

July 20, 2023

David Welch
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Sent via email

Dear David Welch:

Thank you for providing the California Air Resources Board (CARB) with the opportunity to comment on the San Diego Clean Fuels Terminal LLC Project (Project) Mitigated Negative Declaration (MND), State Clearinghouse No. 2023050699. The Project is located within the boundary of National City (City), California, which is the lead agency for California Environmental Quality Act (CEQA) purposes. The Project proposes the construction and operation of a transload facility on the BNSF Railway railroad right of way. The proposed facility will add nine rail spurs and four fixed truck loading spots to transload bio-diesel fuel, renewable diesel fuel, ethanol and sustainable aviation fuel directly from rail cars to trucks. The trucks will then deliver the sustainable fuels to local retailers within a 35-mile radius of the proposed facility. The Project is expected to result in 30 daily auto trips per day, and 230 heavy-duty truck trips per day.¹

The Project, once operational, will help achieve the goals established in the Governor Gavin Newsom signed Executive Order N-79-20 and the 2022 Scoping Plan for Achieving Carbon Neutrality, and help California attain federal national ambient air quality standards in the State's Implementation Plans.^{2,3,4} Although the transport of sustainable fuels, as proposed under the Project, would help reduce air pollutant and greenhouse gas emissions in California, CARB has identified issues that warrant further consideration: (1) the Project's heavy-duty truck traffic could expose the nearby Portside community to localized health

¹ ECORP Consulting, Inc. Draft Initial Study and Mitigated Negative Declaration San Diego Clean Fuels Terminal LLC Project. May 2023. Appendix H. Table 4-1. Accessible at <https://files.ceqanet.opr.ca.gov/288252-1/attachment/ZrLGllj1y8Lg19pEe0kKBityi4S-BTx3EudtGU3s-OCvO1VlypEIZQZQzq9-uw-spixY6mZF8mF1Tg6g0>

² Executive Department State of California. Executive Order N-79-20. September 23, 2020. Accessible at <https://www.gov.ca.gov/wp-content/uploads/2020/09/9.23.20-EO-N-79-20-Climate.pdf>

³ CARB. Final 2022 Scoping Plan for Achieving Carbon Neutrality. December 2022. Accessible at <https://ww2.arb.ca.gov/our-work/programs/ab-32-climate-change-scoping-plan/2022-scoping-plan-documents#:~:text=The%202022%20Scoping%20Plan%20for,directed%20by%20Assembly%20Bill%201279>

⁴ CARB. 2022 State Strategy for the State Implementation Plan. Adopted September 2022. Accessible at <https://ww2.arb.ca.gov/resources/documents/2022-state-strategy-state-implementation-plan-2022-state-sip-strategy>

impacts, (2) the City underestimates air pollutant emissions by relying on modeling defaults from the California Emission Estimator Model (CalEEMod) and does not account for mobile emissions truck trips transporting soil to the site during Project construction, and (3) the City does not provide adequate substantial evidence showing that the Project would not increase line-haul locomotive traffic. The Project, as described, could increase exposure to air pollution to residences located within the portside environmental justice neighborhoods community.

In 2018, the Portside Environmental Justice Neighborhoods Community (Portside Community) was nominated by the San Diego County Air Pollution Control District (SDCAPCD) and selected by CARB as a monitoring community and in 2019, the Portside Community was selected for development of a community emissions reduction program. The Project could further expose residents of the Portside Community to elevated levels of air pollution. The Portside Community includes the neighborhoods of Barrio Logan, Logan Heights, and Sherman Heights in the City of San Diego, and West National City within National City. The Portside Community is approximately eight square miles with a population of approximately 53,000 who are already exposed to the highest levels of air pollution in California. The sources of air pollution within the Portside Community includes a variety of air pollution sources such as the freight operations at the Port of San Diego, local industrial sources such as metal recyclers, welding shops, and auto body repair and paint shops, rail traffic along local rail lines, vehicle traffic along Interstate 5 (I-5) and State Route 15 (SR-15) and Port truck traffic through residential areas. Sensitive receptors in the community include 24 schools, 16 licensed daycare facilities, and 2 hospitals.^{5,6,7} The community experiences some of the highest rates of asthma, poverty, and unemployment in the region. The Project could further expose residents of the Portside Community to elevated levels of air pollution.

The Project could add to the existing high air pollution within the Portside Community. Due to the Project's proximity to residences, schools within the Portside Community already burdened by air pollution, as such CARB is concerned with the potential cumulative health impacts associated with the construction and operation of the Project. To protect the residences living near the Project, it should be the City's goal to implement all feasible mitigation measures into the Project's final design to protect the air quality in the Portside Community. The following three pieces of legislation need to be seriously considered when developing a project like this near a disadvantaged community:

⁵ California Department of Education. Accessible at: <https://www.cde.ca.gov/ds/>

⁶ California Department of Public Health. GIS Open Data. Accessible at: <https://data-cdphdata.opendata.arcgis.com/>

⁷ California Air Resources Board. Updated and Statewide Expansion of the Environmental Justice Screening Method. Accessible at: <https://ww2.arb.ca.gov/sites/default/files/classic/research/apr/past/11-336.pdf>

Senate Bill 535 (De León, 2012)

Senate Bill 535 (De León, Chapter 830, 2012)⁸ recognizes the potential vulnerability of low-income and disadvantaged communities to poor air quality and requires funds to be spent to benefit disadvantaged communities. 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 4.0 (CalEnviroScreen).⁹ The Project is located with the boundary of the Portside Community. Many residences residing within the Portside Community are located in census tracts within a maximum CalEnviroScreen score in the top 5 percent, indicating that the area is home to some of the most vulnerable neighborhoods in the State. The air pollution levels in this community routinely exceed state and federal air quality standards. The City must ensure the implementation of all feasible mitigation, including utilization of zero emission technologies, to limit the Project's air quality and public health impact on neighboring disadvantaged communities.

Senate Bill 1000 (Leyva, 2016)

Senate Bill (SB) 1000 (Leyva, Chapter 587, Statutes of 2016)¹⁰ amended California's Planning and Zoning Law. SB 1000 requires local governments that have identified disadvantaged communities to incorporate the addition of an environmental justice element into their general plans upon the adoption or next revision of two or more elements concurrently on or after January 1, 2018. SB 1000 requires environmental justice elements to identify objectives and policies to reduce unique or compounded health risks in disadvantaged communities. Generally, environmental justice elements will include policies to reduce the community's exposure to pollution through air quality improvement. SB 1000 affirms the need to integrate environmental justice principles into the planning process to prioritize improvements and programs that address the needs of disadvantaged communities.

⁸ Senate Bill 535, De León, K., Chapter 800, Statutes of 2012, modified the California Health and Safety Code, adding § 39711, § 39713, § 39715, § 39721 and § 39723.

⁹ "CalEnviroScreen 4.0." Oehha.ca.gov, California Office of Environmental Health Hazard Assessment, June 2018, <https://oehha.ca.gov/calenviroscreen/report/calenviroscreen-40>

¹⁰ Senate Bill 1000, Leyva, S., Chapter 587, Statutes of 2016, amended the California Health and Safety Code, § 65302.

Assembly Bill 617 (Garcia, 2017)

The State of California has emphasized protecting local communities from the harmful effects of air pollution through the passage of Assembly Bill (AB) 617 (Garcia, Chapter 136, Statutes of 2017).¹¹ AB 617 required CARB to develop the process that creates new community-focused and community-driven action to reduce air pollution and improve public health in communities that experience disproportionate burdens from exposure to air pollutants. In response to AB 617, CARB established the Community Air Protection Program with the goal of reducing exposure in communities heavily impacted by air pollution. As part of its role in implementing AB 617, CARB must annually consider the selection of communities for development and implementation of community air monitoring plans and/or community emission reduction programs for those communities affected by a high cumulative exposure burden.

As outlined above, the Portside Community was selected for community air monitoring in 2018 and for the development of a Community Emissions Reduction Plan (CERP) in 2019 due to its high cumulative exposure burden, the presence of a significant number of sensitive populations (children, elderly, and individuals with pre-existing conditions), and the socioeconomic challenges experienced by its residents. The average overall CalEnviroScreen 4.0 score for the Portside Community is in the top 5 percent, indicating that the area is home to some of the most vulnerable neighborhoods in the State.

CARB approved the Portside Community CERP in July 2021, which describes strategies to achieve emission and exposure reductions throughout this community, including significantly reducing or eliminating emissions from heavy-duty mobile sources and industrial stationary sources, including strategies aimed at reducing emissions from port, marine vessels, truck and rail activities associated with the Ports. The CERP focuses on concerted efforts by a range of government bodies, local agencies, the Port of San Diego, and the community to reduce these threats, including goals to reduce truck emissions throughout the community and at the Port of San Diego terminals years ahead of CARB regulations. However, the proposed Project, as described, would result in an increase in diesel-powered heavy-duty trucks within the Portside Community, in a stark departure from the CERP.

¹¹ Assembly Bill 617, Garcia, C., Chapter 136, Statutes of 2017, modified the California Health and Safety Code, amending § 40920.6, § 42400, and § 42402, and adding § 39607.1, § 40920.8, § 42411, § 42705.5, and § 44391.2.

The City Used Incorrect Trip Lengths When Modeling the Project's Air Quality Impacts from Mobile Sources

The Project's operational mobile source air pollutant emissions were underestimated in the MND by using incorrect vehicle trip lengths. The Project's operational air pollutant emissions were estimated using the CalEEMod model. Based on CARB's review of the CalEEMod outputs found in Appendix A (Air Quality & Greenhouse Gas Emissions Assessment) of the MND, the City relied on CalEEMod vehicle trip length default values to estimate the Project's mobile source air pollutant emissions. After applying these default values, 59 percent of the Project's total vehicle trips would have a travel distance of 9.5 miles and 41 percent would have a travel distance 7.3 miles. Since the vehicle trip length default values were not adjusted in CalEEMod, it was concluded, in the MND, that all air pollutant emissions modeled would not exceed the SDCAPCD significance thresholds.

Chapter 2.2 (Project Objectives) of the MND, states that fuel will be delivered from the proposed facility to local retailers within a 35-mile radius, which is substantially longer than the trip distances used to model the Project operational mobile air pollutant emissions. As a result of using CalEEMod default trip distances, CARB is concerned that the City underestimated the Project's mobile sources emissions in the MND. CARB urges the City to remodel the Project's mobile source air pollutant emissions using Project-specific trip lengths and report those findings in the Project's Final Mitigated Negative Declaration (Final MND).

The City Used Incorrect Vehicle Fleet Mixes to Evaluate the Project's Air Quality Impacts from Mobile Sources

The MND underestimated the Project's operational mobile source air pollutant emissions by using incorrect fleet mixes. The Project's operational air pollutant emissions were estimated using CalEEMod. Based on CARB's review of the CalEEMod outputs found in Appendix A (Air Quality & Greenhouse Gas Emissions Assessment) of the MND, the City relied on CalEEMod fleet mix default values to estimate the Project's mobile source air pollutant emissions. After applying these default values, the Project's fleet mix would include 3 percent light-duty trucks, 0.8 percent medium-duty trucks, and 0.6 percent heavy duty trucks. Consequently, the operational mobile emissions were estimated assuming the Project would result in approximately 12 daily light, 3 medium, and 2 heavy-truck trips, which is inconsistent with the Project's daily truck trip estimates provided in Table 4-1 (Trip Generation) found in Appendix H (Traffic Impact Study). The Project's traffic study shows that the Project would result in 230 daily truck trips, which is substantially higher than the 17 daily truck traffic estimate provided in the Project's CalEEMod output files. CARB staff urges the City to remodel the Project operational mobile emissions using Project specific fleet mixes in the Final MND.

The MND Did Not Account for Air Pollutant Emissions from Heavy Duty Trucks During On-Site Grading

The MND did not account for mobile source air pollutant emissions from grading operations during the Project's construction phase. According to a footnote in Table 4.3-3 (Construction-Related Criteria Air Pollutant Emissions) found in Chapter 4.3 (Air Quality) and Appendix A (Air Quality & Greenhouse Gas Emissions Assessment) of the MND, the Project's air pollutant emission calculations accounts for the movement and export of 30,000 cubic yards of soil and the import of 30,000 cubic yards of offsite material to the site.^{12,13} However, based on CARB's review of the CalEEMod outputs, found in Appendix A (Air Quality & Greenhouse Gas Emissions Assessment) of the MND, the City did not account for air pollutant emissions emitted from the heavy-duty truck trips required to import or export soil during the on-site grading activities.

CARB staff urges the City to remodel the Project's construction air pollutant emissions using accurate heavy-duty truck trip estimates. Residences and other sensitive receptors located within the Portside Community (e.g., daycare facilities, senior care facilities, and schools) located near construction haul routes could be exposed to diesel exhaust emissions that were not evaluated in the Final MND. The Final MND should clearly state the total number of heavy-duty truck trips expected during Project construction so the public can fully understand the Project's potential environmental effects on neighboring communities.

The City Must Provide Substantial Evidence Demonstrating the Project Would Not Increase Line-Haul Locomotive Traffic

Chapter 2.2 (Project Objectives) of the MND states "the new terminal will add nine rail spurs and four fixed truck loading spots to transload bio-diesel fuel, renewable diesel fuel, ethanol, and sustainable aviation fuel directly from rail cars into trucks."¹⁴ The MND further states, without any evidence, that the Project would not result in an increase in line-haul locomotive engine trips associated with this Project. Appendix A (Air Quality & Greenhouse Gas Emissions Assessment) of the MND states that the health risk impacts associated with Project

¹² ECORP Consulting, Inc. Draft Initial Study and Mitigated Negative Declaration San Diego Clean Fuels Terminal LLC Project. May 2023. Page 4-12. Table 4.3-3. Accessible at <https://files.ceqanet.opr.ca.gov/288252-1/attachment/ZrLGllj1y8Lg19pEe0kKBityi4S-BTx3EudtGU3s-OCvO1VlypEIZQZQZq9-uw-spixY6mZF8mF1Tg6g0>

¹³ ECORP Consulting, Inc. Draft Initial Study and Mitigated Negative Declaration San Diego Clean Fuels Terminal LLC Project. May 2023. Appendix A. Page 2. Accessible at https://files.ceqanet.opr.ca.gov/288252-1/attachment/_SmE-YMoRaLkKbBWS2y58UkfsKYzs0H3Y1pAJjZ_Bfae4YdiZxGKI2GSj3HO1qmC6Ma73VYRibyysrCLy0

¹⁴ ECORP Consulting, Inc. Draft Initial Study and Mitigated Negative Declaration San Diego Clean Fuels Terminal LLC Project. May 2023. Page 2-7. Accessible at <https://files.ceqanet.opr.ca.gov/288252-1/attachment/ZrLGllj1y8Lg19pEe0kKBityi4S-BTx3EudtGU3s-OCvO1VlypEIZQZQZq9-uw-spixY6mZF8mF1Tg6g0>

line-haul locomotive trips were not analyzed as they were already analyzed in CARB's Health Risk Assessment for the BNSF Railway Sand Diego Railyard (2008 HRA).¹⁵

The 2008 HRA found that the operation of the Sand Diego Railyard would expose the residents of the Portside Community to a cancer risk as high as 100 chances per million. It's important to note that in 2015, the Office of Environmental Health Hazard Assessment updated their Air Toxics Hot Spots Program Risk Assessment Guidelines, resulting in the health risk numbers reported in the 2008 HRA being outdated and significantly underestimated.¹⁶ Without any substantial evidence, the MND states that the Project would not increase the number line-haul locomotives traveling to the Sand Diego Railyard. As it stands, the MND does not meet the bare legal minimum of serving as an adequate informational document relative to inform decision-makers and the public that there is no substantial evidence¹⁷ in the record that the Project will not increase line-haul locomotive traffic (see *Sierra Club v. County of Fresno* (2018) 6 Cal.5th 502, 520). Since the San Diego Railyard operation has, and continues to, expose the nearby residences to high cancer risks, CARB urges the City to provide substantial evidence showing that the Project would not increase rail traffic along BNSF rail lines. If it is found that the Project will increase line-haul locomotive traffic, the City must revise the air quality analysis and HRA in the MND to account for potential health impacts in the Final MND.

The City Must Do More to Reduce the Project's Impact on Air Quality and Public Health

Chapter 4.3 (Air Quality) of the MND states, "if a project's individual emissions exceed its identified significance thresholds, the project would be cumulatively considerable."¹⁸ Since it was concluded in the MND that the Project's construction and operational air pollutant emissions would not exceed the SDCAPCD's significance thresholds, the City concluded that the Project would not result in a cumulatively considerable impact on air quality and public health. CARB disagrees with this conclusion as the Project, in conjunction with existing and planned facilities in the City and the Port of Sand Diego, could increase air pollutant emissions in the surrounding area. Because of this, CARB staff urges the City to implement all feasible mitigation measures to reduce the Project's impact on public health. CARB staff

¹⁵ ENVIRON International Corporation. 2008. Health Risk Assessment for the BNSF Railway San Diego Railyard. https://ww2.arb.ca.gov/sites/default/files/classic/railyard/hra/bnsf_sd_final.pdf

¹⁶ 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/cnr/201_Sguidancemanual.pdf

¹⁷ "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."

¹⁸ ECORP Consulting, Inc. Draft Initial Study and Mitigated Negative Declaration San Diego Clean Fuels Terminal LLC Project. Page 4-10. Accessible at <https://files.ceqanet.opr.ca.gov/288252-1/attachment/ZrLGllj1y8Lg19pEe0kKBityi4S-BTx3EudtGU3s-OCv01VlypEIZQZQzq9-uw-spixY6mZF8mF1Tg6g0>

strongly urges the City to implement the following emission reduction measures in the Final MND.

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 are equal to 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-oxides of nitrogen (NO_x) standard.¹⁹
6. In construction contracts, include language that requires all construction equipment and fleets to be in compliance with all current air quality regulations. CARB is available to assist in implementing this recommendation.
7. 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.
8. Include contractual language in tenant lease agreements that requires future tenants to exclusively use zero-emission light and medium-duty delivery trucks.
9. Include contractual language in tenant lease agreements that requires all service equipment used within the project site to be zero-emission. This equipment is widely

¹⁹ In 2013, CARB adopted optional low-NO_x emission standards for on-road heavy-duty engines. CARB 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-year 2010 and later. CARB's optional low-NO_x emission standard is available at: <https://ww2.arb.ca.gov/our-work/programs/optional-reduced-nox-standards>

available and can be purchased using incentive funding from CARB's Clean Off-Road Equipment Voucher Incentive Project (CORE).²⁰

10. Include contractual language in tenant lease agreements that requires all heavy-duty trucks entering or on the project site to be zero-emission vehicles, and be fully zero-emission. A list of commercially available zero-emission trucks can be obtained from the Hybrid and Zero-emission Truck and Bus Voucher Incentive Project (HVIP).²¹ Additional incentive funds can be obtained from the Carl Moyer Program and Voucher Incentive Program.²²
11. Include contractual language in tenant lease agreements restricting trucks and support equipment from idling longer than two minutes while on site.
12. Include contractual language in tenant lease agreements, requiring the installing of vegetative walls²³ or other effective barriers that separate loading docks and people living or working nearby.

Conclusion

CARB is concerned about the potential air quality impacts should the City approve the Project and the assumptions used to evaluate those impacts in the MND. The Project is located within proximity to residences within the Portside Community, which has been designated as a disadvantaged community under AB 617. The City underestimates air pollutant emissions by relying on modeling default values from CalEEMod and does not account for mobile emissions truck trips transporting soil to and from the site during Project construction. Lastly, the City does not provide adequate substantial evidence showing that the Project would not increase line-haul locomotive traffic.

Given the breadth and scope of projects subject to CEQA review throughout California that have air quality and greenhouse gas impacts, coupled with CARB's limited staff resources to substantively respond to all issues associated with a project, CARB must prioritize its substantive comments here based on staff time, resources, and its assessment of impacts. CARB's deliberate decision to substantively comment on some issues does not constitute an admission or concession that it substantively agrees with the lead agency's findings and conclusions on any issues on which CARB does not substantively submit comments.

CARB appreciates the opportunity to comment on the MND and can provide assistance on zero-emission technologies and emission reduction strategies, as needed. Please include

²⁰ Clean Off-Road Equipment Voucher Incentive Project. Accessible at: <https://californiacore.org/how-to-participate/>

²¹ Zero-Emission Truck and Bus Voucher Incentive Project. Accessible at: <https://californiahvip.org/>

²² Carl Moyer Program and Voucher Incentive Program. <https://ww2.arb.ca.gov/carl-moyer-program-apply>

²³ Effectiveness of Sound Wall-Vegetation Combination Barriers as Near-Roadway Pollutant Mitigation Strategies (2017) is available at: <https://ww2.arb.ca.gov/sites/default/files/classic/research/apr/past/13-306.pdf>

David Welch
July 20, 2023
Page 10

CARB on your list of selected State agencies that will receive the Final MND. If you have questions, please contact Stanley Armstrong, Air Pollution Specialist via email at stanley.armstrong@arb.ca.gov.

Sincerely,

A handwritten signature in blue ink that reads "Richard Boyd". The signature is written in a cursive style with a long horizontal stroke extending to the right.

Richard Boyd, Assistant Division Chief, Transportation and Toxics Division

cc: State Clearinghouse
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