

October 14, 2019

Brandi Jones  
Senior Planner, Planning Division  
Community Development  
City of Irwindale  
5050 North Irwindale Avenue  
Irwindale, California 91706

Dear Brandi Jones:

Thank you for providing the California Air Resources Board (CARB) staff with the opportunity to comment on the Irwindale Industrial Center Project (Project) Initial Study and Mitigated Negative Declaration (IS/MND), State Clearinghouse No. 2019099041. The Project consists of the demolition of 33,420 square feet of existing warehouse and office space, as well as the construction of two warehouse/office buildings totaling 233,984 square feet. The Project is located within the City of Irwindale (City), which is the lead agency for California Environmental Quality Act (CEQA) purposes.

Existing residences are located approximately 100 feet from the Project's western boundary. In addition to residences, there are four elementary schools (Pleasant View Elementary School, Geddes Elementary School, Merwin Elementary School, and North Park High School) and a senior center (Irwindale Senior Center) within a mile of the Project. The communities near the Project are surrounded by existing toxic diesel emission sources, which include existing warehouses and other industrial uses, and vehicular traffic along Interstate (I) 605 and I-210. Due to the Project's proximity to residences, schools, and senior centers, which are already disproportionately burdened by multiple sources of pollution, CARB staff 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 emissions generated during the construction and operation of the Project would negatively impact the community, which is already disproportionately impacted by air pollution from existing freight facilities.

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 3.0 (CalEnviroScreen). CalEnviroScreen uses a screening methodology to help identify California communities which are disproportionately burdened by multiple sources of pollution. According to CalEnviroScreen, communities near the Project score within the top 5 percent of the census tracts. Therefore, CARB staff urges the City to ensure that the Project does not adversely impact neighboring disadvantaged communities.

Lead agencies may only adopt mitigated negative declarations if the “initial study shows that there is no substantial evidence, in light of the whole record before the agency that the project, as revised, may have a significant effect on the environment” (14 CCR section 15070(b)(2)). CARB staff is concerned that the City’s current IS/MND does not meet this threshold. In an effort to ensure that the Project will not have a significant effect on the environment, CARB staff has reviewed the IS/MND and has the following comments:

1. The air pollutant emissions reported in the IS/MND were estimated under the assumption that the proposed warehouse/manufacturing buildings would not be used for cold storage. Since the Project description in the IS/MND did not explicitly state that the two warehouse/office buildings proposed under the Project would not include cold storage space, there is a possibility that trucks and trailers visiting the Project site would be equipped with transport refrigeration units (TRU). In this case, the IS/MND does not assess the air quality and health risk impacts from the Project adequately. Without proper analysis, it is impossible to understand the Project’s air quality impacts and the resulting health risk to nearby communities.

TRUs on trucks and trailers can emit large quantities of diesel particulate matter (diesel PM) 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 PM emissions, which would result in significant cancer risk.

If the Project will include cold storage space, the City should quantify all operational nitrogen oxides (NO<sub>x</sub>), diesel PM emissions and health risks from TRUs, and disclose the results in the IS/MND. Alternatively, the IS/MND can include a mitigation measure that requires all TRUs operating on the Project site to be fully zero-emission or prohibits cold storage under a conditional use permit.

2. The Project's air quality impacts were modeled using mobile emission factors obtained from CARB's 2014 Emission Factors model (EMFAC2014). Project-related air pollutant emissions from mobile sources should be modeled using CARB's latest EMFAC2017. One of the many updates made to EMFAC included an update to the model's heavy-duty emission rates and idling emission factors, which results in higher PM emissions as compared to EMFAC2014. Since EMFAC2017 generally shows higher emissions of particulate matter from trucks than EMFAC2014, CARB staff is concerned that the Project's mobile source NO<sub>x</sub> and diesel PM emissions are underestimated.
3. The traffic impact analysis prepared for the Project (see Table 3 in Appendix H, Traffic Impact Analysis, of the IS/MND) states that the Project would result in 1,161 average daily vehicle trips, of which 248 trips would consist of light, medium, and heavy-duty trucks. However, according to the Project's California Emissions Estimator Model (CalEEMod) outputs, referenced in Appendix B of the IS/MND, the Project fleet mix included 3 percent light-duty trucks, 2 percent medium-duty trucks, and 3 percent heavy-duty trucks. Based on these truck fleet mix estimates, the Project would result in approximately 93 average daily truck trips. Since the average daily truck trips reported in the Project's CalEEMod output are well below what is being reported in the Project's traffic impact analysis, CARB staff is concerned that the air pollutant emissions reported in the IS/MND are underestimated.

As it stands, the IS/MND does not meet the bare legal minimum of serving as an adequate informational document relative to informing decision makers and the public that there is no substantial evidence<sup>1</sup> in the record that the Project, as revised, may have a significant effect on the environment (see *Sierra Club v. County of Fresno* (2018) 6 Cal.5th 502, 520). CARB staff believes that there would be substantial evidence in the record to find that the Project may have a significant effect on the environment if the air quality impact analysis: 1) used EMFAC2017 to better estimate the Project's mobile source diesel PM and NO<sub>x</sub> emissions; 2) accounted for all truck trips that are indicated in the traffic impact study in the Project's CalEEMod run; and

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<sup>1</sup> "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."

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3) accounted for diesel PM and NO<sub>x</sub> emissions from TRUs. In this event, the City would be required to prepare a full Environmental Impact Report (EIR) for the Project under the "fair argument" standard (See *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 83).<sup>2</sup>

CARB staff recommends that the City revise the Air Quality section and the Health Risk Assessment (HRA) for the Project, and recirculate the IS/MND for public review. Should the updated and recirculated IS/MND find, after adequately addressing informational deficiencies noted in this letter, that there is substantial evidence in the record to support a fair argument that the Project may have a significant effect on the environment, the City must prepare and circulate a draft EIR for public review, as required under CEQA.

In addition to the concerns listed above, CARB staff encourages the City and applicant to implement the measures listed in Attachment A of this comment letter in order to reduce the Project's construction and operational air pollution emissions. CARB staff appreciates the opportunity to comment on the IS/MND for the Project and can provide assistance on zero-emission technologies and emission reduction strategies, as needed.

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<sup>2</sup> The adequacy of an IS/MND is judicially reviewed under the "fair argument" standard should a party challenge the lead Agency's CEQA determination. Under this standard, a negative declaration is invalid if there is substantial evidence in the record supporting a fair argument that a project may have a significant effect on the environment. (*Gentry v. City of Murrieta* (1995) 36 Cal.App.4<sup>th</sup> 1359, 1399.) This is the case "even though [the lead agency] may also be presented with other substantial evidence that the project will not have a significant effect." (CEQA Guidelines, Title 14 CCR section 15064(f)(1).)

The California Environmental Quality Act (CEQA) places the burden of environmental investigation on the public agency rather than on the public. If a lead agency does not fully evaluate a project's environmental consequences, it cannot support a decision to adopt a negative declaration by asserting that the record contains no substantial evidence of a significant adverse environmental impact. (*Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 311.) If a lead agency does not study a potential environmental impact, a reviewing court may find the existence of a fair argument of a significant impact based on limited facts in the record that might otherwise not be sufficient to support a fair argument of a significant impact. (*Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 311.)

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If you have questions, please contact Stanley Armstrong, Air Pollution Specialist, at (916) 440-8242 or via email at [stanley.armstrong@arb.ca.gov](mailto:stanley.armstrong@arb.ca.gov).

Sincerely,

A handwritten signature in blue ink, appearing to read "Richard Boyd".

Richard Boyd, Chief  
Risk Reduction Branch  
Transportation and Toxics Division

Attachment

cc: See next page.

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cc: State Clearinghouse  
P.O. Box 3044  
Sacramento, California 95812

Morgan Capilla  
NEPA Reviewer  
U.S. Environmental Protection Agency  
Air Division, Region 9  
75 Hawthorne Street  
San Francisco, California 94105

Carlo De La Cruz  
Sierra Club  
714 West Olympic Boulevard, Suite 1000  
Los Angeles, California 90015

Lijin Sun  
Program Supervisor - CEQA  
South Coast Air Quality Management District  
21865 Copley Drive  
Diamond Bar, California 91765

Adrian Martinez  
Staff Attorney  
50 California Street, Suite 500  
San Francisco, California 90401

Stanley Armstrong  
Air Pollution Specialist  
Exposure Reduction Section  
Transportation and Toxics Division



## **ATTACHMENT A**

### **Recommended Air Pollution Emission Reduction Measures for Warehouses and Distribution Centers**

California Air Resources Board (CARB) staff recommends developers and government planners use all existing and emerging zero to near-zero emission technologies during project construction and operation to minimize public exposure to air pollution. Below are some measures, currently recommend by CARB staff, specific to warehouse and distribution center projects. These recommendations are subject to change as new zero-emission technologies become available.

#### **Recommended Construction Measures**

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, onsite 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 equal 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 to be model year 2014 or later. All heavy-duty haul trucks should also meet CARB's lowest optional low-NO<sub>x</sub> standard starting in the year 2022.<sup>1</sup>

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<sup>1</sup> In 2013, CARB adopted optional low-NO<sub>x</sub> emission standards for on-road heavy-duty engines. CARB staff encourages engine manufacturers to introduce new technologies to reduce NO<sub>x</sub> emissions below the current mandatory on-road heavy-duty diesel engine emission standards for model years 2010 and later. CARB's optional low-NO<sub>x</sub> emission standard is available at <https://www.arb.ca.gov/msprog/onroad/optionnox/optionnox.htm>.

6. In construction contracts, include language that requires all construction equipment and fleets to be in compliance with all current air quality regulations. CARB staff is available to assist in implementing this recommendation.

### **Recommended Operation Measures**

1. 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.
2. Include contractual language in tenant lease agreements that requires all loading/unloading docks and trailer spaces be equipped with electrical hookups for trucks with transport refrigeration units (TRU) or auxiliary power units. This requirement will substantially decrease the amount of time that a TRU powered by a fossil-fueled internal combustion engine can operate at the project site. Use of zero-emission all-electric plug-in TRUs, hydrogen fuel cell transport refrigeration, and cryogenic transport refrigeration are encouraged and can also be included lease agreements.<sup>2</sup>
3. Include contractual language in tenant lease agreements that requires all TRUs entering the project site be plug-in capable.
4. Include contractual language in tenant lease agreements that requires future tenants to exclusively use zero-emission light and medium-duty delivery trucks and vans.
5. Include contractual language in tenant lease agreements requiring all TRUs, trucks, and cars entering the Project site be zero-emission.
6. Include contractual language in tenant lease agreements that requires all service equipment (e.g., yard hostlers, yard equipment, forklifts, and pallet jacks) used within the project site to be zero-emission. This equipment is widely available.
7. Include contractual language in tenant lease agreements that requires all heavy-duty trucks entering, or on the project site, to be model year 2014 or later today, expedite a transition to zero-emission vehicles, and be fully zero-emission beginning in 2030.

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<sup>2</sup> CARB's Technology Assessment for Transport Refrigerators provides information on the current and projected development of TRUs, including current and anticipated costs. The assessment is available at [https://www.arb.ca.gov/msprog/tech/techreport/tru\\_07292015.pdf](https://www.arb.ca.gov/msprog/tech/techreport/tru_07292015.pdf).



8. Include contractual language in tenant lease agreements that requires the tenant be in, and monitor compliance with, all current air quality regulations for on-road trucks including CARB's Heavy-Duty (Tractor-Trailer) Greenhouse Gas Regulation,<sup>3</sup> Periodic Smoke Inspection Program (PSIP),<sup>4</sup> and the Statewide Truck and Bus Regulation.<sup>5</sup>
9. Include contractual language in tenant lease agreements restricting trucks and support equipment from idling longer than five minutes while onsite.
10. Include contractual language in tenant lease agreements that limits onsite TRU diesel engine runtime to no longer than 15 minutes. If no cold storage operations are planned, include contractual language and permit conditions that prohibit cold storage operations unless a health risk assessment is conducted and the health impacts fully mitigated.
11. Include rooftop solar panels for each proposed warehouse to the extent feasible, with a capacity that matches the maximum allowed for distributed solar connections to the grid.

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<sup>3</sup> In December 2008, CARB adopted a regulation to reduce greenhouse gas emissions by improving the fuel efficiency of heavy-duty tractors that pull 53-foot or longer box-type trailers. The regulation applies primarily to owners of 53-foot or longer box-type trailers, including both dry-van and refrigerated-van trailers, and owners of the heavy-duty tractors that pull them on California highways. CARB's Heavy-Duty (Tractor-Trailer) Greenhouse Gas Regulation is available at <https://www.arb.ca.gov/cc/hdghg/hdghg.htm>.

<sup>4</sup> The PSIP program requires that diesel and bus fleet owners conduct annual smoke opacity inspections of their vehicles and repair those with excessive smoke emissions to ensure compliance. CARB's PSIP program is available at <https://www.arb.ca.gov/enf/hdvp/hdvp.htm>.

<sup>5</sup> The regulation requires newer heavier trucks and buses must meet PM filter requirements beginning January 1, 2012. Lighter and older heavier trucks replaced starting January 1, 2015. By January 1, 2023, nearly all trucks and buses will need to have 2010 model year engines or equivalent. CARB's Statewide Truck and Bus Regulation is available at <https://www.arb.ca.gov/msprog/onrdiesel/onrdiesel.htm>.