

July 22, 2024

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*Sent via email*

Emery Papp:

Thank you for providing the California Air Resources Board (CARB) with the opportunity to comment on the First Hathaway Logistics Project (Project) Draft Environmental Impact Report (DEIR), State Clearinghouse No. 2022040441. The Project proposes the construction and operation of a single warehouse building totaling 1,420,722 square feet on approximately 95 acres of land. Once fully built out, the proposed Project would result in up to 1,989 daily vehicle trips along local roadways, including 313 daily truck trips.<sup>1</sup> The Project is proposed within the City of Banning (City), California, which is the lead agency for California Environmental Quality Act (CEQA) purposes.

CARB staff are concerned that the Project will expose nearby residential communities to elevated levels of air pollution beyond the existing baseline emissions at the Project site. Residences are located to the west of the Project site, with the closest residence located within 100 feet southeast of the Project site. These residences are located near existing toxic diesel particulate matter (diesel PM) emission sources, which include existing industrial facilities, aircraft traffic from the Banning Municipal Airport, rail traffic along existing rail lines, and vehicular traffic along Interstate 10.

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.

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<sup>1</sup> City of Banning. First Hathaway Logistics Warehouse Project Draft Environmental Impact Report. Page 4.3-32. Accessible at [https://files.ceqanet.opr.ca.gov/278077-3/attachment/WCDuLOzdoVZcbktS\\_fDT09ZaqIFZW5uCk19RYACDX945XOOHZYYAYRJK28J9nH\\_JaNKu-3WjMPyEbJmN0](https://files.ceqanet.opr.ca.gov/278077-3/attachment/WCDuLOzdoVZcbktS_fDT09ZaqIFZW5uCk19RYACDX945XOOHZYYAYRJK28J9nH_JaNKu-3WjMPyEbJmN0)

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% 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 16% for Pollution Burden 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.<sup>2</sup> To better address regional air pollution and global climate change, 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% 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% 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% 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 City, 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 as described in this letter.

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<sup>2</sup> 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 2022, explains that in CARB's expert view, local mitigation is critical to achieving climate goals and reducing greenhouse gases below levels of significance. CARB's 2022 Scoping Plan for Achieving Carbon Neutrality, published November 16, 2022, is available at [https://ww2.arb.ca.gov/sites/default/files/2022-12/2022-sp\\_1.pdf](https://ww2.arb.ca.gov/sites/default/files/2022-12/2022-sp_1.pdf)

## The City Used Inappropriate Assumptions When Modeling the Project's Health Risk Impacts

The Health Risk Analysis (HRA) prepared for the Project and presented in Section 4.3 (Air Quality) of the DEIR concluded that residences near the Project site would be exposed to diesel PM emissions that would result in cancer risks of 2.2 chances per million during Project operations. Since the Project's cancer risks were below the South Coast Air Quality Management District's (SCAQMD) significance threshold of 10 chances per million, the DEIR concluded that the Project would have a less than significant impact on public health.

The City may have underestimated the Project's health risk impacts by assuming an idling duration for onsite heavy-duty trucks that is not supported by substantial evidence. The City assumed an idling duration of 15 minutes for onsite heavy-duty trucks when evaluating the Project's health risk impacts.<sup>3</sup> CARB's Airborne Toxic Control Measure to Limit Diesel-Fueled Commercial Motor Vehicle Idling (ATCM) restricts trucks from idling longer than five minutes. However, the ATCM has an exemption for trucks equipped with a diesel engine meeting the optional nitrogen oxides (NOx) idling emissions standard when operating outside of 100 feet of a restricted area (e.g., residences, schools).<sup>4</sup> Because trucks starting with model year 2008+, are clean-idle certified, many of the trucks operating within the Project site could idle longer than five minutes. According to Table 4.4.2-5 of the EMFAC2021 Volume III Technical Document, heavy-duty trucks can idle for as long as approximately five hours in any one location.<sup>5</sup> To fully evaluate the Project's potential health risk impacts, the City must either add a project design feature in the DEIR restricting heavy-duty truck idling within the Project site to less than 15 minutes or revise the Project's HRA to assume a heavy-duty truck idling duration supported by substantial evidence.

The Project's operational HRA did not evaluate potential health risk impacts from the operation of trucks and trailers with transportation refrigeration units visiting the Project site.<sup>6</sup> TRUs on trucks and trailers can emit large quantities of diesel exhaust while operating within the Project site. Residences and other sensitive receptors (e.g., daycare facilities, senior care facilities, and schools) located near where these TRUs could be operating, would be exposed to diesel exhaust emissions that would result in a significant cancer risk impact to the nearby community. Although the DEIR includes a mitigation measure (MM AQ-1)

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<sup>3</sup> City of Banning. First Hathaway Logistics Warehouse Project Draft Environmental Impact Report. Appendix B2. Page 12. Accessible at [https://files.ceqanet.opr.ca.gov/278077-3/attachment/RDRWwRFO4ei\\_6AXswu4ztnP6zycyMFPXwwVzw1-YFeMoE\\_qtQnomItSbOvkDI90MmvCNJb9FLhPhf\\_0L0](https://files.ceqanet.opr.ca.gov/278077-3/attachment/RDRWwRFO4ei_6AXswu4ztnP6zycyMFPXwwVzw1-YFeMoE_qtQnomItSbOvkDI90MmvCNJb9FLhPhf_0L0)

<sup>4</sup> CARB. Airborne Toxic Control Measure to Limit Diesel-Fueled Commercial Motor Vehicle Idling. Accessible at [https://ww2.arb.ca.gov/sites/default/files/2022-06/13\\_CCR\\_2485\\_OAL\\_06222022-2\\_ADA\\_06272022\\_0.pdf](https://ww2.arb.ca.gov/sites/default/files/2022-06/13_CCR_2485_OAL_06222022-2_ADA_06272022_0.pdf)

<sup>5</sup> CARB. EMFAC2021 Volume III Technical Document. Page 161. Table 4.4.2-5. Accessible at [https://ww2.arb.ca.gov/sites/default/files/2021-03/emfac2021\\_volume\\_3\\_technical\\_document.pdf](https://ww2.arb.ca.gov/sites/default/files/2021-03/emfac2021_volume_3_technical_document.pdf)

<sup>6</sup> 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.

requiring the installation of electric hookups for trucks and trailers with TRUs, the DEIR does not explicitly state how much of the proposed warehouse development would be used for cold storage. The operational HRA does not evaluate unmitigated health risk impacts associated with the operation of trucks and trailers with TRUs on and off the Project site, because it assumes all refrigerated trucks visiting the Project site would use the electrical hookups rather than operate their TRUs as required under MM AQ-1.<sup>7</sup> MM AQ-1 should not be included in the Project's unmitigated cancer risk impacts, unless the City plans to require the implementation of these measure as a project design measure. Furthermore, MM AQ-1 does not require all trucks and trailers with TRUs to plug in while visiting the Project site. To fully understand the Project's potential health risk impacts to neighboring communities, the operational HRA should be revised to include the potential health risk impacts associated with the on and off-site operation of trucks and trailers with TRUs visiting the Project site. CARB also urges the City to include one of the following mitigation measures in the DEIR:

- Require contractual language in tenant lease agreements that prohibits tenants from operating diesel powered 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 DEIR Does Not Analyze Potential Air Quality Impacts from the Project's Transport Refrigeration Units**

As previously discussed, it is unclear in the DEIR whether the proposed warehouse would be used for cold storage. Since the DEIR includes a MM AQ-1, which requires the installation of electrical hookups for trucks and trailers with TRUs, it is likely that the proposed warehouse would be used for cold storage. However, based on CARB's review of the DEIR, the City did not model and report air pollutant emissions from TRUs. The unmitigated air pollutant emission estimates, found in Table 4.3.1 of the DEIR, were modeled using the California Emissions Estimator Model (CalEEMod). Although CalEEMod can estimate air pollutant emissions from area, energy, and mobile sources, the current version of CalEEMod does not account for air pollutant emissions from TRUs. Since a portion of the Project could be used for cold storage, CARB urges the City to model and report the Project's air pollution emissions from the operation of on and off site TRUs using CARB's latest emission factors. The City should assume that a percentage of the Project's truck fleet is equipped with TRUs, and should estimate the idling duration for each TRU; assumptions should be supported by

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<sup>7</sup> City of Banning. First Hathaway Logistics Warehouse Project Draft Environmental Impact Report. Appendix B2. Page 14. Accessible at [https://files.ceqanet.opr.ca.gov/278077-3/attachment/RDRWwRFO4ei\\_6AXswu4ztnP6zycyMFPXwwVzw1-YFeMoE\\_qtQnomItSbOvkDI90MmvCNJb9FLhPhf\\_0L0](https://files.ceqanet.opr.ca.gov/278077-3/attachment/RDRWwRFO4ei_6AXswu4ztnP6zycyMFPXwwVzw1-YFeMoE_qtQnomItSbOvkDI90MmvCNJb9FLhPhf_0L0)

substantial evidence, and estimates of TRU percentage and idling time should be conservative from a health protection standpoint.

## **The DEIR Used Inappropriate Trip Lengths When Modeling the Project's Air Quality Impacts from Mobile Sources**

The City may have underestimated mobile source air pollutant emissions in the DEIR by relying on unrealistic truck trip lengths. According to the air quality analysis presented in Appendix B (Air Quality Technical Document) of the DEIR, the Project's mobile air quality impacts were modeled assuming trucks would travel a distance of 40 miles.<sup>8</sup> The City does not provide any substantial evidence in the DEIR explaining why this would be a conservative trip distance. Since trucks serving the Project may originate from the Ports of Long Beach and Los Angeles, which are approximately 100 miles from the Project site, CARB urges the City to use Project-specific truck trip distances in their air quality impact analysis. Unless the City re-evaluates or provides substantiation for the designated truck trip lengths, the Project should include a mitigation measure or project design feature that restricts trucks from traveling a distance greater than what was analyzed in the DEIR.

## **The City Must Provide More Meaningful Mitigation Measures to Reduce the Project's Significant and Unavoidable Impact on Air Quality**

The City concluded in Section 4.3 (Air Quality) of the DEIR that the operation of the Project would result in a significant impact on air quality. According to Table 4.3.I (Project Operational Emissions (lbs/day) Without Mitigation), the operation of the full buildout of the Project would emit as much as 63 pounds per day of NO<sub>x</sub>, which was found to exceed the SCAQMD's significance threshold and would result in a significant impact on air quality. To mitigate the Project's operational air quality impacts, the DEIR included one mitigation measure (MM AQ-1), which includes:

- All facility-owned and operated fleet equipment with a gross vehicle weight rating greater than 14,000 pounds accessing the site shall meet or exceed the 2010 model-year emissions equivalent engine standards.
- Tenant lease agreements for the project shall include contractual language restricting trucks and support equipment from nonessential idling longer than five minutes while on site.

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<sup>8</sup> City of Banning. Sunset Crossroads Draft Environmental Impact Report. Appendix B. Page 29. Accessible at [https://files.ceqanet.opr.ca.gov/278077-3/attachment/Nwxm3Z49c0B\\_3uEtAckrNeeGDP9SfR7ADg5PjimkgHLcW0Xv4t7HiujuS-IHx9uSbWr0x9o7mrntps-Q0](https://files.ceqanet.opr.ca.gov/278077-3/attachment/Nwxm3Z49c0B_3uEtAckrNeeGDP9SfR7ADg5PjimkgHLcW0Xv4t7HiujuS-IHx9uSbWr0x9o7mrntps-Q0)

- The buildings' electrical room shall be sufficiently sized to hold additional panels that may be needed to supply power for installation of electric charging systems for electric trucks and power TRUs. Conduit shall be installed from the electrical room to all tractor-trailer parking spaces in logical locations on site to facilitate future electric truck charging.

Even after implementation of MM AQ-1, the City concludes in the DEIR that the Project's operational emissions of NO<sub>x</sub> would result in a significant and unavoidable impact on air quality.

MM AQ-1 includes requiring all facility-owned and operated fleet equipment with a gross vehicle weight rating greater than 14,000 pounds accessing the site to meet or exceed 2010 model-year emissions requirements. This mitigation measure is nearly identical to CARB's Truck and Bus Regulation, which requires trucks, by law, to have 2010 or newer model year engine by January 1, 2023.<sup>9</sup> Once the Project is fully operational in the year 2026, trucks with a model year of 2009 or older would already have been required to comply with the regulation. Compliance with laws and regulations should not be used exclusively to mitigate the Project's impact on air quality.

While CARB commends the City for requiring the installation of electric hookups for trucks and trailers with TRUs, more could be done to reduce the Project's significant and unavoidable impact on air quality. To reduce the Project's operational air pollutant emissions, CARB urges the City to include a measure requiring all TRUs and all heavy-duty trucks visiting the Project site to be zero-emission and to install on-site infrastructure to support those zero-emission TRUs trucks.

As presented below, CARB has many regulations that promote and eventually require the use of zero-emission trucks at freight facilities, such as the proposed Project. Specifically, the Advanced Clean Fleet Regulation would require all drayage trucks in California to be zero-emission by 2035. To support trucks serving the Project, that are already complying with the Advanced Clean Fleets regulation, CARB urges the City to require the infrastructure to support on-site zero-emission trucks at the start of Project operations.

A list of commercially-available zero-emission trucks can be obtained from the Hybrid and Zero-emission Truck and Bus Voucher Incentive Project (HVIP).<sup>10</sup> 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. CARB has implemented or is developing regulations that will require the use of zero-emission trucks.

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<sup>9</sup> CARB. Truck and Bus Regulation Compliance Requirement Overview. June 18, 2019. Accessible at <https://ww3.arb.ca.gov/msprog/onrdiesel/documents/fsregsum.pdf>

<sup>10</sup> Zero-Emission Truck and Bus Voucher Incentive Project. Accessible at: <https://californiahvip.org/>

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.
- **Truck and Bus Regulation:** The Truck and Bus Regulation requires all trucks, including drayage, to have 2010 or newer model year engines by January 1, 2023.
- **Heavy-Duty Low-NOx Omnibus Rule:** The Heavy-Duty Low-NOx Omnibus Rule 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:** The Advanced Clean Trucks Regulation, approved by CARB on June 25, 2020, 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 zero-emission trucks in California by the end of 2030 and about 300,000 by 2035. The Advanced Clean Trucks regulation is part of CARB's overall approach to accelerate a large-scale transition to zero-emission medium- and heavy-duty vehicles. CARB approved amendments to the Advanced Clean Trucks regulation in March 2021; the amendments help ensure that more 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, and specifically to reach:
  - 100% zero-emission drayage trucks, last mile delivery, and government fleets by 2035
  - 100% zero-emission refuse trucks and local buses by 2040
  - 100% zero-emission capable utility fleets by 2040
- **Advanced Clean Fleets Regulation:** The Advanced Clean Fleets Regulation is part of CARB's overall strategy to accelerate a large-scale transition to zero-emission medium- and heavy-duty vehicles. This regulation works in conjunction with the Advanced Clean Trucks regulation. 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. All drayage trucks entering seaports and intermodal railyards would be required to be zero-emission by 2035.

With the implementation of the regulations listed above, specifically the Advanced Clean Trucks Regulation, tenants at the proposed industrial/warehouse development must begin the transition from diesel trucks and vans to zero-emission trucks. To help mitigate the Project's impact on air quality and public health, CARB urges the City to include contractual language in tenant lease agreements requiring future tenants to use zero-emission trucks during their operation in the FEIR.

## Conclusion

CARB is concerned about the Project's air quality and public health impacts. To fully assess the Project's impact on neighboring communities, the City must evaluate the potential air quality and health risk impacts associated with truck and trailers with TRUs visiting the Project site and evaluate air quality impacts using trip distances supported by substantial evidence. Lastly, to mitigate the Project's significant and unavoidable impact on air quality, CARB urges the City to include a mitigation or design measure in the DEIR that requires trucks and TRUs serving the Project to be zero-emission at the start of operations.

CARB appreciates the opportunity to comment on the SEIR for the Project. 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 staff can provide assistance with 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](mailto:stanley.armstrong@arb.ca.gov).

Sincerely,



Matthew O'Donnell, Chief, Risk Reduction Branch

cc: see next page.



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