

May 27, 2020

Governor's Office of Planning & Research

JUN 01 2020

STATE CLEARINGHOUSE

Steven King
Planning Director
Planning Department
City of Norco
2870 Clark Avenue
Norco, California 92860
Submitted via email: sking@ci.norco.ca.us

Dear Steven King:

Thank you for providing the California Air Resources Board (CARB) with the opportunity to comment on the Saddle Ranch South Project (Project) Initial Study and Mitigated Negative Declaration (IS/MND), State Clearinghouse No. 2020050079. The Project includes the construction of a warehouse/manufacturing complex totaling 374,170 square feet. Once in operation, the Project would result in 788 daily vehicle trips, including 163 daily heavy-duty truck trips, along local roadways. The Project is located within the City of Norco (City), California, which is the lead agency for California Environmental Quality Act (CEQA) purposes.

The industrial uses proposed under the Project would permit warehousing and manufacturing facilities. Freight facilities, such as warehouse and manufacturing, can result in high daily volumes of heavy-duty diesel truck traffic and operation of on-site equipment (e.g., forklifts, yard tractors, etc.) which emit toxic diesel emissions and contribute to regional air pollution and global climate change.¹ CARB has reviewed the IS/MND and is concerned about the air pollution impacts that would result should the City approve the Project.

I. The Project Would Increase Exposure to Air Pollution in Disadvantaged Communities

The Project, if approved, will expose nearby disadvantaged communities to elevated levels of air pollution. Residences are located northwest and southeast of the Project site, with the closest residences situated approximately 1,350 feet of the Project's northwestern boundary. In addition to residences, 3 schools (John F. Kennedy Middle College High School, Norco Intermediate School, and Highland Elementary School), a senior center (Norco Senior Citizens' Center), and a daycare center (Little Norco

¹ With regard to greenhouse gas emissions from this project, CARB has been clear that local governments and project proponents have a responsibility to properly mitigate these impacts. CARB's guidance, set out in detail in the Scoping Plan issued in 2017, makes clear that in CARB's expert view local mitigation is critical to achieving climate goals and reducing greenhouse gases below levels of significance.

Daycare) are located within 2 miles of the Project. The community is surrounded by existing toxic diesel particulate matter (diesel PM) emission sources, which include existing industrial uses and vehicular traffic along Interstate 15 (I-15). Due to the Project's proximity to residences, schools, senior centers, and daycares already disproportionately burdened by multiple sources of air pollution, CARB 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 PM 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 industrial uses, and traffic on I-15.

II. The Health Risk Assessment Used Inappropriate Assumptions When Modeling the Project's Health Risk Impacts from On-Site Transport Refrigeration Units

The project description states that 25 percent of the building space would be used for cold storage. Warehouses containing cold storage require trucks with transport refrigeration units (TRU) to transport frozen goods to and from the facility.² Based on CARB's research, TRUs on trucks and trailers can emit large quantities of diesel exhaust while operating within a facility. Residences and other sensitive receptors (e.g., daycare facilities, senior care facilities, and schools) located near the Project would be exposed to diesel exhaust emissions that would result in significant cancer risk. CARB has reviewed the Project's health risk assessment (HRA) and has concerns regarding the assumptions used to estimate the Project's health impacts from on-site TRUs.

The HRA assumed the TRUs accessing the Project site would have an average power rating of 34 horsepower (hp). TRUs with a power rating of less than 25 hp have a particulate matter (PM) emission rate of 0.3 grams per brake horsepower-hour (g/bhp-hr), whereas TRUs with a power rating greater than 25 hp have a PM emission rate of 0.02 g/bhp-hr. To account for TRUs with a higher PM emission rate, the Project's HRA should be revised to assume a conservative percentage of the TRUs entering the Project site have a power rating of less than 25 hp, supported by substantial evidence.

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.

Section 4.2 (Methodology) of the HRA does not specify how long TRUs would idle at on-site loading docks or provide details on the assumptions used to calculate on-site diesel PM emission rates. Based on CARB's review of the unlabeled tables presented in Attachment A of the HRA, the IS/MND assumed that heavy-duty trucks would not idle longer than 25 minutes while unloading goods at on-site loading docks. Data obtained by CARB indicates that TRUs can operate for as long as 2 hours per visit, which is well above the duration assumed in the HRA. Unless the applicant and City restrict TRU idling duration to less than 25 minutes for heavy-duty trucks, the Project's HRA should be revised. Furthermore, it is unclear how the cooling times used to calculate idling diesel PM emission rates from on-site TRUs were derived. Due to the lack of clarity in the HRA, CARB urges the City and applicant to revise the HRA to include specific details of the assumptions and sources used to calculate the cancer risk impacts supported by substantial evidence.

Section 4.2 (Methodology) of the HRA states that the latest version of CARB's 2017 Emission Factors model (EMFAC2017) was used to estimate the Project's heavy-duty truck diesel PM emission rates. However, CARB was unable to find the EMFAC2017 modeling outputs that support the mobile diesel PM emission rates presented in the unlabeled tables in the HRA. The HRA should be revised to include the modeling outputs of the EMFAC2017 runs used to calculate the Project's mobile diesel PM emission rates.

III. The IS/MND Does Not Adequately Analyze Potential Air Quality Impacts from the Project's Transport Refrigeration Units

Although the HRA prepared for the Project evaluated cancer risks from on-site TRUs, the City and applicant did not model and report air pollutant emissions from TRUs in the IS/MND. The air pollutant emission estimates, found in Table 5 (Operational Emissions) of the IS/MND, were modeled using the California Emission Estimator Model (CalEEMod). Although CalEEMod can estimate air pollutant emissions from area, energy, and mobile sources, the current version of CalEEMod does not account for air pollutant emissions from TRUs. Since the Project will be used for cold storage, CARB urges the City and applicant to model and report the Project's air pollution emissions from TRUs using CARB's latest emission factors assuming a conservative percentage of the Project's truck fleet is equipped with TRUs, as well as a conservative idling duration for each TRU.

IV. Conclusion

Lead agencies may only adopt mitigated negative declarations if the "initial study shows that there is no substantial evidence, in light of the whole record before the agency that the project, as revised, may have a significant effect on the environment" (14 CCR section 15070(b)(2)). Based on the comments provided above, CARB staff is concerned that the City's current IS/MND does not meet this threshold.

As it stands, the IS/MND does not meet the bare legal minimum of serving as an adequate informational document relative to informing decision-makers and the public that there is no substantial evidence³ in the record that the Project, as revised, may have a significant effect on the environment (see *Sierra Club v. County of Fresno* (2018) 6 Cal.5th 502, 520). Based on the items discussed above, CARB believes that there would be substantial evidence in the record to find that the Project may have a significant effect on the environment. In this event, the applicant and City would be required to prepare a full Environmental Impact Report (EIR) for the Project under the “fair argument” standard (See *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 83).⁴

CARB recommends that the City and applicant recirculate the IS/MND for public review. The revised IS/MND should assume a conservative percentage of the TRUs entering the Project site has a power rating of less than 25 hp, assumptions used to calculate the Project’s cancer risk impacts, and account for air pollutant emissions from on-site TRUs. Should the updated and recirculated IS/MND find, after adequately addressing the informational deficiencies noted in this letter, that there is substantial evidence in the record to support a fair argument that the Project may have a significant effect on the environment, the applicant and City must prepare and circulate a draft EIR for public review, as required under CEQA. In addition to the concerns listed above, CARB encourages the applicant and City to implement the measures listed in Attachment A of this comment letter in order to reduce the Project’s construction and operational air pollution emissions.

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.

³ “Substantial evidence” is defined, in part, as “enough relevant information and reasonable information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached. Substantial evidence shall include facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts.”

⁴ The adequacy of an IS/MND is judicially reviewed under the “fair argument” standard should a party challenge the lead agencies CEQA determination. Under this standard, a negative declaration is invalid if there is substantial evidence in the record supporting a fair argument that a project may have a significant effect on the environment. (*Gentry v. City of Murrieta* (1995) 36 Cal.App.4th 1359, 1399.) This is the case “even though [the lead agency] may also be presented with other substantial evidence that the project will not have a significant effect.” (CEQA Guidelines, Title 14 CCR section 15064(f)(1).) The California Environmental Quality Act (CEQA) places the burden of environmental investigation on the public agency rather than on the public. If a lead agency does not fully evaluate a project’s environmental consequences, it cannot support a decision to adopt a negative declaration by asserting that the record contains no substantial evidence of a significant adverse environmental impact. (*Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 311.) If a lead agency does not study a potential environmental impact, a reviewing court may find the existence of a fair argument of a significant impact based on limited facts in the record that might otherwise not be sufficient to support a fair argument of a significant impact. (*Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 311.)

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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, at (916) 440-8242 or via email at stanley.armstrong@arb.ca.gov.

Sincerely,



Richard Boyd, Chief
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Attachment

cc: See next page.

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ATTACHMENT A

Recommended Air Pollution Emission Reduction Measures for Warehouses and Distribution Centers

The California Air Resources Board (CARB) 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 recommended by CARB, 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 on site. Necessary infrastructure may include the physical (e.g., needed footprint), energy, and fueling infrastructure for construction equipment, on-site 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-oxides of nitrogen (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 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 year 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 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 on site.
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 in 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, 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 5 minutes while on site.
10. Include contractual language in tenant lease agreements that limits on-site 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 that newer heavier trucks and buses must meet particulate matter filter requirements beginning January 1, 2012. Lighter and older heavier trucks must be 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>.