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3/30/2016

FOR IMMEDIATE RELEASE

Press Release # 013

Subject: Court finds Environmental Review Defective for BNSF's SCIG Project

Fastlane Transportation, Inc. v. City of Los Angeles, et al., Contra Costa County Superior Court Case No. CIV.MSM 14-0300.

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City of Long Beach, Long Beach Unified School District, State Attorney General, South Coast Air Quality Management District and others were united in opposition to project

Port must complete more rigorous environmental analysis, identify additional mitigation before project can move forward

Martinez, Calif. – BNSF Railway’s Southern California International Gateway (SCIG) project was dealt a blow today by Superior Court Judge Barry P. Goode. In a 200-page ruling, Judge Goode held that the Port of Los Angeles (Port) failed to perform adequate environmental analysis before approving the massive SCIG railyard project adjacent to many residents and businesses located in West Long Beach. The Port of Los Angeles must now complete a new EIR that identifies ways to reduce the project’s environmental impacts. The area around the proposed project site is already over-burdened by harmful air pollution and industrial noise, which the SCIG project would exacerbate.

“We are relieved that the court heard and understood our concerns about the impacts of the SCIG project, which would significantly increase air pollution in an area where residents already face too many health hazards,” said Long Beach City Attorney Charles Parkin. “With this ruling, the Port and BNSF must re-examine opportunities to avoid the project’s effects on public health and quality of life in West Long Beach and neighboring communities.”

As approved by the City of Los Angeles and the Port, the SCIG railyard project would have allowed the construction and operation of a new railyard immediately adjacent to West Long Beach. The project included a lease to BNSF Railway Company, which would operate the railyard for the next 50 years. The court record demonstrated that this new facility would add significant air pollution to the region.

The new railyard would have directed thousands of diesel trucks and miles of diesel trains close to schools, daycare centers, playing fields and residences on a daily basis. By 2035, the project would have generated two million truck trips per year to and from the site, and the loading and unloading of up to 1.5 million shipping containers annually.

The Port and the City of Los Angeles voted to adopt the Environmental Impact Report for the SGIG railyard in 2013 over the strenuous objections of numerous public agencies and non-profit organizations concerned about its environmental impacts. In all, seven lawsuits were consolidated into one case that focused on the increase in pollution resulting from the project. The original petitioners included the City of Long Beach; a number of community and environmental groups, including the Natural Resources Defense Council; Long Beach Unified School District; the South Coast Air Quality Management District; and several transportation companies with business at the Port. The California Attorney General's Office later intervened in support of the petitioners. At the request of the City of Los Angeles and the Port, the case was moved out of Los Angeles, and the parties agreed to Contra Costa County as the new venue.

"We understand that the Port of Los Angeles provides an important economic engine to the region, but that doesn't mean that it can bypass laws designed to protect the environment and public health," said Michael Mais, Assistant City Attorney of Long Beach. "The Port of Los Angeles was required to do its best to limit the environmental harm of this project, and the court agreed with petitioners that the Port's efforts fell far short." Mr. Mais, along with outside counsel Rachel Hooper and Winter King of Shute, Mihaly & Weinberger, represented the City in this litigation.

The biggest concerns about the project centered on air quality, noise, and traffic impacts, and related threats to public health, particularly on the communities closest to the project site. The lawsuit focused on the shortcomings of the environmental review completed for the project as required by the California Environmental Quality Act (CEQA). The City of Long Beach and others argued that the Environmental Impact Report omitted basic information about the project and that its analysis was based on serious distortions of its predicted impacts. The City's lawsuit stated that the EIR "systematically understates the Project's environmental impacts" and was therefore both misleading and inadequate under state law.

The most glaring shortcomings in the environmental review related to air quality, greenhouse gas emissions, noise, and traffic impacts. For example, the court found that the EIR used a flawed approach to measure the noise impacts of the new facility, which will operate 24 hours a day, 7 days a week. Instead of considering the maximum acceptable level of individual noise events, the document focused on "average" noise impacts. This approach was misleading because residents will likely be awakened on a regular basis by nighttime train passbys that would exceed existing local noise ordinances.

The court further concluded that the EIR underestimated traffic impacts on San Gabriel Avenue near the entrance to a large supportive housing community, the Century Villages at Cabrillo. In addition, the court held that EIR provided a misleading analysis of the project's impacts on air quality, and that a key air quality mitigation measure was inadequate.

The court also found that the EIR failed to analyze the impacts that the SCIG project would have on

BNSF's existing Hobart facility. This omission was a fundamental error, causing the EIR to underestimate SCIG's effects, including its capacity to induce further growth in the area. By failing to take the Hobart impacts into account, the EIR provided an inaccurate assessment of the project's impacts on climate change. Similarly, the EIR failed to analyze the combined, or cumulative, impacts from SCIG and the existing ICTF railyard.

With today's ruling, the court vacated the project approvals by the Port and the City of Los Angeles, and suspended all project activities until the Port and City comply with CEQA. The agency must now complete a more robust and accurate analysis of the environmental impacts of the project before the project can move forward.

The case is *Fastlane Transportation, Inc. v. City of Los Angeles, et al.*, Contra Costa County Superior Court Case No. CIV.MSM 14-0300. The written ruling is now available from the court. To receive a copy of the decision, please contact nina@publicgoodpr.com.

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