

August 11, 2020

8/10/2020

Governor's Office of Planning & Research

Cecily Session-Goins
Assistant Planner
City of Fontana, Planning Division
8353 Sierra Avenue
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Submitted via email: CSGoins@fontana.org

Aug 17 2020

STATE CLEARINGHOUSE

Dear Cecily Session-Goins:

Thank you for providing the California Air Resources Board (CARB) with the opportunity to comment on the Sierra Avenue and Casa Grande Avenue Warehouse Project (Project) Draft Environmental Impact Report (DEIR), State Clearinghouse No. 2019070040. The Project consists of the construction and operation of a 322,996 square-foot warehouse building. Since the zoning classification of the parcels containing the proposed warehouse development would have to change from residential to industrial, the Project also includes two residential unit replacement sites (RUR) as required under the Housing Crisis Act (HCA) of 2019 and provisions in Senate Bill (SB) 330. The proposed RURs are situated on a 5.69-acre site located north of Malaga Street and west of Mango Street (Malaga Site), and a 3.58-acre site located east of Palmetto Avenue and south of Arrow Boulevard (Palmetto Site). A total of 219 residential units are proposed within the Malaga and Palmetto Sites. Once in operation, the Project would introduce 2,544 daily vehicle trips, including 118 daily heavy-duty truck trips, along local roadways. The Project is located within the City of Fontana (City), California, which is the lead agency for California Environmental Quality Act (CEQA) purposes.

CARB submitted a comment letter, which is attached to this letter, on the Notice of Preparation (NOP) for the DEIR released in August 2019. CARB's August 2019 comments highlighted the need for a health risk assessment (HRA) to be prepared for the Project and encouraged the City and applicant to implement all existing and emerging zero-emission technologies to minimize exposure to diesel particulate matter (diesel PM) and nitrogen oxides (NO_x) emissions for all neighboring communities, as well as minimize the greenhouse gases that contribute to climate change. Furthermore, CARB's comments emphasized the potential cumulative health impacts should the City allow the construction of the proposed industrial buildings near communities that score within the top 10 percent of California census tracts on the California Communities Environmental Health Screening Tool Version 3.0 (CalEnviroScreen).¹ CARB has reviewed the DEIR and has the following concerns:

¹: "CalEnviroScreen 3.0." California Office of Environmental Health Hazard Assessment, June 2018, <https://oehha.ca.gov/calenviroscreen/report/calenviroscreen-30>.

I. It is Unclear Whether the Project Would Include Cold Storage Space

The air pollutant emissions and cancer risks reported in the DEIR were estimated under the assumption that the Project would not be used for cold storage. Since the Project description in the DEIR did not explicitly state that the proposed 322,996 square-foot warehouse building would not include cold storage space, there is a possibility that trucks and trailers visiting the Project site would be equipped with transport refrigeration units (TRU).^{2,3}

TRUs on trucks and trailers can emit large quantities of diesel exhaust while operating within the Project site. Residences and other sensitive receptors (e.g., daycare facilities, senior care facilities, and schools) located near where these TRUs could be operating would be exposed to diesel exhaust emissions that would result in a significant cancer risk. CARB urges the applicant and City to revise the DEIR to clearly define the Project's description, so the public can fully understand the potential environmental effects of the Project on their communities.

If the Project will not be used for cold storage, CARB urges the City to include one of the following design measures in the Final Environmental Impact Report (FEIR):

- A Project design measure requiring contractual language in tenant lease agreements that prohibits tenants from operating TRUs within the Project site; or
- A condition requiring a restrictive covenant over the parcel that prohibits the applicant's use of TRUs on the property unless the applicant seeks and receives an amendment to its conditional use permit allowing such use.

If the City does allow TRUs within the Project site, CARB urges the City to model air pollutant emissions from TRUs in the FEIR, as well as include potential cancer risks from TRUs in the Project's revised HRA. The revised HRA should account for all potential health risks from Project-related diesel PM emission sources such as backup generators, TRUs, and heavy-duty truck traffic.

² TRUs are refrigeration systems powered by integral diesel engines that protect perishable goods during transport in an insulated truck and trailer vans, rail cars, and domestic shipping containers.

³ Project descriptions "must include (a) the precise location and boundaries of the proposed project, (b) a statement of the objectives sought by the proposed project, (c) a general description of the project's technical, economic and environmental characteristics, and (d) a statement briefly describing the intended use of the EIR." (*stopthemillenniumhollywood.com v. City of Los Angeles* (2019) 39 Cal.App.5th 1, 16.) "This description of the project is an indispensable element of both a valid draft EIR and final EIR." (*Ibid.*) Without explicit acknowledgment in the project description that the proposed project will not include cold storage facilities, the current project description fails to meet the bare minimum of describing the project's technical and environmental characteristics.

II. The DEIR Did Not Account for Air Pollutant Emissions from Heavy-Duty Trucks During On-site Grading

The DEIR did not account for mobile air pollutant emissions from grading operations during the Project's construction phase. Based on CARB's review of the California Emissions Estimator Model (CalEEMod) outputs found in Appendix B of the DEIR, the City and applicant assumed that no heavy-duty truck trips would be required to import or export soil during the on-site grading. Furthermore, the DEIR does not explicitly state the quantity of soil needed to grade the Project site that would support this assumption. If the Project site cannot be graded using existing on-site soil, the soil will need to be imported into the Project site. If that is the case, a large number of heavy-duty truck trips may be required to transport soil.

CARB urges the City and applicant to remodel the Project's construction air pollutant emissions using accurate heavy-duty truck trip estimates. Residences and other sensitive receptors (e.g., daycare facilities, senior care facilities, and schools) located near construction haul routes could be exposed to diesel exhaust emissions that were not evaluated in the DEIR. The DEIR should clearly state the total number of heavy-duty truck trips expected during Project construction so the public can fully understand the potential environmental effects of the Project on their communities.

III. The DEIR Does Not Include all Feasible Mitigation Measures to Reduce the Project's Significant and Unavoidable Impact on Air Quality

Chapter 4.2 (Air Quality) of the DEIR includes two mitigation measures (MM AQ-1 and MM AQ-2) to reduce the Project's impact on air quality during its construction. These measures would require the applicant to comply with the South Coast Air Quality Management District's Rules 402 and 403, and restrict all off-road diesel-powered construction equipment greater than 40 horsepower to meet CARB's Tier 4 Final emissions standards during Project construction. With the implementation of these mitigation measures, the DEIR concluded that the Project's impact on air quality during Project construction would be less than significant. However, the City and applicant did not include any of the mitigation measures that would be used to reduce the Project's significant and unavoidable impact on air quality and public health during its operation. The DEIR states that there are no feasible mitigation measures to reduce the Project's operational air pollutant emissions at the proposed warehouse development. CARB disagrees with this assertion. Even where impacts will remain significant and unavoidable after mitigation, CEQA requires that all feasible mitigation measures be incorporated (see California Public Resources Code § 21081; 14 CCR § 15126.2(b)). To meet this requirement, the City should implement all of the air pollutant emission reduction measures referenced in CARB's August 1, 2019 comment letter on the DEIR's NOP. These air pollutant emission reduction measures are listed in the attached letter.

IV. Conclusion

CARB is concerned about the potential public health impacts should the City approve the Project. As discussed above, the DEIR may not have accounted for diesel PM emissions from heavy-duty trucks with TRUs when evaluating the Project's cancer risk impacts. If the proposed warehouse building will be used for cold storage, CARB urges the City and applicant to revise the Project's HRA and report the findings in the FEIR. The revised HRA should assume a conservative percentage of the trucks visiting the Project site are equipped with TRUs. Furthermore, the FEIR should account for heavy-duty truck trips during on-site grading, and include all feasible mitigation measures listed in CARB's comment letter on the DEIR's NOP dated August 1, 2019, found in the attachment to this letter.

Given the breadth and scope of projects subject to CEQA review throughout California that have air quality and greenhouse gas impacts coupled with CARB's limited staff resources to substantively respond to all issues associated with a project, CARB must prioritize its substantive comments here based on staff time, resources, and its assessment of impacts. CARB's deliberate decision to substantively comment on some issues does not constitute an admission or concession that it substantively agrees with the lead agency's findings and conclusions on any issues on which CARB does not substantively submit comments.

CARB appreciates the opportunity to comment on the DEIR for the Project and can provide assistance on zero-emission technologies and emission reduction strategies, as needed. If you have questions, please contact Stanley Armstrong, Air Pollution Specialist, via email at stanley.armstrong@arb.ca.gov.

Sincerely,



Richard Boyd, Chief
Risk Reduction Branch
Transportation and Toxics Division

Attachment

cc: See next page.

Cecily Session-Goins

August 11, 2020

Page 5

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ATTACHMENT A

August 1, 2019

Cecily Session-Goins
Assistant Planner
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Dear Cecily Session-Goins:

Thank you for providing California Air Resources Board (CARB) staff the opportunity to comment on the Notice of Preparation (NOP) for the Sierra Avenue and Casa Grande Avenue Warehouse Project (Project) Draft Environmental Impact Report (DEIR), State Clearinghouse No. 2019070040. The Project consists of the construction and operation of a 317,820 square-foot warehouse building located within the City of Fontana (City), which is the lead agency for California Environmental Quality Act (CEQA) purposes. Implementation of the Project would require a change to the existing land use designation of one of the parcels in the Project from Multi-Family High Density Residential to Regional Mixed Use.

CARB staff is concerned about the air pollution and health risk impacts that would result should the City approve the Project to build the proposed warehouse building. Freight facilities, such as warehouse and distribution facilities, can result in high daily volumes of heavy-duty diesel truck traffic and operation of onsite equipment (e.g., forklifts, yard tractors) that emit toxic diesel emissions, and contribute to regional air pollution and global climate change.

Existing residences are located east, west, north and southwest of the Project site, with the closest residences situated approximately 280 feet from the Project's eastern boundary. In addition to residences, there are three elementary schools (Fitzgerald Elementary School, Kordyak Elementary School, and Sierra Lakes Elementary School) and a middle school (Wayne Ruble Middle School) located within two miles of the Project. The communities near the Project are surrounded by existing toxic diesel emission sources, which include existing warehouses and other industrial uses, vehicular traffic along Interstate 15 (I-15) and State Route 210 (SR-210), as well as heavy truck traffic to Mid-Valley Sanitary Landfill. Due to the Project's proximity to residences and schools already disproportionately burdened by multiple sources of pollution, CARB staff is concerned with the potential cumulative health impacts associated with the construction and operation of the Project.

The State of California has placed additional emphasis on protecting local communities from the harmful effects of air pollution through the passage of Assembly Bill 617 (AB 617) (Garcia, Chapter 136, Statutes of 2017). AB 617 is a significant piece of air quality legislation that highlights the need for further emission reductions in communities with high exposure burdens, like those in which the Project is located. Diesel emissions generated during the construction and operation of the Project would negatively impact the community, which is already disproportionately impacted by air pollution from existing freight facilities.

Through its authority under Health and Safety Code, section 39711, the California Environmental Protection Agency (CalEPA) is charged with the duty to identify disadvantaged communities. CalEPA bases its identification of these communities on geographic, socioeconomic, public health, and environmental hazard criteria (Health and Safety Code, section 39711, subsection (a)). In this capacity, CalEPA currently defines a disadvantaged community, from an environmental hazard and socioeconomic standpoint, as a community that scores within the top 25 percent of the census tracts, as analyzed by the California Communities Environmental Health Screening Tool Version 3.0 (CalEnviroScreen). Communities that score within the top 25 percent of the census tracts are exposed to higher concentrations of air pollutants and have a higher Pollution Burden.¹ CalEnviroScreen uses a screening methodology to help identify California communities currently disproportionately burdened by multiple sources of pollution. According to CalEnviroScreen, communities near the Project score within the top 10 percent of the census tracts. Therefore, CARB urges the County to ensure that the Project does not adversely impact neighboring disadvantaged communities.

The NOP does not state whether the industrial uses proposed under the Project would include cold storage. The operation of cold storage warehouses would include trucks with transport refrigeration units (TRU) that emit significantly higher levels of toxic diesel emissions, oxides of nitrogen (NO_x), and greenhouse gases than trucks without TRUs. Since it is unclear whether the Project would include cold storage warehouse space, any modeling done in support of the air quality analysis of the DEIR and associated health risk assessment (HRA) should assume that a conservative percentage of the truck and trailer fleet that would be serving the Project are equipped with TRUs.

In addition to the health risk associated with operations, construction health risks should be included in the air quality section of the DEIR and the Project's HRA. Construction of the Project would result in short-term diesel emissions from the use of both on-road and off-road diesel equipment. The Office of Environmental Health Hazard Assessment's (OEHHA) guidance recommends assessing cancer risks for construction projects

¹ Pollution Burden represents the potential exposures to pollutants and the adverse environmental conditions caused by pollution.

lasting longer than two months. Since construction would very likely occur over a period lasting longer than two months, the HRA prepared for the Project should include health risks for existing residences near the Project site during construction.

The HRA prepared in support of the Project should be based on the latest OEHHA guidance (2015 Air Toxics Hot Spots Program Guidance Manual for Preparation of Health Risk Assessments),² and the South Coast Air Quality Management District's CEQA Air Quality Handbook.³ To reduce the exposure of toxic diesel emissions in disadvantaged communities already disproportionately impacted by air pollution, the final design of the Project should include all existing and emerging zero-emission technologies to minimize NO_x and diesel emission exposure to all neighboring communities, as well as the greenhouse gases that contribute to climate change. CARB encourages the County and applicant to implement the measures listed in Attachment A of this comment letter to reduce the Project's construction and operational air pollution emissions.

The HRA should evaluate and present the existing baseline (current conditions), future baseline (full build-out year, without the Project), and future year with the Project. The health risks modeled under both the existing and the future baselines should reflect all applicable federal, state, and local rules and regulations. By evaluating health risks using both baselines, the public and county planners will have a complete understanding of the potential health impacts that would result from the Project.

CARB staff appreciates the opportunity to comment on the NOP for the Project and can provide assistance on zero-emission technologies and emission reduction strategies, as needed. Please include CARB on your State Clearinghouse list of selected State agencies that will receive the DEIR as part of the comment period.

² Office of Environmental Health Hazard Assessment (OEHHA). Air Toxics Hot Spots Program Guidance Manual for Preparation of Health Risk Assessments. February 2015. Accessed at: <https://oehha.ca.gov/media/downloads/cmr/2015guidancemanual.pdf>.

³ SCAQMD's 1993 Handbook can be found at <http://www.aqmd.gov/home/rules-compliance/ceqa/air-quality-analysis-handbook>

Cecily Session-Goins
August 1, 2019
Page 4

If you have questions, please contact Stanley Armstrong, Air Pollution Specialist, at (916) 440-8242 or via email at stanley.armstrong@arb.ca.gov.

Sincerely,

A handwritten signature in blue ink that reads "Richard Boyd". The signature is written in a cursive style with a long, sweeping tail on the "y".

Richard Boyd, Chief
Risk Reduction Branch
Transportation and Toxics Division

Attachment

cc: See next page.

Cecily Session-Goins
August 1, 2019
Page 5

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ATTACHMENT A

Recommended Air Pollution Emission Reduction Measures for Warehouses and Distribution Centers

California Air Resources Board (CARB) staff recommends developers and government planners use all existing and emerging zero to near-zero emission technologies during project construction and operation to minimize public exposure to air pollution. Below are some measures, currently recommend by CARB staff, specific to warehouse and distribution center projects. These recommendations are subject to change as new zero-emission technologies become available.

Recommended Construction Measures

1. Ensure the cleanest possible construction practices and equipment are used. This includes eliminating the idling of diesel-powered equipment and providing the necessary infrastructure (e.g., electrical hookups) to support zero and near-zero equipment and tools.
2. Implement, and plan accordingly for, the necessary infrastructure to support the zero and near-zero emission technology vehicles and equipment that will be operating onsite. Necessary infrastructure may include the physical (e.g., needed footprint), energy, and fueling infrastructure for construction equipment, onsite vehicles and equipment, and medium-heavy and heavy-heavy duty trucks.
3. In construction contracts, include language that requires all off-road diesel-powered equipment used during construction to be equipped with Tier 4 or cleaner engines, except for specialized construction equipment in which Tier 4 engines are not available. In place of Tier 4 engines, off-road equipment can incorporate retrofits such that emission reductions achieved equal or exceed that of a Tier 4 engine.
4. In construction contracts, include language that requires all off-road equipment with a power rating below 19 kilowatts (e.g., plate compactors, pressure washers) used during project construction be battery powered.
5. In construction contracts, include language that requires all heavy-duty trucks entering the construction site, during the grading and building construction phases be model year 2014 or later. All heavy-duty haul trucks should also meet CARB's lowest optional low-NO_x standard starting in the year 2022.¹

¹ In 2013, CARB adopted optional low-NO_x emission standards for on-road heavy-duty engines. CARB staff encourages engine manufacturers to introduce new technologies to reduce NO_x emissions below the current mandatory on-road heavy-duty diesel engine emission standards for model years 2010 and later. CARB's optional low-NO_x emission standard is available at <https://www.arb.ca.gov/msprog/onroad/optionnox/optionnox.htm>.

6. In construction contracts, include language that requires all construction equipment and fleets to be in compliance with all current air quality regulations. CARB staff is available to assist in implementing this recommendation.

Recommended Operation Measures

1. Include contractual language in tenant lease agreements that requires tenants to use the cleanest technologies available, and to provide the necessary infrastructure to support zero-emission vehicles and equipment that will be operating onsite.
2. Include contractual language in tenant lease agreements that requires all loading/unloading docks and trailer spaces be equipped with electrical hookups for trucks with transport refrigeration units (TRU) or auxiliary power units. This requirement will substantially decrease the amount of time that a TRU powered by a fossil-fueled internal combustion engine can operate at the project site. Use of zero-emission all-electric plug-in TRUs, hydrogen fuel cell transport refrigeration and cryogenic transport refrigeration are encouraged and can also be included lease agreements.²
3. Include contractual language in tenant lease agreements that requires all TRUs entering the project site be plug-in capable.
4. Include contractual language in tenant lease agreements that requires future tenants to exclusively use zero-emission light and medium-duty delivery trucks and vans.
5. Include contractual language in tenant lease agreements requiring all TRUs, trucks, and cars entering the Project site be zero-emission.
6. Include contractual language in tenant lease agreements that requires all service equipment (e.g., yard hostlers, yard equipment, forklifts, and pallet jacks) used within the project site to be zero-emission. This equipment is widely available.
7. Include contractual language in tenant lease agreements that requires all heavy-duty trucks entering or on the project site to be model year 2014 or later today, expedite a transition to zero-emission vehicles, and be fully zero-emission beginning in 2030.

² CARB's Technology Assessment for Transport Refrigerators provides information on the current and projected development of TRUs, including current and anticipated costs. The assessment is available at https://www.arb.ca.gov/msprog/tech/techreport/tru_07292015.pdf.

8. Include contractual language in tenant lease agreements that requires the tenant be in, and monitor compliance with, all current air quality regulations for on-road trucks including CARB's Heavy-Duty (Tractor-Trailer) Greenhouse Gas Regulation,³ Periodic Smoke Inspection Program (PSIP),⁴ and the Statewide Truck and Bus Regulation.⁵
9. Include contractual language in tenant lease agreements restricting trucks and support equipment from idling longer than five minutes while onsite.
10. Include contractual language in tenant lease agreements that limits onsite TRU diesel engine runtime to no longer than 15 minutes. If no cold storage operations are planned, include contractual language and permit conditions that prohibit cold storage operations unless a health risk assessment is conducted and the health impacts fully mitigated.
11. Include rooftop solar panels for each proposed warehouse to the extent feasible, with a capacity that matches the maximum allowed for distributed solar connections to the grid.

³ In December 2008, CARB adopted a regulation to reduce greenhouse gas emissions by improving the fuel efficiency of heavy-duty tractors that pull 53-foot or longer box-type trailers. The regulation applies primarily to owners of 53-foot or longer box-type trailers, including both dry-van and refrigerated-van trailers, and owners of the heavy-duty tractors that pull them on California highways. CARB's Heavy-Duty (Tractor-Trailer) Greenhouse Gas Regulation is available at <https://www.arb.ca.gov/cc/hdghg/hdghg.htm>.

⁴ The PSIP program requires that diesel and bus fleet owners conduct annual smoke opacity inspections of their vehicles and repair those with excessive smoke emissions to ensure compliance. CARB's PSIP program is available at <https://www.arb.ca.gov/enf/hdvp/hdvp.htm>.

⁵ The regulation requires newer heavier trucks and buses must meet particulate matter (PM) filter requirements beginning January 1, 2012. Lighter and older heavier trucks replaced starting January 1, 2015. By January 1, 2023, nearly all trucks and buses will need to have 2010 model year engines or equivalent. CARB's Statewide Truck and Bus Regulation is available at <https://www.arb.ca.gov/msprog/onrdiesel/onrdiesel.htm>.