



NATURAL RESOURCES DEFENSE COUNCIL

November 25, 2008

The Natural Resources Defense Council (“NRDC”) is pleased to present the following suggestions for reform of the Federal Maritime Commission (“FMC”).

The Issues:

All U.S. ports are plagued by deadly diesel pollution from trucks, ships and trains. The contiguous Ports of Los Angeles and Long Beach (the “LA Ports”) are the largest polluters in the dirtiest air basin in the country. At the urging of the NRDC, the Sierra Club, the Coalition for Clean Air and other groups, the LA Ports have enacted and begun to put into place a plan to clean up that pollution in an economically sustainable way while creating good-paying, green jobs.

The FMC, acting in closed session and at the behest of the trucking industry, has filed a lawsuit and taken administrative actions to kill the LA Ports’ cleanup plan. The FMC claims that it is exempt from the National Environmental Protection Act (“NEPA”) in connection with this decision – a decision which, if effectuated, will vastly increase pollution in Southern California. To our knowledge, the FMC has never taken environmental values into consideration in carrying out the few jobs left to it, even though its own regulations compel it to do so.

From the environmental standpoint, the FMC has not produced any tangible environmental benefit to communities near ports. In fact, the recent attacks on environmental programs at the LA Ports have had a strongly negative impact on local efforts to clean up deadly pollution. Given this dismal record, we would not be disappointed if the FMC were abolished. However, if the agency does continue to exist under a more responsible framework, we offer the following suggestions:

Policy Changes:

- The FMC should halt the *FMC vs. City of Los Angeles* case until NEPA has been complied with and public hearings have been held to evaluate the factual basis for the litigation.
- The FMC should increase the transparency of its actions immediately. Actions taken under Section 6 and Section 10 of the Shipping Act of 1984 should only be taken after public hearings where a factual basis can be developed and challenged, if need be, per the procedures in Sections 11, 12 and 14. FMC closed sessions should be banned unless attorney-client privilege or personnel matters are involved.