

**CALIFORNIA STATE LANDS COMMISSION**

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*Established in 1938*

June 14, 2019

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File Ref: SCH #2019059062

Ada E. Márquez  
Bay Area Air Quality Management District  
375 Beale Street, Suite 600  
San Francisco, CA 94105

Governor's Office of Planning & Research

**JUNE 14 2019**

**STATE CLEARINGHOUSE**

VIA REGULAR & ELECTRONIC MAIL ([amarquez@baaqmd.gov](mailto:amarquez@baaqmd.gov))

**Subject: Notice of Preparation (NOP) of a Draft Environmental Impact Report (EIR) for the AB 617 West Oakland Community Action Plan, Alameda County**

Dear Ms. Márquez:

The California State Lands Commission staff has reviewed the NOP for an EIR for the AB 617 West Oakland Community Action Plan (Plan). The Bay Area Air Quality Management District (Air District), as the lead agency pursuant to the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.), is preparing the Draft EIR for the Plan under the requirements of Assembly Bill (AB) 617 (C. Garcia 2017). The Commission is a trustee agency for projects that could directly or indirectly affect sovereign land and their accompanying Public Trust resources or uses. Additionally, if the project involves work on sovereign land, the Commission will act as a responsible agency. Commission staff requests that Air District consult with us on preparation of the Draft EIR as required by CEQA section 21153, subdivision (a), and the State CEQA Guidelines section 15086, subdivisions (a)(1) and (a)(2).

**Commission Jurisdiction, Public Trust Lands, and Regulatory Authority**

The Commission has jurisdiction and management authority over all ungranted tidelands, submerged lands, and the beds of navigable lakes and waterways. The Commission also has certain residual and review authority for tidelands and submerged lands legislatively granted in trust to local jurisdictions (Pub. Resources Code, §§ 6009, subd. (c); 6009.1; 6301; 6306). All tidelands and submerged lands, granted or ungranted, as well as navigable lakes and waterways, are subject to the protections of the common law Public Trust Doctrine.

A portion of the Plan encompasses the Port of Oakland, consisting of sovereign tide and submerged lands legislatively granted to the City. Beginning in 1852 and through a series of legislative grants from the state, the City was granted, in trust, certain sovereign tide and submerged lands located within its boundaries. Through the City's Charter, portions of these

Public Trust lands are within the Port of Oakland and are managed by the City acting by and through its Board of Port Commissioners.

### **Plan Description**

The Air District proposes to implement the West Oakland Community Action Plan in response to the adoption of Assembly Bill 617. The Air District intends to work cooperatively with pollution-laden communities in West Oakland to implement identified action strategies that will maximize emission reductions and reduce disproportionate health risks from toxic air contaminants and particulate matter. The Air District aims to meet its objectives and needs as follows:

- Research, explore, and when possible adopt mandatory regulations that require stationary facilities to decrease any harmful emissions they produce.
- Use the Air District's grants and incentives programs to carry out projects that support the Plan's objectives to reduce air pollution and protect the public's health.
- Promote and advocate for policy development, best practices, community outreach, and legislation that is committed to healthy air quality and public health.

### **General Comments**

The Commission staff would like to express enthusiastic support and a mutual commitment to the efforts put forth in the West Oakland Community Action Plan, recognizing that many of the goals the Plan has set forth closely align with the objectives the Commission established in its 2019 Environmental Justice Policy <https://www.slc.ca.gov/wp-content/uploads/2018/11/EJPolicy.pdf> (page 4). Commission staff encourages the actions within the Plan that will:

- “Work to reduce and mitigate adverse impacts on vulnerable communities including climate change; sea-level rise; displacement; poor air, water, and soil quality; lost economic opportunities; and inadequate access to open space and Public Trust lands and resources.”
- “Support efforts by ports and others to minimize and reduce environmental and health impacts and maximize environmental and economic benefits to vulnerable communities from industrial activities within the port.”
- “Leverage partnerships with public agencies, non-governmental organizations, ports, and Native Nations to advance environmental justice and achieve better outcomes for impacted communities.”

### **Environmental Review**

Commission staff requests that the Air District consider the following comments when preparing the Draft EIR, to ensure that impacts to State sovereign land are adequately analyzed for the Plan.

#### **Environmental Justice**

1. **Environmental Justice**: Commission staff recommends adding “Environmental Justice” to the Environmental Factors Potentially Affected Checklist (Initial Study page 36). This

dedicated section with environmental justice analysis (even if there are only positive outcomes from this Plan) would be beneficial for the local disadvantaged communities to understand how this Plan is going to distribute benefits and burdens. The Commission staff recommends including the following in the environmental justice analysis in the Draft EIR:

- a. What disadvantaged communities were reached out to in the Plan area?
  - b. When were the outreach efforts initiated? When were the meetings held? How were the locals invited to those discussions?
  - c. What were the outcomes that were carried into the Plan because of the outreach to the local communities?
2. Tools for Analyzing Environmental Impacts: The Commission staff recommends the environmental justice analysis section be based on the most updated tools such (but not limited to) CalEnviroScreen at <https://oehha.ca.gov/calenviroscreen/report/calenviroscreen-30>.
3. Consult with Local Disadvantaged and Marginalized Communities: Please make sure the local disadvantaged communities are consulted with throughout the process of carrying out this Plan, so the root causes of environmental injustices are addressed throughout this Plan to facilitate a meaningful outcome for the local communities. Recommended actions to be taken to achieve this goal are as follows:
- a. It is crucial that the local disadvantaged communities are consulted with as the Plan is being designed. Commission staff highly recommends reaching out to the surrounding communities through local community organizations. Such organizations will be most familiar with what the communities' needs are, what concerns exist, and what solutions would remove the root causes of inequities in the communities. One of the local groups with members and partners in the area is the California Environmental Justice Alliance at <https://caleja.org/about-us/members/>.
  - b. Please incorporate the local disadvantaged communities' feedback into the Plan's design to meaningfully balance out benefits and burdens of the Plan.
  - c. If benefits need to be distributed to the local disadvantaged (planting trees for example), then the local community organizations should be the primary point of contact for the community and not the Port in order to maximize the benefits that community can receive from this Plan.
4. Climate Change: Commission staff recommends the Draft EIR analyze climate change and sea level rise impacts to the Plan since it is an important component of environmental justice.

#### Public Use of the Resources

5. Public Trust: Since portion of the Plan includes the Port of Oakland, please include an analysis in the Draft EIR that explains how the Port of Oakland would be responsible for managing its public trust lands and resources consistent with the proposed Plan. [https://www.slc.ca.gov/Meeting\\_Summaries/2008\\_Documents/10-16-08/Complete\\_Items/R60.pdf](https://www.slc.ca.gov/Meeting_Summaries/2008_Documents/10-16-08/Complete_Items/R60.pdf).

6. Recreation: The analysis on the Initial Study page 107 says “no impact” to both of those questions in the Recreation Section. However, there can be possible impacts even if the end goal is a net positive outcome for the disadvantaged communities. Please explain how recreation along the waterfront near residential areas could be impacted or enhanced through this Plan. Can more trails or parks be added to the bayfront side of the Plan that can be available to the local communities?
7. Transportation: The analysis on the Initial Study page 110 should explain how transportation to the local waterfront sites be enhanced for these disadvantaged communities through this process to bring more benefits to the already disadvantaged communities.

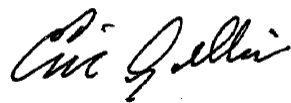
### Tribal Cultural Resources

8. The Commission staff recommends the following analysis be included on Initial Study page 115:
  - a. Please analyze this section by consulting with the local Tribes in the area, and document that analysis and outcomes in the EIR.
  - b. Please document concerns and solutions outlined in the “Beyond Recognition” documentary (<http://www.beyondrecognitionfilm.com/>) to make sure the proposed Plan is not violating recommendations and suggestions in this documentary.

Thank you for the opportunity to comment on the NOP for the Plan. As a trustee and responsible agency, Commission staff requests that you consult with us on this Plan and keep us advised of changes to the Plan Description and all other important developments. Please send additional information on the Plan to the Commission staff listed below as the EIR is being prepared.

Please refer questions concerning environmental review to Laura Miller, Management Services Technician, at (916) 574-1911 or [laura.miller@slc.ca.gov](mailto:laura.miller@slc.ca.gov). For questions concerning Commission jurisdiction and granted lands, please contact Reid Boggiano, Public Land Management Specialist, at (916) 574-0450 or [reid.boggiano@slc.ca.gov](mailto:reid.boggiano@slc.ca.gov).

Sincerely,



Eric Gillies, Acting Chief  
Division of Environmental Planning  
and Management

cc: Office of Planning and Research  
R. Boggiano, Commission  
L. Miller, Commission