

September 8, 2023

Ellen Fitzgerald
Principal Planner
City of Whittier
13230 Penn Street
Whittier, California 90601
efitzgerald@cityofwhittier.org

Sent via email

Dear Ellen Fitzgerald:

Thank you for providing the California Air Resources Board (CARB) with the opportunity to comment on the Whittier Boulevard Business Center Project (Project) Draft Environmental Impact Report (DEIR), State Clearinghouse No. 2022120346. The Project proposes the construction and operation of one industrial building totaling 295,959 square feet. The proposed industrial building would be designed to accommodate uses such as manufacturing, assembly, research and development, light industrial, and related uses. The proposed Project would result in 829 daily vehicle trips along local roadways, including 169 daily heavy-duty truck trips.¹ The Project is proposed within portions of the City of Whittier (City), California, which is the lead agency for California Environmental Quality Act (CEQA) purposes.

If approved, the Project will expose nearby communities to elevated levels of air pollution beyond the existing baseline emissions at the Project site. Residences are located west, and east of the Project site. With the closest residence located within 50 feet of the Project's western boundary. In addition to residences, Saint Mary's Catholic School and Whittier High School are located within a half a mile from the Project site. These communities are surrounded by existing toxic diesel particulate matter (diesel PM) emission sources, which include many existing industrial facilities surrounding the Project site, and vehicular traffic along State Route 72. Due to the Project's proximity to residences and schools already burdened by multiple sources of air pollution, CARB 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 neighboring communities,

¹ City of Whittier. Whittier Boulevard Business Center Project Draft Environmental Impact Report. Appendix I2. Table 1.

which are already impacted by air pollution from existing industrial facilities surrounding the Project site, and vehicular traffic along State Route 72.

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 4.0 (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 10 percent for Pollution Burden² and is considered a disadvantaged community. The City must ensure that the Project does not adversely impact neighboring disadvantaged communities.

Industrial facilities, like the facilities described in the Project, can result in high volumes of heavy-duty diesel truck traffic, and operation of on-site equipment (e.g., forklifts and yard tractors) that emit toxic diesel emissions, and contribute to regional air pollution and global climate change.³ Governor Gavin Newsom signed Executive Order N-79-20 on September 23, 2020. The executive order states: "It shall be a goal of the State that 100 percent of in-state sales of new passenger cars and trucks will be zero-emission by 2035. It shall be a further goal of the State that 100 percent of medium and heavy-duty vehicles in the State be zero-emission by 2045 for all operations where feasible and by 2035 for drayage trucks. It shall be further a goal of the State to transition to 100 percent zero-emission off-road vehicles and equipment by 2035 where feasible." The executive order further directs the development of regulations to help meet these goals. To ensure that lead agencies, like the Project, stay in step with evolving scientific knowledge to protect public health from adverse air quality and greenhouse gas impacts from the transportation sector, which serves as the basis of the Governor's Executive Order N-79-20, CARB staff urges the City to plan for the use of zero-emission technologies within the Project area recommended in this letter.

² Pollution Burden represents the potential exposure to pollutants and the adverse environmental conditions caused by pollution.

³ With regard to greenhouse gas emissions from this project, CARB has been clear that local governments and project proponents have a responsibility to properly mitigate these impacts. CARB's guidance, set out in detail in the Scoping Plan issued in 2017, makes clear that in CARB's expert view, local mitigation is critical to achieving climate goals and reducing greenhouse gases below levels of significance.

The Final Environmental Impact Report Should Restrict the Operation of Transport Refrigeration Units within the Project Area

Chapter 3.4.4 (Operational Characteristics) of the DEIR states that the proposed industrial build, "is not proposed to be refrigerated."⁴ Consequently, air pollutant emissions associated with cold storage operation were not included in the DEIR. Warehouses used for cold storage would result in an increase in the number trucks and trailers equipped with transport refrigeration units (TRUs)⁵ traveling along local roadways. TRUs on trucks and trailers can emit large quantities of diesel exhaust while operating within nearby communities. Should the Project later include cold storage uses, residences near the Project site could be exposed to significantly higher levels of toxic diesel PM and nitrogen oxides (NO_x), and greenhouse gases than trucks and trailers without TRUs. To ensure TRUs⁶ will not operate within the Project site without first quantifying and mitigating their potential impacts, CARB urges the City to include one of the following design measures in the Final Environmental Impact Report (FEIR):

- A Project design measure requiring contractual language in tenant lease agreements that prohibits tenants from operating TRUs within the Project-site; or
- 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.

The Final Environmental Impact Report Should Include More Mitigation Measures to Further Reduce the Project's Air Pollution Emissions

The DEIR concluded that the Project would not exceed the South Coast Air Quality Management District's (SCAQMD) significance thresholds and potential impacts are expected to be less than significant. Therefore, the Project has no mitigation measures specific to air quality. The community near the Project site is already exposed to toxic diesel PM emissions from freight operations at existing industrial buildings and vehicular traffic on State Route 72. Due to the Project's proximity to residences and schools, CARB is concerned with the potential cumulative health impacts associated with the construction and operation of the Project.

⁴ City of Wittier. Whittier Boulevard Business Center Project Draft Environmental Impact Report. Page 3-17.

⁵ 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.

⁶ 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.

The list below details the CARB regulations that will result in the reduction of diesel PM and NOx emissions from trucks within California:

- **Drayage Truck Regulation:** The existing Drayage Truck Regulation requires all drayage trucks to operate with an engine that is a 2007 model year or newer and the Truck and Bus Regulation requires all trucks, including drayage, to have 2010 or newer model year engines by January 1, 2023. As part of CARB's overall approach to accelerate a large-scale transition to zero-emission medium- and heavy-duty vehicles, the amendments to the Advanced Clean Trucks regulation was approved March 2021 to help ensure that zero-emission vehicles are brought to market. CARB directed staff to ensure that fleets, businesses, and public entities that own or direct the operation of medium- and heavy-duty vehicles in California purchase and operate ZEVs to achieve a smooth transition to ZEV fleets by 2045 everywhere feasible, specifically to reach:
 - 100 percent zero-emission drayage trucks, last mile delivery, and government fleets by 2035
 - 100 percent zero-emission refuse trucks and local buses by 2040
 - 100 percent zero-emission capable utility fleets by 2040
- **Heavy-Duty Low-NOx Omnibus Rule:** On August 27, 2020, CARB approved the Heavy-Duty Low-NOx Omnibus Rule that requires truck emission standards to be reduced from 0.20 to 0.05 grams per brake horsepower-hour (g/bhp-hr) from 2024 to 2026, and to 0.02 g/bhp-hr in 2027.
- **Advanced Clean Trucks Regulation:** On June 25, 2020, CARB approved the Advanced Clean Trucks Regulation. The regulation requires manufacturers to start the transition from diesel trucks and vans to zero-emission trucks beginning in 2024. The rule is expected to result in about 100,000 electric trucks in California by the end of 2030 and about 300,000 by 2035.
- **Advanced Clean Fleets Regulation:** The Advanced Clean Fleets Regulation is part of CARB's overall strategy to accelerate a large-scale transition to zero-emissions medium- and heavy-duty vehicles. This regulation works in conjunction with the Advanced Clean Trucks regulation, approved in 2021, which helps ensure that zero-emissions vehicles are available for sale. The regulation applies to trucks performing drayage operations at seaports and railyards, fleets owned by State, local, and federal government agencies, and high priority fleets. High priority fleets are those entities that own, operate, or direct at least one vehicle in California, and that have either \$50 million or more in gross annual revenue, or that own, operate, or have common ownership or control of a total of 50 or more vehicles. The regulation affects medium- and heavy-duty on-road vehicles with a gross vehicle weight rating greater than 8,500 pounds, off-road yard tractors, and light-duty mail and package delivery vehicles.

To further reduce the Project's air pollution emissions and stay in step with CARB regulations, it is critical that the City plans for the infrastructure to support electric trucks. To this end, CARB urges the City to include a mitigation measure or project design feature that requires all heavy-duty trucks to be electric and to install on-site infrastructure to support those electric trucks. A list of commercially available zero-emission trucks can be obtained from the Hybrid and Zero-emission Truck and Bus Voucher Incentive Project (HVIP).⁷ The HVIP is a part of California Climate Investments to incentivize the purchase of zero-emission trucks. Based on CARB's review of the zero-emission trucks listed in the HVIP, there are commercially available electric trucks that can meet the cargo transportation needs of individual industrial uses proposed in the City today.

In addition to the mitigation modification recommended above, the City should add the air pollutant emission reduction measures listed below in the FEIR.

- 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 2022.⁸
- Include contractual language in tenant lease agreements restricting trucks and support equipment from idling longer than two minutes while on site.
- Include contractual language in tenant lease agreements, requiring the installing of vegetative walls⁹ or other effective barriers that separate loading docks and people living or working nearby.

Conclusion

Due to the Project's proximity to nearby industrial uses, residences, and schools, CARB is concerned the construction and operation of the Project may negatively contribute to cumulative impacts to the surrounding community. CARB urges the City to include more mitigation measures or project design features to reduce air pollutant emissions emitted by the Project. CARB also urges the City to include a design measure restricting the operation of TRUs within the Project site.

⁷ Zero-Emission Truck and Bus Voucher Incentive Project. Accessible at: <https://californiahvip.org/>

⁸ 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>.

⁹ 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>

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 DEIR for the Project and can provide assistance on zero-emission technologies and emission reduction strategies, as needed. Please include CARB on your list of selected State agencies that will receive the FEIR. If you have questions, please contact Stanley Armstrong, Air Pollution Specialist via email at stanley.armstrong@arb.ca.gov.

Sincerely,



Matthew O'Donnell, Branch Chief, Risk Reduction Branch

cc: State Clearinghouse
state.clearinghouse@opr.ca.gov

Yassi Kavezade, Organizer, Sierra Club
yassi.kavezade@sierraclub.org

Sam Wang, Program Supervisor, CEQA Intergovernmental Review, South Coast Air Quality Management District
swang1@aqmd.gov

Morgan Capilla, NEPA Reviewer, U.S. Environmental Protection Agency, Air Division, Region 9
capilla.morgan@epa.gov

Taylor Thomas, Research and Policy Analyst, East Yard Communities for Environmental Justice
tbthomas@eycej.org

Stanley Armstrong, Air Pollution Specialist, Risk Reduction Branch