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Governor's Office of Planning & Research

NOV 18 2019

STATE CLEARINGHOUSE

Kirt Coury
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10500 Civic Center Drive
Rancho Cucamonga, California 91730

Dear Kirt Coury:

Thank you for providing California Air Resources Board (CARB) staff with the opportunity to comment on the SCHEU Distribution Center Project (Project) Initial Study and Mitigated Negative Declaration (IS/MND), State Clearinghouse No. 2019109040. The Project consists of the construction and operation of four industrial buildings totaling 240,710 square feet. Once in operation, the Project is projected to introduce an additional 1,191 total vehicle trips daily, including 936 daily passenger vehicle trips and 255 daily heavy-duty truck trips. The Project is located within the City of Rancho Cucamonga (City), California, 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 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 air pollution. Residences are located north, northeast, and southwest of the Project with the closest residences located approximately 56 feet from the Project's northeastern boundary. In addition to residences, six schools (Springs Charter School, Ontario Center School, Little Bears State Preschool, Rancho Cucamonga Middle School, Cucamonga Elementary School, and Mulberry Early Education Center), nine daycare centers (Lil Blessings Family Daycare, Little Promises Daycare, Kids Club, Jordan Family Daycare, Orell's Daycare, Sweet Angels Family Daycare, Rancho Cucamonga KinderCare, Sunny Days, Inc. and Good Steward Daycare) and a senior center (Tender Hearts Senior Care) are located within two miles 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 10 (I-110) and

Interstate 15 (I-15). Due to the Project's proximity to residences, schools, daycare centers, and senior centers 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.

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 disproportionally impacted by air pollution from existing freight facilities and vehicular traffic along I-110 and I-15.

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). CalEnviroScreen uses a screening methodology to help identify California communities currently disproportionately burdened by multiple sources of pollution. The census tract containing the Project is within the top 5 percent for Pollution Burden¹ and is therefore considered a disadvantaged community. Therefore, CARB staff urges the City to ensure that the Project does not adversely impact neighboring disadvantaged communities.

II. The IS/MND Did Not Model Mobile Air Pollutant Emissions Using CARB's 2017 Emission Factor Model (EMFAC2017)

The Project's air quality and health impacts were modeled using mobile emission factors obtained from CARB's 2014 Emission Factors model (EMFAC2014). Project-related air pollutant emissions from mobile sources should be modeled using CARB's latest EMFAC2017. One of the many updates made to EMFAC include an update to the model's heavy-duty emission rates and idling emission factors, which results in higher particulate matter (PM) emissions as compared to EMFAC2014. Since EMFAC2017 generally shows higher PM emissions from trucks than EMFAC2014, the Project's mobile source nitrogen oxides (NO_x) and diesel PM emissions are likely underestimated. CARB staff urges the applicant and City to model and report the

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

Project's air pollution emissions from mobile sources using emission factors found CARBs latest EMFAC2017.

III. The IS/MND Does Not Clearly Define the Final Use of the Project

The air pollutant emissions reported in the IS/MND were estimated under the assumption that the proposed Project would not be used for cold storage. Since the Project description in the IS/MND did not explicitly state that the four industrial buildings proposed under the Project 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 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. In this case, the IS/MND does not assess the air quality and health risk impacts from the Project adequately. CARB staff urges the applicant and City to revise the IS/MND 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 include cold storage space, the applicant and City should quantify all operational NO_x, diesel PM emissions and health risks from TRUs, and disclose the results in a recirculated IS/MND. If the Project will not be used for cold storage, CARB staff urges the applicant and City to include in the IS/MND a Project design measure requiring contractual language in tenant lease agreements that prohibits tenants from operating TRUs within the Project site. Alternatively, the City can include 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 recommends the City require all loading/unloading docks and trailer spaces to be equipped with electrical hookups for trucks with TRUs and re-evaluate the Project's health impacts in a recirculated HRA.

IV. Heavy-Duty Truck Trip Inconsistencies

The traffic impact analysis prepared for the Project (see Table 17-4 [Trip Generation Rates] and Table 17-5 [Trip Generation (Passenger Car Equivalents)] of the IS/MND) states that the Project would result in 1,191 average daily vehicle trips, of which 255 trips would consist of light, medium, and heavy-duty trucks. However, according to the Project's California Emissions Estimator Model (CalEEMod) outputs, referenced in Appendix B of the IS/MND, the Project fleet mix included 2.5 percent light-duty trucks, 1.7 percent medium-duty trucks, and 6.0 percent heavy-duty trucks. Based on these

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.

truck fleet mix estimates, the Project would result in approximately 121 average daily truck trips. Since the average daily truck trips reported in the Project's CalEEMod output are well below what is being reported in the Project's traffic impact analysis, CARB staff is concerned that the air pollutant emissions reported in the IS/MND are underestimated. CARB staff urges the applicant and City to remodel the Project's mobile air pollutant emissions using the vehicle trips presented in Project's traffic impact analysis.

V. The IS/MND Does Not Account for Air Pollutant Emissions Emitted by On-site Forklifts

The air quality section of the IS/MND does not reflect the operational air pollutant emissions found in Appendix B of the IS/MND. According to the Project's CalEEMod output files, the Project would result in 39 pounds per day (ppd) of NO_x, 13 ppd of particulate matter 10 micrometers or less in diameter (PM₁₀) and 4 ppd particulate matter 2.5 micrometers or less in diameter (PM_{2.5}) during the operation of on-site forklifts. However, Table 3-5 (Regional Operational Emissions) of the IS/MND does not report these air pollutant emissions; but rather, only reports the air pollutant emissions from mobile, energy, and area sources generated by CalEEMod. According to the IS/MND, the Project is anticipated to result in ten forklifts operating within the proposed industrial buildings. CARB staff urges the applicant and City to account for all Project-related air pollutant emission sources when evaluating the Project's impact on air quality and public health.

VI. The IS/MND Failed to Adequately Analyze the Project's Potential Health Risk Impacts

The applicant and City did not prepare a HRA for the Project; but rather, the IS/MND concluded that the Project's cancer risk impacts would result in a less than significant impact due to the Project's low rate of heavy-duty truck trips. According to the air quality section of the IS/MND, the Project would result in approximately 35 heavy-duty truck trips per day, which directly conflicts with the traffic volumes and splits presented in the transportation section. As previously discussed under Item IV above, the Project's traffic impact analysis anticipates the proposed industrial buildings would result in approximately 255 heavy-duty truck trips, which is well above the 35 heavy-duty truck trip estimate used in the air quality section to rationalize the applicant's and City's decision to not prepare a HRA for the Project.

Since the Project is located near residences already disproportionately burdened by multiple sources of air pollution, CARB staff strongly urges the applicant and City to prepare a HRA for the Project. The HRA prepared in support of the Project should be based on the latest Office of Environmental Health Hazard Assessment (OEHHA) guidance (2015 Air Toxics Hot Spots Program Guidance Manual for Preparation of

Health Risk Assessments),³ and the South Coast Air Quality Management District's CEQA Air Quality Handbook.⁴

VII. 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 evidence⁵ 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 staff believes that there would be substantial evidence in the record to find that the Project may have a significant effect on the environment if the air quality and health impact analysis. 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).⁶

CARB staff recommends that the City remodel the Project's air quality and health risk impacts, and recirculate the IS/MND for public review. Should the updated and recirculated IS/MND find, after adequately addressing 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 staff encourages the applicant and City to implement the measures listed in Attachment A of this comment letter in order to

³ 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>

⁴ SCAQMD's 1993 Handbook can be found at <http://www.aqmd.gov/home/rules-compliance/ceqa/air-quality-analysis-handbook>

⁵ “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.”

⁶ 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).)

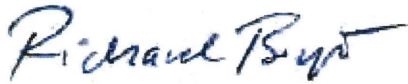
The California Environmental Quality Act (CEQA) places the burden of environmental investigation on the public agency rather than on the public. If a lead agency does not fully evaluate a project's environmental consequences, it cannot support a decision to adopt a negative declaration by asserting that 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.)

Kirt Coury
November 12, 2019
Page 6

reduce the Project's construction and operational air pollution emissions. CARB staff appreciates the opportunity to comment on the IS/MND 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,

A handwritten signature in blue ink, appearing to read "Richard Boyd".

Richard Boyd, Chief
Risk Reduction Branch
Transportation and Toxics Division

Attachment

cc: See next page.

Kirt Coury
November 12, 2019
Page 7

cc: State Clearinghouse
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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 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 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>.

