

Impacts and Actions



Port of Oakland: Private Industry or Public Agency?

By Ben Jesse Clarke and Hana Baba

In the United States, there are 361 public ports. The Port of Oakland, the fourth largest, processes about \$30 billion of exports and imports annually. Oakland's enormous cranes, unloading gigantic ships, mean a lot of money is changing hands. But critics say local communities are being short-changed on benefits and plagued with negative impacts. "It's not a private business, it's a public agency and its revenue is not profit. It belongs to the people." So says Rob Smith of Urban Strategies in Oakland.

Short-changed on the benefits but plagued by the Port's negative impacts—it's the harsh reality of life in West Oakland, an area hardest hit by the health impacts of port operations. Residents fear that port expansion plans will only bring more pollution from the additional diesel-burning trucks, ships, and trains into their neighborhoods—and into their lungs.

The Port of Oakland also runs Oakland International Airport and 19 miles of Bay side real estate that includes office parks, shopping areas, restaurants, and luxury apartment complexes. It is by far the largest agency in Oakland city government, but it makes economic and policy decisions without direct public accountability, thanks to a 1927 law that made the Port independent of the city.

Recent property sales by the Port have some community advocates wondering about the future of Oakland's waterfront neighborhoods, and questioning whether the Port should retain its autonomy. West Oakland residents—who face increased cancer risks, higher rates of asthma, and greater susceptibility to heart attacks—want something done about the pollution caused by the Port.

Global Trade Drives Port Growth

A boom in international trade has forced an overhaul of the Oakland waterfront, claims Port spokesperson Marilyn Sandifur, adding that the import/export volume is expected to double in the next 15 years.

"We have a seven billion dollar annual impact on the region and affect 44,000 jobs, so it's important that we... keep up-to-date with the kind of improvements and enhancements [needed]," says Sandifur.

Port officials claim that their anti-pollution measures are reducing health impacts, but they generally neglect to mention that most of their air quality programs are the result of a 1998 legal settlement involving the Port's Vision 2000 expansion plan. (See box on page 37.)

Despite community concerns, the Port keeps on growing. Even the harbor is growing. "We're deepening [it] to accommodate [the] larger ships in order to keep Oakland a significant international gateway, and keep the economy of the Bay Area... going," Sandifur says.

The Port is certainly profitable, raking in over \$250 million a year. A small, but not insignificant portion of which—approximately 11 million dollars this fiscal year, according to Harold Jones, Port Communications Director—comes from real estate development on public land.

Real Estate Deals

Last year, the Port caused a furor when it made a last-minute change to an environmental impact statement and approved construction of a Wal-Mart in East Oakland within 30 days—with no public input. It caused additional public concern when it offered the property developer, Simeon, a \$10 million



dollar loan of public funds, characterized by Mr. Jones as a deferred payment.

Tim Frank, a senior policy advisor for Sierra Club's Healthy Communities Campaign, calls Wal-Mart a "car-centric, poverty-wage, sweatshop-buying store that causes freeway congestion and undermines neighborhoods. Wal-Mart drives main street stores that serve the community out of business, and is bad for the environment and neighborhoods."

Ironically, the Port had originally promoted the development as a "transit-oriented business campus" that would connect to BART. Instead, it will add more cars to the already congested interstate 880 freeway corridor. When the office project fell through, John Protopappas, president of the Port's Board of Commissioners and CEO of Madison Park Real Estate Investment Trust, maintained his confidence in Simeon's direction for the property. He told the East Bay Business Times, "The key is to develop the property, and the developer is doing the right thing because this is the way the market is going."

The Port is already a major source of air pollution. Research by the West Oakland Environmental Indicators Project and the Pacific Institute, shows that trucks traveling through West Oakland to the Port daily produce as much toxic soot as 127,677 cars. West Oakland residents face greater cancer risks, higher rates of asthma, increased susceptibility to heart attacks, and many other adverse health effects resulting from living on a thoroughfare for trucks between three major highways and the Port of Oakland.

"Wal-Mart," says Dawn Phillips of Just Cause Oakland, "is a perfect example of poor use of Port and city resources. It sucks up public dollars for infrastructure to build a development that creates the worst forms of low-wage jobs lacking health benefits and worker protections." And while Wal-Mart prices

may be lower to the consumer, "The reality is that those cheap goods come at a very high price: exploitation of workers that work for the store directly, and the workers who produce the goods for the store here and internationally. Wal-Mart is, in fact, one of the world's worst corporate employers."

But Wal-Mart is a natural ally of the big business board members at the Port. It is a member of the West Coast Waterfront Coalition, which united with the shipping lines against labor during a 2002 lockout. It is also at the receiving end of the international supply chain that Sandifur celebrates as the engine for economic growth. It is no coincidence that those diesel trucks that pollute West Oakland are usually carrying sweatshop manufactured goods to Wal-Mart and other Waterfront Coalition members like the Gap, Home Depot, Target, Best Buy, and Payless Shoes—all low-wage landmarks of U.S. retailing.

Public Interest Not Included

What might surprise many is that despite the money the Port makes commercially, because of a 1927 State Tidelands Trust law, the Port does not pay taxes. Instead the City receives payment for services rendered. Port spokesperson Sandifur says that they will pay approximately 15 million dollars this year for services like police, fire, and Lake Merritt maintenance. She points out that Port tenants also generate sales tax revenues in the tens of millions and parking and utility taxes of 6 million dollars.

The Port is run by an unelected board of seven members, nominated by the Mayor and confirmed by the Oakland City Council for four-year terms. At a recent but typical meeting of the Port's real estate committee, chaired by John Protopappas, a well-known developer and political ally of Mayor Jerry Brown, only four minutes out of one hour and 20

minutes were open to the public. The rest of the meeting was taken up by closed door sessions about development projects and leases with private real estate interests, such as Harbor Partners, Ellis Partners, Simeon, and Hensel Phelps.

Exactly what sort of give-and-take the real estate deals include is confidential, but as long-time Oakland watcher Douglas Allen-Taylor points out in his column at the *Berkeley Daily Planet*, the Port real estate committee seems to use a different kind of math. When Jack London Square was losing money for the Port, they sold off the profitable parcels to Ellis Partners and kept the money-losers.

The needs of Oakland residents are considered—if at all—only after the deal is signed and only if the community protests loudly enough. All too often, the remediation efforts are minimal and delivered through a community benefits agreement. These agreements rarely change the basic structure of a development deal. The few gains tend to be weakly-enforced, unless the community maintains constant vigilance.

In most other Bay Area cities, developers pay impact fees and build “inclusionary” affordable housing as a matter of law—even on private land. But in Oakland, 60 acres of public land is changing hands for a mere \$18 million on a project estimated to be worth over \$500 million—with no guaranteed public participation in determining public benefits. The developer involved, Signature Properties, claims that there is no subsidy involved and that it is exempt from existing local hiring agreements and other modest requirements of city-subsidized development.

Says Oakland City Council member Nancy Nadel, the problems with this project “...exemplify why inclusionary zoning and park impact fees are needed. Community needs have to be considered up front so that we don’t have to battle for community benefits on a project-to-project basis.”

Oakland Port: Then and Now

Historian Charles Wollenberg says the Port’s current independence is a result of its historical role as “a terminus for the national railroad system. That greatly increased the importance of Oakland as a city and made the waterfront a much more important

Oakland lawsuit wins \$9 million in air pollution mitigation measures

Most of the air quality programs at the Port of Oakland stem from a 1998 legal settlement involving the Port’s Vision 2000 expansion plan. Nearby West Oakland residents were concerned about air pollution from the proposed expansion. Noting that roughly 20 percent of children in West Oakland suffer from asthma, one local activist alleged that the Port’s activities were “literally killing us.” The Golden Gate Environmental Law and Justice Clinic took the Port to court on behalf of West Oakland residents. The Port settled with a \$9 million Air Quality Mitigation Plan, the most stringent diesel exhaust mitigation plan ever proposed by a port up to that point. The plan includes nine measures, some of which reduce pollution from other sources in the community to make up for increased emissions from Port activities. The implementation of the measures is guided by a technical review panel composed of representatives from the community, regulatory agencies, and environmental groups.

*Excerpted from the Natural Resources Defense Council Report
Harboring Pollution: The Dirty Truth about U.S. Ports.*

location. The railroad arranged with investors and city politicians to gain control of the Port so that the waterfront was controlled by a corporation, which was in turn controlled by the railroad.”

The city obliged by setting up a “separate city government or sub-government within the broader city governmental structure to operate the port.”

According to Wollenberg, Oakland had to fight hard in the early part of the twentieth century to gain back some control of its port from the powerful railroad. To appease the various interests and still isolate it from politics, the Port was made a semi-autonomous entity. But to most people, the rationale behind the Port’s special status makes no more sense today than it did then.

“The argument in favor of [semi-autonomy was to] take it out of politics... but the other side of the wheeling and dealing in politics is public control. We are supposed to be a democratic nation... supposed to have public participation.”

Another major problem with the Port’s autonomous status is that it often ends up competing with the established, locally-owed businesses. Some



believe that every time the Port succeeds, the rest of the city loses, says Wollenberg. Instead of the city supporting the landmark Holmes bookstore, that used to be on 14th street, there's a waterfront Barnes and Noble on Jack London Square.

Public Property vs. Private Profit

Dawn Phillips, organizer for Just Cause Oakland, points out that the Port isn't looking out for the interests of Oakland residents. "The Port represents one of the less accessible and less accountable institutions, even by the generally low standards of Oakland government." All too often, Port developments lead to "a net loss of jobs, a net loss of small, local, people of color-owned businesses in Oakland."

Urban Strategies' Smith point out that, "There [are] several hundred million dollars in reserve accounts over at the Port. And if we're... looking at a revenue shortfall in the city of around \$30 million... we need to think about getting the Port to give the money to the city to solve that problem."

The Port is well aware of these criticisms, says spokeswoman Sandifur, quickly pointing out that the Port takes pride in its Community Relations Department, which channels money into pay back projects for the city, such as college scholarships for low-income students, and spaces like the Middle Harbor Shoreline Park for public recreation.

Wollenberg and other Oakland Port scholars, however, contend that the Port could have been just as successful and profitable even without its special

autonomous status. And despite the community projects it showcases, activists want to know why the Port cannot be more responsive to the health and economic concerns voiced by the residents of Oakland.

Council member Nadel says that even commissioners with progressive credentials seem to undergo a transformation once they take their seats. Their community interests are overwhelmed by a requirement that they defend the Port's bottom line.

Ports around the country have varied relationships to their cities. Some, like Oakland, are semi-autonomous; others pay city taxes. Given Oakland's current budget problems, there is no reason why old laws cannot be changed, say Oakland community activists. The Port, after all, is located on public land, and the pollution it creates is a public hazard. The community would like to see the Port be more of a city asset and less of a private business.

"[The Port] isn't a business, it's a public agency," says Smith of Urban Strategies. "When someone in city [government] says, 'Boy we'd really like to access some of that money to fix the fiscal crisis but there's nothing we can do,' they are wrong. There is something they can do. They can change the charter. And they can enter into agreements with the Port."

Just Cause's Phillips says, "The City Council and the Mayor lack the political will to take the Port on. It will take community, labor, and neighborhood residents organizing vocal and strong challenges: demonstrations, media work, and legal suits. This isn't an institution that is going to go quietly." ■

& the Race, Poverty Environment

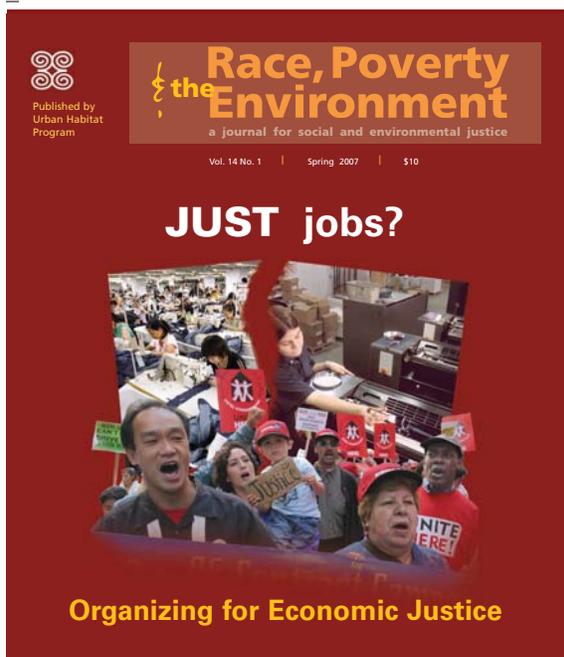
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