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**DEPARTMENT OF JUSTICE**



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***Via E-mail***

Russell Brady  
Riverside County Planning Department  
4080 Lemon Street, 12th Floor  
Riverside, CA 92502  
rbrady@rivco.org

RE: Final Environmental Impact Report for Barker Logistics, LLC Project (SCH  
#2019090706)

Dear Mr. Russell Brady:

Thank you for the opportunity to provide comments on the Final Environmental Impact Report ("FEIR") for the Barker Logistics, LLC Project ("the Project"). We write to follow up on our comments to the Project's Draft Environmental Impact Report ("DEIR"), in particular our comments regarding the adequacy of the County's mitigation measure that asserts the Project will comply with Riverside County's "Good Neighbor" Policy for Logistics and Warehouse/Distribution Uses ("Good Neighbor Policy"). The FEIR retains the same mitigation measure, asserting that the Project will comply with the Good Neighbor Policy through the Project Conditions of Approval. However, the majority of the operational guidelines from the Good Neighbor Policy are not included in the FEIR or Conditions of Approval. Thus, we respectfully submit these comments urging Riverside County to implement such guidelines from the Good Neighbor Policy to ensure the Project's environmental impacts are mitigated to the maximum feasible extent.<sup>1</sup>

The purpose of CEQA is to ensure that a lead agency fully evaluates, discloses, and, whenever feasible, mitigates a project's significant environmental effects. (Pub. Resources Code, §§ 21000–21002.1.) A FEIR serves as an "informational document" that informs the public and decisionmakers of the significant environmental effects of a project and ways in which those

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<sup>1</sup> The Attorney General submits these comments pursuant to his independent power and duty to protect the environment and natural resources of the State. (See Cal. Const., art. V, § 13; Gov. Code, §§ 12511, 12600-12; D'Amico v. Bd. Of Medical Examiners (1974) 11 Cal.3d 1, 14-15.)

effects can be minimized. (CEQA Guidelines, § 15121, subd. (a).) Here, the Project's FEIR fails to achieve CEQA's aim because it claims the Project will be in compliance with the Good Neighbor Policy, yet the FEIR does not identify how the Project will comply and significant measures from the Good Neighbor Policy are not included in the FEIR nor the Project's Conditions of Approval.

The County adopted the Good Neighbor Policy in 2019 in response to the on-going growth of the logistics industry within the County, recognizing that warehouse projects negatively affect the quality of life for surrounding communities. The stated purpose of the policy is to "apply Best Management Practices to help minimize potential impacts to sensitive receptors and is intended to be used in conjunction with the County's Land Use Ordinance, which provides development requirements for said projects, and the California Environmental Quality Act (CEQA)."<sup>2</sup>

The FEIR concludes that the Project would have significant air quality impacts because it would result in operational NO<sub>x</sub> emissions that would exceed the applicable SCAQMD threshold. NO<sub>x</sub> is an air pollutant that mainly impacts respiratory conditions causing inflammation of the airways at high levels. Long-term exposure can decrease lung function, increase the risk of respiratory conditions and increase the response to allergens. NO<sub>x</sub> also contributes to the formation of fine particles (PM) and ground level ozone, both of which are associated with adverse health effects. The FEIR also concludes that Project operational NO<sub>x</sub> emissions exceedances would result in a cumulatively considerable net increase in criteria pollutants (ozone and PM<sub>10</sub>/PM<sub>2.5</sub>) for which the Project region is in non-attainment.

To mitigate these significant air quality impacts, the FEIR's responses to comments and MM-AQ-5 and MM-GHG-3 indicate that the Project will comply with provisions of the Good Neighbor Policy through the Conditions of Approval. Yet, the Project Conditions of Approval omit the majority of the Good Neighbor Policy guidelines to reduce operational impacts of warehouse projects, including the following:

- Facility operators shall maintain records of their facility owned and operated fleet equipment and ensure that all diesel-fueled Medium-Heavy Duty Trucks ("MHDT") and Heavy-Heavy Duty ("HHD") trucks with a gross vehicle weight rating greater than 19,500 pounds accessing the site use year CARB compliant 2010 or newer engines. The records should be maintained on-site and be made available for inspection by the County.
- Facility operators shall prohibit truck drivers from idling more than five (5) minutes and require operators to turn off engines when not in use, in compliance with the California Air Resources Board regulations.

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<sup>2</sup> "Good Neighbor' Policy for Logistics and Warehouse/ Distribution Uses," County of Riverside (Nov. 19, 2019), available at

<https://www.rivcocob.org/wpcontent/uploads/2020/01/Good-Neighbor-Policy-F-3-Final-Adopted.pdf>.

- Facility operators shall train their managers and employees on efficient scheduling and load management to eliminate unnecessary queuing and idling of trucks.
- Facility operators shall coordinate with CARB and SCAQMD to obtain the latest information about regional air quality concentrations, health risks, and trucking regulations.
- Facility operators shall establish specific truck routes between the facility and regular destinations, identifying the most direct routes to the nearest highway/freeway and avoid traveling near sensitive receptors.
- Facility operators shall require their drivers to park and perform any maintenance of trucks in designated on-site areas and not within the surrounding community or on public streets.
- Facility operators for sites that exceed 250 employees shall establish a rideshare program, in accordance with AQMD rule 2202, with the intent of discouraging single-occupancy vehicle trips and promote alternate modes of transportation, such as carpooling and transit where feasible.
- If a public address (PA) system is being used in conjunction with a warehouse/distribution facility operations, the PA system shall be oriented away from sensitive receptors and the volume set at a level not readily audible past the property line.
- Facility Operation shall comply with the exterior noise decibel levels as required by Ord. 847 (Noise Ordinance), which includes a maximum exterior decibel level of 55 dba (between 7:00 a.m. and 10:00 p.m.) and 45 dba (between 10:00 p.m. and 7:00 a.m.) as measured on adjacent occupied residences, or as modified by the most current version of Ordinance No. 847.

CEQA provides the opportunity for transparent, thoughtful governance by requiring evaluation, public disclosure, and mitigation of a project's significant environmental impacts prior to project approval. In particular, CEQA requires a lead agency to adopt all feasible mitigation measures that minimize the significant environmental impacts of a project. (Pub. Resources Code, § 21002; CEQA Guidelines § 15126.4, subd. (a)(1).) The lead agency is expected to develop mitigation in an open and public process. (*Communities for a Better Environment v. City of Richmond* (2010) 184 Cal.App.4th 70, 93.) It is generally inappropriate to defer formulation of mitigation measures to the future. (CEQA Guidelines, § 15126.4, subd. (a)(1)(B).) A lead agency can defer mitigation only where, among other things, the EIR sets forth criteria governing future actions to implement mitigation, and the agency has assurances that future mitigation will be both "feasible and efficacious." (*Californians for Alternatives to Toxics v. Dept. of Food & Agric.* (2005) 136 Cal.App.4th 1, 17.) While the FEIR provides some information about the Project's significant environmental impacts and mitigation of those impacts, the FEIR fails to accurately describe which operational guidelines from the Good Neighbor Policy apply to the Project nor explain why the missing mitigation measures provided by the Good Neighbor Policy are not included in the Conditions of Approval.

We urge the County to include these additional mitigation measures in the Project's FEIR and Conditions of Approval, or explain why it has not done so. Please do not hesitate to contact me if you have any questions or would like to discuss these issues further.

Sincerely,

A handwritten signature in black ink, appearing to read 'Rica V. Garcia', with a stylized flourish at the end.

RICA V. GARCIA  
Deputy Attorney General

For XAVIER BECERRA  
Attorney General