all for those projects.

The only thing standing in the way of those projects, by the way, is dealing with the trucks. The contribution we make on the truck side, I think, clears the way for moving forward with some of these rail projects that are really high priorities.

Another project on our list is the 710. Obviously we do not have a full idea of what might be proposed for the 710. We have many times in the past stated that we would support truck lanes on the 710 and we would assume that the trade would pay a toll for the privilege of moving trucks in truck only lanes. There is some unknown toll that the trade community is ready to pay when we get ready to talk about the 710.

That leaves a group of projects that all fall within the ports themselves and it includes the replacement of the Desmond Bridge, State Route 47, and the I-110 connector projects. The ports have done some analysis on those projects, because they are in the ports themselves. This is a subset of the projects that the ports have recently announced as part of their Clean Air Action Plan. We have some issues with the ports deciding that they are in charge of an Alameda Corridor East project since it is outside the boundaries of the ports. We would prefer to see the creation of corridor authorities to manage transportation in a larger capacity.

But, with respect to those high priority projects, the ports have done some analyses. Those projects would cost \$1.5 billion. Based on available federal money, some of those projects have already gotten federal money and given the ports' estimates of what they are likely to get from state money and bond money, they are predicting and projecting a private contribution to those projects of about \$400 million.

SENATOR LOWENTHAL: You mean all four projects: the replacement of the Gerald Desmond Bridge, SR 47, I-110, and the 710 improvements?

MS. LANIER: No, not the 710. I'm talking about just the projects inside the ports.

SENATOR LOWENTHAL: Just those three.

MS. LANIER: Yes, inside the ports.

SENATOR LOWENTHAL: Not all of the projects are within the port.

MS. LANIER: Okay, there is one.

SENATOR LOWENTHAL: The ports are asking for \$400 million?

MS. LANIER: The ports have done an analysis and they have asked for \$400 million, as a private contribution.

SENATOR LOWENTHAL: Does that count what they are also going to be requesting from the bond?

MS. LANIER: That is more than what they would request from the bonds.

SENATOR LOWENTHAL: That is in addition?

MS. LANIER: Yes, that is in addition to the bond, but it is more than what they would ask for in the bond. I think the bond is \$390 million in the proposal that I saw that the ports put out. And that is, by the way, in a document that the ports put out on March 1, 2007 that they shared with the Waterfront Coalition at one of our meetings. I have a copy of this. I do not know whether I'm at liberty to share this document but, you can talk to them about it.

If you just look at those projects, where we have consensus, there are a number of other projects where I would say we do not have consensus with the ports about the priority of the projects, and obviously those things have to be worked out. These are projects that clearly the industry has consensus about within the ports. These are critical projects that need to move forward. And the private sector contribution estimated by the ports is a little more than \$400 million. No one in meetings with the ports has blinked an eye about making a private contribution of that level. The debate with the ports has been the method of collection of that private contribution whether it is a toll or a container fee or whether you apply that fee to intermodal rail that does not use highway projects or whether people who pay the Alameda Corridor fee would be exempt. There has been a lot of back and forth with the ports about the collection method.

SENATOR LOWENTHAL: So, a container fee for those projects is not unconstitutional.

MS. LANIER: No, because it is a user fee for those projects, if you structure it correctly. I mean this is where the debate has been. If you set a container fee for those projects and you apply it to rail users that are paying the Alameda Corridor fee, and not using the highway, then you have some issues. Those folks would say that is an unfair fee, because they are already paying for the privilege of using the Alameda Corridor, why ask them to pay a fee for using the bridge when they are not draying.

There has been a pull and tug about how you collect the fee, so that you meet the principles that we have laid out in our paper. One of the principles of that paper is the user pays.

We must find a way to assess the fee in a way that the user of the actual infrastructure is paying. Which is why for the bridge, the logical way to do that would be a toll whether you collect it at the gate or at the bridge, but like I said, there is a debate. And it is a healthy debate.

SENATOR LOWENTHAL: In your earlier paper that you first presented on this you indicated that those tolls would also potentially go on all traffic, cars as well?

MS. LANIER: Potentially. We do not have an agreement with the ports about the method of collection.

SENATOR LOWENTHAL: You mentioned that you did put out that cars would be paying some of these tolls?

MS. LANIER: But, they are users of the bridge.

SENATOR LOWENTHAL: So, now we pay for our public health and we also pay for to move cargo?

MS. LANIER: The improvement of the bridge is used by people who use the bridge.

SENATOR LOWENTHAL: And the 710, also?

MS. LANIER: We made a comment that we would like to see truck only lanes on the 710, and we would assume that only trucks would pay for the truck only lanes. The principle here is that the user of the infrastructure pays. Now, the ports and we have not have reached agreement on how to collect that fee. The ports have a proposal out there that the \$400 million would be the equivalent of a \$20 container fee. Let me just say that nobody has really batted an eye with respect to that \$400 million. The debate is really about how you collect it. Whether

rail or the people using rail, are going to be asked to pay a fee for building a bridge that they do not use.

The issue of cars is in the debate, if you go the direction of tolls. You could go to gate fees or other kinds of methods for collecting that, and there is the ports' proposal to use PierPASS to collect the fee. This we bitterly oppose, as you might imagine. We do not think that the beneficial cargo owner is the appropriate place to go do that. There is no nexus in using PierPASS which is a non-profit organization to collect taxes and fees. This is problematic for us.

There is no agreement with respect to how you collect that fee, but there is no dispute about the need for that private stream. I think there is a willingness to sit down and work something out. Just from the standpoint of putting a number on this, because the subject of this hearing is, you know, how badly will container fees affect trade? It is about \$20 a container. So, if you add up what we put in play, \$150 for the dray, \$20 for the infrastructure that we think is the most important, plus some additional expenses that are hard to figure out, because we do not know what the rail projects are going to do to our rates. And we clearly do not know what the price tag is for 710. But, there will be a price tag for that sometime in the future.

Well, you are looking at \$170 to \$180 a container and that is getting very close to the \$200 container mark that Professor Leachman and others have suggested is the point at which people begin to bail on the ports in California. But, it is still under that and it is a proposal that has been endorsed by a wide range of stakeholders including the two largest retail associations in the country who feel very strongly about the truck piece of it, that a standard is clearly going to raise their dray rate and they want to pay for that.

I also ought to say, that a rate at \$170 to \$180, is about 10 percent of the published rate for moving a container from Asia to the west coast of United States. So, the proposal that we put on the table will probably increase rates by about 10 percent.

SENATOR LOWENTHAL: Right now, the rates from Asia to the United States run?

MS. LANIER: About \$1,500 a container. That is the published rate. Obviously people have confidential agreements, but that is the published rate. And it just gives you an idea of the magnitude of this. So, if we look at rates from about \$120 to \$180, there is about a 10 percent increase in the rate to replace the trucks which are a very expensive

piece of this, and to build the infrastructure that is the most critical in the ports of Los Angeles and Long Beach.

SENATOR LOWENTHAL: Where do we deal with issues in this proposal? Right now, we have billions of dollars of grade separations that we need to fund.

MS. LANIER: Well, one of the points that we have been making, now, keep in mind that the proposal that we put before you was a consensus proposal, in which we got the terminal operators, the ocean carriers, and shippers, and railroads all to agree. So, in some respects, it is the lowest common denominator. It is those projects that everybody could agree on, which I think is really important for you to know.

SENATOR LOWENTHAL: Right. It is.

MS. LANIER: We did talk about Alameda Corridor and other grade separation issues. I think there is interest within the trade community to work with a corridor authority on those kinds of issues. The main point we do want to make is, if you go the regulatory route or the standard setting route for the truck replacement, and you do not use any of the billion dollars in bond money to buy trucks, instead you expect the industry to figure out a way to pay for that itself, then you have got quite a bit more money available to put into other projects that will have significant emissions effects like grade crossings. We fundamentally believe that using 30 year bond money on things like grade separations that have a longer life is a much better use of taxpayer money than using 30-year bond money to buy a five-year truck and that basically building the replacement of the truck into the drayage rate is much more sustainable.

SENATOR LOWENTHAL: You realize that the bond money is in certain pots. We can not shift that money from one pot to another. We are talking about infrastructure money. You are talking about the air quality emissions money. We can not just shift money because we have so much unmet need in the infrastructure money that we need to spend that on infrastructure.

MS. LANIER: But, what I'm saying...

SENATOR LOWENTHAL: We are already going to be putting a great deal of that, hopefully, into grade separations, but we see it as a drop in the bucket.

MS. LANIER: But my point is that if you do not spend the emission money on replacing trucks, if the industry comes up and pays for that in the rate, then you have more money to spend on emissions reductions.

SENATOR LOWENTHAL: Right, absolutely.

MS. LANIER: You know, there are folks out there, MPOs and others who view, in their area, the most important project to reduce emissions may be a grade separation.

SENATOR LOWENTHAL: That is an infrastructure project. I mean, I realize it does, because it meets our needs and it would be a priority, and infrastructure projects that also reduce emissions are our highest priority. But those projects do not compete for the air quality money.

MS. LANIER: Well, then, I'm sure there are other projects that would.

SENATOR LOWENTHAL: I'm sure there are. There are issues around electrification of equipment. We have other kinds of equipment. We have switcher engines that the railroads want and we know we have to put up our share. There is a match in all of this money it is just not unrestricted money. But, I agree with you that the more projects that we do not have to fund, the more resources we have to invest in other projects. We are also very much aware that the bond money is just a drop in the bucket.

MS. LANIER: Well, that is quite honestly is why we are here with this proposal on the state standard, as a means for you to leverage that money.

SENATOR LOWENTHAL: We know that and we appreciate that.

MS. LANIER: I have to tell you that the shippers that I represent in particular may have been late to understand the issue. But once they really understood the issue, the more they realized that it is critical to internalize the cost of a clean truck. That is actually the cost of doing business from their point of view and should be treated as such. And that is, quite frankly, the most sustainable way to move forward.

SENATOR LOWENTHAL: Thank you, Robin.

MS. LANIER: Thank you for this opportunity, Senator

SENATOR LOWENTHAL: Now moving on, Erin Green, principal, for Green and McGrath Associates. Welcome, Erin.

MS. ERIN GREEN: Thank you, Senator Lowenthal and members of the committee. Thank you for having me. It is an honor to be here. I'm Erin Green and I'm here to present the results of a study that I'm a coauthor of. This study evaluated the potential impacts of port user fees or container fees on shipping traffic to the California ports.

About the authors—as I said, I am a coauthor. There are two other authors of this study, Dr. James J. Corbett, and Dr. James J. Winebrake, who regrettably could not be here today. But, this slide is here to give you a little bit of information about their and my credentials and expertise in this area. (See Background Material and Witness Presentations).

The purpose of this study was to answer the questions; given the economic structure of marine shipping on the west coast, to what extent will port choice be affected by port user fees assessed in California? As we are all aware, this is a concern of industry that ships may divert from California ports to non-fee ports that would be comparably less expensive. Specifically, our study evaluated, number one; what is the likely percentage of total waterside freight costs that can be attributed to port user fees being discussed in California?; and second, if the fees were assessed at California ports, how significant may shipped traffic diversions be to non-fee ports? So, that is number one. If we were to assess a port user fee of \$30, how much would that increase the price of shipping the waterside cost? And number two; if the fee were assessed, to what extent would ships divert to alternative ports?

To give you a little bit of an understanding of our approach and how we derive these numbers, first we evaluated over 5,000 container ship calls to United States west coast ports including California ports of Los Angeles and Long Beach and Oakland. We applied a voyage cost analysis model to analyze port user fee impacts on voyages to the ports of Los Angeles and Long Beach. and Oakland. This voyage cost analysis model included such variables as main engine and auxiliary engine fuel costs. It included labor expenses, other operating expenses, canal dues, and existing fees.

Next we evaluated port choices for observed ship routes using the empirical data of over 5,000 container ship calls. Finally, we examined the voyage cost data and observed port demand behavior to estimate the ship traffic diversion to other major west coast ports. Specifically, we examined the potential diversion to the Seattle and Tacoma or SeaTac ports given that number one; these ports are the least cost for a voyage from Asian ports. Number two; this is a major port complex with the potential to directly compete with Los Angeles and Long Beach and other California ports. And number three; Seattle and Tacoma ports account for the majority of non-California west coast ship calls.

The overall findings for California on average, a \$30 Port User Fees (PUF) increases direct foreign voyage costs by 1.5-2.7 percent. It is important to note that our study conservatively amplified the cost differential for voyages given that we looked at direct leg voyages from one port to California ports, when in fact, many voyages are multi-port voyages. When we examined the cost impacts to a China multi-port voyage which is a common circuit, we see only .3-1.4 percent increase for these voyages.

Now examining the observed behavior of ship calls, we see a strong preference for California ports. Even with greater costs to Los Angeles and Long Beach compared to SeaTac, we see a very strong preference for ship calls to these ports compared to SeaTac.

Examining our data with conditions, as is, we estimate that Port User Fees could cause a two percent diversion of ships from California ports. Now it is important to note that projected cargo growth far exceeds the estimated ship traffic diversions which would render potential diversions virtually unobservable. As we looked at the slides earlier, the projected increase in cargo volumes is quite a bit higher than two percent, and that is on an annual basis.

We did not look at potential investments and infrastructure development which would arguably increase demand for California ports.

Now, looking at findings for ports of Los Angeles and Long Beach specifically, we found that a Port User Fee implemented at the ports would have little effect on ship traffic diversion. We found that a \$30 fee per Twenty Foot Equivalent Unit (TEU) would increase waterside voyage costs by 1.5-2.5 percent on average. And again, this is a high estimate given that we looked at single leg voyages. We found that implementing a \$30 Port User Fee would result in overall ship traffic diversions of less than 1.5 percent. Now this suggests that the port preference for Los Angeles and Long Beach, meaning for a given percentage increase in cost for the voyage, we have a lower percentage decrease in demand for that port.

Our findings for the Port of Oakland are that a Port User Fee there would also have little overall effect on ship diversion. A \$30 fee would increase waterside voyage costs by 1.5-2.7 percent. Now, for the majority of ship calls coming to Oakland, they normally stop at Los Angeles and Long Beach before going on to Oakland. For these voyages, which account for about 75 percent of voyages to Oakland, we would expect little diversion given the increased cost differential for these ships to move on to Seattle/Tacoma as opposed to Oakland.

A fraction of direct foreign voyages could divert, however, leading to an overall ship traffic diversion of 2-4.5 percent from Oakland. However, given the expected traffic growth, the voyage diversions from the port due to a \$30 Port User Fee would be virtually unobservable, as I said before.

So for more information, you can feel free to contact either Dr. Corbett or Dr. Winebrake or myself and this is the number of the company, the website of Energy and Environmental Research Associates.

SENATOR LOWENTHAL: I just want to ask— the impact of what you are saying and I think Robin also said, given the studies referred to today, that the cost of \$180 that she is estimating it could be, that diversion will not occur. Robin you are talking about much more money, you also do not believe that diversion will really occur. Is that what you are saying? You know this is the data that you have for a \$30 fee.

MS. LANIER: My view is that for those shippers that have fixed investment in the ports of Los Angeles or San Pedro and Oakland that you can not walk away from that warehouse, which is a fixed investment. You have to figure out a way to make the port work and that requires a mix of cleaning up the trucks and going forward with some of these important infrastructure projects. My view is that I do not think the proposal we put on the plate would create diversion.

SENATOR LOWENTHAL: Right. In the past you have always said that there would be diversion. Now, you are saying that there would not be diversion.

MS. LANIER: You know, to be clear, I have not said that. Maybe some of my members have said it, but I have not said it. I think the whole issue of diversion is perhaps a bit oversold. I do have to say, however, that if the ports go forward with the proposal that they have recently announced for this concession approach for drayage replacement, on top of a \$52 container fee, you would be looking at an increase in the costs through the ports of Los Angeles and Long Beach of \$352. Keep in mind there is the Alameda Corridor fee and the PierPASS fee on top of that. At \$352, you are going to have some significant impact. You are probably going to throw some exporters out of business. I think that is something that you really need to consider is the impact of this on exporters. I principally represent importers. I do have a couple of large agricultural exporters that probably could weather the storm. But, in California you have a lot of smaller exporters. The other thing is that the port proposal, because of the concession approach, would also have some very significant impact on exporters that run their own trucks.

SENATOR LOWENTHAL: I just want to ask Paul, if you have any comments on what you have just heard?

MR. BINGHAM: I actually want to support what Robin is saying, in terms of I do not know, if you can say with confidence there would be no diversion and no impact. There are certainly some commodities that are moving today at relatively low rates, by no means the large proportion of total trade. But, there are some marginal shippers for whom the transportation costs are a higher proportion of the total delivered costs and they are competing with other countries supply sources or other exporters in the case of the export side where there are potentially people that would lose their market by that increase in costs even as low as five or 10 percent. Especially on the export side, when we tend to be exporters of low value commodities in these containers, that are moving at much lower price points for which reason the transportation costs are a much higher percentage of those costs.

Also, I do want to add a comment in terms of the elasticity of demand, it matters over what period of time we are talking. If we are talking next week, everything is fixed. If we are talking a month or even a couple years, we are still locked into our leases. But, eventually our warehouse leases are up and we, or perhaps more significantly, it is what decisions we make collectively as shippers with respect to the long-term growth in trade. What do we do about the trade that is not coming through anywhere today because it is new trade that will happen in the future as our business grows? Where do we put that trade? Do we bring it through a California port, like we bring through our existing volumes, or do we build a new distribution center in Texas or someplace in the east or in Canada?

MS. LANIER: That is a very good point, because I would say that Los Angeles and Long Beach are already the most expensive ports to use, and we have seen significant investment in new warehouse capacity in all kinds of other places.

SENATOR LOWENTHAL: And tremendous amount in the Inland Empire.

MS. LANIER: Right.

SENATOR LOWENTHAL: That is why we are talking about grade separations.

MS. LANIER: I think that in recent years, since 2004, an enormous amount of investment is going to places like Houston and New York and places that really would not have seen that investment in the past.

SENATOR LOWENTHAL: As it should, because we are now part of a global economy. I do not think that we are saying they should not be investing. We now realize that the nature of the world's economy has changed and our relationship has changed. So, to think that there will not be tremendous growth in other places is not what we are trying to do. We are just trying to fix this system, reduce the pollution, not subsidize the rest of the nation, which I think is what we are saying and that is we are subsidizing by our health problems and our congestion the rest of the nation, and that is not tolerable to our residents anymore. We want to move more goods, but we do not want to subsidize everybody by our health, because we are paying those costs.

MS. GREEN: I think it is important to note that our study, although you are discussing the elasticity of demand and short term versus long-term, and I think what is important in what our study showed by observing existing preference for port calls is that cost is not always the main factor in decisions of these shippers. In fact, with as you are saying, the highest cost is for California ports, yet they are overwhelmingly chosen by shippers. This means that obviously other factors such as infrastructure and market are more important.

SENATOR LOWENTHAL: You know, over the years, my bills have been called and this container fee bill, which is shown to be the least expensive of all the proposals that are out there, has been called a job killer. We really know that the real job killer is the inability to move goods reliably and efficiently. That is what will keep people from moving goods here. We saw what happened when there was the lock out and when goods could not move. That is when there was a crisis. We also see what the congestion does on our highways and the need for infrastructure and the need for cleaning up the environment, because it is the ability to move goods efficiently, reliably, within a price range, you know, that they can afford, is really what this is all about. Right now, we are not building the infrastructure. We are not protecting our residents. We are subsidizing the rest of the nation. And that is really where we are now, and I do not think you are going to build public support unless we confront those issues. I applaud you for at least addressing those issues and coming before us and saying we have made significant changes, since we are now addressing the environmental issues which had never been done before, and now you are. I think that we still have differences on how to do that.

I still believe we have a more effective way of doing that, but we are really moving in the same direction. We have the same overall goals now and that is to protect our residents, their health, and to move more goods efficiently and effectively at the same time. That is going to cost some

additional resources. There is no doubt about that. It does not come easily and the issue that is really also very interesting about all of this is that the state is stepping up now. We are talking about how the private sector is stepping up in one way or the other. But, I hear very little from the federal government in helping us to do this. So, a lot of this is assuming that there will be other kinds of resources that are coming. But, I will assure you in talking to people in the federal government there are little resources that are going to be coming in terms of transportation infrastructure in the next few years.

Let us now move to our panel dealing with PierPASS. We will first hear from Bruce Wargo. Since Mike Mitre and Peter Peyton need to catch a plane we will hear from them second. Following this we will ask for testimony from Jim Flanagan and Dick Coyle. Let us have Bruce start with an overview. Alright, Bruce, PierPASS off peak—now nearly two years later.

MR. BRUCE WARGO: Well, thank you for asking me to present. I appreciate the invitation and the opportunity to speak to you today. It has been 21 months since we started, but who is counting really. As you know, my name is Bruce Wargo. I am the president and chief executive officer of PierPASS. Again, I want to thank you and your committee for inviting me here today to give you some brief background and update about the PierPASS program. I know in some ways today I will be preaching to the choir, but it needs to be said.

Following that unprecedented port, truck and rail cargo growth and the accompanying congestion in 2003 and 2004, the port terminal community in Southern California was encouraged by Assemblyman Alan Lowenthal's AB 2041 to find a quick and effective solution to what seemed to be a worsening problem of congestion for the goods movement industry and surrounding community. Through collaboration between policy makers and industry, legislative objectives were addressed through the creation of an industry working group, the West Coast Marine Terminal Operators discussion agreement. Then, of course, following that was the development of PierPASS and our off-peak hours program. That discussion agreement received federal oversight and exemption from the Federal Maritime Commission. PierPASS is a 501 C4 non-profit.

As many of you already know, the PierPASS off-peak hours program essentially collects a traffic mitigation fee for container cargo moving through the terminal gates on peak hours Monday through Friday, and uses those fees to offset the cost of providing five additional full service

terminal gates during off-peak hours at all container terminals in San Pedro Bay.

I would like to break here to point out the importance of having all 13 San Pedro Bay Port terminals on board. Without absolutely all terminal operators agreeing to create this off peak program, it would have been impossible to accomplish. It would create too many problems with some terminals opting out. I want to underscore how important the buy-in was to successfully roll out the program.

The fee was derived from a blind study done on a quarterly basis by an industrial consultant, DMJM Harris and the JWB Group. That confidential, competitive information on cost is aggregated to determine the average cost per container for the off-peak operations. The fee serves as a congestion pricing mechanism encouraging cargo owners to avoid the fee by moving their containers outside of peak hours.

From the inception of the program, PierPASS has had an immediate effect on the traditional harbor traffic patterns. By instituting the daytime traffic fee on July 25, 2005, we incentivized night time use of terminals, from an estimated 4-7% of limited infrequent activity, to more than 33% of all activity with full services, at all terminals on prescribed nights.

Currently about 36% of all the gate moves occur on off-peak shifts, or roughly 13,000 truck moves a night. Just to visualize what 13,000 trucks would equal, it is about the distance from Long Beach to Ensenada. It represents quite a few trucks. There were approximately 2.6 million truck moves in 2006. We just recently passed our five million truck mark on off-peak hours. Reaching this very significant number in such a very short period of time underscores the success of the program.

Since the gridlock experienced in 2004, we have enjoyed two peak seasons of uncongested cargo movement since the off-peak program got underway, not all because of PierPASS, but certainly the program played a major part in achieving this.

Additionally, PierPASS has conducted three truck driver surveys to gauge the personal opinions of truck drivers in the cabs. All three surveys essentially arrived at the same conclusions. Many drivers are making more money. Many drivers are making more trips due to less congestion, and many drivers are enjoying the flexibility of working days or nights or a combination of both.

As you know, PierPASS operates at the direction of the West Coast Marine Terminal Operators and its board of directors. We also meet twice a year with an advisory committee of stakeholders, to share PierPASS information and to get valuable industry input on what is working and what is not. That feedback is very important in providing the necessary two-way communication essential in today's transportation business.

PierPASS has had an effective and demonstrably positive impact on the way container business is conducted in San Pedro Bay. We provide more cargo capacity through increased container velocity and by using nights and weekend gates, something that did not happen before. We have reduced congestion on port facilities and nearby freeways. We provided shippers and consignees more flexibility in their operations. And we have also, again, improved the truckers' experience by reducing congestion and wait time.

After 21 months, I think it is also important to mention that we have received ongoing and regular support from elected officials in the community on the positive effect that we have had. Essentially we found a solution to fixing what was broken; finding a way to reduce daytime congestion. That has been dramatically improved in the 21 months since we started, and we expect the trend of increasing high use of PierPASS gates to continue into the future. Thank you very much, and I will take any questions.

SENATOR LOWENTHAL: Originally in your business plan, you had financial and truck volume projections. Can you tell us what they were and where are you today in terms of those projections? Have you exceeded your projections?

MR. WARGO: Well, some of these things happen on the fly. But, essentially, in the beginning, prior to the initiation of the program, the estimated costs, you may recall, was about \$140 million a year, annualized costs. That was based on the presumption of about 4 million Twenty-Foot Equivalency Units (TEUs) of assessable cargo. A couple things happened. First, costs were higher than anticipated. Currently the last study we reviewed showed \$189 million of costs per year. The annual volume of assessable units was a little below four million, although with 10% growth each year we are getting closer to the 4 million TEUs figure. Our last cost study indicated a unit cost of \$56 a TEU. We are collecting \$50 so we are pretty close to that goal.

When I was first pressed for a goal on what would constitute good results in a program like this, I initially felt that moving about 20% of the container traffic a year for the next three or four years would be a good

achievement. Again, PierPASS has essentially gone to approximately 36% of the traffic. Under the current scenario, I do not see much more changing until there exists a higher demand for night time gates. We increased the rate in April 2006 by \$10. There was insignificant movement from day to night gates because of the fee change.

So I think overall we have peaked or leveled out for a while until we get more cargo volumes in the port.

SENATOR LOWENTHAL: Okay, I will come back to this. Now let us move on to—let us hear some other perspectives from Mike Mitre and Peter Peyton from the International Longshore and Warehouse Union (ILWU).

MR. PETER PEYTON: Well, first of all, Mr. Chairman thanks for having us here today. It is hard for Mike and I to speak against PierPASS considering eight years ago it was a concept the unions suggested would take care of the I-710 freeway. And my hat is off to their management for the job that they have done with this because the effects of PierPASS were seen driving through the ports the day after it was implemented. Even before we had the grade separations on Terminal Island, the difference was phenomenal.

When you look at the I-710 Freeway, I think, in considering long-term solutions we must also look at the possibility that the I-710 may not be fixed and that the Desmond Bridge may not be fixed. PierPASS, I feel is a solution that has effectively worked.

Now, in terms of driver satisfaction, the question is the turn times for the truckers. That is, are the truckers getting the turns that are conducive to maximizing their revenue. From what we have been told, the truck turns are not much greater than what they are on the day side, which really would not make a lot of sense, because the traffic should allow them to do more turns and do double the turns during off peak gate moves.

So that is the only thing we have heard from our drivers that drive the cranes that deliver containers to the trucks. They say that the gates are not as fully manned as during the daytime hours. Again, this is a budget issue for the terminal operators. The night gates should be manned as heavily as they are on the day side. Not to do so means the truckers are not able to get those turn times.

The most important part of what we can do as an industry is to recognize first, high velocity with low impact. How we combine the two is the much larger question. PierPASS is an example of something that has

accomplished some success because it has increased velocity and lowered impacts. It can do even more to increase velocity and lower impacts. In listening to your earlier panel, I do not agree that the methodology described is right. I am going to go off on a tangent before we leave. Because I think there are a number of factors that we are leaving out of the equation here. We assume a great deal in looking at some of the proposed fixes. Some of the short term fixes that we project in the next round are intended to reach the level of success attained by PierPASS. I fear that when you look at the high velocity/low impact and if you apply that to a number of suggestions that have been made here today, I do not necessarily see it, and I do not know whether or not we are looking at a model that is necessarily a 2020-2050 model in terms of how cargo is going to move and how it is going to change as the demographics of the southwest change over a period of time.

It seems to me, and I believe, from the union's point of view as well, that one of the key issues needing to be addressed is a world-wide issue with ports, and that is; how to move cargo through cities. If we address the challenge of moving goods from the port to outlying areas in order to deliver cargo, we can increase the velocity of moving those goods. We would be lowering the associated problems that come with emissions while at the same time, we would be answering the long-term problems of what happens when you do not have discretionary cargo able to move through other ports, but rather more of the cargo remains regionally given the changing demographics projected for the next 30-50 years.

SENATOR LOWENTHAL: So what you are saying is that right now what you have heard are primarily 19th century solutions to a 21st century problem. That is, we are not just talking about some highways or more rail possibly, but we are really talking about the issue of how we can move cargo quickly, without impacting communities which would see an increase in velocity through urban centers. The 100-150 mile between the urban center, between the port of entry, and the outlying distribution centers where it can be distributed or whatever it is. That is really what you are saying that we are not addressing and that we need to be addressing.

MR. PEYTON: Absolutely, because the problem is if we go with the wrong model in terms of this money that we have right now—we know that the federal government does not have any money.

SENATOR LOWENTHAL: Right.

MR. PEYTON: And so that means you can kind of kiss off some of the freeways. But the reality is if we miss this opportunity right now with a long range strategy I have been using this new term “having 20/20 on

2050, because the point is there is going to be a change. What the systemic answers for both the short term and long term will be and where the money is going to come from this one time.

SENATOR LOWENTHAL: So when we are talking about potential public/private partnerships, the idea of just doing what has been done throughout the nation to raise quick revenues such as throwing a toll up or doing this or that, may not be the ultimate answer. We may need to have innovative strategies that would really need public/private partnerships to move goods in an entirely different way than we are doing today. That is where the innovation is going to be needed with both the public and private sector coming together.

We have already seen some of this, whether it is the Texas Transportation Institute's electrification systems, General Atomic's Maglev, just as examples. That is not to say those are the only models, but rather, they represent models that we are now looking at that could potentially be used throughout this planet. That is really what you are saying.

MR. PEYTON: Right. And I think that if you look at the issues and some of the things that were discussed in the earlier panel, velocity is always going to be the answer, because velocity is going to say that I can move my cargo from here to there in a timely manner, reliably, and this is the most effective way for me to do it. Now wherever there is a population base, it is going to serve a double purpose. But, the reality is we have to change the model in how we are looking at goods movement. For instance, let us take the Panama Canal; I do not know what its impact will be by the time the canal is built. Their expansion could create a whole new dynamic by then. And I will not go into my new dynamics, but the reality is, things are changing, and we cannot think with 19th century models when we look at where we are going. It is critical that we change that.

SENATOR LOWENTHAL: Nice to know that what we did put in, both in our bond and legislative proposals, namely, investments in new technology were sound decisions. We, as a state, need to follow up on what you are saying; to encourage, nurture and support these new technologies. We need to determine the roles of government and the private sector while moving forward with much more innovative kinds of solutions. That is not to say that we are wedded to anything at this moment. We know that moving goods from the ports of Los Angeles/Long Beach, let us say to the inland distribution centers that take eight, ten, twelve, now fourteen, sixteen, 24 hours----when in fact it could be done in an hour or two or three with more velocity is an entirely different

model and changes the entire equation is what you're saying. I agree with you completely.

MR. MIKE MITRE: I am the president of Local 13 and we have about 20,000 full and part-time longshoremen in Los Angeles/Long Beach. We are the largest Longshore local in the country. First of all, like Peter, I would like to congratulate the PierPASS program for two reasons. It is the first program that was instituted quickly considering the problems between 2002 and 2004 that built up the need for longer gate hours. I think now we have reached phase two.

Unfortunately, we are in a real slow time, this year is thought to be slower than most. But, I have a feeling that come next year and the year after, we are going to start seeing accumulated volumes like we saw in 2004, and when we do, I really think you hit the nail on the head. Because what is going to happen is every fix and solution Peter and I have seen both here and in Washington is very much more traditionally grounded. This is not going to work. It just will not continue to work, because there is no way you can move this hugely expanding cargo through these inland residential centers. We hear it every day. We hear it from our own members in their own backyards to people that come down to the port and testify all the time. I think that things that may have looked like Disneyland-like projects six or seven years ago may now be the reality of the future. We cannot afford to ignore things.

Also, earlier ideas like using the L.A. River bed or just different things like that, now they take on a different dynamic, because of the necessity, to say, the cargo is just going to keep coming and they are going to keep increasing. The only question is if we are going to be able to accommodate that cargo when it is here or are we actually going to force diversion? And I do not think that is in anyone's best interest.

SENATOR LOWENTHAL: Getting back to PierPASS, Mike and Peter. When PierPASS first started, even 21 months ago, there was a work force that primarily was focused on the day shift. Now PierPASS exists. From your resources you have asked and now are having workers hired for nighttime work as well. There must have been an adjustment period. Do you now see having a much better night-trained work force after 21 months? Your people have now have gone through this change. You have increased the number of your labor force. Perhaps some have gone from casuals to regular ILWU because of the expansion. Within the development of the program a major lifestyle change was necessary for your union members and the anticipated adjustment was somewhat impacted by the dramatic volumes seen in the beginning. Can you comment at all on that and in your opinion do we have a much more skilled, comparable night work force?

The Longshore worker has been used to a daytime shift. Sleep, attending to family matters and the like can certainly impact ones' ability to work affectively. The daytime workforce has been doing this for a long time and so the question I am asking is, are the two shifts filled with equally affective workforces now after 21 months or are there still some issues that we need to hear about? Perhaps Bruce or Jim could, from the terminal operator's perspective also respond to the question of whether or not there were observed differences between the two shifts. We certainly here cannot change these factors, but it is beneficial for us to understand.

MR. MITRE: We have almost doubled the night workforce. That is how tremendous it has been, especially in the beginning. Now like I said, we are in a slow period now. Things have slowed down dramatically since the Chinese New Year.

SENATOR LOWENTHAL: Just shows you how dependent we are on China. They stop work, we go out of work.

MR. MITRE: Well, and everyone knows it now. Every few years we find another little metric wrinkle to measure by and that is the new one. We almost doubled the workforce at night. We have a very large increase in our Class B numbers. The Class B longshoremen are the members that are not casuals anymore. They are probationary employees before becoming Class A members. But, they are all dispatched from our regular halls. There are many requests by members wishing to work nights. We have to regulate how we assign these shifts.

We have to remember that the night shift is productive in a different way, because often at night, you do not have a lot of converging operations like you have during the day on the terminals. A lot of people enjoy working at night, and once they get used to it, it is hard to get them off that shift. Since PierPASS started, we have a huge night workforce now. These guys, like working nights. They are used to it, and we have a pretty reliable night time workforce now.

SENATOR LOWENTHAL: Thank you. We will get back and discuss that further. Who is next? Jim?

MR. PEYTON: We are sorry. We have to go. We got to catch a cargo ship, so we can get back. **(LAUGHTER)**

MR. WARGO: Before they go, I would love to thank the union for the accolades on PierPASS. It is nice to hear.

SENATOR LOWENTHAL: That will be duly noted in the record.

MR. JIM FLANAGAN: Senator Lowenthal, my name is Jim Flanagan. I am representing the A. P. Moller-Maersk Terminals at this hearing. I want to thank you, your distinguished staff, and other members for the opportunity to do so.

As Bruce told you, PierPASS started July 25th, 2005. To paint a picture of our Pier 400 on that date, we had an average night side pick up of about 20%. So 20% in July, 2005, trucks were coming out on the night side to make pick ups. We also had what we refer to as a total wheeled facility. So every imported load was on wheels. It was very advantageous to come in and make pick up at Pier 400.

What do we have today now that we have been into PierPASS a pretty good amount of time? Our volume at the gate in 2006 was about 1.8 million gate moves at Pier 400. Today, we have 45% of those moves taking place at night. So, we went from—

SENATOR LOWENTHAL: So you have gone from 20% to 45%.

MR. FLANAGAN: 20% to 45% of the moves take place at night. That is about 810,000 gate moves. We have added some units. I will tell you, that in July of 2005, the all-wheeled facility was the only thing we offered. We did not offer anything else, any other service. Just come in, pick up your load, and get out of 'Dodge', so to speak. Today, we have added what we refer to as flip units and some other units to maintain a full service, night shift. So not only can you come in and pick up a wheeled load, but you can flip it if it happens to be on a bad chassis, we have the units available to flip that onto a good chassis so that the driver can get out in a timely fashion.

To say that PierPASS as everyone has said is a success, we agree with that. It has done what it was meant to do and that is, shifted cargo pick up from the day side to the night side. I think anyone who drives the 710 freeway can see that there is a huge difference between what used to be and what the flow of traffic is today. The one thing that we have a little concern over is that the 45% that is picked up on the night side now is all done between the hours of 18:00 and 22:00. So after 22:00 at night, we are basically "tumbleweeds". We want to work on changing that and making sure we get—

SENATOR LOWENTHAL: Extending those out?

MR. FLANAGAN: Sure, extending it out. Our facility is open until 02:30 or 03:00 in the morning. We have that Longshore labor that Mike and Peter were talking about.

SENATOR LOWENTHAL: How can you deal with that? I understand you have gone from 20% to 45%. You are doing 55% from between 8:00 A.M. and what, 5:00 P.M.?

MR. FLANAGAN: Yes

SENATOR LOWENTHAL: And you are doing 45% between 6:00 P.M. and 10:00 P.M. In 4 hours. That is amazing.

MR. FLANAGAN: I caution to say this, senator, but the largest line we have now is waiting to get into the facility at 6:00 p.m., to avoid the fee. All the truckers wait to get into the facility at that time. A pretty big line of trucks form waiting to get in.

SENATOR LOWENTHAL: Idling out there?

MR. FLANAGAN: No, we tell them to turn them off.

SENATOR LOWENTHAL: Okay, thank you, Jim.

MR. FLANAGAN: But, that is one of the things that we need to work on as an industry.

SENATOR LOWENTHAL: Bruce, do you see some of that in other terminals? That it is during these first hours from 6:00 P.M. to 10:00 P.M. that we're really seeing this phenomenal growth?

MR. WARGO: In general and across the board, the port complex as a whole, moves 2/3 of the off peak cargo before 10:00 P.M., and 1/3 afterwards.

SENATOR LOWENTHAL: 1/3 is still a significant amount.

MR. WARGO: Yes.

SENATOR LOWENTHAL: They are saying at Pier 400 that less than 1/3 moves after 10 o'clock P.M.

MR. WARGO: Maersk is an unusual example. They are the best at a lot of things, and they do it well. They always have. But, there are a lot of terminals that are operating in the same way.

SENATOR LOWENTHAL: As efficiently and effectively to be able to move that high a percentage of the cargo, during that same 4 hour period?

MR. WARGO: Well, a lot of the terminals are grounded now, so that requires getting a chassis, getting it aligned. When we do a look-see, we see about 2/3 before 10:00 P.M. and 1/3 after dinner. A lot of that has to do with the business community's way of working at night. The warehouses do not remain open until 3:00 A.M. Maybe they do not have a reason to stay open. Essentially, we have capacity during late night and early mornings, that is pretty routine and it is observable. Hopefully as we get busier, those warehouses will start to get busy.

SENATOR LOWENTHAL: I want to follow up and maybe then get to Dick.

MR. FLANAGAN: I do have one other thing, because I think you need to hear both the positives and the negatives.

SENATOR LOWENTHAL: Yes.

MR. FLANAGAN: One of the things that we see as a slight negative is that being open while offering full service both day and night doesn't allow you to groom the yard the way that we were able to do in the past. Prior to the introduction of the off peak program, truckers were not admitted to the yard. We would have truckers coming in for wheeled loads, but they would not be in the piles. That allowed us to take the Longshore labor, groom those piles and get ready for the next day. That is basically gone now, because truckers are accessing those piles to find and load their specific container. It is one of the slight down sides to having the operation go full tilt.

SENATOR LOWENTHAL: Do you find that the truckers are trying to get through as quickly as possible?

MR. FLANAGAN: Yes, and I find that we are trying to get them through as quickly as possible.

SENATOR LOWENTHAL: I know you are.

MR. FLANAGAN: Peter mentioned efficiencies. I think every terminal operator believes in improving efficiencies. I do not know of one terminal operator that wants to keep truckers inside his gate.

SENATOR LOWENTHAL: That is a good introduction. Let us move on to hear the truckers.

MR. DICK COYLE: Senator, Thank you for having me. I think this is a really healthy exercise, by the way, doing a bi-annual review of PierPASS. And maybe it is something that you can do again. I am here to give you the perspective of the trucking industry, including a little bit of the perspective as viewed by the drivers themselves.

The trucking industry always appreciates expanded hours of operation. Any time we can get expanded hours at terminals we have always appreciated it. And PierPASS is basically very much appreciated by our industry. It has been broadly established now, and it has become an institution. It has many obvious benefits.

SENATOR LOWENTHAL: Do you want to identify yourself for the record?

MR. COYLE: I am sorry. My name is Dick Coyle, and I am with the California Trucking Association today. Many aspects of PierPASS are workable for sure. However, with some modification, we think there could be more widespread buy-in among owner/operators and therefore, perhaps a broader success with PierPASS. First, the retention of an early morning gate versus solely a late night gate would have been warmly received and heavily used.

We used to have early morning gates that started at 3 a.m. I will get to that in a moment. We are also suggesting perhaps uninterrupted work flows during normally scheduled break times, especially dinner, which comes to the question that arose a few minutes ago, why do drivers not come after 10:00 P.M? That is when the dinner break occurs. Turn times are arguably, significantly slower, according to our drivers, after dinner.

We feel that uninterrupted work flows would curtail a lot of the frustration and angst of the drivers. There are a number of issues that get glossed over with PierPASS. There are some unforeseen and undesirable by-products that have arisen. It is often forgotten that we did have expanded hours before PierPASS was launched. We had a version of off-peak service. The jargon in our industry refers to this as the hoot gate, which is an early gate opening, very early, in fact, from 3:00 P.M. Drivers liked hoot gates. They loved them, in fact. They could start work early, work part of their day before the rest of Southern California was awake, finish their day in mid-afternoon and get on with their lives.

Many cargo owners still prefer receiving their cargo early in the morning at 5 or 6 a.m., something that has not really changed. Hoot gates afforded this opportunity. When PierPASS was launched, hoot gates

were simultaneously cancelled. PierPASS replaced the hoot gates, but at the other end of the day, so we lost the early, early morning time slot and it shifted into the afternoon and evening. The costs for the services were smartly redirected to the cargo owners.

Along with PierPASS came a significant penalty, something which did not exist before. It is a penalty that cargo owners just simply do not want to pay at all. Cargo owners went to the trucking industry, and they told them, “move everything at night”. Even cargo owners that were incapable of delivering or receiving cargo themselves at night insisted to their truckers, find a solution so that the PierPASS penalties could be avoided. There were some exceptions, of course. Some drivers have appreciated the night time option.

The shift was radical. In many cases it has been too radical. Drivers do not want to work during family hours; during the dinner time or in the evening. They are doing it, but they do not want to work these hours. CTA surveys indicate that 80% of drivers are family men with kids who play Little League, soccer and all of the things everybody else wants to do. Life happens in the daytime, during the mid afternoon, and early evening. Think about it. When are Little League practices? They’re in the afternoon and games are in the evening and on Saturday morning. They are at the same time as PierPASS operates. Plus warehouses have refused to make reflective scheduling adjustments.

A new operational hybrid has emerged. The term for this new operational dynamic, brought about by the introduction of PierPASS is known as “a dray off”, whereby one truck pulls the container out of the terminal at night to a holding yard somewhere nearby. Then a second additional truck moves the container from that holding yard to its ultimate destination in the Inland Empire or wherever it may be going. In part, that means that a large percentage of the moves that you all think are happening at night are actually happening in the middle of the rush hour day in Southern California. Many of my colleagues whom I have spoken with, claim that as many as 40% of their PierPASS moves are these dray off moves, and therefore are being moved on the freeways during daytime hours.

A dray off simply means fragmenting a move that ordinarily would be a continuous line haul. It is a stop off. It is more expensive. It requires off-site storage, more liability, and more headaches.

There is little or no consideration given by cargo owners to pay nighttime premiums to drivers working nights. Although nighttime moves may save a cargo owner the penalty, it is rare that any of this saving is shared with the drivers.

As a result there is some deep rooted, underlying resentment among the rank and file drivers. They simply do not like it. Yet they go along with it. Productivity at terminals is marginally better at night than in the day. Some drivers say it's slower. The one hour dinner break from 10-11 p.m. can actually last up to 1 1/2 hours. Terminal productivity is noticeably slower after dinner for whatever reason. Turn times are not significantly improved. Income for the drivers is not noticeably higher. Plus, it is difficult and expensive to staff our offices at night. The same, young family people that want to work in the day are now being asked to work at night. Shipping line offices are not open. Cargo owner facilities are not open. When problems are encountered, not everybody is there to solve them in order to expedite the truck through.

We hand it to PierPASS folks, really. They have done a brilliant job in making the program part of the establishment now. And making it seem enthusiastically accepted. But, at today's discussion, I think there are some suggestions out there for improvement. PierPASS terminal operators can strive toward adequately staffing facilities to ensure constant, uninterrupted work flows. No breaks. Furthermore, drivers would embrace the concept if it were shifted to include a version of hoot gates, an early morning gate. We would eliminate the dray off fragmented move. It would be cheaper, safer, and cleaner. Thank you.

SENATOR LOWENTHAL: Following up on your last remarks, Dick, in terms of what currently exists in this off-peak project. We started talking about how we were going to invest in the future and how we're going to keep this currently congested system just afloat. We recognize that PierPASS has really helped us, at least to some degree, even though you're indicating a lot of it is just removing the containers from the dock and through the gate. It does not necessarily remove trucks from the freeways during the daytime. But, there has been some improvement. We know that. Why should we be spending billions of dollars on infrastructure now, when in fact, we could be running an operation to its capacity 24 hours a day and we are not? Why are we not really expanding that capacity? Is the next step in meeting some of the issues that you have raised, such as eliminating breaks in the middle? If you really want a reliable system with a reliable flow and if we are really interested in maximizing our capacity, should we not be operating a full 24 hour day? Is that the future, if we are to hope for a system that works? Let us say with the hoot gates. If the terminal operators really provide full-service gates, would terminal operators and cargo owners pay for that?

You know, I hear from the first panel, “Oh do not worry, we will just pass the costs onto the owners of the goods”. What you are saying is, we cannot even pass that cost along in the existing system.

MR. COYLE: Well, I will tell you, we fully embrace 24/7. The challenge that we have with PierPASS is that there is a penalty. With the penalty and the cargo owners’ unwillingness to, understandably, pay the penalty, it forces the drivers more into nighttime work only. So it is not a 24-hour clock. It is a preference that they work only at night. The rest of the world is not on a 24-hour clock. The rest of life happens in the middle of the day. Drivers are doing it, they are participating. Some of them like it, admittedly, while others have said to me, “You know, I will do it for now until I find something better to do”.

We do not see new drivers entering the arena. Existing drivers are just really working under duress. I am suggesting that more of what you mentioned, a full 24 hours would be more broadly appreciated by the drivers. When the wee hours of the morning were available to drivers, they could be out and done with a loop from San Pedro out to Chino and back before L.A. really got started. Then they could do a second turn and hang up their keys and get on with the day at 4:00 P.M. That is not available now. As a result, what they do is they work one turn in the day time and then they are all queued up at their terminals at 5:00 P.M. waiting for the 6:00 P.M. reopening. They do their second loop and go home. No one is there after 10:00 P.M.

SENATOR LOWENTHAL: What do you think? Should we be moving towards more 24/7? Why spend billions on, right now on the needed infrastructure if, by other measures we can maintain the flow of goods through the system while stakeholders use this time to optimize, plan and model for the investment of infrastructure dollars.

MR. WARGO: They are all good points and it is all about the culture. You know, the culture that we have had for so many years has been an 8:00 A.M. to 5:00 P.M., Monday through Friday culture not just in transportation, but in a lot of areas. In these individuals’ defense, who left for the day, longshoremen have worked around the clock 24 hours, 7 days a week since the ‘30s. They have always been available to work night and day and they have families, too. The point I am trying to make is that in order for the extended gate change to work, PierPASS engaged in a strategy of getting out and talking to people about the problem and how they were going to change it. Once this message was conveyed and understood as to what was being attempted, the drivers kind of understood it. Once the longshoremen understood what was being tried they, in very short order, were all on board. They could understand this

was not going to be a temporary thing. It was not going to go away next month. It was permanent.

Well, I think that is the message that had to go upstream, you know, through the trucking community and through the warehousing community that this night and day operation is permanent. These sectors need to start thinking along these lines. When I go out and talk to people I find that when they say this and that about PierPASS, I turn it around by saying, "What are you doing in your business to make it better now that we know we will have 30 million TEUs in a few more years? What are you doing in your industry to accommodate this kind of growth?" I think the answer is, ultimately, we have to work night and day. There will be people who want to work days, people who want to work nights, and they will find their place in this. But, right now, we have people who do some of both. Some days, some nights, and they are not happy about it. It is a transition period for the industry, but ultimately you are right. We will all be working day and night in order to service the volume through whatever infrastructure is available and that will be the future.

SENATOR LOWENTHAL: Jim?

MR. WARGO: One more comment. I have been a stevedore and a terminal operator for a long time, and "hoot owls" have always been very effective. This is so because it is only a five hour shift at the worst. You get paid an entire day for five hours of work. There is a limited kind of business conducted at 3:00 A.M. It is not your empty flips, your reefers getting plugged and unplugged. It is not your flat tires getting fixed or your empty containers coming back. It is generally a load out pick up only to start the day. That model looking forward did not seem to fit long-term interests for PierPASS where we had full services, all kinds of activity, plenty of room for capacity. It would be very difficult to go back to a five-hour shift hoot gate, fill that up and then say to everybody, well, we're going to change that again. We are going to go to something else.

We fully expect to see volumes in the next few years filling up both day and night to where it becomes a requirement, a necessity, in this business to work day and night, one or the other but certainly both shifts.

SENATOR LOWENTHAL: You see that coming also at Pier 400? Do you see that with the growth that is anticipated that we should really be operating many more hours?

MR. FLANAGAN: I do not know if we should be operating many more hours. I think we should be operating more efficiently during those

hours that we are operating right now. And I am speaking as Pier 400 only, senator. From the opening of Pier 400 our gates have been open during what are now considered extended gate hours. Our constant goal is to become more efficient in those hours that we are operating. Is the volume coming? Yes, our projections say the volume is coming. Will we take wheeled loads and put them onto the ground in the future? Yes, we will. We will give up a lot of wheeled space to gain the space that will be required to handle that volume through the Port of Los Angeles.

We all have areas that we can work on in order to become more efficient. From my point of view, efficiency means reduced emissions. It is as simple as that. The more efficient you move, whether it's through a terminal or through a city, you are going to have a better emissions footprint.

SENATOR LOWENTHAL: Anybody want to say anything in conclusion?

MR. COYLE: It was stated in this room earlier that a large group of cargo owners would not bat an eye, even a \$150 additional charge to move their containers.

SENATOR LOWENTHAL: That they would pay the drivers.

MR. COYLE: That they would pay the drivers. And if that's the case, let us do it. Problem solved.

SENATOR LOWENTHAL: You seem to be a little cynical about that.
(LAUGHTER)

MR. COYLE: Do I sound that way? I am sorry. That is the first time I have ever heard a cargo owner say anything like that. When we tried to get a \$5 increase for any little thing, it becomes a battle.

SENATOR LOWENTHAL: I agree with you. I mean, I tried to get a \$30 increase that would solve it, and they are saying, "No, we would pay \$150, but we will just do it voluntarily, we will just do it on our own and we will fix that system now". Maybe they will, maybe not, but it is a hard stretch at this moment to believe that that is really going to happen.

I really want to thank you. Generally what we have seen are that California ports, primarily now Los Angeles/Long Beach, and Oakland as well, are becoming more efficient. We are extending our hours. We are working better. It is fascinating to me to hear, as we go through this, that whether it is the legislature, cargo owners, terminal operators, the runners of PierPASS, or the truck drivers, we are all more and more aware of the impact of what we do on our communities. We want to be

good citizens. We want to reduce those emissions. We are now just struggling with the ways to make sure that business works well and that we can provide enough resources for our families to do well. While at the same time, we can protect the communities we live in. We are going to have to look at new models. I think we are beginning to come to a common vision. I still believe that what we are doing here in California will be a model for the nation, not that we are any brighter or any better, it is just that we were thrust with so much cargo coming through our ports and communities. With all the development and infrastructure expansion that was going on, coupled with the wise investments by many companies who settled here to grow their businesses here we are now seeing both the benefits and some of the impacts. Now we are trying to solve those impacts, but there is no safe harbor out there. The goods movement industry cannot just go someplace else and expect that they are not going to have the same infrastructure impacts and the similar problems of public health in communities unless we can clean up this operation. We are also going to need the international shipping community, such as Maersk, who was the first to step up voluntarily in terms of ship emissions by using low-sulphur diesel. We applaud them. That is just the beginning for the entire industry. We have to see others move forward. We have to insist the ships be cleaner, the trucks have to be cleaner. The rail—we know there is tremendous pollution on rail. We just cannot think that sending things by rail is a silver bullet until we fix that also. We have to work with the rail lines. Just fixing the existing capacity is not going to be the answer. We are just going to have to start to figure out, by bring together the best minds in California, how to accommodate for the projected growth while absolutely reducing the current level of emissions. We need to continue looking at new innovative models for moving goods. We don't know what that will be. We are not even sure we will do anything, but we have got to have everything on the table now. It is a very, very exciting time.

I applaud everybody for being here from the first panel which talked about how we are going to pay for the new investments and to this panel. That is to say we have done some very innovative work. PierPASS has already demonstrated a benefit. It has been nice to hear from all sides. It seems that while there are still improvements the off peak program can achieve it has been good to hear from people who support the program and from those who have offered some positive suggestions for change. PierPASS has been a tremendous help. Everyone concurs with that whether we might want more to be done here or there. Still I think the consensus is that this program has been important especially in terms of relieving some of the overwhelming congestion that we had from 8:00 A.M. to 5:00 P.M.

With that and before we conclude, I would like to hear some public comment. People have been out there listening. Is there anybody that would like to say something about what we have been talking about? Let us know what we are not talking about. Write a check to pay for all of this, because this is not going to be cheap, folks. You know, I have learned we cannot go to Washington any longer with our hat in our hand. Their big message to us is, “why not do a public/private partnership”. That seems to be viewed as the “be all to end all” to solve everything. While it certainly may be part of our tool box, it also sends a message that we have to figure out what we are going to do here, working among ourselves to come up with solutions, because they have enough problems in Washington trying to feed all those other mouths that are out there. What we do, I think, will set the tone for a national response. I have been back to Washington recently just like everyone else here; everybody is watching us. Everybody wants to know how we are doing out here, what is going on, how are we going to pay for it all, should everybody be doing this? It’s a very exciting time and the testimony today will really help us move forward, so I applaud you all for coming.

It is wonderful that PierPASS is one of our shining examples of how we can use our existing capacity in a better way without thinking that the only solution to plan for growth is to build it out. Maybe building is something we will do along with other steps we will take. I am not saying it should not be part of the solution, but we are not just going to build our way through or out of this. We are going to have to figure out how to move goods more efficiently in better ways, given our existing capacity. How do we also listen to all people who are part of the chain? You know, it may help one part of the chain, as was pointed out by Dick, yet hurt that person who wants to get home for dinner but can only get four hours worth of good working time and with that, has to wait.

I think we are in a very exciting time in California, because I am a great believer that we can solve our challenges. We need to continue improving the operation of PierPASS’ off peak program. There is still room to improve. A system can be created that can be a source of pride for us all. With that, I want to thank everyone and say that this meeting is adjourned.