

XAVIER BECERRA
Attorney General

State of California
DEPARTMENT OF JUSTICE



1515 CLAY STREET, 20TH FLOOR
P.O. BOX 70550
OAKLAND, CA 94612-0550

Public: (510) 879-1300
Telephone: (510) 879-3298
Facsimile: (510) 622-2270
E-Mail: Yuting.Chi@doj.ca.gov

February 25, 2020

Via Overnight Mail and E-Mail

Craig Murphy
Assistant Director
Kern County Planning and Natural Resources Department
2700 M Street, Suite 100
Bakersfield, CA 93301
murphyc@kerncounty.com

Carlos E. Rojas
Planner III, Advanced Planning Division
Kern County Planning and Natural Resources Department
2700 M Street, Suite 100
Bakersfield, CA 93301
crojas@kerncounty.com

RE: Comments on the Recirculated Draft Environmental Impact Report for the Proposed 99 Houghton Industrial Park Project (SCH# 2009051005)

Dear Mr. Murphy and Mr. Rojas:

The California Attorney General's Office has reviewed the Recirculated Draft Environmental Report (Draft EIR) for the proposed 99 Houghton Industrial Park (Project). The Project would construct 4.6 million square feet of warehouse, distribution, and retail buildings just south of Bakersfield, adding more than 32,000 vehicle trips per day to the Project area, near sensitive receptors and environmental justice communities. We respectfully submit these comments to raise four issues regarding the Project's compliance with the California Environmental Quality Act (CEQA).¹ First, Kern County (County) must articulate adequate and enforceable mitigation measures for the Project's significant air quality, traffic, and noise impacts. Second, the County must adequately analyze, disclose, and mitigate the Project's groundwater impacts. Third, the County must provide a complete and accurate Project description. Fourth, the County must provide a qualitative analysis of the health effects of the

¹ The Attorney General is commenting on this Project in his independent capacity and not on behalf of any other state entity or agency.

Project's toxic air pollutants and the concentrations at which they would trigger these health effects.

I. THE PROJECT WOULD SITE A LARGE INDUSTRIAL PARK NEAR ECONOMICALLY AND SOCIALLY VULNERABLE COMMUNITIES THAT ALREADY ARE SUBJECT TO HIGH LEVELS OF POLLUTION.

The Project would convert more than 300 acres of agricultural farmland into industrial and commercial uses, and introduce 4.6 million square feet of warehouse or retail buildings and a sewer treatment plant to a site 1.1 miles south of Bakersfield city limits.² One of the Project's stated objectives is to cluster commercial goods and retail facilities near an interchange with State Route 99 "to accommodate interstate freight and reduce traffic congestion and air emissions."³ However, the Draft EIR also anticipates that by 2035, the Project would generate more than 32,000 additional daily vehicle trips and cause at least 21 surrounding intersections to operate at below acceptable traffic levels.⁴

Located just south of Bakersfield in the San Joaquin Valley, the Project would be in an area with some of the worst air pollution in the country. The American Lung Association ranks Bakersfield as the third most polluted American city by ozone, second most polluted by year round particulate matter pollution, and the most polluted by short-term particulate matter pollution.⁵ During both construction and operation, the Project is expected to subject the nearby sensitive receptors to emissions of reactive organic gases, nitrogen oxide, carbon monoxide, and diesel particulate matter from heavy-duty construction equipment, motor vehicle operation, and fugitive dust from disturbed soil.⁶ There would be significant offsite emissions from delivery vehicles, worker traffic, and road dust.⁷ In addition, the Bakersfield area is frequently subject to high winds, aggravating the adverse air quality impacts of any ground disturbance or traffic and casting these impacts over a wide area.⁸

² Draft EIR, 99 Houghton Industrial Park Project (Nov. 1, 2019), https://psbweb.co.kern.ca.us/UtilityPages/Planning/EIRS/99_Houghton/DEIR/_99_Houghton_RDEIR_Vol%201.pdf.

³ *Id.* at 1-6.

⁴ *Id.* at 4.16-66.

⁵ American Lung Association, State of the Air 2019—Most Polluted Cities, <https://www.lung.org/our-initiatives/healthy-air/sota/city-rankings/most-polluted-cities.html> (last visited Feb. 17, 2020).

⁶ Draft EIR, *supra* note 2 at 1-16, 4.3-41 to -42.

⁷ *Id.*

⁸ Santa Ana winds bring fire, unhealthy air, and power outages to Kern County, Bakersfield.com (Oct. 30, 2019), https://www.bakersfield.com/news/santa-ana-winds-bring-fire-unhealthy-air-and-power-outages/article_88c43f66-fb30-11e9-90cd-4f336956209f.html; Large vehicles blown over by strong winds on Highway 58, 23ABC News Bakersfield (Nov. 25, 2019), <https://www.turnto23.com/news/local-news/large-vehicles-blown-over-by-strong-winds-on->

The Project is near and would impact communities that already bear a disproportionate burden of pollution. There is a residence as close as 200 feet from the Project's eastern boundary. Suburban residential communities, including the Southland Mobile Home Park, are about three-quarters of a mile north of the Project site. Other small, rural, disadvantaged communities are located to the east, west, and south of the Project. A senior center and a baseball field where community members recreate are located in the Project vicinity. Five schools are within 1 to 2 miles of the site.⁹ About 80 to 90 percent of the children enrolled at these schools are Hispanic, and the vast majority are from low-income families.¹⁰ And in the next two years, a new elementary school and a high school will open in areas that would be impacted by the noise and traffic associated with the Project.¹¹

According to CalEnviroScreen 3.0, CalEPA's screening tool that ranks each census tract in the state for pollution and vulnerability, communities in the broader Project area rank in the top 10 percent for environmental pollution and already are exposed to more pollution than the vast majority of Californians.¹² In addition to being among the top 2 percent for ozone and particulate matter pollution, the surrounding communities' asthma rates are among the worst in the state, ranging from 83 to 89 percent, which both is caused by exposure to air pollution and can make the community more vulnerable to such exposure. Furthermore, poverty and

highway-58; Wind gusts knock out power in Bakersfield, hit 72 mph over mountain peaks, Bakersfield.com (Dec. 17, 2019), https://www.bakersfield.com/news/wind-gusts-knock-out-power-in-bakersfield-hit-mph-over/article_ef34e38a-211f-11ea-b97f-d7bc9858cd2b.html; Wind Advisory issued in Bakersfield and a High Wind Warning is impacting the Grapevine, 23ABC News Bakersfield (Dec. 22, 2019), <https://www.turto23.com/news/local-news/wind-advisory-issued-in-bakersfield-and-a-high-wind-warning-is-impacting-the-grapevine>.

⁹ Dolores S. Whitley Elementary School, McKee Middle School, Fairview Elementary School, General Shafter School, and Gideon Apostolic Academy.

¹⁰ National Center for Educational Statistics, Enrollment Characteristics: Fairview Elementary School, https://nces.ed.gov/ccd/schoolsearch/school_detail.asp?Search=1&InstName=fairview&City=bakersfield&State=06&SchoolType=1&SchoolType=2&SchoolType=3&SchoolType=4&SpecificSchlTypes=all&IncGrade=-1&LoGrade=-1&HiGrade=-1&ID=061605002004 (last visited Feb. 19, 2020).

¹¹ Going for the gold: KHSD board votes to name new high school Del Oro, Bakersfield.com (Dec. 16, 2019), https://www.bakersfield.com/news/going-for-the-gold-khds-board-votes-to-name-new/article_73b3bbbc-2068-11ea-8789-2710b64aa661.html; With new school on the way, parents get look at proposed BCSD boundaries, BakersfieldNow Eyewitness News (Nov. 12, 2019), <https://bakersfieldnow.com/news/local/with-new-school-on-the-way-parents-get-look-at-proposed-bcsd-boundaries>.

¹² CalEnviroScreen is a tool created by the Office of Environmental Health Hazard Assessment (OEHHA) that considers environmental, health, and socioeconomic information to produce scores and rank every census tract in the state. A census tract with a high score is one that experiences a higher pollution burden than one with a low score.

unemployment rates in these areas are among the highest in California, indicating these residents may lack access to healthcare even as they may be suffering from the health effects of pollution.¹³

II. THE DRAFT EIR MUST INCLUDE ADEQUATE AND ENFORCEABLE MITIGATION MEASURES FOR AIR QUALITY, TRAFFIC, AND NOISE IMPACTS.

We begin by discussing the Draft EIR’s most notable shortcoming—its failure to adequately impose enforceable mitigation measures on the Project. CEQA requires an EIR to describe and adopt all feasible mitigation measures that minimize the significant environmental impacts of a project. (Pub. Resources Code, § 21002; Cal. Code Regs., tit 14, § 15000 *et seq.* (CEQA Guidelines) § 15126.4, subd. (a)(1).) Adequate mitigation measures must avoid the impact altogether by not taking a certain action, minimize the magnitude of the impacts, or repair any damage on the environment. (CEQA Guidelines § 15370.) Mitigation measures must be “fully enforceable through permit conditions, agreements, or other legally binding instruments,” and not be deferred until an uncertain future time. (*Id.* § 15126.4, subds. (a)(1)(B) & (a)(2).) Furthermore, “[w]here several measures are available to mitigate an impact, each should be discussed and the basis for selecting a particular measure should be identified.” (*Id.* § 15126.4, subd. (a)(1)(B).)

The Draft EIR does not include adequate and enforceable measures to mitigate air quality, traffic, and noise in its EIR. There needs to be additional mitigation measures to address the Project impacts. Furthermore, to facilitate implementation of the mitigation measures, we urge the County to commit to a program for mitigation monitoring and reporting, which would help the County comply with CEQA’s requirement that mitigation measures be enforceable. (*See Fed’n of Hillside & Canyon Assns. v. City of Los Angeles* (2000) 83 Cal.App.4th 1252, 1261.)

A. Air Quality

The Draft EIR indicates that most of the Project’s emissions cannot be mitigated to below significant levels, and that the Project would result in a cumulative increase of nitrogen oxide and particulate matter (PM) 2.5 and 10, for which the San Joaquin Valley Air Pollution Control District is in nonattainment. The Draft EIR anticipates that if unmitigated, the Project would generate approximately 73 tons per year of nitrogen oxide, and that even after mitigation, the total long-term operational emissions is expected to be 48.7 tons per year—both estimates far

¹³ OEHHA, CalEnviroScreen 3.0 Results (June 2018 Update), Census Tract: 6029003202, <https://oehha.ca.gov/calenviroscreen/report/calenviroscreen-30> (last visited Feb. 24, 2020) (indicating poverty and unemployment in the 86th and 79th percentiles, respectively); *id.* at Census Tract: 6029006201 (indicating poverty and unemployment in the 91st and the 87th percentiles, respectively).

exceed the threshold of significance of 10 tons per year set by the air district.¹⁴ Similarly, the unmitigated PM₁₀ emissions for the Project is expected to be 34 tons per year, and the mitigated, long-term operational PM₁₀ emissions is expected to be 16.86 tons per year—also exceeding the air district’s permitted threshold of 15 tons per year.¹⁵ Nitrogen oxide inhalation can cause lung damage and increase respiratory infections, and PM₁₀ inhalation can cause lung damage, cancer, and premature deaths, especially in sensitive populations such as children and those suffering from asthma.¹⁶ These Project emissions could add to the burdens faced by the nearby communities, which already suffer disproportionately from the health effects of pollution.

Despite concluding that the Project will generate significant nitrogen oxide and PM₁₀, the Draft EIR articulates no enforceable mitigation measures for those emissions. For example, the Draft EIR’s mitigation section for nitrogen oxide and PM₁₀ states only that the Project’s total construction and operational emissions must be reduced to below 2 tons per year, and requires the Project developer to certify to the air district a Project design or other methods to accomplish this.¹⁷ But without any concrete mitigation measures or legally binding conditions, this requirement is neither adequate nor enforceable, and is in violation of CEQA. Confusingly, even if this measure were enforceable, the County’s analysis concludes that the mitigation measure would not reduce emissions to below 2 tons per year—the Draft EIR states that after mitigation the emissions are still expected to exceed the thresholds at 49 tons per year for nitrogen oxide and 17 tons per year for PM₁₀.¹⁸

The County must include measures that can feasibly mitigate total nitrogen oxide and PM₁₀ emissions, rather than rely on an unenforceable requirement that the developer later provide evidence of specific mitigation to the air district. Given the acute respiratory impacts of nitrogen oxide and PM₁₀ and the nearby environmental justice communities’ already-high asthma rates, it is all the more important for the County to mitigate these adverse air quality impacts. Numerous measures exist to mitigate the Project’s air quality impacts on the communities’ health. A list of measures is attached (Attachment A, Part I) to this comment for the County’s consideration. Many of these measures have been adopted in comparable or smaller projects, indicating that they are likely feasible. If the County declines to adopt the measures suggested in this comment, it must explain the basis for its decision as to each measure. (*Los Angeles Unified Sch. Dist. v. City of Los Angeles* (1997) 58 Cal.App.4th 1019, 1029.)

¹⁴ Draft EIR, *supra* note 2 at 4.3-45 tbl. 4.3-9.

¹⁵ *Id.* PM₁₀ refers to inhalable particles with diameters that are generally 10 micrometers and smaller. California Air Resources Board, PM Standards Review Schedule, <https://ww3.arb.ca.gov/research/aaqs/std-rs/std-rs.htm> (last visited Feb. 24, 2020).

¹⁶ OEHAA, Asthma, <https://oehha.ca.gov/calenviroscreen/indicator/asthma> (last visited Feb. 24, 2020) (“Asthma is the most common long-term disease in children. . . . Outdoor air pollution can trigger asthma attacks or make asthma worse.”).

¹⁷ Draft EIR, *supra* note 2 at 4.3-49.

¹⁸ *Id.* at 4.3-45 tbl. 4.3-9.

B. Traffic

Despite concluding the Project would have significant and unavoidable impacts on traffic at full buildout in 2035, the Draft EIR provides no enforceable mitigation measure to minimize this impact. At full operation, the Project would generate more than 32,000 daily vehicle trips and cause at least 21 surrounding intersections to operate at below acceptable traffic levels. Because the Project is located just over a mile south of Bakersfield city limits, these additional vehicle trips and traffic are likely to spill over to the Metropolitan Bakersfield area.¹⁹ Residents in the Project's vicinity have already expressed concerns regarding the road quality on segments that are likely to be impacted by Project traffic, which already have significant wear and damage.²⁰ An additional 32,000 daily vehicle trips will certainly further degrade road quality on these segments.

Traffic impacts in the Project vicinity and within the Bakersfield city limits can also present substantial safety issues. Collisions with heavy-duty trucks are especially dangerous for passenger cars, motorcycles, bicycles, and pedestrians. Truck traffic generated by the Project are a concern here because it would pass through residential areas, school zones such as Gideon Apostolic Academy, General Schafer School, and McKee Middle School, and other places where pedestrians are common, such as the parks frequented by Greenfield residents.

Rather than developing any measures to alleviate the Project's operational traffic impacts, the Draft EIR seems to rely on future road construction under consideration by the Public Works Departments of the County and the City of Bakersfield.²¹ As previously discussed, deferring mitigation to an uncertain future action is not adequate under CEQA. (*See* CEQA Guidelines § 15126.4, subs. (a)(1)(B) & (a)(2).) The County must develop measures that would foreseeably alleviate traffic without relying on road construction projects that are uncertain. Because Project-generated traffic also contributes to air pollution that particularly burdens environmental justice communities and other sensitive receptors, the County should include mitigation measures diverting traffic away from sensitive receptors. A list of feasible mitigation measures is attached (Attachment A, Part II) for the County's consideration. The County must consider each measure and explain its decision if it declines to adopt a measure. (*Los Angeles Unified Sch. Dist.*, *supra*, 58 Cal.App.4th at p. 1029.)

C. Noise

Noise associated with Project operation can be one of the most intrusive impacts to nearby sensitive receptors. Diesel truck movement and unloading activities can contribute substantial noise pollution. These impacts are exacerbated by the Project's 24-hour, seven-days-

¹⁹ *Id.* at 4.16-66.

²⁰ *See* Letter from Leadership Counsel for Justice & Accountability to Kern County Planning & Natural Resources Department at 2 (February 2020).

²¹ Draft EIR, *supra* note 2 at 4.16-61 to -62; -65 to -69.

per-week operation. Despite concluding that traffic-related noise impacts will be significant—exceeding the thresholds set by the local general plan or noise ordinance—along at least 14 road segments within one to two miles of Project vicinity, the Draft EIR concludes the impact is unavoidable without including any enforceable mitigation measure to reduce such impacts.²²

For example, the Rexland Acres Community is a local disadvantaged community that, while two miles away from the Project, is adjacent to several road segments that would exceed noise thresholds because of the Project impacts. Furthermore, this community is already disproportionately impacted by noise from the operation of a nearby cement plant and heavy truck traffic on large highways bordering the community. The Draft EIR fails to design any enforceable measures to mitigate traffic-related noise impacts. The County must consider such mitigation measures, including ones that divert traffic away from the Rexland Acres Community as well as from nearby communities that will experience significant noise impacts. A list of feasible measures is attached (Attachment A, Part III) for the County’s consideration. The County must explain its decision not to adopt any given measure. (*Los Angeles Unified Sch. Dist.*, *supra*, 58 Cal.App.4th at p. 1029.)

III. THE DRAFT EIR FAILS TO ADEQUATELY CONSIDER IMPACTS ON GROUNDWATER.

Agencies are obligated under CEQA to consider direct and indirect, short-term and long-term project impacts on the environment. (*See* CEQA Guidelines § 15126.2, subd. (a).) Here, the Draft EIR fails to consider long-term impacts on groundwater levels and quality from supplying this large industrial project. The Draft EIR states that the Project site would be supplied through two main water pipelines extending from the Bakersfield Water District north of the Project, which draws from groundwater to supply its customers. The communities surrounding the Project rely on domestic groundwater wells that draw from the same groundwater sub-basin as the Bakersfield Water District. Furthermore, this groundwater is known to have high levels of contamination, including arsenic, cadmium, uranium, and total coliform contamination.²³ Thus, the diversion of groundwater for use by the Project could deplete the groundwater that supplies the surrounding communities and may exacerbate existing groundwater contamination issues the communities face.

The Draft EIR predicts that the Project’s annual water use by year 2025, which would reflect buildout of approximately half of the Project, would not significantly impact groundwater

²² *Id.* at 4.13-20 to -25.

²³ OEHHA, CalEnviroScreen 3.0 Drinking Water Map, <https://oehha.ca.gov/calenviroscreen/indicator/drinking-water-contaminants?> (last visited Feb. 18, 2020) (Census Tracts 6029003206, 6029003202, 6029003204). Public water systems like the Bakersfield Water District must comply with state drinking water standards and therefore will treat contaminated groundwater before providing it to customers. Private domestic wells, like those used by the rural and suburban communities near the Project, are not regulated in California, so well owners may use untreated groundwater.

levels because the Project site would be converted to industrial uses from existing agricultural uses, which consume more water.²⁴ But the Draft EIR does not estimate water use at full buildout by year 2035, when the facilities will be about 2 million square-feet bigger and require substantially more water.²⁵ Indeed, if water use at full buildout is double the amount predicted for year 2025 (half buildout), it would exceed the level currently consumed by agricultural uses at the site. Moreover, the conversion of agricultural fields to industrial uses will likely increase runoff and reduce the amount of water that is reabsorbed into the aquifer. Impacts to groundwater are significant when a project substantially depletes groundwater supplies or interferes with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level.²⁶ The County must adequately analyze, disclose, and mitigate the long-term water supply and water quality impacts of the Project.²⁷

IV. THE DRAFT EIR FAILS TO PROVIDE A COMPLETE AND ACCURATE PROJECT DESCRIPTION.

An accurate project description is “the sine qua non of an informative and legally sufficient” CEQA document. (*Cty. of Inyo v. City of Los Angeles* (1977) 71 Cal.App.3d 185, 199; *see also* CEQA Guidelines § 15124.) If a CEQA document does not “adequately apprise all interested parties of the true scope of the project for intelligent weighing of the environmental consequences of the project,” informed decisionmaking cannot occur and the final document is inadequate as a matter of law. (*Riverwatch v. Olivenhain Mun. Water Dist.* (2009) 170 Cal.App.4th 1186, 1201.) Courts review the EIR’s Project Description under a de novo standard of review, giving the agency no deference, because the accuracy of a project description is fundamental to the CEQA process. (*See Cmtys. for a Better Env’t v. City of Richmond* (2010) 184 Cal.App.4th 70, 83.)

One of the Draft EIR’s stated objectives under its project description is to reduce traffic congestion and air emissions: “Project Objectives . . . Cluster commercial retail uses that provide goods and services near an interchange with SR-99 to accommodate interstate freight and reduce traffic congestion and air emissions.” In direct contradiction to this objective, the Draft EIR itself concludes that the Project is expected to generate significant and unavoidable air quality and traffic impacts. This inconsistency is misleading to the public and renders the Draft EIR’s project description inaccurate. Furthermore, the Draft EIR fails to describe whether the Project would make use of cold storage facilities such as transport refrigeration units (TRUs), a

²⁴ The assumption that agricultural uses consume more water ignores the fact that agricultural uses often involve at least some groundwater recharge.

²⁵ Draft EIR, *supra* note 2 at 4.10-16 to -17, 4.1-18 tbl. 4.1-3.

²⁶ *Id.* at 4.10-14.

²⁷ One possible mitigation measure would be to extend water service being provided to the Project to nearby disadvantaged communities that currently rely on untreated groundwater from private domestic wells.

significant source of PM emissions.²⁸ Inaccurate and incomplete project descriptions fail to inform the public of the true scope of the Project, preventing informed decisionmaking. (*See Riverwatch, supra*, 170 Cal.App.4th at p. 1201.) Thus, the Draft EIR is inadequate as a matter of law. To promote informed decisionmaking, the County is obligated under CEQA to redefine the Project in light of its actual objectives by removing the claim that the Project would serve to reduce traffic and air emissions. Furthermore, the County must describe whether the Project would make use of cold storage facilities, such as TRUs, to better apprise the public of the Project's scope.²⁹

V. THE DRAFT EIR FAILS TO ANALYZE THE PROJECT'S POTENTIAL HEALTH RISK IMPACTS IN A FULL HEALTH RISK ASSESSMENT.

The County is obligated to make detailed disclosures regarding the health effects of toxic air pollutants and the concentrations at which they would trigger these health effects. (*Sierra Club v. Cty. of Fresno* (2018) 6 Cal.5th 502, 519-520.) These disclosures must be supported by evidence and provide enough information to apprise the public of the likelihood that a project will cause such harmful concentrations of pollutants. (*Ibid.*) The Draft EIR provides a quantitative analysis of emissions of different pollutants, and it concludes that the Project will generate significant and unavoidable air pollution. Project emissions would exceed the thresholds set by the local air district for reactive organic gases, nitrogen oxide, carbon monoxide, and PM₁₀, such that "surrounding sensitive receptors could potentially be exposed to substantial pollutant concentrations."³⁰ However, the Draft EIR does not provide any qualitative analysis to support this conclusion, nor does it provide any information about the potential health effects.

In particular, the County did not prepare a health risk assessment for the Project despite the Project's close proximity to sensitive receptors and communities already heavily burdened by pollution. A health risk assessment includes a comprehensive analysis of the dispersion of hazardous substances in the environment and their potential for human exposure, as well as a qualitative assessment of both individual and population-wide health risks associated with those levels of exposure.³¹ This assessment would allow the County to make the required detailed disclosures regarding health impacts and better evaluate mitigation measures to avoid their impacts. The County therefore should conduct a health risk assessment for both Project construction and operation, and disclose Project impacts in a full health risk assessment report.

²⁸ California Environmental Protection Agency, California Air Resources Board, Air Quality and Land Use Handbook: A Community Health Perspective at 22 (Apr. 2005), <https://ww3.arb.ca.gov/ch/handbook.pdf>.

²⁹ If such cold storage facilities are part of the Project, the County must also analyze their impacts and develop mitigation measures to address these impacts.

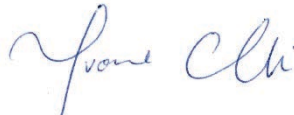
³⁰ Draft EIR, *supra* note 2 at 4.3-51.

³¹ California Office of Environmental Health Hazard Assessment, Risk Assessment Guidelines (Feb. 2015), <https://oehha.ca.gov/media/downloads/crn/2015guidancemanual.pdf>.

VI. CONCLUSION

CEQA promotes public health and thoughtful governance by requiring evaluation, public disclosure, and mitigation of a project's significant environmental impacts before project approval. When implemented well, CEQA builds public trust and encourages sustainable development that will serve the local community for years to come. We urge the County to revise the Draft EIR and the Project to adopt all feasible and enforceable air quality, traffic, and noise mitigation measures; adequately analyze the Project's groundwater impacts; provide a complete and accurate Project description; and produce a full health risk assessment report. We are available to provide assistance to the County as it works to comply with CEQA. Please do not hesitate to contact me if you have any questions. Thank you for the opportunity to provide these comments.

Sincerely,



YUTING YVONNE CHI
Deputy Attorney General
Bureau of Environmental Justice

For XAVIER BECERRA
Attorney General

Encl.: Attachment A

cc: Lorelei Oviatt
Sal Moretti

ATTACHMENT A

I. Air Quality Mitigation Measures

A. Measures to mitigate air quality impacts from construction include:

- Requiring off-road construction equipment to be electric, where available, and all diesel-fueled off-road construction equipment to be equipped with CARB Tier IV-compliant engines or better.
- Prohibiting off-road diesel-powered equipment from being in the “on” position for more than 10 hours per day.
- Requiring on-road haul trucks to be model year 2010 or newer if diesel-fueled.
- Providing electrical hook ups to the power grid for electric construction tools, such as saws, drills and compressors, and using electric tools whenever feasible.
- Limiting the amount of daily grading disturbance area.
- Prohibiting grading on days with an Air Quality Index forecast of greater than 100 for particulates or ozone for the project area.
- Forbidding idling of heavy equipment for more than three minutes.
- Keeping onsite and furnishing to the lead agency or other regulators upon request, all equipment maintenance records and data sheets, including design specifications and emission control tier classifications.
- Conducting an on-site inspection to verify compliance with construction mitigation and to identify other opportunities to further reduce construction impacts.
- Providing information on transit and ridesharing programs and services to construction employees.
- Providing meal options onsite or shuttles between the facility and nearby meal destinations.

B. Measures to mitigate air quality impacts from operation include:

- Requiring that all facility-owned and operated fleet equipment with a gross vehicle weight rating greater than 14,000 pounds accessing the site meet or exceed 2010 model-year emissions equivalent engine standards as currently defined in California Code of Regulations Title 13, Division 3, Chapter 1, Article 4.5, Section 2025. Facility operators shall maintain records on-site demonstrating compliance with this requirement and shall make records available for inspection by the local jurisdiction, air district, and state upon request.
- Requiring all heavy-duty vehicles entering or operated on the project site to be zero-emission beginning in 2030.
- Requiring on-site equipment, such as forklifts and yard trucks, to be electric with the necessary electrical charging stations provided.
- Requiring tenants to use zero-emission light- and medium-duty vehicles as part of business operations.

- Forbidding trucks from idling for more than three minutes and requiring operators to turn off engines when not in use.
- Posting both interior- and exterior-facing signs, including signs directed at all dock and delivery areas, identifying idling restrictions and contact information to report violations to CARB, the air district, and the building manager.
- Installing and maintaining air filtration systems at sensitive receptors within a certain radius of facility.
- Installing and maintaining an air monitoring station proximate to sensitive receptors and the facility. While air monitoring does not mitigate the air quality or greenhouse gas impacts of a facility, it nonetheless benefits the affected community by providing information that can be used to improve air quality.
- Constructing electric truck charging stations proportional to the number of dock doors at the project.
- Constructing plugs for transport refrigeration units at every dock door, if the warehouse use could include refrigeration.
- Constructing electric light-duty vehicle charging stations proportional to the number of parking spaces at the project.
- Installing solar photovoltaic systems on the project site of a specified electrical generation capacity.
- Requiring all stand-by emergency generators to be powered by a non-diesel fuel.
- Requiring facility operators to train managers and employees on efficient scheduling and load management to eliminate unnecessary queuing and idling of trucks.
- Requiring operators to establish and promote a rideshare program that discourages single-occupancy vehicle trips and provides financial incentives for alternate modes of transportation, including carpooling, public transit, and biking.
- Meeting CalGreen Tier 2 green building standards, including all provisions related to designated parking for clean air vehicles, electric vehicle charging, and bicycle parking.
- Achieving certification of compliance with LEED green building standards.
- Providing meal options onsite or shuttles between the facility and nearby meal destinations.
- Posting signs at every truck exit driveway providing directional information to the truck route.
- Requiring that every tenant train its staff in charge of keeping vehicle records in diesel technologies and compliance with CARB regulations, by attending California Air Resources Board-approved courses. Facility operators shall maintain records on-site demonstrating compliance with this requirement and shall make records available for inspection by the local jurisdiction, air district, and state upon request.
- Requiring tenants to enroll in the United States Environmental Protection Agency's SmartWay program, and requiring tenants to use carriers that are SmartWay carriers.

II. Traffic Mitigation Measures

- Designing, clearly marking, and enforcing truck routes that keep trucks out of residential neighborhoods and away from sensitive receptors.
- Constructing new or improved transit stops, sidewalks, bicycle lanes, and crosswalks, with special attention to ensuring safe routes to schools.
- Consulting with the local public transit agency and securing increased public transit service to the project area.
- Implementing traffic control and safety measures, such as speed bumps, speed limits, or new traffic signs or signals.
- Placing facility driveways on major streets that do not have fronting sensitive receptors.
- Restricting the turns trucks can make entering and exiting the facility to route trucks away from sensitive receptors.
- Constructing roadway improvements to improve traffic flow.
- Preparing a construction traffic control plan prior to grading, detailing the locations of equipment staging areas, material stockpiles, proposed road closures, and hours of construction operations, and designing the plan to minimize impacts to roads frequented by passenger cars, pedestrians, bicyclists, and other non-truck traffic.

III. Noise Mitigation Measures

- Constructing physical, structural, or vegetative noise barriers on and/or off the project site.
- Locating or parking all stationary construction equipment as far from sensitive receptors as possible, and directing emitted noise away from sensitive receptors.
- Limiting operation hours to less than 24 hour, seven-day-per-week operation, or restricting the activities that can occur during nighttime hours.
- Orienting any public address systems onsite away from sensitive receptors and setting system volume at a level not readily audible past the property line.