

April 18, 2024

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Sent via email

Dear Corey Alvin:

Thank you for providing the California Air Resources Board (CARB) with the opportunity to comment on the Construction Air Quality Plan (Plan) for the North Gateway Recycling Facility Project (Project) located in the City of Oakland (City). The Project consists of the construction and operation of "a new material recycling facility that will receive, process, and transfer multiple material streams, including source-separated and mixed residential and commercial recyclable material" in the former Oakland Army Base (OAB).¹ The Plan is required as part of the 2013 approved Standard Conditions of Approval/Mitigation Monitoring and Reporting Program (SCA/MMRP) prepared for the 2012 OAB Redevelopment Initial Study Addendum (IS/Addendum).² The SCA/MMRP was adopted by the City to mitigate the significant health and air quality impacts in the West Oakland Community and the impacts to regional air quality resulting from the redevelopment of the former OAB.

The construction of facilities like the one described in the Plan can result in high volumes of diesel-powered off-road equipment and heavy-duty diesel trucks that emit toxic diesel emissions, and contribute to regional air pollution and global climate change. To fully mitigate the Project's construction air quality impacts, CARB urges the City to implement all feasible mitigation measures provided in this letter.

¹ City of Oakland. California Waste Solutions Air Quality Plan. January 2024. Page 1. Accessible at: https://cao-94612.s3.us-west-2.amazonaws.com/documents/CAWasteSolutions_AQReport_01-17-24_rev.-1.pdf

² City of Oakland. Standard Conditions of Approval and Mitigation Monitoring and Reporting Program for the 2012 Oakland Army Base Project. July 16, 2013. Accessible at: <https://cao-94612.s3.us-west-2.amazonaws.com/documents/2012-OARB-Project-SCAMMRP-REVISED-7-16-13.pdf>

Construction of the Project Will Increase Air Pollution Within the West Oakland Community

The construction of the Project will increase air pollution exposure for the people living and working in the West Oakland Community; this community is already affected by a high cumulative exposure burden. Residents of West Oakland experience some of the highest rates of asthma, poverty, and unemployment in the region. Sources of air pollution near and within the West Oakland Community include freight activities at existing industrial facilities, and the Port of Oakland, and vehicular traffic along Interstate 80, Interstate 580, Interstate 880, and Interstate 980. The West Oakland Community has a high density of sensitive populations including children and the elderly; these populations are at schools, hospitals, and daycare centers located near mobile and stationary emissions sources of concern, including roadways. These sensitive receptors have been burdened with disproportionate health impacts from chronic and acute pollution. Health impacts from existing air pollution include increased illness, and premature death from causes such as asthma, bronchitis, emphysema, pneumonia, coronary heart disease, abnormal heart rhythms, congestive heart failure, cancer, and stroke. The following three pieces of legislation need to be seriously considered when developing a project like this near a disadvantaged community:

Senate Bill 535 (De León, 2012); Disadvantaged Communities

Senate Bill 535 (De León, Chapter 830, 2012)³ 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% of the census tracts, as analyzed by the California Communities Environmental Health Screening Tool Version 4.0 (CalEnviroScreen).⁴ The Project is located within the West Oakland Community. The maximum CalEnviroScreen score for the West Oakland Community is in the top 10%, indicating that the area is home to some of the most vulnerable neighborhoods in the State. CARB urges the City to ensure that the construction and operation of the Project does not adversely impact neighboring disadvantaged communities.

³ 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.

⁴ "CalEnviroScreen 4.0." Oehha.ca.gov, California Office of Environmental Health Hazard Assessment, June 2018, <https://oehha.ca.gov/calenviroscreen/report/calenviroscreen-40>

Senate Bill 1000 (Leyva, 2016); Environmental Justice Element for Land Use Planning

Senate Bill (SB) 1000 (Leyva, Chapter 587, Statutes of 2016)⁵ 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, like West Oakland Community.

Assembly Bill 617 (Garcia, 2017); Community Air Protection

The State of California has emphasized 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).⁶ AB 617 requires 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. The West Oakland Community is one of 19 communities statewide chosen thus far for inclusion in the Community Air Protection Program.

The West Oakland Community was selected for the development of a Community Emissions Reduction Plan (CERP) 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. CARB approved the West Oakland Community Action Plan (WOCAP) in December 2019, which included 89 strategies to achieve emission and exposure reductions throughout this

⁵ Senate Bill 1000, Leyva, S., Chapter 587, Statutes of 2016, amended the California Health and Safety Code, § 65302.

⁶ 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.

community, including significantly reducing or eliminating emissions from heavy-duty mobile sources and industrial stationary sources

Health-harming emissions, including particulate matter (PM), toxic air contaminants, and diesel PM generated from the proposed increase in heavy and light industrial development in the Project area will negatively impact the community, which is already disproportionately impacted by air pollution from existing freight operations as well as stationary sources of air pollution. Part of the AB 617 process required CARB and the Bay Area Air Quality Management District (BAAQMD) to create a highly-resolved inventory of air pollution sources within this community.

The City Should Provide Clarity on the Standards and Conditions of Approval

The City states that the mitigation measures provided in the Plan comply with SCA-AIR-1 through SCA-AIR-5. However, CARB staff could not identify SCA-AIR-4 and SCA-AIR-5 in the 2013 SCA/MMRP. Furthermore, based on CARB's review of the 2013 SCA/MMRP, SCA-AIR-3 requires the City to either prepare a health risk assessment (HRA) that evaluates the potential health risk due to exposure to diesel particulate matter to achieve an acceptable interior air quality level for sensitive receptors or requires the City to implement a series of mitigation measures aimed at reducing air pollution in residential homes. These mitigation measures include locating sensitive receptors away from major air pollutant sources (e.g., freeways, major roadways, etc.), planting trees between sources of air pollution and sensitive receptors, installing MERV 13 filters in residential homes, and installing indoor air quality monitoring units in buildings.⁷ Based on CARB's review of the Plan, the City does not include an HRA or require the implementation of the measures listed in SCA-AIR-3 in the Plan. To provide clarity to decision-makers and the public, the City must accurately specify which of the measures in the 2013 SCA/MMRP the Plan addresses, prepare an HRA for the Project in compliance with SCA-AIR-3, and report the findings in the Plan.

⁷ City of Oakland. Standard Conditions of Approval and Mitigation Monitoring and Reporting Program for the 2012 Oakland Army Base Project. July 16, 2013. Page 11. Accessible at: <https://cao-94612.s3.us-west-2.amazonaws.com/documents/2012-OARB-Project-SCAMMRP-REVISED-7-16-13.pdf>

The City Should Evaluate the Potential Air Quality Impacts during the Construction of the Project

The Plan does not provide an air quality analysis showing how the proposed mitigation measures would reduce the Project's construction air quality impacts. Furthermore, the Plan does not list the number of off-road equipment, heavy-duty, and worker trips required to construct the Project. The construction of the Project will require the extensive use of off-road equipment, heavy-duty truck trips, and work trips, which will contribute to the already high air pollution the residents within the West Oakland Community breathe. To fully inform decision-makers and the public of the potential air quality impacts associated with the construction of the Project, the City should model the Project's construction air pollutant emissions under an unmitigated and mitigated scenario. The Project's on- and off-road air pollutant emissions must be estimated using CARB's latest 2021 Emission Factors model (EMFAC2021) and OFFROAD2021, respectively.^{8,9}

The City Must Provide More Meaningful Mitigation Measures to Reduce the Project's Construction Air Quality Impact

CARB is concerned about the Plan's lack of meaningful mitigation measures to reduce the Project's construction air quality impacts. The Plan includes 20 mitigation measures, many of which require compliance with existing rules and regulations. The City should not rely exclusively on existing rules and regulations to mitigate the Project's air quality impacts from operating off-road equipment and heavy-duty trucks during construction.

Table 2 (SCA-AIR-2 Criteria Pollutant Controls and SCA-AIR-3 Controls) of the Plan includes a series of mitigation measures to reduce air pollutant emissions generated through operation of diesel-powered equipment within the Project site during its construction. These mitigation measures would require trucks to idle no longer than 2 minutes, portable equipment to be either electric, propane, or natural gas only, operators to register their equipment on CARB's Diesel Off-Road Online Reporting System (DOORS), use of operators to use low-emission diesel fuel for all heavy-duty diesel equipment, use of alternative fueled equipment as much as possible with compressed natural gas, liquid petroleum gas or gasoline, and use of diesel equipment retrofitted with emission controls. Since construction contractors must register their equipment in CARB's DOORS as required under the In-Use Off-Road Diesel-Fueled Fleets Regulation, this measure should be listed as something other than a mitigation measure in the Plan. The Plan also needs to clarify whether off-road equipment or on-road heavy-duty trucks would be required to utilize alternative fuel. CARB urges the City to provide details on the number and type of

⁸ CARB. Emission Factors model Web Platform. Accessible at: <https://arb.ca.gov/emfac/emissions-inventory/7fbbb7c961d621ffc05eb5e5f8dfd175c8cff0fc>

⁹ CARB. OFFROAD2021 Web Platform. Accessible at: <https://arb.ca.gov/emfac/offroad/>

diesel-powered off-road and portable equipment operating on-site. The City must also provide clarity in the Plan as to how many of the on-site portable equipment would be powered by compressed natural gas, petroleum gas or gasoline. To reduce the Project's construction air quality impacts, the City should require all portable equipment to be zero-emission. To further reduce the Project's construction air quality impacts, the City should include the following mitigation measures in the Final Construction Plan (Final Plan).

- 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.
- 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.
- Require 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.
- Require all off-road equipment with a power rating below 19 kilowatts (e.g., plate compactors, pressure washers) used during project construction be zero-emission.

Table 3 (SCA-AIR-5 Truck-Related Risk Reduction Measures) of the Plan includes mitigation measures to reduce air pollutant emissions generated while operating on-road heavy-duty trucks. These mitigation measures require loading docks to be located as far from sensitive receptors as possible and contractors to comply with applicable CARB requirements for diesel trucks. Table 3 states that construction contractors would be required to use either new clean diesel trucks, higher-tier diesel engine trucks with PM filters, hybrid trucks, or alternative energy trucks. The Plan does not specify the model year of trucks that will be used, the emission level of diesel engines on trucks, or what types of alternative energy trucks will be used during the construction of the Project. To mitigate the Project's construction air quality impacts associated with the operation of heavy-duty trucks, CARB urges the City to include a mitigation measure in the Plan that would either require all heavy-duty trucks to be zero-emissions or require all heavy-duty trucks to be a model year 2014 or later. All heavy-duty trucks should also meet CARB's lowest optional low-oxides of nitrogen (NO_x) standard.

Conclusion

To reduce the exposure of toxic diesel PM emissions in disadvantaged communities already impacted by air pollution, the final design of the Project should include all existing and emerging zero-emission technologies to minimize diesel PM and NOx emissions, as well as the greenhouse gas emissions that contribute to climate change. CARB encourages the City to implement the recommendations listed in this comment letter to reduce the Project's construction air pollution emissions.

CARB also urges the City to extend the 17-day review and comment period for this and future air quality plans within the OAB to at least 45 days. An extension of the review and comment period will allow stakeholders and members of the community more time to review the plans submitted by the City.

Given the breadth and scope of projects subject to review under the California Environmental Quality Action (CEQA) 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 agrees with the lead agency's findings and conclusions on any issues on which CARB does not submit comments.

CARB appreciates the opportunity to comment on the Plan 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 via email at stanley.armstrong@arb.ca.gov.

Sincerely,



Matthew O'Donnell, Chief, Risk Reduction Branch

cc: see next page.

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