

June 7, 2024

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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 Notice of Preparation (NOP) for the San Diego Clean Fuels Facility, LLC Project (Project) Draft Environmental Impact Report (DEIR), State Clearinghouse No. 2024050468. The Project proposes the construction and operation of a new transload facility on the BNSF Railway railroad right of way. The proposed facility would result in the reconfiguration of one existing rail spur and addition of truck loading spots to transload clean renewable and biofuels (renewable diesel, ethanol, and potentially sustainable aviation fuels at a later date) directly from rail cars into trucks to be distributed to local retailers. The Project site is located within the City of National City (City), California, which is the lead agency for California Environmental Quality Act (CEQA) purposes.

The Project, once operational, has the potential to 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.^{1,2,3} Although the transport of sustainable fuels, as proposed under the Project, would help reduce air pollutant and greenhouse gas emissions in California, CARB is concerned about the potential for the Project to increase heavy-duty truck and locomotive trips in the nearby Portside Environmental Justice Neighborhoods Community (Portside Community) resulting in an increase in localized health impacts.

¹ 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>

² 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>

³ 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>

The Project Will Increase Exposure to Air Pollution for Residences Located Within the Portside Environmental Justice Neighborhoods Community

In 2018, the 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 will 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 about 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 include 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.^{4,5,6} The community experiences some of the highest rates of asthma, poverty, and unemployment in the region.

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:

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

Senate Bill 535 (De León, Chapter 830, 2012)⁷ 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)).

⁴ California Department of Education. Accessible at: <https://www.cde.ca.gov/ds/>

⁵ California Department of Public Health. GIS Open Data. Accessible at: [https://data-cdphdata.opendata.arcgis.com/](https://data.cdphdata.opendata.arcgis.com/)

⁶ 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>

⁷ 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.

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).⁸ The Project is located with the boundary of the Portside Community. Many residences within the Portside Community are located in census tracts with a maximum CalEnviroScreen score in the top 5%, 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); Environmental Justice Element for Land Use Planning

Senate Bill (SB) 1000 (Leyva, Chapter 587, Statutes of 2016).⁹ 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 Portside 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 (AB) 617 (Garcia, Chapter 136, Statutes of 2017).¹⁰ 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

⁸ "CalEnviroScreen 4.0." Oehha.ca.gov, California Office of Environmental Health Hazard Assessment, June 2018, <https://oehha.ca.gov/calenviroscreen/report/calenviroscreen-40>

⁹ Senate Bill 1000, Leyva, S., Chapter 587, Statutes of 2016, amended the California Health and Safety Code, § 65302.

¹⁰ 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.

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.

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, with 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 would result in an increase in diesel powered heavy-duty trucks and locomotive trips within the Portside Community, in a stark departure from the CERP.

The DEIR Should Quantify and Discuss the Potential Cancer Risks from Project Operation

Since the Project would generate diesel powered heavy-duty truck and locomotive traffic along roadways and railways adjacent to residential communities, CARB urges the City to prepare a health risk assessment (HRA) for the Project. The HRA should account for all potential operational health risks from Project-related diesel particulate matter (diesel PM) emission sources, including, but not limited to, back-up generators, on-site diesel-powered equipment, heavy-duty trucks, and locomotives. The HRA should also determine if the operation of the Project in conjunction with past, present, and reasonably foreseeable future projects or activities would result in a cumulative cancer risk impact on nearby residences. To reduce diesel PM exposure and associated cancer risks during the operation of the Project, CARB urges the City to include all the air pollution reduction measures listed below.

- Require all service equipment used within the Project site to be zero-emission. This equipment is widely available and can be purchased using incentive funding from CARB's Clean Off-Road Equipment Voucher Incentive Project (CORE).¹¹
- Include contractual language in tenant lease agreements that requires all heavy-duty trucks entering or on the Project site to be zero-emission. A list of commercially available zero-emission trucks can be obtained from the Hybrid and Zero-emission

¹¹ Clean Off-Road Equipment Voucher Incentive Project. Accessible at: <https://californiacore.org/how-to-participate/>

Truck and Bus Voucher Incentive Project (HVIP).¹² Additional incentive funds can be obtained from the Carl Moyer Program and Voucher Incentive Program.¹³

- Restricting diesel-powered trucks and support equipment from idling longer than two minutes while on site.

The HRA prepared in support of the Project should be based on the latest Office of Environmental Health Hazard Assessment's (OEHHA) guidance (2015 Air Toxics Hot Spots Program Guidance Manual for Preparation of Health Risk Assessments).¹⁴ The Project's mobile PM emissions used to estimate the Project's cancer risk impacts should be based on CARB's latest 2021 Emission Factors model (EMFAC2021). Mobile emission factors can be easily obtained by running the EMFAC2021 Web Database: <https://arb.ca.gov/emfac/>.

The DEIR Should Quantify and Discuss the Potential Cancer Risks from Project Construction

In addition to the health risks associated with operational diesel PM emissions, health risks associated with construction diesel PM emissions should be included in the air quality section of the DEIR and the Project's HRA. Construction of the Project would result in short-term diesel PM emissions from the use of both on-road and off-road diesel equipment. The OEHHA guidance recommends assessing cancer risks for construction projects lasting longer than two months. Since construction would very likely occur over a period lasting longer than two months, the HRA prepared for the Project should include health risks for existing residences near the Project-site during construction. The HRA should account for all diesel PM emission sources related to Project construction, including, but not limited to, off-road mobile equipment, diesel generators, and on-road heavy-duty trucks. To reduce diesel PM exposure and associated cancer risks during the construction of the Project, CARB urges the City to include all the air pollution reduction measures listed below.

- 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-emission and near zero-emission equipment and tools.
- Implement, and plan accordingly for, the necessary infrastructure to support the zero-emission 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

¹² Zero-Emission Truck and Bus Voucher Incentive Project. Accessible at: <https://californiahvip.org/>

¹³ Carl Moyer Program and Voucher Incentive Program. <https://ww2.arb.ca.gov/carl-moyer-program-apply>

¹⁴ 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/2015guidancemanual.pdf>.

vehicles and equipment, locomotives, and medium-heavy and heavy-heavy duty trucks.

- In construction contracts, include language that requires all off-road diesel-powered equipment used during construction, including locomotives serving the project, 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, to ensure that emission reductions achieved are equal to or exceed that of a Tier 4 engine.
- 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.
- 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 (NOx) standard.¹⁵
- In construction contracts, include language that requires all construction equipment to be in compliance with all current air quality regulations. CARB is available to assist in implementing this recommendation.

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 gases that contribute to climate change. CARB encourages the City and applicant to implement the emission reduction measures provided in this letter.

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.

¹⁵ In 2013, CARB adopted optional low-NOx emission standards for on-road heavy-duty engines. CARB encourages engine manufacturers to introduce new technologies to reduce NOx emissions below the current mandatory on-road heavy-duty diesel engine emission standards for model-year 2010 and later. CARB's optional low-NOx emission standard is available at: <https://ww2.arb.ca.gov/our-work/programs/optional-reduced-nox-standards>

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

Sincerely,



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