UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 32

EVERPORT TERMINAL SERVICES INC. and INTERNATIONAL ASSOCIATION OF MACHINISTS & AEROSPACE WORKERS, DISTRICT LODGE 190, LOCAL LODGE 1546, AFL-CIO; AND INTERNATIONAL ASSOCIATION OF MACHINISTS AND AEROSPACE WORKERS, DISTRICT LODGE 190, LOCAL LODGE 1414, AFL-CIO INTERNATIONAL LONGSHORE AND WAREHOUSE UNION and INTERNATIONAL ASSOCIATION OF MACHINISTS & AEROSPACE WORKERS, DISTRICT LODGE 190, LOCAL LODGE 1546, AFL-CIO; AND INTERNATIONAL ASSOCIATION OF MACHINISTS AND AEROSPACE WORKERS, DISTRICT LODGE 190, LOCAL LODGE 1414, AFL-CIO	**Case 32-CA-172286** **Case 32-CB-172414**

REPLY TO THE GENERAL COUNSEL'S ANSWERING BRIEF BY RESPONDENT EVERPORT TERMINAL SERVICES INC.

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I. INTRODUCTION

The fundamental flaw in the ALJ's decision in this case—as in the General Counsel's briefing—is an artificial insistence on narrowly analyzing only the mechanics at the Nutter Terminal. That puts the cart before the horse. The first and fundamental question is whether (and, if so, when) Everport lawfully became bound by the Pacific Coast Longshore Contract Document ("PCLCD"). An employer bound to a collective bargaining agreement cannot selectively ignore the contract's work jurisdiction provisions. Here, the PCLCD expressly and indisputably covers the work performed by the mechanics at issue.[1] If, therefore, Everport first became bound by the PCLCD, then it had to follow the PCLCD's mechanic hiring procedures and the only proper bargaining unit the Board can consider is the coast-wide longshore unit.

The ALJ and GC do not start with this essential question. Instead, they begin *in media res*: asking at the outset whether Everport intentionally gave preference to mechanics from the ILWU-PMA dispatch hall. Concluding that it did, they accuse Everport of discriminatory hiring; presume (counterfactually) that Everport would have hired a majority of Machinists Union ("IAM") mechanics; and impose successorship obligations to the IAM. This topsy-turvy perspective ignores a very simple principle: if Everport was bound to the PCLCD in the first instance—as indeed it was—then it was legally required to give hiring priority to mechanics in the ILWU-PMA dispatch hall. Thus, it could never incur successorship obligations to the IAM.

Encumbered by this warped reference frame, the ALJ and GC make several additional errors: mischaracterizing the history of the container shipping industry and longstanding Board precedent regarding PMA membership; ignoring the foundational principle of recognition—i.e., freedom of choice ***and majority rule***; misapplying the "perfectly clear" standard; conflating continuity of interest and accretion principles; and misstating evidence in an effort to equate Everport's actions to the *Love's Barbeque* factors. These are just a few of the many critical flaws requiring rejection of the ALJ's decision and recommendations.

Thus, for all the reasons asserted by Everport, the Board should reject the ALJ's decision, recommendations, and proposed order in their entirety and issue a decision in favor of Everport.

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[1] The ALJ and GC do not contest this fact. *See* ILWU Ex. 5, sections 1.7 and 1.71. The Board and federal courts affirm this work jurisdiction. *See, e.g., Pacific Maritime Assn.*, 256 NLRB 769, 770 (1981) ("[S]ections 1.7 and 1.71 … define the work of employees covered by the [PCLCD]"); *IAM District Lodge No. 94 v. ILWU Local 13*, 781 F.2d 685, 688-89 (9th Cir. 1986) (M&R provisions of PCLCD have a "binding effect" upon all PMA members).

II. THE ALJ'S DECISION SHOULD BE REJECTED

A. The ALJ and GC Misconstrue and Disregard Settled Board Precedent Holding that Membership in the PMA Binds a Company to the PCLCD

Numerous Board decisions hold without qualification that "employers who join the PMA after the execution of the bargaining agreement are subject to its terms." *Pacific Maritime Assn.*, 256 NLRB 769, 770 (1981).[2] The ALJ and GC dismiss these cases without genuinely attempting to distinguish them, contending that they are inapposite because they don't involve employers who joined the PMA before employing any labor, as Everport did. This is simply wrong. ***No employer who has ever joined the PMA—and, thereby, the coast-wide bargaining unit—has done so with a preexisting labor force that voluntarily selected the ILWU as their representative, for the simple reason that the coast-wide bargaining unit is and possesses the only longshore labor force on the West Coast.*** (Tr. 1593:15-22; 1683:13-1684:13; 2610:4-11; 3654:13-16.)

Everport is not arguing that section 8(f) of the NLRA somehow applies in the longshore industry. Rather, these Board decisions stand on their own, defining the unique circumstances of the coast-wide ILWU-PMA longshore unit. None of the authorities presented by Everport condition a company's obligation under the PCLCD on the company having joined the PMA with or without an existing workforce or approval of a majority of its workforce. Rather, membership in the PMA alone binds the employer to the PCLCD.

B. The ALJ's and GC's Reliance on "Prosecutorial Discretion" Is Improper and Inadequate to Justify Their Departure from Longstanding Precedent

The ALJ and GC rely on "prosecutorial discretion," both to distinguish the above precedent and to justify ignoring the "elephant" in their argument's "room": that recognition of the PCLCD in June 2015 could somehow be unlawful as to the 40-some mechanics Everport had yet to hire, but not as to the hundreds more longshoremen it would eventually employ—or, more serious still, as to the thousands more employed by other PMA members up and down the West Coast who had become bound by the PCLCD in the exact same fashion.

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[2] *See* cases cited in Everport's Brief in Support of Exceptions, pp. 18-19; e.g., *ILWU Local 8*, 363 NLRB No. 12 (Sep. 24, 2015) (holding that employer "chose to become bound directly to the existing PMA/ILWU agreement when it applied for and became a member of the PMA."); *Calaveras Cement Co.*, NLRB GC Div. of Advice, Case No. 32-CA-16915, 1998 WL 1060253, at *1 (Nov. 24, 1998) ("[T]he employer was a member of the Pacific Maritime Association, automatically making it a party to the … Master Agreement with the ILWU.").

It does not matter that some (or even if all) of the above cases involved no charges contesting ILWU recognition based on membership in the PMA alone: the Board in those cases plainly held that membership in the PMA binds an employer to the PCLCD.

This case involves ***only one recognition event***: Everport, upon joining the PMA and the coast-wide longshore multiemployer bargaining unit in June 2015, recognized the ILWU as the bargaining representative of its longshore workforce. Since 1938, scores—if not hundreds—of other employers have done the same. (Tr. 2024:25-2027:20; RU Ex. 30.)[3] Yet, after the Region investigated this case for nearly a year, the GC incongruously chose to allege that Everport's recognition event was unlawful only as to the mechanics, ignoring the wider workforce Everport recognized in the very same manner.

The GC and ALJ cannot avoid this problem by grasping onto prosecutorial discretion. If the Board were to adopt the ALJ's decision, it would effectively be engaging in rulemaking, declaring unlawful the application of the PCLCD to a new PMA member. Applying this unfounded rule to only a subset of Everport's employees undermines Everport's recognition of and collective bargaining obligation to the entire longshore workforce—and does the same for every employer-member of the PMA. It therefore violates the Administrative Procedures Act as an arbitrary and capricious abuse of discretion. 5 U.S.C. § 706(2)(A).

C. *Pacific Maritime* and *IAM District Lodge*, in Particular, Require That the Board Uphold the M&R Jurisdiction Provisions of the PCLCD in This Case

The ALJ and GC dismiss *Pacific Maritime* and *IAM District Lodge No. 94* because the charges at issue in those cases were different than those here. That is a distinction without difference. These cases hold that the mechanic work jurisdiction provisions of the PCLCD are lawful and binding on PMA members. That principle has nothing to do with the charges brought in those cases and dictates that the ALJ's recommendations be rejected.

The facts of *Pacific Maritime Assn.*, *supra*, 256 NLRB 769, are strikingly similar to the present case. The employer, California United Terminals ("CUT"), was a PMA member who owned a marine container terminal, but had never directly employed anyone to perform maintenance and repair ("M&R") services,

[3] *See also* cases cited in Everport's Brief in Support of Exceptions, at 18-19.

having always subcontracted the work. The subcontractors had historically used IAM labor, but CUT never had a direct bargaining relationship with the IAM. After expanding the terminal, CUT planned to stop subcontracting and use its own employees to do M&R work. Although the IAM and ILWU both demanded recognition, CUT recognized the ILWU as the representative of its mechanics based on sections 1.7 and 1.71 of the PCLCD. *Id.* at 774-75. The contractors filed charges alleging 8(e) violations, but the Board dismissed the complaint in its entirety, specifically holding that section 1.7 and 1.71 of the PCLCD were valid and affirming ILWU jurisdiction over M&R work. *Id.* at 770 ("[I]t is clear that sections 1.7 and 1.71 serve to define the work of employees covered by the [CBA] ... and ... that [ILWU-PMA longshore] unit employees ... perform such work.").

Thus, although the specific unfair labor practice charges were different, *Pacific Maritime* stands for the independent proposition that the M&R work jurisdiction provisions of the PCLCD bind a PMA member who stops subcontracting M&R work to a third party and begins directly employing mechanics. *IAM District Lodge No. 94, supra*, 781 F.2d 685, likewise holds that the M&R provisions of the PCLCD have a "binding effect" on all PMA member-employers—irrespective of the specific charge at issue. As such, once Everport became a PMA member bound to the PCLCD, it had to recognize ILWU jurisdiction over M&R work.

D. Because They Ignore the Coast-Wide Unit and Focus Improperly Only on the Mechanics, the ALJ and GC Misapply the "Perfectly Clear" Doctrine

In their rush to limit the inquiry to mechanics only, the GC and ALJ misconstrue the "perfectly clear" doctrine. For example, the GC contends the doctrine cannot apply because Everport does not consider "communicat[ions] with the incumbent predecessor's employees." (*See, e.g.*, GC Answering Brief, p. 36.) This argument only works if one ignores the uncontested evidence—and obvious fact—that the predecessor's employees included hundreds of incumbent longshoremen registered in the ILWU-PMA dispatch hall. (Consider also the GC's unexplained pronouncement, without explanation, that Everport's communications with non-mechanics are somehow "beside the point.") *Id.* This is yet another example of the GC's and ALJ's errant disregard for anything beyond circumstances specific to the mechanics working at the Nutter Terminal.[4]

[4] The ALJ makes the same mistake in her decision, arguing that Everport was not a perfectly clear successor because it did not "make clear it intended to retain a majority of the predecessor's [IAM]-represented mechanics." (ALJD 68.) Again, this view ignores Everport's communications with the incumbent longshore workers.

Application of the "perfectly clear" doctrine, as raised in Everport's defenses, depends not on communications with the IAM, but with longshoremen in the coast-wide bargaining unit. Everport agrees it had no discussions regarding continued employment with the mechanics at MTC or MMTS. That is why the "perfectly clear" doctrine does not create successorship obligations to the IAM. But neither the ALJ nor the GC cite any authority for the proposition that an employer must communicate "perfectly clear" intent to ***all*** employees in an incumbent workforce to become a successor under the doctrine. No such authority exists.

The undisputed evidence establishes that Everport had open communications about continued employment with the longshoremen as early as May 2015. (Tr. 1848:17-20; 3291:12-3294:3.) During those discussions, Everport confirmed that it would "be operating the facility and … would be utilizing longshoremen." (Tr. 3291:12-3294:3.) Everport even discussed what equipment the longshoremen would be using. (Tr. 3298:9-16.)[5] Communications like these are the very sort that satisfy "perfectly clear" criteria in scores of Board cases. *See, e.g., Creative Vision Res., LLC*, 364 NLRB No. 91 (Aug. 21, 2016) (applying "perfectly clear" doctrine where employer "had to be sure he had enough hoppers lined up to staff all the trucks in advance"); *Nexeo Solutions, LLC*, 364 NLRB No. 44, *11 (Jul. 18, 2016) (applying "perfectly clear" doctrine where manager stated: "I am proud to lead this team ... I look forward to starting this new chapter with all of you."); *Roman Catholic Diocese of Brooklyn*, 222 NLRB 1052, 1055 (1976) (applying "perfectly clear" doctrine where chairman of board of trustees told union president in a phone call: "I don't understand what you're worried about though. We intend to rehire all of the people back. They will be retained next year").

Having thus made it "perfectly clear" to the longshoremen that it would employ and use them, Everport incurred an obligation to bargain with the ILWU prior to commencement of its operations.[6] *See, e.g., NLRB v. Burns Int'l Security Services, Inc.*, 406 U.S. 272, 295 (1972) (where it is "perfectly clear that the new

[5] Neither the ALJ nor the GC argue that the "perfectly clear" doctrine has no application in the context of a casual or dispatched workforce, such as the ILWU-PMA coast-wide dispatch system. Settled Board law holds that an employer need not hire all of the same former employees for the "perfectly clear" doctrine to apply. *See, e.g., Road and Rail Services, Inc.*, 348 NLRB No. 77 (2006) (dismissing complaint alleging premature recognition because employer was a "perfectly clear" successor, despite hiring 20 of 23—not all—predecessor employees). And no Board authorities refuse to extend successorship doctrines in the context of a casual workforce.

[6] Despite the GC's extensive argument regarding "substantial continuity," Everport does not contest that substantial continuity of operations exists as between it and its predecessor. Continuity is, of course, necessary for Everport to have incurred successorship obligations running to the coast-wide longshore unit.

employer plans to retain all of the employees in the unit ... it will be appropriate to have him initially consult with the employees' bargaining representative before he fixes terms."). Furthermore, being lawfully obligated under the PCLCD in consequence of its clear intent to employ of the longshore workforce, Everport could not ignore the "binding effect" of the PCLCD's provisions governing M&R work jurisdiction. *See IAM District Lodge No. 94*, 781 F.2d at 688 n. 2 (holding that the M&R provisions of the PCLCD have a "binding effect" on PMA members).[7]

E. The ALJ and GC Fail to Apply the Full Board Standard Governing Employee Selection of a Representative

The ALJ and GC both maintain that Everport "ignored the section 7 rights" of IAM mechanics by forcing recognition of the ILWU on them. But they have no answer for the fact that ***the NLRA does not protect free choice of an employee representative independent of the principle of majority rule***. *Conair Corp. v. NLRB*, 721 F.2d 1355, 1381-82 (D.C. Cir. 1983) ("[T]he Act's twin pillars [are] freedom of choice and majority rule … Majority rule, with all its imperfections, is the best protection of workers' rights."). Again, the ALJ's and GC's arguments work only by narrowly focusing only on the Nutter Terminal mechanics and ignoring the hundreds of other employees on the terminal who favor ILWU representation.

Everport had no incumbent employees when it joined the PMA. Thus, no existing worker was forced to become represented by the ILWU. Everport joined PMA to access the existing coast-wide workforce for all longshore positions, including mechanics. This workforce has at all material times manifested majority support for ILWU representation. Where a company has no incumbent workforce, it is free to join a multiemployer association and engage labor under the association's labor contract. *See, e.g., Building Contractors Assn., Inc.*, 364 NLRB No. 74, 2016 WL 4376616, at *1 (Aug. 16, 2016) (finding "appropriate" a multiemployer association that "require[d] member-employers to be bound by the terms of any collective-bargaining agreement" between association and unions); *Sands Point Nursing Home*, 319 NLRB 390, 390-91 (1995) (approving employer's compliance with multiemployer association's agreement).

[7] Even if one analyzes the M&R unit separately, Everport was still a "perfectly clear" successor. It informed the IAM mechanics weeks before opening the terminal that it would use the ILWU-PMA longshore dispatch halls to hire mechanics. *See, e.g.*, ALJD 16; GC Ex. 64 at 2.

Because Everport joined the PMA before it engaged any workers, its compliance with the PCLCD did not discriminate against or infringe upon the section 7 rights of any identifiable employee group. Absent application of the "perfectly clear" doctrine, *Burns* successorship cannot attach unless and until an employer has hired a substantial and representative complement of employees and a majority of that complement consists of the predecessor's employees. *Fall River Dyeing & Finishing Corp. v. NLRB*, 482 U.S. 27, 36-41 (1987). The ALJ held, and the GC concedes, that the "perfectly clear" exception does not apply as to bargaining obligations with the IAM. Thus, in June 2015, when Everport joined the PMA and became bound by the PCLCD, the IAM and the mechanics employed by MTC and MMTS had no claim to successorship. Everport cannot therefore be said to have violated their section 7 rights.

F. The ALJ and GC Misstate Evidence in an Attempt to Fit the Facts to the *Love's Barbecue* Factors

As they have elevated their discriminatory hiring inquiry over the critical initial analysis of Everport's decision to join the PCLCD, it comes as no surprise that the ALJ and GC strain to fit the facts of this case into the *Love's Barbecue* factors. The GC, for example, claims that Everport only told "a single IAM mechanic about the potential positions." (GC Answering Brief, p. 41.) That is false.

Two of the GC's own witnesses admitted that Everport had personally contacted them about the opportunity to apply and be interviewed. (Tr. 150:4-19; 365:25-366:11.) Another GC witness admitted that Everport had directly contacted his brother, who was also an MTC/MMTS mechanic at the Nutter Terminal. (Tr. 433:14-21.) Everport witness David Choi gave undisputed testimony that he directly told multiple MTC/MMTS mechanics about the positions, and told them "to spread the word." (Tr. 918:19-919:3; 1059:22-1060:18.) And Everport's counsel wrote a letter to counsel for the IAM informing him that Everport would consider any IAM member' applications. (GC Ex. 64.) Everport conveyed the same message to IAM Area Director Don Crosatto. (Tr. 1328:6-10; 1363:2-1364:12.)

What's more, Everport held the interviews openly in a trailer on the Nutter Terminal where the MTC/MMTS Mechanics worked. The GC's own witnesses admitted they knew Everport was conducting interviews there. (Tr. 286:15-287:9.) When mechanics showed up at the trailer, Everport interviewed them—and hired many of them. (Tr. 287:23-288:14.)

In *Love's Barbecue*, the Board found antiunion animus because of a series of openly discriminatory acts by the employer. The successor employer "expressed an intention not to have the union in his restaurant; unlawfully photographed employees; conducted his initial job interviews under conditions which virtually ensured that the former ... employees would not know of the interviews; gave inconsistent testimony regarding his reasons for not hiring former ... employees; and gave false, tailored testimony regarding his hiring practices." *Love's Barbecue*, 245 NLRB 78, 81 (1979). None of these indicia of discrimination are present here. The attempt to pigeon-hole Everport's conduct into *Love's Barbecue* should be rejected.

G. The ALJ and GC Wrongly Ignore the Separate Bargaining History of the MMTS and MTC Mechanics and Must Analyze Any Successorship Obligations to Each of These Units Individually, Not Combined as One

For all their bluster regarding the significance of bargaining history with the IAM, ***the GC and ALJ flatly ignore the bargaining history of the mechanics employed at MMTS as a separate bargaining unit from mechanics employed at MTC***. To the extent they exist, successorship obligations run to an individual bargaining unit, not to a mish-mash of multiple bargaining units. *See, e.g., In re Dattco, Inc.*, 338 NLRB 49 (2002) (rejecting ALJ successorship finding where ALJ "did not independently assess the appropriateness of the unit"); *Banknote Corp. of America v. NLRB*, 84 F.3d 637, 642-643 (2d Cir. 1996) ("Subsections 8(a)(5) and 9(a) of the Act, read together, only require a successor to bargain with the representative of an 'appropriate' bargaining unit."). When analyzed separately, as they must be, neither the MTC nor the MMTS mechanics constituted a majority of the mechanics hired by Everport.[8] Indeed, even if one presumes that Everport would or should have hired all mechanics, neither group would constitute a majority of the Everport complement, regardless of when the complement was measured.[9]

They likewise ignore the undisputed fact that Everport made job offers to all of the MMTS mechanics and hired five of them—Dean Compton, Gil Freitas, Wade Humphrey, Nenad Milojkovic, and Brian Tilly. (Tr. 204:12-205:2; ILWU Ex. 1.) These hiring decisions do not comport with a discriminatory 49% quota.[10]

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[8] The MTC mechanics constituted 8 out of 27 mechanics. The MMTS mechanics constituted 5 out of 27 mechanics.

[9] Regarding the fact that Everport could not have hired all of the MTC and MMTS mechanics under any circumstances and the mathematical impossibility of majority status, *see* Everport's Brief in Support of Exceptions, pp. 40-46 and Post-Trial Brief, pp. 96-102, 108-115.

[10] Although Everport cannot be accused of discrimination against the MMTS mechanics, the five mechanics who Everport hired from

H. The ALJ and GC Misapply the Board's Test for Accretion

As with other key Board standards, the ALJ and GC also misapply the Board's standard for accretion. The GC's Answering Brief repeatedly conflates the tests for substantial continuity and accretion. Moreover, the GC has no answer to the undisputed evidence establishing that Everport hired 13 additional mechanics after the initial group of 27, bringing its total workforce to 40 mechanics within six months of commencing operations. (Tr. 908:4-17, 3414:8-20, 3974:9-11.) The GC's efforts to undermine Everport's well-defined plan to expand the mechanic workforce are inadequate.

First, the GC, like the ALJ, focuses on aspects of Everport's well-defined plan occurring ***after*** June 8, 2016, which have no bearing on Everport's argument. The GC's arguments regarding "inoperable chassis needing repairs" and other chassis problems relate to events in September 2016, after the completion of Everport's well-defined plan to hire more mechanics. (*See* GC Answering Brief, p. 25 and n. 46.)

Second, the GC contends that Everport increased the number of mechanics because it did not trust mechanics from the ILWU-PMA dispatch hall. This argument is based entirely on a single email (GC Ex. 91), which only describes cost differences between the IAM and ILWU and says nothing about hiring. Moreover, the email is from October 2016—four months ***after*** Everport completed its plan to hire more mechanics.

Third, the GC contends that Everport President George Lang conceded in his affidavit that the Nutter Terminal was "fully operational" with the initial group of 27 mechanics. As Mr. Lang explained in sworn testimony, by the term "fully operational," he meant merely that the Nutter Terminal was able to perform its designed operation of working ships and moving containers. (Tr. 3732:20-25.) Board decisions must be based on substance, not semantics. The fact that Mr. Lang's affidavit uses this term proves nothing. That the terminal could operate with the initial group of mechanics does not mean there was no specific plan to increase the mechanic workforce. Mr. Lang's undisputed testimony established that, while the exact number of mechanics may not have been specified, ***there was no question that additional mechanics would be required***. (Tr. 1491:16-20, 1492:2-6, 1803:25-1804:9, 3737:24-3738:22, 3738:23-3739:11, 4032:1-6.)

MMTS formed only a minority fraction of the full mechanic complement at Everport. Everport thus owed no successorship obligations to the IAM as their prior bargaining representative.

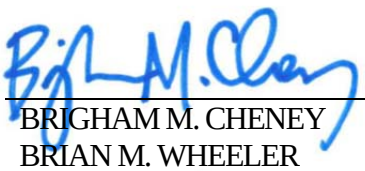
Fourth, contrary to the GC's contentions, the fact that Everport considered using a third-party M&R vendor (Pacific Crane), has no bearing on the number of mechanics that would be needed to perform the work. The number of mechanics ultimately needed to perform M&R work at the Nutter Terminal is still 40, whether the mechanics were employed by Everport or a vendor. Once Everport knew it would directly employ the mechanics (in October 2015—prior to any hires), it knew firmly that additional mechanics would be required. (Tr. 1491:16-20, 1492:2-6, 1803:25-1804:9, 3737:24-3738:22, 3738:23-3739:11, 4032:1-6.)

The undisputed evidence establishes that, from before the outset of operations, Everport had a definitive plan to expand its operations and increase the size of its workforce. The plan was neither speculative nor distant. Indeed, Everport realized its expansion and engaged a substantial number of mechanics within approximately six months of commencing operations—a reasonable time period by any estimation. Accordingly, no finding of a substantial and representative complement should be made until the date on which Everport completed the hiring it posted for on June 8, 2016, and reached a total of 40 mechanics.

III. CONCLUSION

For all of the reasons set forth in all of Everport's papers, the Board should reject the ALJ's findings, recommendations, and proposed order in their entirety.

Date: January 23, 2019 Respectfully submitted,



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I am employed in the County of Orange, State of California. I am over the age of 18 years and am not a party to the within action; my business address is 20 Pacifica, Suite 1100, Irvine, California 92618.

On January 23, 2019, I served the following document(s) described as **REPLY TO THE GENERAL COUNSEL'S ANSWERING BRIEF BY RESPONDENT EVERPORT TERMINAL SERVICES INC.,** on the interested parties in this action as follows:

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☑ BY EMAIL: My electronic service address is DDunham@aalrr.com. Based on a written agreement of the parties pursuant to Fed. Rules Civ. Proc., Rule 5(b)(2)(E) to accept service by electronic means, I sent such document(s) to the email address(es) listed above or on the attached Service List. Such document(s) was scanned and emailed to such recipient(s) and email confirmation(s) will be maintained with the original document in this office indicating the recipients' email address(es) and time of receipt.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct, and that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on January 23, 2019, at Irvine, California.

Donna L. Dunham