

April 27, 2020

Matt Diaz, Planner
City of Stockton
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Submitted via email: matt.diaz@stocktonca.gov

Dear Matt Diaz:

Thank you for providing the California Air Resources Board (CARB) with the opportunity to comment on the Sanchez-Hoggan Annexation Project (Project) Draft Environmental Impact Report (DEIR), State Clearinghouse No. 2020020006. The Project proposes the future development of a 3,087,388 square-foot high-cube warehouse space through the annexation of two parcels by the City of Stockton. Once in operation, the Project would introduce up to 4,324 daily vehicle trips along local roadways. The number of daily truck trips was not specified in the DEIR. The Project is located within the City of Stockton (City), which is the lead agency for California Environmental Quality Act (CEQA) purposes.

The industrial uses proposed under the Project would permit warehousing and distribution facilities. Freight facilities, such as warehouse and distribution facilities, can result in high daily volumes of heavy-duty diesel truck traffic and operation of on-site equipment (e.g., forklifts, yard tractors, etc.) which emit toxic diesel emissions and contribute to regional air pollution and global climate change.¹ CARB has reviewed the DEIR and is concerned about the air pollution impacts that would result should the City approve the Project.

I. The Project Would Increase Exposure to Air Pollution in Disadvantaged Communities

The Project, if approved, will expose nearby disadvantaged communities to elevated levels of air pollution. Residences are located north, east, and south of the Project with the closest residences located approximately 210 feet from the Project's northern boundary. In addition to residences, 3 schools (Venture Academy Family of Schools, San Joaquin County Alternative Program School, and Collegeville Elementary School), and 2 youth correctional facilities (O.H. Close Youth Correctional Facility and N.A. Chaderjian Youth Correctional Facility) are located within 2 miles of the Project.

¹ 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 community is surrounded by existing toxic diesel particulate matter (diesel PM) emission sources, which include existing industrial sources, the Stockton Metropolitan Airport, the BNSF Intermodal Facility, and vehicular traffic along State Route 99 (SR-99) and Interstate 5 (I-5). Due to the Project's proximity to residences, schools, and youth correctional facilities already disproportionately 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 the community, which is already disproportionally impacted by air pollution from existing industrial uses, the SR-99, the I-5, an airport, and an intermodal rail facility.

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 currently disproportionately burdened by multiple sources of pollution. The census tract containing the Project is within the top 1 percent for Pollution Burden² and is considered a disadvantaged community; therefore, CARB urges the City to ensure that the Project does not adversely impact neighboring disadvantaged communities.

II. It is Unclear Whether the Proposed Warehouse and Distribution Facilities Include Cold Storage

The air pollutant emissions reported in the DEIR were estimated under the assumption that the Project would not be used for cold storage. Since the Project description in the DEIR did not explicitly state that the proposed 3,087,388 square-foot high-cube warehouse space would not include cold storage space, there is a possibility that trucks

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

and trailers visiting the Project site would be equipped with transport refrigeration units (TRU).^{3,4}

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, youth correctional 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 significant cancer risk. CARB urges the applicant and City to revise the DEIR to clearly define the Project's description, so the public can fully understand the potential environmental effects of the Project on their communities.

If the Project will not be used for cold storage, 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.

If the City does allow TRUs within the Project site, CARB urges the City to model air pollutant emissions from on-site TRUs in the FEIR, as well as include potential cancer risks from on-site TRUs in the Project's health risk assessment (HRA). The HRA prepared for the Project should account for all potential health risks from on and off-site sources (e.g., on-site generators, TRUs, heavy-duty truck traffic, etc.) and all the air pollutant reduction measures listed in Attachment A.

III. The DEIR Does Not Adequately Analyze the Project's Potential Health Risk Impacts

The DEIR concluded that the Project would not expose nearby sensitive receptors to air pollutant concentrations that would result in a significant impact. The DEIR reached this conclusion by using a prioritization screening tool posted on the San Joaquin Valley Air Pollution Control District (SJVAPCD) CEQA webpage. The screening tool categorizes a facility's health risks based on information provided in the Facility Prioritization Guidelines published by the California Air Pollution Control Officers

³. 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.

⁴. Project descriptions "must include (a) the precise location and boundaries of the proposed project, (b) a statement of the objectives sought by the proposed project, (c) a general description of the project's technical, economic and environmental characteristics, and (d) a statement briefly describing the intended use of the EIR." (*stopthemillenniumhollywood.com v. City of Los Angeles* (2019) 39 Cal.App.5th 1, 16.) "This description of the project is an indispensable element of both a valid draft EIR and final EIR." (*Ibid.*) Without explicit acknowledgment in the project description that the proposed project will not include cold storage facilities, the current project description fails to meet the bare minimum of describing the project's technical and environmental characteristics.

Association (CAPCOA). According to the DEIR, if a project has a prioritization score⁵ of ten or less, then the project is considered to not exceed SJVAPCD's significance threshold for health impacts and, therefore, an HRA is not required. The DEIR asserts that the facility prioritization score for the Project would be zero.

The City provided CARB with a copy of the input data used in the SJVAPCD prioritization screening tool. CARB reviewed the input data, and it appears the City made an error in entering the Pollutant ID for diesel PM. To calculate a Project's prioritization score, the user must enter into the screening tool either the Chemical Abstract Service Registration (CAS) number or Pollutant ID of the substance of concern and its annual emission rate.

In order to assess the Project's potential cancer risks from on-site diesel PM emissions, a CARB-issued Pollutant ID for diesel PM was entered into the tool. Rather than selecting the Pollutant ID for diesel PM (9901), the City manually entered Pollutant ID 9001 into the screening tool. Since this is not a valid Pollutant ID and is therefore not associated with any pollutant, the screening tool automatically defaulted the Project's prioritization score to zero. However, when the correct Pollutant ID for diesel PM is selected, the Project's prioritization score increases to above 10, which exceeds SJVAPCD's screening threshold, resulting in the need to prepare an HRA for the Project.

As required under CEQA, the City and Applicant must include a quantitative analysis in determining the severity of the Project's impact on public health.⁶ The DEIR does not meet this requirement because it fails to provide data to support the claim that the Project would result in a prioritization score of zero and estimates the Project's prioritization score by using incorrect inputs.

Since the Project is located near residences already disproportionately burdened by multiple sources of air pollution, CARB urges the City and Applicant to prepare an HRA for the Project. The HRA prepared in support of the Project should be based on the latest Office of Environmental Health Hazard Assessment (OEHHA) guidance (2015 Air Toxics Hot Spots Program Guidance Manual for Preparation of Health Risk Assessments).⁷

⁵. "Prioritization score" means a facility's numerical score for cancer health effects or noncancer health effects, as determined by the district pursuant to Section 44360 in a manner consistent with facility prioritization guidelines prepared by CAPCOA and approved by the state board.

⁶. In fact, the California Supreme Court recently addressed this issue in its landmark ruling in *Sierra Club v. County of Fresno* (2018) 6 Cal.5th 502 (Friant Ranch). In *Friant Ranch*, the Court held that an Environmental Impact Report (EIR) is inadequate if it does not make "a reasonable effort to discuss relevant specifics regarding the connection between two segments of information already contained in the EIR, the general health effects associated with a particular pollutant, and the estimated amount of that pollutant the project will likely produce." (Id., at p. 521.) The current version of the DEIR fails to do this, and as a result, is currently inadequate as a matter of law.

⁷. 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/cmr/2015guidancemanual.pdf>.

IV. The DEIR Did Not Model Mobile Air Pollutant Emissions Using CARB's 2017 Emission Factor Model (EMFAC2017)

The Project's air pollutant emissions 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 EMFAC2017.⁸ 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 particulate matter (PM) emissions as compared to EMFAC2014. Since EMFAC2017 generally shows higher emissions of PM from trucks than EMFAC2014, the Project's mobile source nitrogen oxides (NO_x) and diesel PM emissions are likely underestimated. CARB urges the applicant and City to model and report the Project's air pollution emissions from mobile sources using emission factors found in CARB's latest EMFAC2017.

V. The DEIR Should Not Rely on the Air District's Rules to Mitigate the Project's Impact on Air Quality

The DEIR concluded that the Project's operational air pollutant emissions would exceed the SJVAPCD's significance threshold for NO_x. Rather than providing mitigation measures to reduce the Project's NO_x emissions, the City and Applicant concluded that the Project's significant impact on air quality would be reduced to a less than significant level by merely complying with SJVAPCD Rule 9510, also known as the Indirect Source Rule. This rule would require the Project to reduce its operational emissions of NO_x and particulate matter 10 micrometers in diameter (PM₁₀) by 33.3 and 50.0 percent, respectively. Although the City and Applicant would be required to comply with all applicable SJVAPCD rules, the DEIR needs to go further and include all additional feasible mitigation measures to fully mitigate the Project's significant impact on air quality. As required under CEQA, public agencies should not approve projects as proposed if there are feasible mitigation measures available which would avoid or substantially lessen the significant environmental effects of such projects. (See Public Resources Code, § 21002.) To comply with CEQA, CARB urges the City and Applicant to include the emission reduction measures provided in Attachment A in the FEIR as either project design or mitigation measures. The FEIR should also report the Project's mitigated operational emissions.

VI. The DEIR Lacks Substantial Evidence to Support the Project's Operational Air Pollutant Mobile Source Emissions

The DEIR may have underestimated the Project's operational mobile source air pollutant emissions by using fleet mixes unsupported by substantial evidence. The Project's operational air pollutant emissions were estimated using the California

⁸ The United States Environmental Protection Agency (U.S. EPA) approved the use of EMFAC2017 for SIP and conformity purposes effective August 15, 2019.

Emissions Estimator Model (CalEEMod). Based on CARB's review of the CalEEMod outputs found in Appendix B (Air Quality Modeling Results) of the DEIR, the City and Applicant relied on CalEEMod fleet mix defaults to estimate the Project's mobile source air pollutant emissions. After applying these defaults, the Project's fleet mix would include 2 percent light-duty trucks, 2 percent medium-duty trucks, and 6 percent heavy-duty trucks. Consequently, the operational mobile emissions were estimated assuming the Project would result in approximately 432 average daily light, medium, and heavy-truck trips.

The traffic report prepared for the Project found in Appendix G (Traffic Impact Study) of the DEIR does not state the number of heavy-duty truck trips the Project would generate while in operation. Furthermore, an industrial development the size of the proposed Project would be expected to result in truck traffic higher than 432 daily trips. Without citing substantial evidence to support the fleet mix assumptions used in the air quality analysis, there is currently no legal basis to support that the Project's mobile source emissions would not result in a significant adverse environmental impact.⁹ CARB urges the City and Applicant to remodel the Project's air pollutant emissions using fleet mixes calculated by a traffic study and report those findings in the FEIR.

VII. The DEIR Did Not Account for Air Pollutant Emissions from Heavy-Duty Trucks During On-site Grading

The DEIR did not account for mobile air pollutant emissions during the Project grading construction phase. Based on CARB's review of the CalEEMod outputs found in Appendix B (Air Quality Modeling Results) of the DEIR, the City and Applicant assumed that no heavy-duty truck trips would be required to import or export soil during the on-site grading. Furthermore, the DEIR does not explicitly state the quantity of soil needed to grade the Project site that would support this assumption. If the Project site cannot be graded using existing on-site soil, the soil will need to be imported into the Project site. If that is the case, a large number of heavy-duty truck trips may be required to transport soil.

CARB urges the City and Applicant to remodel the Project's construction air pollutant emissions using accurate heavy-duty truck trip estimates. Residences and other sensitive receptors (e.g., daycare facilities, youth correctional facilities, senior care facilities, and schools) located near construction haul routes could be exposed to diesel exhaust emissions that were not evaluated in the DEIR. The DEIR should clearly state the total number of heavy-duty truck trips expected during Project construction so the public can fully understand the potential environmental effects of the Project on their communities.

⁹ "In reviewing an agency's compliance with CEQA. ... the courts' [evaluate whether the lead agency prejudicially abused its discretion where] [s]uch an abuse is established 'if the agency has not proceeded in a manner required by law or if the determination or decision is not supported by substantial evidence.' [Citation omitted]" (Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova (2007) 40 Cal.4th 412, 426.) Therefore, a lead agency must support its DEIR and required findings that there is no possibility that the project may have an adverse impact on the environment with substantial evidence.

VIII. Conclusion

CARB is concerned about the Project's potential public health impacts. The DEIR does not specify if TRUs would operate within the Project site, evaluate the Project's cancer risks adequately, provide justification for the modeling assumptions, and include all feasible mitigation measures to reduce the Project's operational air pollution emissions. CARB recommends that the City and Applicant prepare an HRA for the Project, revise the Project's air quality analysis using EMFAC2017 and Project specific fleet mixes, evaluate air quality impacts from heavy-duty truck trips during on-site grading, and include the air pollution emission measures provided in Attachment A in the FEIR.

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

Sincerely,



Richard Boyd, Chief
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Attachment

cc: See next page.

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April 27, 2020

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ATTACHMENT A

Recommended Air Pollution Emission Reduction Measures for Warehouses and Distribution Centers

The California Air Resources Board (CARB) 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 recommended by CARB, 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, on-site 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 be model year 2014 or later. All heavy-duty haul trucks should also meet CARB's lowest optional low-oxides of nitrogen (NO_x) standard starting in the year 2022.¹

¹: 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://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 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 in lease agreements.²
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, expedite a transition to zero-emission vehicles, and be fully zero-emission beginning in 2030.

². 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.

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,³ Periodic Smoke Inspection Program (PSIP),⁴ and the Statewide Truck and Bus Regulation.⁵
9. Include contractual language in tenant lease agreements restricting trucks and support equipment from idling longer than 5 minutes while on site.
10. Include contractual language in tenant lease agreements that limits on-site 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.

³. 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>.

⁴. 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>.

⁵. The regulation requires that newer heavier trucks and buses must meet particulate matter filter requirements beginning January 1, 2012. Lighter and older heavier trucks must be 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>.