

December 20, 2019

Governor's Office of Planning & Research

DEC 30 2019

STATE CLEARINGHOUSE

Steve King
Planning Department
City of Norco
2870 Clark Avenue
Norco, California 92860

Dear Steve King:

Thank you for providing California Air Resources Board (CARB) staff with the opportunity to comment on the Palomino Business Park Project (Project) Draft Environmental Impact Report (DEIR), State Clearinghouse No. 2019039132. The Project consists of the construction and operation of 602,130 square feet of warehousing/distribution uses, 1,426,460 square feet of industrial park uses, and 21,410 square feet of commercial uses, for a total development of 2,050,000 square feet. Once in operation, the Project is anticipated to introduce an additional 7,168 average daily vehicle trips, which would consist of 6,132 daily auto trips and 1,036 daily heavy-duty truck trips. The Project is located within the City of Norco (City), which is the lead agency for California Environmental Quality Act (CEQA) purposes.

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

I. The Project Would Expose Disadvantaged Communities to Elevated Air Pollution

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 disadvantaged communities with high exposure burdens, like those in which the Project is located.

The Project, if approved, will expose nearby disadvantaged communities to elevated air pollution. Residences are located north, south, east, and west of the Project. The closest residences are located approximately 70 feet from the Project's northern and

western boundaries. In addition to residences, six schools (Victress Bower Elementary School, George Washington Elementary School, Auburn Intermediate School, Norco Elementary School, Norco High School, and John F. Kennedy High School), four daycare centers (Bethany Child Care Center, Norco Montessori School, Bright Beginnings Christian Academy, and The Kiddie Kollege), and a senior care facility (Norco Senior Citizens Center) are located within one mile of the Project. The community is surrounded by existing toxic diesel particulate matter (diesel PM) emission sources, which include existing warehouses and vehicular traffic along Interstate 15 (I-15). Due to the Project's proximity to residences, schools, daycare centers, and a senior care facility already disproportionately burdened by multiple sources of air pollution, CARB staff is concerned with the potential cumulative health impacts associated with the construction and operation of the Project.

II. The Project's Description in the DEIR Does Not Explicitly State the Proposed Warehouse Buildings Would Be Used for Cold Storage

Section 3 (Project Description) of the DEIR, states, "this EIR analyzes 602,130 square feet of warehousing/distribution, 1,426,460 square feet of industrial park, with refrigeration and 21,410 of commercial uses."¹ Based on the Project's description, it is unclear whether the proposed warehouse/distribution and industrial park will include cold storage space.^{2,3} However, the Project's stand-alone health risk assessment (HRA) (see Appendix C of the DEIR) evaluated the potential cancer risks from the operation of on-site transport refrigeration units (TRU),⁴ which suggests that the proposed warehouse space would be used for cold storage.

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 significant cancer risk and other adverse health impacts. CARB staff urges the applicant and City to clearly state in the Final Environmental Impact Report (FEIR) the Project's total square footage of cold storage space so the public can fully understand the potential environmental effects of the Project on their communities.

¹ City of Norco, 2019. Palomino Business Park Draft Environmental Impact Report. November 2019. Page 3.25.

² CARB staff attempted to reach out to the City of Norco to confirm if the Project would include cold storage space; no response was received.

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 or 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.

⁴ TRUs are refrigeration systems powered by integral diesel engines that protect perishable goods during transport in insulated truck and trailer vans, rail cars, and domestic shipping containers.

If the Project will not be used for cold storage, CARB staff urges the City to include one of the following design measures in the FDEIR:

- 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 staff urges the City to model air pollutant emissions from on-site TRUs in the FEIR, as well as prepare a HRA that shows the potential health risks. The FEIR should include the air pollutant reduction measures listed in Attachment A.

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

Although the stand-alone HRA prepared for the Project evaluated cancer risks from on-site TRUs, the applicant and City did not model and report air pollutant emissions from TRUs in the DEIR. The air pollutant emission estimates, found in Table 5.2-9 (Summary of Operational Emissions) of the DEIR, 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. If the facility will include cold storage warehouse space, CARB staff urges the applicant and City to model and report the Project's air pollution emissions from TRUs in the FEIR. Air pollutant emissions from TRUs should reflect 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.⁵

⁵ CEQA requires that lead agencies identify "[a]ll significant effects on the environment of the proposed project..." (Public Resources Code, section 21000, subd. (b)(1); see CEQA Guidelines, section 15126.2) Whether a lead agency, like the City in this matter, failed to include essential information is a procedural question that is subject to a court's independent review, or de novo review, meaning the reviewing court grants no deference to the lead agency in its interpretation of the issue of proper impact analysis. (*Banning Ranch Conservancy v. City of Newport Beach* (2017) 2 Cal.5th 918, 935.) "The EIR's function is to ensure that government officials who decide to build or approve a project do so with a full understanding of the environmental consequences and, equally important, that the public is assured those consequences have been taken into account. (*Laurel Heights Improvement Assn. v. Regents of University of California (Laurel Heights I)* (1988) 47 Cal.3d 376, 391-392.)" *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 449. The City, here, has not complied with this basic requirement of CEQA as it relates to the DEIR's analysis of potential air quality impacts from the Project's TRUs.

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

CARB staff has reviewed the Project's HRA and has concerns regarding the assumptions used to estimate the Project's health impacts from on-site TRUs. In the HRA, the applicant and City assumed 21 of the Project's total 1,036 daily heavy-duty truck trips would be equipped with TRUs. Given the size of the Project and the unspecified volume of cold storage space proposed in the DEIR, it is difficult to estimate the number of TRU equipped trucks and trailers that may access the site. However, it is conceivable that it could be much higher than 21 trips per day. CARB staff urges the applicant and City to revise the HRA assuming a conservative percentage of the Project's truck fleet is equipped with TRUs.

The HRA assumed all TRUs visiting the Project site would not idle longer than 15 minutes. Data obtained by CARB staff indicates that TRUs can operate for as long as two hours per visit, which is well above the 15-minute duration assumed in the HRA. Unless the applicant and City restrict TRU idling durations to less than 15 minutes, the Project's HRA should be revised. The revised HRA should assume a TRU idling duration legitimized by substantial evidence.

The HRA assumed a TRU emission factor of 0.01 grams per brake horsepower-hour (g/bhp-hr) for particulate matter (PM). According to the HRA, this emission factor was obtained from CARB's existing TRU Airborne Toxic Control Measure (TRU ATCM).⁶ It is unclear to CARB staff from where the applicant got the 0.01 g/bhp-hr for PM. Under the ATCM, all TRU engines greater than 25 horsepower (hp) would be required to meet a minimum standard of 0.02 g/bhp-hr, which is twice as high as the emission factor used in the HRA. For this reason, the Project's cancer risks are likely underestimated in the HRA. CARB staff urges the applicant and City to revise the HRA using the correct emission factor for TRUs.

The HRA assumed the TRUs accessing the Project site would have an average power rating of 34 hp. TRUs with a power rating of less than 25 hp have a higher PM emission rate (0.3 g/bhp-hr) than those greater than 25 hp (0.02 g/bhp-hr). Unless the applicant and City prohibit TRUs with a power rating of less than 25 hp from accessing the Project site, the Project's HRA should be revised. The revised HRA should assume a conservative percentage of the TRUs entering the Project site have a power rating of less than 25 hp, legitimized by substantial evidence.

⁶ Section 2477. Airborne Toxic Control Measure for In-Use Diesel-Fueled Transport Refrigeration Units (TRU) and TRU Generator Sets, and Facilities Where TRUs Operate. Accessible at: https://ww3.arb.ca.gov/diesel/tru/documents/fro_10-16-12.pdf

V. Conclusion

CARB staff is concerned that the HRA underestimates the Project's impact on public health by using unrealistic assumptions related to TRU trip rates, idling durations, and horse power ratings.⁷ CARB staff urges the City and applicant to re-analyze the Project's air quality and health risk impacts using conservative assumptions, legitimized by substantial evidence, and update the HRA in the FEIR. If the results of the revised HRA show significant health impacts, the DEIR should be revised and recirculated for public review.

In addition to the concerns listed above, CARB staff encourages the City and applicant 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. CARB staff 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.

⁷ At its core, an EIR must "provide public agencies and the public in general with detailed information about the effect [that] a proposed project is likely to have on the environment; to list ways in which the significant effects of such a project might be minimized; and to indicate alternatives to such a project." (Public Resources Code, section 21061; CEQA Guidelines, section 15003, subds. (b)-(e).) "Because the EIR must be certified or rejected by public officials, it is a document of accountability. If CEQA is scrupulously followed, the public will know the basis on which its responsible officials either approve or reject environmentally significant action, and the public, being duly informed, can respond accordingly to action with which it disagrees." (*Laurel Heights I, supra*, at p. 392.) The EIR "protects not only the environment but also informed self-government." (*Ibid.*) Here, the City is not adequately informing the public and its decision makers on the adequacy of the HRA by using inaccurate assumptions about the Project's potential health risk impacts. (*Id.* at p. 405 [EIRs must include enough detail "to enable those who did not participate in its preparation to understand and to consider meaningfully the issues raised by the proposed project."].)

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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 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-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 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 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 five 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 newer heavier trucks and buses must meet particulate matter 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>.