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# **Barker Logistics, LLC Industrial Warehouse Building Final Environmental Impact Report**

**Riverside County, California  
At Placentia Avenue & Patterson Avenue**



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**Lead Agency:  
County of Riverside  
Planning Department  
4080 Lemon Street, 12th Floor  
Riverside, CA 92501**

**August 2020**

**FINAL ENVIRONMENTAL  
IMPACT REPORT**

for the

**Barker Logistics, LLC**  
**Industrial Warehouse Building Project**  
(PPT 190008)  
State Clearinghouse Number:  
2019090706

**Prepared for:**

County of Riverside  
4080 Lemon Street, 12<sup>th</sup> Floor  
Riverside, CA 92501

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**August 2020**

# 1.0 INTRODUCTION

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# **1.0 INTRODUCTION**

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## **1.1 OVERVIEW**

This document, combined with the Draft Environmental Impact Report (DEIR), constitutes the Final EIR for the Barker Logistics, LLC Industrial Warehouse Building Project (Project). The DEIR describes existing environmental conditions relevant to the proposal, evaluates the Project's potential environmental effects, and identifies mitigation measures to reduce or avoid the potentially significant impacts. The DEIR was circulated for a 45-day review period: June 10 through July 24, 2020.

## **1.2 CONTENT AND FORMAT**

Subsequent to this introductory Section 1.0, Section 2.0 of this Final EIR presents revisions and errata corrections to the DEIR text. Responses to comments received on the DEIR are presented in Final EIR Section 3.0. The EIR Mitigation Monitoring Program is presented in Final EIR Section 4.0.

## **1.3 DRAFT EIR COMMENTORS**

### **1.3.1 Overview**

The complete list of Draft EIR commentors, along with copies of comment letters and responses to comments, is presented in Section 3.0 of this Final EIR. The following list identifies the comment letters received in regard to the Draft EIR:

- Governor's Office of Planning and Research, State Clearinghouse
- State of California, Department of Justice
- California Air Resources Board
- South Coast Air Quality Management District
- Rincon Band of Luiseño Indians

### **1.3.2 Presentation of Comments and Responses**

All comment letters received in regard to the Draft EIR are included, along with corresponding responses, in their entirety in Final EIR Section 3.0, *Comments and Responses*.

## **1.4 LEAD AGENCY AND POINT OF CONTACT**

The Lead Agency for the Project and EIR is the County of Riverside. Any questions or comments regarding the preparation of this document, its assumptions, or its conclusions, should be referred to:

County of Riverside  
Planning Department  
4080 Lemon Street, 12th Floor  
Riverside, CA 92501  
Contact Person: Russell Brady

## **1.5 PROJECT SUMMARY**

The following information is summarized from the Project Description in the Draft EIR. For additional detail in regard to Project characteristics and Project-related improvements, along with analyses of the Project's potential environmental impacts, please refer to Draft EIR Sections 3.0 and 4.0, respectively.

### **1.5.1 Project Location**

The 31.55-acre Project site is located at the northeast corner of the Placentia Avenue/Patterson Avenue intersection, in unincorporated western Riverside County.

### **1.5.2 Project Overview**

The proposed Barker Logistics, LLC Industrial Warehouse Building Project (Project), including all proposed facilities, supporting improvements, and associated discretionary actions comprise the Project considered in this Environmental Impact Report (EIR). The Project proposes development of a 699,630-square-foot warehouse/logistics building on a 31.55-acre property. Refrigerated warehouse uses are not proposed. Should future

development proposals for the Project site differ substantively from the development concept analyzed herein, the Lead Agency may require additional environmental analyses. The building dimensions are 42 to 49.5 feet (at its peak) in height, 1,098 feet long, and 720 feet at its widest. It is 600 feet from dock doors on the west to the dock doors on the east of the structure. The automobile parking spaces are to be located around the perimeter of the building; truck/truck trailer bays will be located on the east and west elevations of the building.

### **1.5.3 Project Objectives**

The primary goal of the Project is to develop a vacant property with a warehouse/logistics building to provide an employment-generating use that helps to grow the economy and fulfill regional market demand for this land use type in Riverside County. Supporting objectives of the Project include the following:

- To build a land use in compliance with County of Riverside General Plan and Mead Valley Area Plan.
- To create a sustainable Project.
- To promote regional-oriented warehouse/logistics development near I-215.
- To maintain the integrity of the surrounding single-family residential neighborhood through quality contemporary design, appropriate structural setbacks, architectural treatments and building color palette.
- To concentrate employment opportunities near regional transportation.
- To provide a sustainably designed building that is energy conscious and a healthy work environment.
- To make efficient use of undeveloped property in the Mead Valley area of unincorporated Riverside County by maximizing its buildout potential for employment-generating uses.
- To attract new businesses and jobs to unincorporated Riverside County and thereby provide economic growth.
- To create an employment-generating business in the Project vicinity and thereby reduce the need for members of the local workforce to commute outside the area for employment.

- To develop a vacant or underutilized property with a High-Cube warehouse/logistics building to help meet the substantial unmet regional demand for this type of building and use.
- To develop a warehouse/logistics building that can attract building occupants seeking modern warehouse building space in the Mead Valley area constructed to contemporary design standards.
- To develop a vacant property zoned for the proposed warehouse/logistics building use that has access to available infrastructure, including roads and utilities.
- To develop a vacant property with a warehouse/logistics building that has operational characteristics that complement other existing warehouse buildings in the immediate vicinity and minimize conflicts with other nearby land uses.
- To develop a project that is economically competitive with similarly-sized buildings in the local area and in the inland empire.
- To develop a light industrial use in close proximity to designated truck routes and I-215 to avoid or shorten truck-trip lengths on other roadways.

#### 1.5.4 Discretionary Actions

##### 1.5.4.1 Lead Agency Discretionary Actions and Permits

Discretionary actions, permits and related consultation(s) necessary to approve and implement the Project include, but are not limited to, the following:

- **CEQA Compliance.** The County must certify the Environmental Impact Report prior to, or concurrent with, any approval of the Project.
- **Plot Plan Review and Approval.** The Project uses, and their proposed configurations are subject to review and approval by the County.

#### **1.5.4.2 Other Agency Consultation and Permits**

Anticipated consultation(s) and permits from agencies other than the County that would be necessary to realize the proposal would likely include, but would not be limited to, the following:

- Consultation with requesting Tribes as provided for under *AB 52, Gatto. Native Americans: California Environmental Quality Act*; and *SB 18, Burton. Traditional tribal cultural places*.
- Permitting may be required by/through the Regional Water Quality Control Board (RWQCB) pursuant to requirements of the City's National Pollutant Discharge Elimination System (NPDES) Permit;
- Permitting may be required by/through the Air Quality Management District (AQMD) for certain equipment or land uses that may be implemented within the Project area; and
- Other ministerial permits necessary to realize all on- and off-site improvements related to the development of the site.



## **2.0 REVISIONS AND ERRATA CORRECTIONS**

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## **2.0 REVISIONS AND ERRATA CORRECTIONS**

### **2.1 INTRODUCTION**

Based on the comments received on the Draft EIR (which are provided in full in Section 3.0 of this Final EIR), this Section presents revisions to the text of the Draft EIR. For text corrections, additional text is identified by **bold underlined text**, while deletions are indicated by ~~strikeout~~ font. All text revisions affecting mitigation measures have been incorporated into the Mitigation Monitoring Plan presented in Section 4.0 of this Final EIR. Text changes are presented under the chapter or topical section of the Draft EIR where they are located. The revisions and corrections provided here expand and clarify analyses previously provided, and do not constitute substantive new information. Conclusions of the Draft EIR are not affected by these revisions.

### **2.2 REVISIONS**

#### **2.2.1 Revisions to Air Quality Mitigation**

In response to comments provided by the State of California Department of Justice, Mitigation Measure AQ-4 (presented below) is amended to specifically identify electric vehicle (EV) charging; and low-emitting, fuel-efficient and carpool/van pool vehicle parking provisions to be implemented by the Project. Findings and conclusions of the EIR are not affected.

*MM-AQ-4: The Project shall be designed to incorporate electric vehicle charging stations and carpool parking spaces for employees. **Specifically, at a minimum, the Project shall comply with County Ordinance No. 348, Section 18.12. Off-Street Vehicle Parking, EV Parking Requirements; and CALGreen Section 5.106.5.2, Designated Parking for Clean Air Vehicles, Table 5.106.5.2 requirements.***

Additionally, in response to comments received from California Air Resources Board (CARB) and South Coast Air Quality Management District (SCAQMD), the following additional mitigation measures are incorporated. Findings and conclusions of the EIR are not affected.

MM-AQ-7: During construction activity, electrical hook ups to the power grid for electric construction tools, such as saws, drills, and compressors, and using electric tools shall be provided where feasible.

MM-AQ-8: All non-road construction equipment greater than 50 horsepower shall meet EPA Tier 4 emission standards with the following exception. Equipment with an engine compliant with only Tier 3 emissions standards will be allowed when the Applicant shows a good faith effort to procure Tier 4 equipment, and documents that no Tier 4 equipment is available for a particular equipment type within the County of Riverside within the scheduled construction period. In the event rental equipment needs to be procured via a third-party vendor, each case shall be documented with signed written or emailed correspondence by the appropriate construction contractor, along with documented correspondence from at least two construction equipment rental firms representing a good faith effort to locate engines that meet Tier 4 requirements, as applicable. Documentation will be submitted to County staff for review before Tier 3 equipment is used on the Project.

MM-AQ-9: All construction must be maintained in accordance with the manufacturer's recommended maintenance schedule and specifications. Maintenance records shall be maintained by the Contractor and made available for inspection and remain on-site for a period of two-years following the completion of construction.

### 2.2.1 Revisions to Project Description

In response to California Air Resources Board (CARB) comments, and as a matter of clarification, the discussion at DEIR p. 2-1 is revised as follows. Findings and conclusions of the EIR are not affected.

## 2.2 PROJECT DESCRIPTION

The Project involves a Plot Plan to allow development of a 699,630 square foot warehouse/logistics building on a 31.55-acre property. **Refrigerated warehouse uses are not proposed. Should future development proposals for the Project site differ substantively from the development concept analyzed herein, the Lead Agency may require additional environmental analyses.** The building dimensions are 42 to 49.5 feet (at its peak) in height, 1,098 feet long, and 720 feet at its widest. It is 600 feet from dock doors on the west to the dock doors on the east of the structure. The automobile parking spaces are to be located around the perimeter of the building; truck/truck trailer bays will be located on the east and west elevations of the building. Reference Exhibit 2-6: *Proposed Site Plan* and Exhibit 2-7: *Proposed Building Elevations*.

## **3.0 COMMENTS AND RESPONSES**

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## 3.0 COMMENTS AND RESPONSES

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### 3.1 INTRODUCTION

The following Section presents written comments received pursuant to public review of the DEIR and provides responses to those comments as required by California Code of Regulations, title 14 (hereinafter, “*CEQA Guidelines*”) Sections 15089, 15132, and 15088. Specifically, *CEQA Guidelines* Section 15088, subd. (a) requires that: “[t]he lead agency. . . evaluate comments on environmental issues received from persons who reviewed the draft EIR and . . . prepare a written response. The lead agency shall respond to comments received during the noticed comment period and any extensions and may respond to late comments.” The DEIR was circulated for a 45-day review period: June 10 through July 24, 2020.

In summary, the County’s written responses describe the disposition of significant environmental issues raised and any revisions to the Draft EIR made as a result of the comments. Additionally, the County’s written responses provide a good faith, reasoned analysis of all environmental issues raised and cite to specific factual and legal support for the Draft EIR’s conclusions.

#### 3.1.1 Comments Received

The following Section presents a list of the comment letters received during the Draft EIR public review period. Comment letters have been generally organized by state agencies; county, city, and local agencies; utilities; and local organizations and individuals. Each letter has been assigned an identifying designation (generally an acronym or name abbreviation), and topical items within each letter have been numbered. Table 3-1 lists all DEIR commentors and the designation assigned to each. Commentor correspondence

and correlating responses are presented subsequently. Comments have been reproduced verbatim and without grammatical or typographical correction.

**Table 3-1  
DEIR Commentors**

<b>Commentor</b>	<b>Acronym Assigned</b>	<b>Correspondence Date</b>
<b>State Agencies</b>		
State Clearinghouse	SCH	--
State of California, Department of Justice	DOJ	8/7/20
California Air Resources Board	CARB	7/24/20
<b>Regional &amp; County Agencies</b>		
South Coast Air Quality Management District	AQMD	7/22/20
<b>Individuals/Private Organizations</b>		
Rincon Band of Luiseño Indians	RIN	6/25/20

# Barker Logistics, LLC Project (PPT 190008)

## Summary

<b>SCH Number</b>	2019090706
<b>Lead Agency</b>	Riverside County
<b>Document Title</b>	Barker Logistics, LLC Project (PPT 190008)
<b>Document Type</b>	EIR - Draft EIR
<b>Received</b>	6/10/2020
<b>Project Applicant</b>	Orbis Real Estate Partners
<b>Present Land Use</b>	BP-Business Park/ I-P Industrial Park; M-SC Manufacturing-Service Commercial

**Document Description** The Project involves a Plot Plan to allow development of a 699,630 square foot warehouse/logistics building on a 31.55-acre property. The building dimensions are 42 to 49.5 feet (at its peak) in height, 1,098 feet long, and 720 feet at its widest. It is 600 feet from dock doors on the west to the dock doors on the east of the structure. The automobile parking spaces are to be located around the perimeter of the building; truck/truck trailer bays will be located on the east and west elevations of the building.

**Contact Information** Russel Brady  
Riverside County Planning Department  
4080 Lemon Street, 12th Floor  
Riverside, CA 92502  
Phone : (951) 955-3025  
RBrady@RIVCO.ORG

## Location

**Coordinates** 33°49'30"N 117°15'4.6"W  
**Cities** Perris  
**Counties** Riverside  
**Cross Streets** Patterson Avenue/Placentia Avenue  
**Zip** 92570  
**Total Acres** 31.55  
**Parcel #** 317-240-001  
**State Highways** I-215

## Notice of Completion

**Review Period Start** 6/10/2020  
**Review Period End** 7/24/2020  
**Development Type** Industrial (699,630 Sq. Ft., 31.55 Acres)  
**Local Action** Site Plan  
**Project Issues**



Aesthetic/Visual	Agricultural Land	Air Quality	Archaeologic-Historic	Biological Resources	Flood Plain/Flooding
Geologic/Seismic	Greenhouse Gas Emissions	Minerals	Noise	Population/Housing Balance	Public Services
Recreation/Parks	Sewer Capacity	Soil Erosion/Compaction/Grading	Solid Waste	Toxic/Hazardous	
Traffic/Circulation	Water Quality	Water Supply	Land Use	Cumulative Effects	Energy

## Reviewing Agencies

California Air Resources Board	California Department of Conservation	
California Department of Fish and Wildlife, Inland Deserts Region 6	California Department of Parks and Recreation	
California Department of Resources Recycling and Recovery	California Department of Transportation, District 8	
California Department of Water Resources	California Highway Patrol	California Native American Heritage Commission
California Natural Resources Agency	California Regional Water Quality Control Board, Santa Ana Region 8	
California State Lands Commission	Department of Toxic Substances Control	Office of Historic Preservation
State Water Resources Control Board, Division of Water Quality		

## Attachments

### Environmental Document

2	PDF	19090 K	Appendix A_Barker_NOP_IS	PDF	1991 K
Appendix B_NOP Comments	PDF	1232 K	Appendix C - MMRP	DOCX	109 K
Appendix C - MMRP	PDF	505 K	Appendix D_AQIA	PDF	16415 K
Appendix E_GHGA	PDF	2762 K	Appendix F_Noise	PDF	10165 K
Appendix G_Energy	PDF	1653 K	Appendix H TIA Appendices	PDF	8452 K
Appendix H_TIA	PDF	23725 K	Appendix I_Hydrology	PDF	27421 K
Appendix J_Phase I and II Env Site Assessment	PDF	12225 K			
Appendix K -GENERAL PLAN CONSISTENCY	PDF	527 K			
Appendix K -GENERAL PLAN CONSISTENCY	DOCX	90 K			
Appendix L_Burrowing Owl Survey	PDF	3475 K	Appendix M_Cultural Report	PDF	5040 K
Appendix N_Geotech	PDF	3501 K	Appendix O_HRA Report	PDF	1441 K
Appendix P_MSHCP	PDF	3690 K	Appendix Q_Paleo	PDF	918 K
Appendix R_WSA	PDF	29800 K	Appendix S_Knox Business Park Final EIR	PDF	49116 K
Appendix T_ALUC Review	PDF	2425 K	Appendix U_WQMP	PDF	16509 K
Barker Logistics DEIR_June2020	PDF	16394 K			
budget_book_061919_final_board_adopted_061919	PDF	3948 K	NOA	PDF	1833 K
Summary Form	PDF	79 K	urbanwatermanagementplan_0	PDF	4260 K
NOC	PDF	1011 K			

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STATE OF CALIFORNIA  
GOVERNOR'S OFFICE OF PLANNING AND RESEARCH  
STATE CLEARINGHOUSE  
SCH No. 2019090706

**Response SCH-1**

State Clearinghouse receipt of the Barker Logistics, LLC Industrial Warehouse Building Project Draft EIR is acknowledged, as is the distribution of the Draft EIR to the listed State Agencies. The State-assigned Clearinghouse reference number (SCH No. 2019090706) and dates of the public review period for the Draft EIR (June 10 through July 24, 2020) are also acknowledged.



**XAVIER BECERRA**  
**Attorney General**

**State of California**  
**DEPARTMENT OF JUSTICE**

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August 7, 2020

***Via E-mail***

Russell Brady  
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4080 Lemon Street, 12th Floor  
Riverside, CA 92502  
rbrady@rivco.org

RE: Draft Environmental Impact Report for Barker Logistics, LLC Project (SCH #2019090706)

Dear Mr. Russell Brady:

Thank you for the opportunity to provide comments on the Draft Environmental Impact Report (“DEIR”) for the Barker Logistics, LLC Project (“the Project”). The Project proposes to develop a nearly 700,000 square foot warehouse in a residential area that is home to some of the most disadvantaged communities in the State. The DEIR concludes that the Project would have significant and unavoidable air quality impacts. Yet, at the same time, the DEIR concludes that the potential for the Project to expose the nearby sensitive receptors to substantial pollutant concentrations is less than significant. The DEIR also concludes that the Project will result in less-than-significant impacts from greenhouse gas emissions after mitigation. However, the DEIR relies on deferred and unenforceable mitigation and fails to adopt all feasible mitigation. Additionally, the DEIR fails to analyze the Project’s consistency with Riverside County’s “Good Neighbor” Policy for Logistics and Warehouse/Distribution Uses (“Good Neighbor Policy”) before concluding that there will be no land use impacts. Thus, we respectfully submit these comments urging Riverside County to conduct further environmental analysis pursuant to the California Environmental Quality Act (“CEQA”) to ensure the Project’s environmental impacts are understood, disclosed, and mitigated to the maximum feasible extent.<sup>1</sup>

DOJ-1

<sup>1</sup> The Attorney General submits these comments pursuant to his independent power and duty to protect the environment and natural resources of the State. (See Cal. Const., art. V, § 13; Gov. Code, §§ 12511, 12600-12; *D’Amico v. Bd. Of Medical Examiners* (1974) 11 Cal.3d 1, 14-15.)

**I. THE PROJECT SEEKS TO DEVELOP A WAREHOUSE IN A HIGHLY-POLLUTED RESIDENTIAL AREA**

The Project proposes to develop a 699,630 square foot warehouse on a 31.55-acre property within the Mead Valley Area Plan area, west of the City of Perris in unincorporated western Riverside County. The Project site is currently vacant and is designated as “Business Park” (BP) under the General Plan. The Project is expected to generate a total of about 1,548 total trips per day, including 276 truck trips per day. (DEIR at 4.3-22.) The Project will have 109 dock doors and 380 standard parking spaces.

DOJ-2

The Project is located next to a host of sensitive receptors. Immediately north, west, and south of the Project site are residential areas. As recognized by the DEIR, the closest residence is about 10 feet away from the Project site. (DEIR at 4.3-19). Further north of the Project site is U-Turn for Christ (~600 feet), Small Wonder Family Child Care (~0.5 mile), Huong Sen Buddhist Temple (~0.8 mile), Val Verde Elementary School (~0.85 mile), and Val Verde High School (~1 mile). Val Verde Elementary School and Val Verde High serve predominantly Black, Indigenous, and people of color (“BIPOC”), a majority of whom are living in poverty.<sup>2</sup>

DOJ-3

Furthermore, the communities surrounding the Project site contain some of the most pollution-burdened census tracts in the State. According to CalEnviroScreen 3.0, the California Environmental Protection Agency’s tool that scores every census tract in the state based on indicators of exposure to pollution and vulnerability to pollution, the Project’s census tract ranks worse than 82 percent of the state for pollution burden and worse than 95 percent of the state for population vulnerability. This census tract is in the 93rd percentile for PM<sub>2.5</sub> pollution, 98th percentile for ozone pollution, and 77th percentile for hazardous waste. Moreover, the South Coast Air Basin in which the Project is located exceeds federal public health standards for ozone, ozone precursors, and PM.<sup>3</sup> Exposure to these noxious air contaminants contributes to area-wide increase in asthma, lung cancer, and cardiovascular disease.<sup>4</sup> Indeed, residents of these communities already experience significant health risks associated with pollution. Residents in the Project’s census tract are in the 94th percentile for cardiovascular rates and 71th percentile for the rate of babies born with low birth weight.

DOJ-4

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<sup>2</sup> According to data from the U.S. Department of Education, about 86.3 percent of students enrolled at Val Verde Elementary School are eligible to participate in the Free Lunch and Reduced-Price Lunch Programs, indicating that about 86.3 percent of the population is living in poverty. Further 96.8 percent of the population identify as BIPOC. Similarly, 81.1 percent of students enrolled at Val Verde High are eligible to participate in the Free Lunch and Reduced-Price Lunch Programs, indicating that about 81.1 percent of the population is living in poverty. Further, 96 percent of the population identify as BIPOC.

<sup>3</sup> “2016 Air Quality Management Plan,” South Coast Air Quality Management District (2016) at II-S-1, II-2-1, II-2-2, available at <http://www.aqmd.gov/docs/default-source/clean-air-plans/air-quality-management-plans/2016-air-quality-management-plan/final-2016-aqmp/appendix-ii.pdf?sfvrsn=4>.

<sup>4</sup> *Id.* at II-1-9.

The surrounding communities are populated by historically burdened groups. In the Project’s census tract, 76 percent of the community identifies as Latinx and 8 percent as African American. The surrounding communities are also relatively low-income with approximately 91 percent of the population with incomes less than two times the poverty level. These communities are undeniably disadvantaged and continue to suffer from environmental racism.

DOJ-5

The Project is part of a wave of warehouse development occurring in Riverside County. Immediately north and east of the Project site, in the cities of Perris and Moreno Valley, there is a cluster of about 20 warehouse distribution centers, based on satellite imagery. Notably, the Project is located in a district where the County’s recently adopted Good Neighbor Policy applies. The County adopted the Good Neighbor Policy in 2019 in response to the on-going growth of the logistics industry within the County, recognizing that warehouse projects negatively affect the quality of life for surrounding communities. The stated purpose of the policy is to “apply Best Management Practices to help minimize potential impacts to sensitive receptors and is intended to be used in conjunction with the County’s Land Use Ordinance, which provides development requirements for said projects, and the California Environmental Quality Act (CEQA).”<sup>5</sup>

DOJ-6

## **II. THE DEIR FAILS TO ADEQUATELY INFORM DECISION MAKERS AND THE PUBLIC OF THE PROJECT’S HEALTH IMPACTS ON HISTORICALLY BURDENED COMMUNITIES**

### **A. Inadequate “Environmental Setting” Description**

For purposes of analyzing a project’s adverse environmental impacts under CEQA, “[t]he significance of an activity depends upon the setting.” (*Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 718.) Thus, “a project that is ordinarily insignificant in its impact on the environment may in a particularly sensitive environment be significant.” (CEQA Guidelines § 15300.2, subd. (a).) A project’s environmental setting should therefore describe both the background environmental burdens faced by impacted communities and any unique sensitivities of those communities to pollution.

DOJ-7

Here, the DEIR’s “Environmental Setting” describing the regional and project setting focuses on the geographical setting and zoning designations of surrounding uses and ignores the fact that the Project is located within close proximity to several residential communities in addition to two places of worship, two schools, and a daycare center. (DEIR at 3-1). The “Environmental Setting” section also fails to acknowledge that many of those communities are already disproportionately affected by the environmental pollution and experience elevated levels of negative health effects. Because the DEIR’s “Environmental Setting” section does not include relevant information pertaining to the environmental, health, and safety conditions facing

DOJ-8

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<sup>5</sup> “‘Good Neighbor’ Policy for Logistics and Warehouse/ Distribution Uses,” County of Riverside (Nov. 19, 2019), available at <https://www.rivcocob.org/wp-content/uploads/2020/01/Good-Neighbor-Policy-F-3-Final-Adopted.pdf>.

the communities near the Project, it fails to provide decision makers and the public with an accurate characterization of the Project’s environmental setting.

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DOJ-8

**B. Inadequate Analysis of Health Impacts**

The DEIR also fails to sufficiently explain the nature and magnitude of the Project’s health impacts on nearby disadvantaged communities before concluding that the impacts would be less than significant. (*Sierra Club v. County of Fresno* (2018) 6 Cal.5th 502, 523 (hereafter *Friant Ranch*) [emphasizing that “a sufficient discussion of significant impacts requires not merely a determination of whether an impact is significant, but some effort to explain the nature and magnitude of the impact”].) An EIR must discuss the health and safety problems that the proposed project may induce. (CEQA Guidelines, § 15126.2, subd. (a).)

DOJ-9

Here, the DEIR concludes that the Project would have significant air quality impacts because it would result in operational NO<sub>x</sub> emissions that would exceed the applicable SCAQMD threshold.<sup>6</sup> In particular, the DEIR concludes that the total daily maximum emissions would be between approximately 76 and 79 lbs./day, compared to the 55 lbs./day threshold. (DEIR at 4.3-16.) The DEIR also concludes that Project operational NO<sub>x</sub> emissions exceedances would result in a cumulatively considerable net increase in criteria pollutants (ozone and PM<sub>10</sub>/PM<sub>2.5</sub>) for which the Project region is in non-attainment.

DOJ-10

Despite these significant air quality impacts, the DEIR concludes that the potential for the Project to expose sensitive receptors to substantial pollutant concentrations is less-than-significant. (DEIR at 4.3-33.) The DEIR acknowledges the existence of residential areas surrounding the Project but does not identify all sensitive receptors before concluding that impacts will be less-than-significant. (DEIR at 4.3-33.) The DEIR relies on a Health Risk Assessment (“HRA”) that fails to include a full analysis as recommended by the California Air Resources Board (CARB). In their scoping comment letter, CARB recommended that the HRA “evaluate and present the existing baseline (current conditions), future baseline (full build-out year, without the Project), and future year with the Project” to allow the public to fully understand the health impacts of the project. However, the HRA in the DEIR only evaluates the future year impacts of the Project, precluding the public from fully understanding the impacts of the Project.

DOJ-11

Further, the DEIR’s analysis does not meet the requirements as set forth in *Friant Ranch*. The DEIR attempts to analyze the health impacts of the Project by comparing the Project’s onsite emissions of CO<sub>2</sub>, NO<sub>x</sub>, PM<sub>10</sub>, and PM<sub>2.5</sub> to the SCAQMD’s applicable Localized Significance Thresholds (LST). The DEIR concludes that the Project would not result in emissions that

DOJ-12  
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<sup>6</sup> NO<sub>x</sub> is an air pollutant that mainly impacts respiratory conditions causing inflammation of the airways at high levels. Long-term exposure can decrease lung function, increase the risk of respiratory conditions and increase the response to allergens. NO<sub>x</sub> also contributes to the formation of fine particles (PM) and ground level ozone, both of which are associated with adverse health effects.

exceeded the SCAQMD’s LST, implying that health impacts to nearby sensitive receptors will therefore be insignificant. (DEIR at 4.3-17.) However, the DEIR does not indicate the concentrations at which the pollutants trigger the identified health symptoms, acknowledge the rates at which nearby communities are already experiencing the identified health symptoms, or analyze the specific health impacts that may result from emissions associated with the Project. As such, the DEIR is inadequate under CEQA. (*See Friant Ranch*, supra, 6 Cal.5th 502, 523 [holding that an EIR’s discussion of air quality impacts was inadequate where it failed to indicate the concentrations at which pollutants emitted by the proposed project would trigger identified health effects, or to explain why such analysis was not possible.])

DOJ-12

### III. THE DEIR AIR QUALITY IMPACT ANALYSIS IS FLAWED

To comply with CEQA, the lead agency must make “a reasoned and good faith effort to inform decision makers and the public” about a project’s potential impacts. (*Berkeley Keep Jets Over the Bay Comm. V. Bd. Of Port comm’rs* (2001) 91 Cal.App.4th 1344, 1367, as modified on denial of reh’g.) Using incorrect data or models runs counter to CEQA’s requirement that agencies make “a good faith effort at full disclosure.” (CEQA Guidelines § 15151, see also *Berkeley Keep*, 91 Cal.App.4th at 1367.)

DOJ-13

The DEIR’s Air Quality analysis fails to account for the warehouses’ potential cold storage uses. The operation of refrigerated warehouses requires use of trucks with transport refrigeration units (TRUs), which emit significantly higher levels of toxic diesel particulate matter (PM), NO<sub>x</sub>, and greenhouse gas emissions than trucks without TRUs. The DEIR fails to inform the public whether or not the Project will include cold storage uses, and it fails to disclose whether the air quality modeling takes cold storage uses into account. The DEIR only states that the Project will be a high-cube warehouse. The increased air pollutant emissions from cold storage should be factored into the analysis, unless the County includes enforceable measures to prohibit cold storage at the Project.

DOJ-14

### IV. THE COUNTY FAILS TO ADEQUATELY ANALYZE THE PROJECT’S LAND USE IMPACTS

An EIR must clearly set forth all significant effects of the Project on the environment, including impacts on land use. (Pub. Resources Code, § 21100, subd. (b)(1); CEQA Guidelines, § 15126.2, subd. (a).) The DEIR must identify and discuss any inconsistencies between the Project and applicable general, specific, and regional plans, including plans for the reduction of greenhouse gas emissions. (CEQA Guidelines, § 15125, subd. (d).)

DOJ-15

#### A. The DEIR Fails to Analyze the Project’s Consistency with the Good Neighbor Policy

The DEIR concludes that “the Project would not result in any adverse environmental impacts due to an inconsistency with any applicable land use plans, policies or regulations” and thus “there is no potential for the Project to contribute to a considerable environmental effect related to this issue.” (DEIR at 4.11-2.) The Land Use and Planning section examines whether

DOJ-16

the Project would “[c]ause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect.” (DEIR at 4.11-1). Under this inquiry, the DEIR reviews several policies, including the County of Riverside General Plan, Land Use Ordinance, Mead Valley Area Plan, and Western Riverside County Multiple Species Habitat Conservation Plan.

DOJ-16

However, the DEIR does not analyze the Project’s consistency with the Good Neighbor Policy. The DEIR recognizes that the Good Neighbor Policy is applicable to the Project and states that the Project will implement applicable provisions of the Policy as part of the Project Conditions of Approval as MM-AQ-5 and MM-GHG-3. Yet, the Project already violates the Good Neighbor Policy. In order to lessen the impact on surrounding communities, the Good Neighbor Policy requires that warehouses greater than 250,000 square feet should be at a minimum 300 feet from the property line of sensitive receptors.<sup>7</sup> However, here, the closest residence to the Project is located within about 10 feet. (DEIR at 4.3-19.) The DEIR fails to analyze and disclose this inconsistency before concluding that there will be no land use impacts.

DOJ-17

Additionally, as discussed below, the Project fails to adequately address the Good Neighbor Policy’s required mitigation for warehouse project impacts. The County should analyze the Project’s consistency with the Good Neighbor Policy and explain why the Project does not have a significant land use impact given its inconsistency with the Policy.

DOJ-18

**B. The DEIR Fails to Adequately Analyze the Project’s Consistency with the General Plan**

The DEIR concludes that the Project will be consistent with the County’s General Plan and therefore will not result in any land use impacts. However, in the air quality analysis, the DEIR concludes that the Project would have a significant air quality impact because it would conflict with the applicable Air Quality Management Plan (“AQMP”). (DEIR at 4.3-33.) Consistency with the AQMP is based on whether or not the Project will be consistent with the County General Plan land use designation as a Business Park Land Use. The DEIR’s air quality analysis concludes that the uses of the proposed Project “are not specifically envisioned under the County’s land use designation” and thus the Project “is determined to be inconsistent with the [AQMP].” (DEIR at 4.3-10.) The DEIR concludes that inconsistencies with the AQMP cannot be resolved and the air quality impacts would be significant and unavoidable. (DEIR at 4.3-10.) Yet, the analysis of land use impacts ignores the Project’s inconsistency with the General Plan. The County should analyze the Project’s consistency with the General Plan and explain why the Project does not have a significant land use impact given its inconsistency with the land use designation.

DOJ-19

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<sup>7</sup> Regardless of the Good Neighbor Policy, we recommend that sensitive land uses be separated from warehouses by at least 1,000 feet to adequately protect communities. (“Air Quality and Land Use Handbook: A Community Health Perspective,” California Air Resources Board (April 2005).) Accordingly, data from CARB demonstrates that localized air pollution drops off by 80 percent about 1,000 feet away. (*Id.* at 4-5.)



By failing to adequately identify and address inconsistencies with applicable local land use plans and policies, the DEIR fails to inform the public of the potentially significant land use impacts. An EIR that fails to disclose a significant environmental impact, “preclude[ing] informed decisionmaking and informed public participation,” is invalid. (*Banning Ranch Conservancy v. City of Newport Beach* (2017) 2 Cal.5th 918, 942.) We urge the County to correct its land use impact analysis to disclose the Project’s significant land use impacts and adopt all feasible mitigation measures.

DOJ-20

**V. THE DEIR’S MITIGATION MEASURES ARE INADEQUATE, UNLAWFULLY DEFERRED, AND UNENFORCEABLE**

CEQA requires a lead agency to adopt all feasible mitigation measures that minimize the significant environmental impacts of a project. (Pub. Resources Code, § 21002; CEQA Guidelines § 15126.4, subd. (a)(1).) The lead agency is expected to develop mitigation in an open and public process. (*Communities for a Better Environment v. City of Richmond* (2010) 184 Cal.App.4th 70, 93.) It is generally inappropriate to defer formulation of mitigation measures to the future. (CEQA Guidelines, § 15126.4, subd. (a)(1)(B).) A lead agency can defer mitigation only where, among other things, the EIR sets forth criteria governing future actions to implement mitigation, and the agency has assurances that future mitigation will be both “feasible and efficacious.” (*Californians for Alternatives to Toxics v. Dept. of Food & Agric.* (2005) 136 Cal.App.4th 1, 17.) Impermissible deferral occurs when an EIR calls for mitigation measures to be created based on future studies but the agency fails to commit itself to specific performance standards. (*Cal. Clean Energy Comm. v. City of Woodland* (2014) 225 Cal.4th 173, 195.)

DOJ-21

As previously discussed, the DEIR concludes that air quality impacts will be significant and unavoidable. However, the DEIR relies on deferred and unenforceable mitigation. For example, the DEIR relies on MM-AQ-4, which states that the Project “shall be designed to incorporate electric vehicle charging stations and carpool parking spaces for employees.” Yet, the DEIR does not provide any information on the number of vehicle charging stations or carpool parking spaces that are required, when these spaces will be implemented, or provide any measurable criteria for quantifying how much air emissions it will mitigate.

DOJ-22

Similarly, the DEIR relies on the adoption of MM-GHG-3 to mitigate the Project’s greenhouse gas emissions, concluding that with this mitigation the Project’s greenhouse gas emissions will be less than significant. This measure states that the Project will comply with applicable provisions of the County’s Good Neighbor Policy. However, the mitigation measure fails to provide any specifics about which provisions are applicable or how those measures will mitigate the Project’s emissions. For example, Good Neighbor Policy sections 2.2, 3.11, and 4.5 each require warehouse-related engine emissions to be mitigated in different ways. Yet it’s unclear which of these measures are “applicable” to the Project, how they will be enforced, and how much greenhouse gas emissions are mitigated by each measure. The DEIR must articulate enforceable measures to mitigate the Project’s air quality and greenhouse gas impacts.

DOJ-23

Further, the DEIR fails to implement all feasible mitigation for air quality impacts and fails to explain why additional mitigation is infeasible. In their scoping comment letter, CARB recommended measures to reduce construction and operation emissions, such as “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.” However, the DEIR did not adopt any of those measures. Possible air quality mitigation measures the County should consider include:

*Measures to reduce construction impacts:*

- Prohibiting off-road diesel-powered equipment from being in the “on” position for more than 10 hours per day.
- Providing electrical hook ups to the power grid for electric construction tools, such as saws, drills and compressors, and using electric tools whenever feasible.
- Limiting the amount of daily grading disturbance area.
- Prohibiting grading on days with an Air Quality Index forecast of greater than 100 for particulates or ozone for the project area.
- Keeping onsite and furnishing to the lead agency or other regulators upon request, all equipment maintenance records and data sheets, including design specifications and emission control tier classifications.
- Conducting an on-site inspection to verify compliance with construction mitigation and to identify other opportunities to further reduce construction impacts.
- Using paints, architectural coatings, and industrial maintenance coatings that have volatile organic compound levels of less than 10 g/L.
- Providing information on transit and ridesharing programs and services to construction employees.
- Providing meal options onsite or shuttles between the facility and nearby meal destinations.

*Measures to reduce operational impacts:*

- Requiring on-site equipment, such as forklifts and yard trucks, to be electric with the necessary electrical charging stations provided.
- Installing and maintaining air filtration systems at sensitive receptors within a certain radius of facility.
- Installing and maintaining an air monitoring station proximate to sensitive receptors and the facility. While air monitoring does not mitigate the air quality or greenhouse gas impacts of a facility, it nonetheless benefits the affected community by providing information that can be used to improve air quality.
- Constructing plugs for transport refrigeration units at every dock door, if the warehouse use could include refrigeration.
- Installing solar photovoltaic systems on the project site of a specified electrical generation capacity.
- Requiring all stand-by emergency generators to be powered by a non-diesel fuel.

- Requiring facility operators to train managers and employees on efficient scheduling and load management to eliminate unnecessary queuing and idling of trucks.
- Meeting CalGreen Tier 2 green building standards, including all provisions related to designated parking for clean air vehicles, electric vehicle charging, and bicycle parking.
- Achieving certification of compliance with LEED green building standards.
- Posting signs at every truck exit driveway providing directional information to the truck route.
- Improving and maintaining vegetation and tree canopy for residents in and around the project area.

DOJ-24

As previously stated, under CEQA, a lead agency cannot approve projects as proposed if there are feasible mitigation measures available which would substantially lessen the significant environmental impacts of the project. (Pub. Resources Code, § 21001.) Thus, the DEIR should adopt the recommended measures by CARB and those recommended above in order to lessen the air quality impacts of the Project or explain why they are infeasible.

## VI. CONCLUSION

CEQA provides the opportunity for transparent, thoughtful governance by requiring evaluation, public disclosure, and mitigation of a project's significant environmental impacts prior to project approval. While the DEIR provided some information about the Project's significant environmental impacts, the analysis is deficient in several respects. In evaluating the Project's impacts, the County should consider the surrounding the community's already high pollution burden and the cumulative impact of developing a warehouse so close to residences, schools, and places of worship. The County should analyze the consistency with the County's Good Neighbor Policy and General Plan and explain why the Project does not have a significant land use impact given its inconsistency with these policies. Finally, additional mitigation is necessary and can feasibly be added to address the Project's significant impacts.

DOJ-25

The Attorney General's Office is available to provide assistance to the County as it works on CEQA compliance. Please do not hesitate to contact me if you have any questions or would like to discuss these issues further.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Garcia".

RICA V. GARCIA  
Deputy Attorney General

For XAVIER BECERRA  
Attorney General

State of California, Department of Justice  
1300 I Street, Suite 125  
Sacramento, CA 94244

Letter Dated July 24, 2020

**Comment DOJ-1**

*Thank you for the opportunity to provide comments on the Draft Environmental Impact Report (“DEIR”) for the Barker Logistics, LLC Project (“the Project”). The Project proposes to develop a nearly 700,000 square foot warehouse in a residential area that is home to some of the most disadvantaged communities in the State. The DEIR concludes that the Project would have significant and unavoidable air quality impacts. Yet, at the same time, the DEIR concludes that the potential for the Project to expose the nearby sensitive receptors to substantial pollutant concentrations is less than significant. The DEIR also concludes that the Project will result in less-than-significant impacts from greenhouse gas emissions after mitigation. However, the DEIR relies on deferred and unenforceable mitigation and fails to adopt all feasible mitigation. Additionally, the DEIR fails to analyze the Project’s consistency with Riverside County’s “Good Neighbor” Policy for Logistics and Warehouse/Distribution Uses (“Good Neighbor Policy”) before concluding that there will be no land use impacts. Thus, we respectfully submit these comments urging Riverside County to conduct further environmental analysis pursuant to the California Environmental Quality Act (“CEQA”) to ensure the Project’s environmental impacts are understood, disclosed, and mitigated to the maximum feasible extent.<sup>1</sup>*

**Response DOJ-1**

As an initial matter, the State of California Department of Justice’s comments are outside the public comment period and no response is legally required. However, it is typical practice for the County to respond to late comments. (See *Gray v. County of Madera* (2008) 167 Cal.App.4th 1099, 1111 [“because the Board never had a legal duty to respond to late comments, the inadequacy of the Board’s responses to the late comments is not sufficient

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<sup>1</sup> The Attorney General submits these comments pursuant to his independent power and duty to protect the environment and natural resources of the State. (See Cal. Const., art. V, § 13; Gov. Code, §§ 12511, 12600-12; *D’Amico v. Bd. Of Medical Examiners* (1974) 11 Cal.3d 1, 14-15.)

to render approval of the CEQA Project ineffective or contrary to law. To hold otherwise could discourage lead agencies from addressing and considering late comments.”].)

Initial summary comments are made which do not require a response. These initial comments are noted.

Regarding the comment that a community of color may be disproportionately impacted by the Project, CEQA does not require an evaluation of environmental justice impacts that are not associated with physical environmental impacts. Rather, CEQA requires EIRs to analyze physical changes to the environment. (*CEQA Guidelines*, § 15131, subd. (a).) Economic and social effects in themselves do not constitute significant effects on the environment under CEQA. (*Saltonstall v. City of Sacramento* (2015) 234 Cal.App.4th 549, 585; *Gray v. County of Madera* (2008) 167 Cal.App.4th 1099, 1120–1121.) The EIR fully analyzed the Project’s physical impacts on the environment, including health risk impacts. All projects, to some extent, exacerbate and increase air quality impacts to residents, given that most projects add mobile source emissions to the environmental baseline. CEQA does not prevent the siting of projects in communities of color just as it does not prevent siting of projects in communities of non-color. Findings and conclusions of the EIR are not affected.

### **Comment DOJ-2**

#### ***I. THE PROJECT SEEKS TO DEVELOP A WAREHOUSE IN A HIGHLY-POLLUTED RESIDENTIAL AREA***

*The Project proposes to develop a 699,630 square foot warehouse on a 31.55-acre property within the Mead Valley Area Plan area, west of the City of Perris in unincorporated western Riverside County. The Project site is currently vacant and is designated as “Business Park” (BP) under the General Plan. The Project is expected to generate a total of about 1,548 total trips per day, including 276 truck trips per day. (DEIR at 4.3-22.) The Project will have 109 dock doors and 380 standard parking spaces.*

### **Response DOJ-2**

The commentor summarizes data included in the EIR which do not require a response. Comment noted. Findings and conclusions of the EIR are not affected.

### **Comment DOJ-3**

*The Project is located next to a host of sensitive receptors. Immediately north, west, and south of the Project site are residential areas. As recognized by the DEIR, the closest residence is about 10 feet away from the Project site. (DEIR at 4.3-19). Further north of the Project site is U-Turn for Christ (~600 feet), Small Wonder Family Child Care (~0.5 mile), Huong Sen Buddhist Temple (~0.8 mile), Val Verde Elementary School (~0.85 mile), and Val Verde High School (~1 mile). Val Verde Elementary School and Val Verde High serve predominantly Black, Indigenous, and people of color (“BIPOC”), a majority of whom are living in poverty.<sup>2</sup>*

### **Response DOJ-3**

The commentor summarizes data related to the location of existing uses, race, and socio-economics. Please refer to Response DOJ-1. No further response is required. Findings and conclusions of the EIR are not affected.

### **Comment DOJ-4**

*Furthermore, the communities surrounding the Project site contain some of the most pollution-burdened census tracts in the State. According to CalEnviroScreen 3.0, the California Environmental Protection Agency’s tool that scores every census tract in the state based on indicators of exposure to pollution and vulnerability to pollution, the Project’s census tract ranks worse than 82 percent of the state for pollution burden and worse than 95 percent of the state for population vulnerability. This census tract is in the 93rd percentile for PM<sub>2.5</sub> pollution, 98th percentile for ozone pollution, and 77th percentile for hazardous waste. Moreover, the South Coast Air Basin in which the Project is located exceeds federal public health standards for ozone, ozone*

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<sup>2</sup> According to data from the U.S. Department of Education, about 86.3 percent of students enrolled at Val Verde Elementary School are eligible to participate in the Free Lunch and Reduced-Price Lunch Programs, indicating that about 86.3 percent of the population is living in poverty. Further 96.8 percent of the population identify as BIPOC. Similarly, 81.1 percent of students enrolled at Val Verde High are eligible to participate in the Free Lunch and Reduced-Price Lunch Programs, indicating that about 81.1 percent of the population is living in poverty. Further, 96 percent of the population identify as BIPOC.

precursors, and PM.<sup>3</sup> Exposure to these noxious air contaminants contributes to area-wide increase in asthma, lung cancer, and cardiovascular disease.<sup>4</sup> Indeed, residents of these communities already experience significant health risks associated with pollution. Residents in the Project's census tract are in the 94th percentile for cardiovascular rates and 71th percentile for the rate of babies born with low birth weight.

#### **Response DOJ-4**

The commentor is merely summarizing data from CalEnviroScreen noting existing air quality conditions in the area where the Project is located. The EIR's Air Quality analysis within the EIR, including the associated technical reports, evaluated these impacts both regionally and locally, including all impacts to surrounding sensitive receptors. No further response is required. Findings and conclusions of the EIR are not affected.

#### **Comment DOJ-5**

*The surrounding communities are populated by historically burdened groups. In the Project's census tract, 76 percent of the community identifies as Latinx and 8 percent as African American. The surrounding communities are also relatively low-income with approximately 91 percent of the population with incomes less than two times the poverty level. These communities are undeniably disadvantaged and continue to suffer from environmental racism.*

#### **Response DOJ-5**

The commentor summarizes data related to race and socio-economics. Please refer to Response DOJ-1. No further response is required. Findings and conclusions of the EIR are not affected.

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<sup>3</sup> "2016 Air Quality Management Plan," South Coast Air Quality Management District (2016) at II-S-1, II-2-1, II-2-2, available at <http://www.aqmd.gov/docs/default-source/clean-air-plans/air-quality-management-plans/2016-air-quality-management-plan/final-2016-aqmp/appendix-ii.pdf?sfvrsn=4>.

<sup>4</sup> Id. at II-1-9.



### **Comment DOJ-6**

*The Project is part of a wave of warehouse development occurring in Riverside County. Immediately north and east of the Project site, in the cities of Perris and Moreno Valley, there is a cluster of about 20 warehouse distribution centers, based on satellite imagery. Notably, the Project is located in a district where the County's recently adopted Good Neighbor Policy applies. The County adopted the Good Neighbor Policy in 2019 in response to the on-going growth of the logistics industry within the County, recognizing that warehouse projects negatively affect the quality of life for surrounding communities. The stated purpose of the policy is to "apply Best Management Practices to help minimize potential impacts to sensitive receptors and is intended to be used in conjunction with the County's Land Use Ordinance, which provides development requirements for said projects, and the California Environmental Quality Act (CEQA)."*<sup>5</sup>

### **Response DOJ-6**

The commentor summarizes recent development and the County's Good Neighbor Policy. The Project is consistent with the County's Good Neighbor Policy through design and conditions of approval. Included in the policy is that the policy guidelines are applicable to new projects submitted after the policy approval date of November 19, 2019. The Project was submitted March 5, 2019 so the County's Good Neighbor Policy is not applicable to this Project, although the Project is in compliance on a voluntary basis to incorporate the best practices for siting and operating warehouse facilities. Furthermore, as included in the policy, the hearing body to decide on the Project has the discretion and authority to approve projects that may deviate from the guidance of the policy subject to site-specific conditions, appropriate environmental review, and other factors that the Board may consider. Please refer to Response AQMD-14 presented within this Final EIR. Findings and conclusions of the EIR are not affected.

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<sup>5</sup> "'Good Neighbor' Policy for Logistics and Warehouse/ Distribution Uses," County of Riverside (Nov. 19, 2019), available at <https://www.rivcocob.org/wp-content/uploads/2020/01/Good-Neighbor-Policy-F-3-Final-Adopted.pdf>.

**Comment DOJ-7**

**II. THE DEIR FAILS TO ADEQUATELY INFORM DECISION MAKERS AND THE PUBLIC OF THE PROJECT'S HEALTH IMPACTS ON HISTORICALLY BURDENED COMMUNITIES**

**A. Inadequate "Environmental Setting" Description**

*For purposes of analyzing a project's adverse environmental impacts under CEQA, "[t]he significance of an activity depends upon the setting." (Kings County Farm Bureau v. City of Hanford (1990) 221 Cal.App.3d 692, 718.) Thus, "a project that is ordinarily insignificant in its impact on the environment may in a particularly sensitive environment be significant." (CEQA Guidelines § 15300.2, subd. (a).) A project's environmental setting should therefore describe both the background environmental burdens faced by impacted communities and any unique sensitivities of those communities to pollution.*

**Response DOJ-7**

The commentor summarizes legal citations which do not require a response. Comment noted. Findings and conclusions of the EIR are not affected.

**Comment DOJ-8**

*Here, the DEIR's "Environmental Setting" describing the regional and project setting focuses on the geographical setting and zoning designations of surrounding uses and ignores the fact that the Project is located within close proximity to several residential communities in addition to two places of worship, two schools, and a daycare center. (DEIR at 3-1). The "Environmental Setting" section also fails to acknowledge that many of those communities are already disproportionately affected by the environmental pollution and experience elevated levels of negative health effects. Because the DEIR's "Environmental Setting" section does not include relevant information pertaining to the environmental, health, and safety conditions facing the communities near the Project, it fails to provide decision makers and the public with an accurate characterization of the Project's environmental setting.*

### **Response DOJ-8**

Please refer to Response DOJ-1. The EIR correctly analyzes the environmental setting. An EIR “must include a description of the physical environmental conditions in the vicinity of the project ... from both a local and regional perspective. This environmental setting will normally constitute the baseline physical conditions by which a lead agency determines whether an impact is significant.” (CEQA Guidelines § 15125 (a)). The EIR’s description of the environmental setting needs to be sufficiently comprehensive to allow the consideration of the potential environmental effects; yet, the description should be no longer than is necessary to provide an understanding of the significant effects of the project and of the alternatives analyzed in the EIR. The environmental setting included within the Air Quality section of the Draft EIR notes the existing air quality measured at the nearest air quality monitoring stations that generally reflects the environmental setting related to air quality applicable to the Project and surrounding area. Since the environmental setting, as discussed in the EIR, constitutes the baseline for which the air quality impacts were evaluated, the description as provided in the EIR is legally sufficient. Findings and conclusions of the EIR are not affected.

### **Comment DOJ-9**

#### ***A. Inadequate Analysis of Health Impacts***

*The DEIR also fails to sufficiently explain the nature and magnitude of the Project’s health impacts on nearby disadvantaged communities before concluding that the impacts would be less than significant. (Sierra Club v. County of Fresno (2018) 6 Cal.5th 502, 523 (hereafter Friant Ranch) [emphasizing that “a sufficient discussion of significant impacts requires not merely a determination of whether an impact is significant, but some effort to explain the nature and magnitude of the impact”].) An EIR must discuss the health and safety problems that the proposed project may induce. (CEQA Guidelines, § 15126.2, subd. (a).)*

### **Response DOJ-9**

Friant Ranch holds that EIRs should relate a project’s expected adverse air quality impacts to likely human health consequences or explain why it is not feasible at the time of preparing the EIR to provide such an analysis. Given that the proposed Project’s implementation would result in a significant direct and cumulatively considerable

impact associated with NO<sub>x</sub> emissions under long-term operating conditions, the potential health consequences associated with this air pollutant, as well as other air pollutants associated with the Project, are considered in the EIR.

As a *general* matter, population-based studies suggest that long-term exposure to NO<sub>x</sub> can cause an increase in acute respiratory illness, including infections and respiratory symptoms in children (not infants). Short term exposure can result in resistance to air flow and airway contraction in healthy subjects. Exposure also can decrease lung functions in individuals with asthma or chronic obstructive pulmonary diseases (e.g., chronic bronchitis, emphysema), as these individuals are more susceptible to the effects of NO<sub>x</sub> than healthy individuals. (See Air Quality Impact Analysis, p. 13.) These and other health effects associated with air pollutants that would be generated by the Project were addressed in the Project EIR. (See Air Quality Impact Analysis, pp. 11-17 addressing “Heath Effects”; see also Mobile Source Heath Risk Assessment.)

However, as discussed in briefs filed in the Friant Ranch case, correlating a project’s criteria air pollutant emissions to specific health impacts is challenging. The South Coast Air Quality Management District (SCAQMD), which “has among the most sophisticated air quality modeling and health impact evaluation capability of any of the air districts in the State,” noted that it may be “difficult to quantify health impacts for criteria pollutants.” SCAQMD used O<sub>3</sub>, which is formed from the chemical reaction of NO<sub>x</sub> and VOCs in the presence of sunlight, as an example of why it is impracticable to determine specific health outcomes from criteria pollutants for all but very large, regional-scale projects. First, forming O<sub>3</sub> “takes time and the influence of meteorological conditions for these reactions to occur, so ozone may be formed at a distance downwind from the sources.” Second, “it takes a large amount of additional precursor emissions (NO<sub>x</sub> and VOCs) to cause a modeled increase in ambient ozone levels over an entire region,” with a 2012 study showing that “reducing NO<sub>x</sub> by 432 tons per day (157,680 tons/year) and reducing VOC by 187 tons per day (68,255 tons/year) would reduce ozone levels at the SCAQMD’s monitor site with the highest levels by only 9 parts per billion.” SCAQMD concluded that it “does not currently know of a way to accurately quantify ozone-related health impacts caused by NO<sub>x</sub> or VOC emissions from relatively small projects.”

Most local agencies, including the County of Riverside, lack the data to do their own assessment of potential health impacts from criteria air pollutant emissions, as would be required to establish customized, locally specific thresholds of significance based on potential health impacts from an individual development project.

The use of national or “generic” data to fill the gap of missing local data would not yield accurate results because such data does not capture local air patterns, local background conditions, or local population characteristics, all of which play a role in how a population experiences air pollution.

Because it is impracticable to accurately isolate the exact cause of a human disease (for example, the role a particular air pollutant plays compared to the role of other allergens and genetics in cause asthma), the County has determined that existing scientific tools cannot accurately estimate health impacts of the Project’s air emissions without undue speculation. Instead, the commentor is directed to the Project’s air quality impact analyses which provide extensive information concerning the quantifiable and non-quantifiable health risks related to the Project’s construction and long-term operation, which both determined impacts to nearby sensitive receptors health would be less than significant with incorporated mitigation based on the Health Risk Assessment performed. (See Air Quality Impact Analysis, pp. 11-17 addressing “Heath Effects” and pp. 62-63 addressing Friant Ranch; see also Mobile Source Heath Risk Assessment.)

**Comment DOJ-10**

*Here, the DEIR concludes that the Project would have significant air quality impacts because it would result in operational NO<sub>x</sub> emissions that would exceed the applicable SCAQMD threshold.<sup>6</sup> In particular, the DEIR concludes that the total daily maximum emissions would be between approximately 76 and 79 lbs./day, compared to the 55 lbs./day threshold. (DEIR at 4.3-16.) The DEIR also concludes that Project operational NO<sub>x</sub> emissions exceedances would result in a*

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<sup>6</sup> NO<sub>x</sub> is an air pollutant that mainly impacts respiratory conditions causing inflammation of the airways at high levels. Long-term exposure can decrease lung function, increase the risk of respiratory conditions and increase the response to allergens. NO<sub>x</sub> also contributes to the formation of fine particles (PM) and ground level ozone, both of which are associated with adverse health effects.

*cumulatively considerable net increase in criteria pollutants (ozone and PM10/PM2.5) for which the Project region is in non-attainment. Findings and conclusions of the EIR are not affected.*

**Response DOJ-10**

The commentor summarizes data included in the EIR which do not require a response. Comment noted. Findings and conclusions of the EIR are not affected.

**Comment DOJ-11**

*Despite these significant air quality impacts, the DEIR concludes that the potential for the Project to expose sensitive receptors to substantial pollutant concentrations is less-than-significant. (DEIR at 4.3-33.) The DEIR acknowledges the existence of residential areas surrounding the Project but does not identify all sensitive receptors before concluding that impacts will be less-than-significant. (DEIR at 4.3-33.) The DEIR relies on a Health Risk Assessment (“HRA”) that fails to include a full analysis as recommended by the California Air Resources Board (CARB). In their scoping comment letter, CARB recommended that the HRA “evaluate and present the existing baseline (current conditions), future baseline (full build-out year, without the Project), and future year with the Project” to allow the public to fully understand the health impacts of the project. However, the HRA in the DEIR only evaluates the future year impacts of the Project, precluding the public from fully understanding the impacts of the Project.*

**Response DOJ-11**

Comment noted. The DEIR Health Risk Assessment (“HRA”) accurately analyzed health impacts under CEQA. The HRA evaluates the potential health risks to residential and worker over a period of 30 or 25 years of exposure, respectively. The SCAQMD has established an incidence rate of ten (10) persons per million as the maximum acceptable incremental cancer risk due to DPM exposure. This threshold serves to determine whether or not a given project has a potentially significant development-specific and cumulative impact. In other words, the HRA does analyze all appropriate baselines to analyze whether or not the project will cause either a project specific or cumulative impact. In addition, CARB’s comment letter on the DEIR does not question the validity or methodology employed in the DEIR. The comment identifies that the Project “does not identify all sensitive receptors” but does not identify what sensitive receptors are

absent. Without specific information on what sensitive receptors were excluded, a more specific comment cannot be provided. However, modeled sensitive receptors were placed at residential and non-residential locations, based on recommendations from SCAQMD staff and a receptor grid with a maximum of 100 meters spacing were placed at residential and worker locations to ensure that the maximum impacts are properly analyzed. See Mobile Source Health Risk Assessment for additional information. Please refer to Responses to CARB Comments and Responses to SCAQMD Comments presented in this Final EIR. Findings and conclusions of the EIR are not affected.

### **Comment DOJ-12**

*Further, the DEIR's analysis does not meet the requirements as set forth in Friant Ranch. The DEIR attempts to analyze the health impacts of the Project by comparing the Project's onsite emissions of CO<sub>2</sub>, NO<sub>x</sub>, PM<sub>10</sub>, and PM<sub>2.5</sub> to the SCAQMD's applicable Localized Significance Thresholds (LST). The DEIR concludes that the Project would not result in emissions that exceeded the SCAQMD's LST, implying that health impacts to nearby sensitive receptors will therefore be insignificant. (DEIR at 4.3-17.) However, the DEIR does not indicate the concentrations at which the pollutants trigger the identified health symptoms, acknowledge the rates at which nearby communities are already experiencing the identified health symptoms, or analyze the specific health impacts that may result from emissions associated with the Project. As such, the DEIR is inadequate under CEQA. (See Friant Ranch, supra, 6 Cal.5th 502, 523 [holding that an EIR's discussion of air quality impacts was inadequate where it failed to indicate the concentrations at which pollutants emitted by the proposed project would trigger identified health effects, or to explain why such analysis was not possible].)*

### **Response DOJ-12**

The EIR does not solely rely on the LST methodology to determine whether health impacts would be less than significant. The EIR also utilizes a project-specific Health Risk Assessment. Please refer to Response DOJ-9. Friant Ranch holds that either indicate the concentrations at which pollutants emitted by the proposed Project would trigger identified health effects, or to explain why such analysis was not possible. Here, the EIR explains why it would be impossible relying on air quality districts with the most expertise on these items. (See Air Quality Impact Analysis, p. 62-63.) SCAQMD has

among the most sophisticated air quality modeling and health impact evaluation capability of any of the air districts in the State, and thus it is uniquely situated to express an opinion on how lead agencies should correlate air quality impacts with specific health outcomes. The SCAQMD discusses that it may be infeasible to quantify health risks caused by projects similar to the proposed Project, due to many factors. Notably, here, the proposed Project includes an Air Quality Impact Analysis which analyzes LSTs and an HRA. The project in Friant Ranch did not have an HRA. Findings and conclusions of the EIR are not affected.

### **Comment DOJ-13**

#### **III. THE DEIR AIR QUALITY IMPACT ANALYSIS IS FLAWED**

*To comply with CEQA, the lead agency must make “a reasoned and good faith effort to inform decision makers and the public” about a project’s potential impacts. (Berkeley Keep Jets Over the Bay Comm. V. Bd. Of Port comm’rs (2001) 91 Cal.App.4th 1344, 1367, as modified on denial of reh’g.) Using incorrect data or models runs counter to CEQA’s requirement that agencies make “a good faith effort at full disclosure.” (CEQA Guidelines § 15151, see also Berkeley Keep, 91 Cal.App.4th at 1367.)*

### **Response DOJ-13**

The commentor summarizes legal citations which do not require a response. Comment noted. Findings and conclusions of the EIR are not affected.

### **Comment DOJ-14**

*The DEIR’s Air Quality analysis fails to account for the warehouses’ potential cold storage uses. The operation of refrigerated warehouses requires use of trucks with transport refrigeration units (TRUs), which emit significantly higher levels of toxic diesel particulate matter (PM), NOx, and greenhouse gas emissions than trucks without TRUs. The DEIR fails to inform the public whether or not the Project will include cold storage uses, and it fails to disclose whether the air quality modeling takes cold storage uses into account. The DEIR only states that the Project will be a high-cube warehouse. The increased air pollutant emissions from cold storage should be factored into the analysis, unless the County includes enforceable measures to prohibit cold storage at the Project.*



**Response DOJ-14**

Please refer to Response CARB-3 presented within this Final EIR. The DEIR's Air Quality Impact Analysis did not account for the potential of cold storage because the Project design does not anticipate cold storage uses. To alleviate this concern, a condition of approval will be added to the Project that will prohibit cold storage uses until such time as that use may be proposed and additional CEQA analysis is performed and approved by the County. Findings and conclusions of the EIR are not affected.

**Comment DOJ-15**

***IV. THE COUNTY FAILS TO ADEQUATELY ANALYZE THE PROJECT'S LAND USE IMPACTS***

*An EIR must clearly set forth all significant effects of the Project on the environment, including impacts on land use. (Pub. Resources Code, § 21100, subd. (b)(1); CEQA Guidelines, § 15126.2, subd. (a).) The DEIR must identify and discuss any inconsistencies between the Project and applicable general, specific, and regional plans, including plans for the reduction of greenhouse gas emissions. (CEQA Guidelines, § 15125, subd. (d).)*

**Response DOJ-15**

The commentor summarizes legal citations which do not require a response. Comment noted. Findings and conclusions of the EIR are not affected.

**Comment DOJ-16**

***A. The DEIR Fails to Analyze the Project's Consistency with the Good Neighbor Policy***

*The DEIR concludes that "the Project would not result in any adverse environmental impacts due to an inconsistency with any applicable land use plans, policies or regulations" and thus "there is no potential for the Project to contribute to a considerable environmental effect related to this issue." (DEIR at 4.11-2.) The Land Use and Planning section examines whether the Project would "[c]ause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect." (DEIR at 4.11-1). Under this inquiry, the DEIR reviews several policies, including the County of Riverside*

*General Plan, Land Use Ordinance, Mead Valley Area Plan, and Western Riverside County Multiple Species Habitat Conservation Plan.*

**Response DOJ-16**

The commentor summarizes information included in the EIR which does not require a response. Comment noted. Findings and conclusions of the EIR are not affected.

**Comment DOJ-17**

*However, the DEIR does not analyze the Project's consistency with the Good Neighbor Policy. The DEIR recognizes that the Good Neighbor Policy is applicable to the Project and states that the Project will implement applicable provisions of the Policy as part of the Project Conditions of Approval as MM-AQ-5 and MM-GHG-3. Yet, the Project already violates the Good Neighbor Policy. In order to lessen the impact on surrounding communities, the Good Neighbor Policy requires that warehouses greater than 250,000 square feet should be at a minimum 300 feet from the property line of sensitive receptors.<sup>7</sup> However, here, the closest residence to the Project is located within about 10 feet. (DEIR at 4.3-19.) The DEIR fails to analyze and disclose this inconsistency before concluding that there will be no land use impacts.*

**Response DOJ-17**

Please refer to Responses AQMD 14 – 17 presented in this Final EIR and Response DOJ-6 on the applicability of the Good Neighbor Policy. The DEIR was not required to analyze the Project's consistency with the Good Neighbor Policy. Furthermore, the Project does not violate the Good Neighbor Policy. The Project's Conditions of Approval illustrate the implementation of the various provisions of the Good Neighbor Policy. Pursuant to the Good Neighbor Policy, the policy guidelines apply to new projects submitted after the policy approval date. This Project was submitted prior to the policy approval date. There is no "violation" of the Policy. If the Policy was applicable, it "is intended to provide a general guidance that will be appropriate for most industrial and warehouse projects

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<sup>7</sup> Regardless of the Good Neighbor Policy, we recommend that sensitive land uses be separated from warehouses by at least 1,000 feet to adequately protect communities. ("Air Quality and Land Use Handbook: A Community Health Perspective," California Air Resources Board (April 2005).) Accordingly, data from CARB demonstrates that localized air pollution drops off by 80 percent about 1,000 feet away. (Id. at 4-5.)

larger than 250,000 square feet in size with more than 20 loading bays.” (emphasis in original). Findings and conclusions of the EIR are not affected.

**Comment DOJ-18**

*Additionally, as discussed below, the Project fails to adequately address the Good Neighbor Policy’s required mitigation for warehouse project impacts. The County should analyze the Project’s consistency with the Good Neighbor Policy and explain why the Project does not have a significant land use impact given its inconsistency with the Policy.*

**Response DOJ-18**

Please refer to Response DOJ-17. Findings and conclusions of the EIR are not affected.

**Comment DOJ-19**

***B. The DEIR Fails to Adequately Analyze the Project’s Consistency with the General Plan***

*The DEIR concludes that the Project will be consistent with the County’s General Plan and therefore will not result in any land use impacts. However, in the air quality analysis, the DEIR concludes that the Project would have a significant air quality impact because it would conflict with the applicable Air Quality Management Plan (“AQMP”). (DEIR at 4.3-33.) Consistency with the AQMP is based on whether or not the Project will be consistent with the County General Plan land use designation as a Business Park Land Use. The DEIR’s air quality analysis concludes that the uses of the proposed Project “are not specifically envisioned under the County’s land use designation” and thus the Project “is determined to be inconsistent with the [AQMP].” (DEIR at 4.3-10.) The DEIR concludes that inconsistencies with the AQMP cannot be resolved and the air quality impacts would be significant and unavoidable. (DEIR at 4.3-10.) Yet, the analysis of land use impacts ignores the Project’s inconsistency with the General Plan. The County should analyze the Project’s consistency with the General Plan and explain why the Project does not have a significant land use impact given its inconsistency with the land use designation.*

### **Response DOJ-19**

The commentor's remarks are based on the false premise that "[c]onsistency with the AQMP is based on whether or not the Project will be consistent with the County General Plan land use designation as a Business Park Land Use." The note in the EIR that the uses of the Project "are not specifically envisioned under the County's land use designation" reflects that the amount of emissions may not be fully anticipated by the typical projections of the General Plan and therefore the AQMP as well. Such a difference in the anticipated amount of emissions does not make the proposed Project and its land use inconsistent with the General Plan. In reality, the proposed Project is consistent with the land use designation of the General Plan and the allowed uses pursuant to Ordinance No. 348. The Project is consistent with the existing General Plan land use designation. Findings and conclusions of the EIR are not affected.

### **Comment DOJ-20**

*By failing to adequately identify and address inconsistencies with applicable local land use plans and policies, the DEIR fails to inform the public of the potentially significant land use impacts. An EIR that fails to disclose a significant environmental impact, "preclude[ing] informed decision-making and informed public participation," is invalid. (Banning Ranch Conservancy v. City of Newport Beach (2017) 2 Cal.5th 918, 942.) We urge the County to correct its land use impact analysis to disclose the Project's significant land use impacts and adopt all feasible mitigation measures.*

### **Response DOJ-20**

Please refer to Response DOJ-19. Consistency with the AQMP does not necessarily equate to consistency with applicable local land use plans and policies. The EIR addresses consistency with the AQMP. Specifically, the Project's conflict with the AQMP is fully discussed and disclosed in the EIR, and therefore this issue cannot be said to preclude informed decision-making and informed public participation. Furthermore, the EIR appropriately addresses the Project's relationship and consistency with the General Plan as applicable in the Draft EIR as well as in detail in Appendix K of the Draft EIR. Therefore, the EIR did evaluate in detail all significant environmental impacts and the

EIR does provide sufficient detail to allow adequate public review and informed decision-making. Findings and conclusions of the EIR are not affected.

**Comment DOJ-21**

**V. THE DEIR'S MITIGATION MEASURES ARE INADEQUATE, UNLAWFULLY DEFERRED, AND UNENFORCEABLE**

*CEQA requires a lead agency to adopt all feasible mitigation measures that minimize the significant environmental impacts of a project. (Pub. Resources Code, § 21002; CEQA Guidelines § 15126.4, subd. (a)(1).) The lead agency is expected to develop mitigation in an open and public process. (Communities for a Better Environment v. City of Richmond (2010) 184 Cal.App.4th 70, 93.) It is generally inappropriate to defer formulation of mitigation measures to the future. (CEQA Guidelines, § 15126.4, subd. (a)(1)(B).) A lead agency can defer mitigation only where, among other things, the EIR sets forth criteria governing future actions to implement mitigation, and the agency has assurances that future mitigation will be both "feasible and efficacious." (Californians for Alternatives to Toxics v. Dept. of Food & Agric. (2005) 136 Cal.App.4th 1, 17.) Impermissible deferral occurs when an EIR calls for mitigation measures to be created based on future studies but the agency fails to commit itself to specific performance standards. (Cal. Clean Energy Comm. v. City of Woodland (2014) 225 Cal.4th 173, 195.)*

**Response DOJ-21**

The commentor summarizes legal citations which do not require a response. Comment noted. Findings and conclusions of the EIR are not affected.

**Comment DOJ-22**

*As previously discussed, the DEIR concludes that air quality impacts will be significant and unavoidable. However, the DEIR relies on deferred and unenforceable mitigation. For example, the DEIR relies on MM-AQ-4, which states that the Project "shall be designed to incorporate electric vehicle charging stations and carpool parking spaces for employees." Yet, the DEIR does not provide any information on the number of vehicle charging stations or carpool parking spaces that are required, when these spaces will be implemented, or provide any measurable criteria for quantifying how much air emissions it will mitigate.*

## **Response DOJ-22**

The commentor notes that the DEIR does not provide any information on the number of vehicle charging stations or carpool parking spaces that are required. However, this information is included in the DEIR (DEIR, p. 4.6-15 and p. 4.8-18). Implementation of these features is addressed in the FEIR and Conditions of Approval. Pursuant to County Ordinance No. 348, Section 18.12. Off-Street Vehicle Parking . . . [a]ll development projects that require fifty (50) or more parking spaces shall designate three (3) spaces for electrical vehicles, and designate one (1) additional space for electrical vehicles for each additional fifty (50) parking spaces. The Project design concept (HPA Architects, 04/29/2020) proposes 377 vehicle parking stalls. By Ordinance, the Project would therefore be required to provide a minimum of 3 spaces for the first 50 spaces + 1 space for 327/50 spaces, or 10 total EV parking spaces. The Project design concept identifies 19 EV parking stalls, and an additional 4 EV (accessible) stalls. Further, pursuant to CALGreen Section 5.106.5.2, *Designated Parking for Clean Air Vehicles*, Table 5.106.5.2, the Project would be required to provide designated parking for any combination of low-emitting, fuel efficient and carpool/van pool vehicles totaling a minimum of 8% of the Project total vehicular parking. On this basis, pursuant to CALGreen, the Project would be required to provide  $0.08 \times 377$  spaces (30 spaces) for low-emitting, fuel efficient and carpool/van pool vehicles. Mitigation Measure AQ-4 (MM-AQ-4) is amended as follows, incorporating the above requirements.

MM-AQ-4: The Project shall be designed to incorporate electric vehicle charging stations and carpool parking spaces for employees. **Specifically, at a minimum, the Project shall comply with County Ordinance No. 348, Section 18.12. Off-Street Vehicle Parking, EV parking requirements; and CALGreen Section 5.106.5.2, Designated Parking for Clean Air Vehicles, Table 5.106.5.2 requirements.**

The Project's Conditions of Approval supported by MM-AQ-4 as amended here will implement these requirements. The EIR analyses conservatively assumes no emissions reductions through implementation of the Project operational air quality mitigation measures (DEIR, pp. 4.3-15, 4.3-16). Findings and conclusions of the EIR are not affected.

**Comment DOJ-23**

*Similarly, the DEIR relies on the adoption of MM-GHG-3 to mitigate the Project's greenhouse gas emissions, concluding that with this mitigation the Project's greenhouse gas emissions will be less than significant. This measure states that the Project will comply with applicable provisions of the County's Good Neighbor Policy. However, the mitigation measure fails to provide any specifics about which provisions are applicable or how those measures will mitigate the Project's emissions. For example, Good Neighbor Policy sections 2.2, 3.11, and 4.5 each require warehouse-related engine emissions to be mitigated in different ways. Yet it's unclear which of these measures are "applicable" to the Project, how they will be enforced, and how much greenhouse gas emissions are mitigated by each measure. The DEIR must articulate enforceable measures to mitigate the Project's air quality and greenhouse gas impacts.*

**Response DOJ-23**

The commentor is inaccurate in their evaluation of the EIR. Please refer to DEIR at page 4.3-31 stating that "[t]he analysis provided here does not take credit for any pollutant emissions reductions that may be achieved under the Good Neighbor Policy, thereby establishing a likely maximum impact scenario." Implementation of these features is addressed in the FEIR and Conditions of Approval. Notably, this Project is required to comply with the County's Climate Action Plan which provides adequate mitigation for reducing any potential impacts for greenhouse gas emissions to a less than significant level. Findings and conclusions of the EIR are not affected.

**Comment DOJ-24**

*Further, the DEIR fails to implement all feasible mitigation for air quality impacts and fails to explain why additional mitigation is infeasible. In their scoping comment letter, CARB recommended measures to reduce construction and operation emissions, such as "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." However, the DEIR did not adopt any of those measures. Possible air quality mitigation measures the County should consider include:*

*Measures to reduce construction impacts:*

- *Prohibiting off-road diesel-powered equipment from being in the “on” position for more than 10 hours per day.*
- *Providing electrical hook ups to the power grid for electric construction tools, such as saws, drills and compressors, and using electric tools whenever feasible.*
- *Limiting the amount of daily grading disturbance area.*
- *Prohibiting grading on days with an Air Quality Index forecast of greater than 100 for particulates or ozone for the project area.*
- *Keeping onsite and furnishing to the lead agency or other regulators upon request, all equipment maintenance records and data sheets, including design specifications and emission control tier classifications.*
- *Conducting an on-site inspection to verify compliance with construction mitigation and to identify other opportunities to further reduce construction impacts.*
- *Using paints, architectural coatings, and industrial maintenance coatings that have volatile organic compound levels of less than 10 g/L.*
- *Providing information on transit and ridesharing programs and services to construction employees.*
- *Providing meal options onsite or shuttles between the facility and nearby meal destinations.*

*Measures to reduce operational impacts:*

- *Requiring on-site equipment, such as forklifts and yard trucks, to be electric with the necessary electrical charging stations provided.*
- *Installing and maintaining air filtration systems at sensitive receptors within a certain radius of facility.*
- *Installing and maintaining an air monitoring station proximate to sensitive receptors and the facility. While air monitoring does not mitigate the air quality or greenhouse gas impacts of a facility, it nonetheless benefits the affected community by providing information that can be used to improve air quality.*
- *Constructing plugs for transport refrigeration units at every dock door, if the warehouse use could include refrigeration.*



- *Installing solar photovoltaic systems on the project site of a specified electrical generation capacity.*
- *Requiring all stand-by emergency generators to be powered by a non-diesel fuel.*
- *Requiring facility operators to train managers and employees on efficient scheduling and load management to eliminate unnecessary queuing and idling of trucks.*
- *Meeting CalGreen Tier 2 green building standards, including all provisions related to designated parking for clean air vehicles, electric vehicle charging, and bicycle parking.*
- *Achieving certification of compliance with LEED green building standards.*
- *Posting signs at every truck exit driveway providing directional information to the truck route.*
- *Improving and maintaining vegetation and tree canopy for residents in and around the project area.*

*As previously stated, under CEQA, a lead agency cannot approve projects as proposed if there are feasible mitigation measures available which would substantially lessen the significant environmental impacts of the project. (Pub. Resources Code, § 21001.) Thus, the DEIR should adopt the recommended measures by CARB and those recommended above in order to lessen the air quality impacts of the Project or explain why they are infeasible.*

#### **Response DOJ-24**

The Project will not result in significant construction-source air quality impacts (DEIR, p. 4.3-13, et al.). Therefore, the commentor's suggested construction mitigation measures are not applicable nor required. CEQA does not require mitigation of less-than-significant impacts. (Pub. Resources Code, § 21002; *CEQA Guidelines*, §§ 15126.4, subd. (a)(3), 15091). Please refer to Response CARB-4 presented in this FEIR, addressing additional feasible operational-source air quality impact mitigation measures. The Project implements several of the recommended design features. For example, the Project incorporates a photovoltaic (PV) system that would provide a portion of the Project electrical energy demands. Findings and conclusions of the EIR are not affected.

**Comment DOJ-25**

**VI. CONCLUSION**

*CEQA provides the opportunity for transparent, thoughtful governance by requiring evaluation, public disclosure, and mitigation of a project's significant environmental impacts prior to project approval. While the DEIR provided some information about the Project's significant environmental impacts, the analysis is deficient in several respects. In evaluating the Project's impacts, the County should consider the surrounding the community's already high pollution burden and the cumulative impact of developing a warehouse so close to residences, schools, and places of worship. The County should analyze the consistency with the County's Good Neighbor Policy and General Plan and explain why the Project does not have a significant land use impact given its inconsistency with these policies. Finally, additional mitigation is necessary and can feasibly be added to address the Project's significant impacts.*

*The Attorney General's Office is available to provide assistance to the County as it works on CEQA compliance. Please do not hesitate to contact me if you have any questions or would like to discuss these issues further.*

**Response DOJ-25**

Concluding and summary comments are noted. Please refer to Responses DOJ-1 through DOJ-24. Findings and conclusions of the EIR are not affected.

July 24, 2020

Russell Brady, Planner  
Riverside County Planning Department  
4080 Lemon Street, 12<sup>th</sup> Floor  
Riverside, California 92501  
Submitted via email: [rbrady@rivco.org](mailto:rbrady@rivco.org)

Dear Russell Brady:

Thank you for providing the California Air Resources Board (CARB) with the opportunity to comment on the Barker Logistics, LLC Warehouse/Logistics Building Project (Project) Draft Environmental Impact Report (DEIR), State Clearinghouse No. 2019090706. The Project consists of the construction and operation of a 694,630 square-foot warehouse/logistics building. Once in operation, the Project would introduce 1,548 daily vehicle trips, including 276 daily heavy-duty truck trips, along local roadways. The Project is located within an unincorporated area of Riverside County (County), California, which is the lead agency for California Environmental Quality Act (CEQA) purposes.

CARB-1

CARB submitted comments on the Notice of Preparation (NOP) for the DEIR released in October 2019, which is attached to this letter. CARB's October 2019 comments highlighted the need for a health risk assessment (HRA) to be prepared for the Project and encouraged the County and applicant to implement all existing and emerging zero-emission technologies to minimize exposure to diesel particulate matter (diesel PM) and nitrogen oxides (NO<sub>x</sub>) emissions for all neighboring communities, as well as minimize the greenhouse gases that contribute to climate change. Furthermore, CARB's comments emphasized the potential cumulative health impacts should the County allow the construction of the proposed industrial buildings near communities that score within the top 5 percent of California census tracts on the California Communities Environmental Health Screening Tool Version 3.0 (CalEnviroScreen).<sup>1</sup> CARB has reviewed the DEIR and has the following concerns:

CARB-2

**I. It is Unclear Whether the Proposed Project Would Include Cold Storage Space**

The air pollutant emissions and cancer risks 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 694,630 square-foot warehouse/logistics building would not include cold storage space, there is a possibility

CARB-3

<sup>1</sup>: "CalEnviroScreen 3.0." California Office of Environmental Health Hazard Assessment, June 2018, <https://oehha.ca.gov/calenviroscreen/report/calenviroscreen-30>.

that trucks and trailers visiting the Project site would be equipped with transport refrigeration units (TRU).<sup>2,3</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 significant cancer risk. CARB urges the applicant and County 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 County 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 County does allow TRUs within the Project site, CARB urges the County to model air pollutant emissions from TRUs in the FEIR, as well as include potential cancer risks from TRUs in the Project's revised HRA. The revised HRA should account for all potential health risks from Project-related diesel PM emission sources such as backup generators, TRUs, and heavy-duty truck traffic.

## **II. The DEIR Does Not Include all Feasible Mitigation Measures to Reduce the Project's Significant and Unavoidable Impact on Air Quality.**

The DEIR did not include all of the air pollution reduction measures provided in CARB's comment letter on the Project's NOP released in October 2019. Chapter 4.3 (Air Quality) of the DEIR includes 2 Best Available Control Measures (BACM-AQ-1 through BACM-AQ-2) and 6 mitigation measures (MM-AQ-1 through MM-AQ-6) to reduce the Project's impacts on air quality during its construction and operation. These measures would include complying with the South Coast Air Quality Management District's

<sup>2</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.

<sup>3</sup> 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.

CARB-3

CARB-4

(SCAQMD) Rule 403 and Rule 1113, restricting diesel trucks idling to 5 minutes, installing electric vehicle charging stations, and constructing infrastructure support for on-site renewable energy production. With the implementation of these mitigation measures, the DEIR concluded that the Project would result in a significant and unavoidable impact on air quality.

Even where impacts will remain significant and unavoidable after mitigation, CEQA requires that all feasible mitigation measures be incorporated (see California Public Resources Code § 21081; 14 CCR § 15126.2(b)). To meet this requirement, CARB continues to urge the County to implement all of the air pollutant emission reduction measures referenced in CARB's comment letter on the DEIR's NOP dated October 29, 2019, found in Attachment A of this letter.

### III. Conclusion

CARB is concerned about the potential public health impacts should the County approve the Project. As discussed above, the DEIR may not have accounted for diesel PM emissions from heavy-duty trucks with TRUs when evaluating the Project's cancer risk impacts. If the proposed warehouse/logistics building will be used for cold storage, CARB urges the County and applicant to revise the Project's HRA and report the findings in the FEIR. The revised HRA should assume a conservative percentage of the trucks visiting the Project site are equipped with TRUs. Furthermore, the FEIR should be revised to include all feasible mitigation measures listed in CARB's comment letter on the DEIR's NOP dated October 29, 2019, found in the attachment to this letter, to reduce the Project's significant and unavoidable impact on air quality.

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-4

CARB-5

CARB-6

Russell Brady, Planner  
July 24, 2020  
Page 4

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, via email at [stanley.armstrong@arb.ca.gov](mailto:stanley.armstrong@arb.ca.gov).

CARB-7

Sincerely,



Richard Boyd, Chief  
Risk Reduction Branch  
Transportation and Toxics Division

Attachment

cc: See next page.

Russell Brady, Planner  
July 24, 2020  
Page 5

cc: State Clearinghouse  
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## ATTACHMENT



October 29, 2019

Russell Brady  
Planning Department  
Riverside County  
4080 Lemon Street, 12<sup>th</sup> Floor  
Riverside, California 92502

Dear Russell Brady:

Thank you for providing California Air Resources Board (CARB) staff the opportunity to comment on the Notice of Preparation (NOP) for the Barker Logistics Project (Project) Draft Environmental Impact Report (DEIR), State Clearinghouse No. 2019090706. The Project consists of the construction and operation of a logistics/warehouse building totaling approximately 694,540 square feet within an unincorporated area of Riverside County (County), California, which is the lead agency for California Environmental Quality Act (CEQA) purposes.

CARB staff is concerned about the air pollution and health risk impacts that would result should the County approve the Project to build the proposed logistics/warehouse building. 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 and yard tractors) that emit toxic diesel emissions, and contribute to regional air pollution and global climate change.

Existing residences are located north, south, east and west of the Project site, with the closest residences situated approximately 114 feet from the Project's western boundary. In addition to residences, two schools (Val Verde High School and Val Verde Elementary School) and a daycare center (Small Wonder Family Child Care) are located within 1 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 215 (I-215). Due to the Project's proximity to residences, schools, and daycare centers 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 currently disproportionately burdened by multiple sources of pollution. Communities that score within the top 25 percent of the census tracts are exposed to higher concentrations of air pollutants and have a higher Pollution Burden.<sup>1</sup> According to CalEnviroScreen, communities near the Project score within the top 5 percent of the census tracts. Therefore, CARB urges the County to ensure that the Project does not adversely impact neighboring disadvantaged communities.

The NOP does not state whether the industrial uses proposed under the Project would include cold storage warehouses. The operation of cold storage warehouses would include trucks with transport refrigeration units (TRU) that emit significantly higher levels of toxic diesel emissions, oxides of nitrogen (NO<sub>x</sub>), and greenhouse gases than trucks without TRUs. Since it is unclear whether the Project would include cold storage warehouse space, any modeling done in support of the air quality analysis of the DEIR and associated health risk assessment (HRA) should assume that a conservative percentage of the truck and trailer fleet that would be serving the Project site are equipped with TRUs.

In addition to the health risk associated with operations, construction health risks 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 emissions from the use of both on-road and off-road diesel equipment. The Office of Environmental Health Hazard Assessment's (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 prepared in support of the Project should be based on the latest OEHHA guidance (2015 Air Toxics Hot Spots Program Guidance Manual for Preparation of

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<sup>1</sup> Pollution Burden represents the potential exposures to pollutants and the adverse environmental conditions caused by pollution.

Health Risk Assessments),<sup>2</sup> and the South Coast Air Quality Management District's CEQA Air Quality Handbook.<sup>3</sup> The HRA should evaluate and present the existing baseline (current conditions), future baseline (full build-out year, without the Project), and future year with the Project. The health risks modeled under both the existing and the future baselines should reflect all applicable federal, state, and local rules and regulations. By evaluating health risks using both baselines, the public and county planners will have a complete understanding of the potential health impacts that would result from the Project.

To reduce the exposure of toxic diesel emissions in disadvantaged communities already disproportionately impacted by air pollution, the final design of the Project should include all existing and emerging zero-emission technologies to minimize diesel and NO<sub>x</sub> emission exposure to all neighboring communities, as well as the greenhouse gases that contribute to climate change. CARB encourages the County and applicant to implement the measures listed in Attachment A of this comment letter to reduce the Project's construction and operational air pollution emissions.

CARB staff 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, at (916) 440-8242 or via email at [stanley.armstrong@arb.ca.gov](mailto:stanley.armstrong@arb.ca.gov).

Sincerely,



Richard Boyd, Chief  
Risk Reduction Branch  
Transportation and Toxics Division

Attachment

cc: See next page.

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<sup>2</sup> 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>.

<sup>3</sup> SCAQMD's 1993 Handbook can be found at: <http://www.aqmd.gov/home/rules-compliance/ceqa/air-quality-analysis-handbook>.

Russell Brady  
October 29, 2019  
Page 4

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## 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, 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-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 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.

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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 particulate matter 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>.

California Air Resources Board  
1001 I Street  
Sacramento, CA 95812

Letter Dated July 24, 2020

**Comment CARB-1**

*Thank you for providing the California Air Resources Board (CARB) with the opportunity to comment on the Barker Logistics, LLC Warehouse/Logistics Building Project (Project) Draft Environmental Impact Report (DEIR), State Clearinghouse No. 2019090706. The Project consists of the construction and operation of a 694,630 square-foot warehouse/logistics building. Once in operation, the Project would introduce 1,548 daily vehicle trips, including 276 daily heavy-duty truck trips, along local roadways. The Project is located within an unincorporated area of Riverside County (County), California, which is the lead agency for California Environmental Quality Act (CEQA) purposes.*

**Response CARB-1**

The Project description as summarized by the commentor is materially correct.

**Comment CARB-2**

*CARB submitted comments on the Notice of Preparation (NOP) for the DEIR released in October 2019, which is attached to this letter. CARB's October 2019 comments highlighted the need for a health risk assessment (HRA) to be prepared for the Project and encouraged the County and applicant to implement all existing and emerging zero-emission technologies to minimize exposure to diesel particulate matter (diesel PM) and nitrogen oxides (NOx) emissions for all neighboring communities, as well as minimize the greenhouse gases that contribute to climate change. Furthermore, CARB's comments emphasized the potential cumulative health impacts should the County allow the construction of the proposed industrial buildings near communities that score within the top 5 percent of California census tracts on the California Communities Environmental Health Screening Tool Version 3.0 (CalEnviroScreen) CARB has reviewed the DEIR and has the following concerns:*



## **Response CARB-2**

The commentor discusses its comment letter on the NOP and requests that a Health Risk Assessment be prepared for the Project. A Health Risk Assessment was prepared and included in the DEIR as Appendix O.

The commentor expresses general concern regarding disadvantaged communities' exposure to air pollution. The Project does include multiple mitigation measures discussed in the DEIR and Air Quality Study. These mitigation measures are implemented to ensure that air pollution emissions are minimized, thus minimizing the impact on surrounding communities. This comment does not include a specific request; therefore, no revisions to the DEIR are proposed. Findings and conclusions of the DEIR are not affected.

## **Comment CARB-3**

### ***I. It is Unclear Whether the Proposed Project Would Include Cold Storage Space***

*The air pollutant emissions and cancer risks 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 694,630 square-foot warehouse/logistics building 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).*

*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 significant cancer risk. CARB urges the applicant and County 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 County 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 County does allow TRUs within the Project site, CARB urges the County to model air pollutant emissions from TRUs in the FEIR, as well as include potential cancer risks from TRUs in the Project's revised HRA. The revised HRA should account for all potential health risks from Project-related diesel PM emission sources such as backup generators, TRUs, and heavy-duty truck traffic.*

### **Response CARB-3**

The Project design does not anticipate cold storage uses and the commentor correctly points out that the use of TRUs was not included in the air quality modeling. To clarify, the Project Description at DEIR p. 2-1 is amended as follows:

#### **2.2 PROJECT DESCRIPTION**

The Project involves a Plot Plan to allow development of a 699,630 square foot warehouse/logistics building on a 31.55-acre property. **Refrigerated warehouse uses are not proposed. Should future development proposals for the Project site differ substantively from the development concept analyzed herein, the Lead Agency may require additional environmental analyses.** The building dimensions are 42 to 49.5 feet (at its peak) in height, 1,098 feet long, and 720 feet at its widest. It is 600 feet from dock doors on the west to the dock doors on the east of the structure. The automobile parking spaces are to be located around the perimeter of the building; truck/truck trailer bays will be located on the east and west elevations of the building. Reference Exhibit 2-6: *Proposed Site Plan* and Exhibit 2-7: *Proposed Building Elevations*.

Additionally, the following Conditions of Approval, or equivalent measures, will be implemented:

- Lease agreements with tenants shall include contractual language that prohibits tenants from operating refrigerated warehouse space or operating transport refrigeration units (TRUs) from the Project.
- Prior to issuance of the first building permit - A restrictive covenant on the parcel shall be recorded that prohibits the operation of refrigerated warehouse space or the use of transport refrigeration units (TRUs) on the property.

Findings and conclusions of the DEIR are not affected.

#### **Comment CARB-4**

#### ***II. The DEIR Does Not Include all Feasible Mitigation Measures to Reduce the Project's Significant and Unavoidable Impact on Air Quality.***

*The DEIR did not include all of the air pollution reduction measures provided in CARB's comment letter on the Project's NOP released in October 2019. Chapter 4.3 (Air Quality) of the DEIR includes 2 Best Available Control Measures (BACM-AQ-1 through BACM-AQ-2) and 6 mitigation measures (MM-AQ-1 through MM-AQ-6) to reduce the Project's impacts on air quality during its construction and operation. These measures would include complying with the South Coast Air Quality Management District's (SCAQMD) Rule 403 and Rule 1113, restricting diesel trucks idling to 5 minutes, installing electric vehicle charging stations, and constructing infrastructure support for on-site renewable energy production. With the implementation of these mitigation measures, the DEIR concluded that the Project would result in a significant and unavoidable impact on air quality.*

*Even where impacts will remain significant and unavoidable after mitigation, CEQA requires that all feasible mitigation measures be incorporated (see California Public Resources Code § 21081; 14 CCR § 15126.2(b)). To meet this requirement, CARB continues to urge the County to implement all of the air pollutant emission reduction measures referenced in CARB's comment letter on the DEIR's NOP dated October 29, 2019, found in Attachment A of this letter.*

## **Response CARB-4**

CARB Recommended Construction and Operation Measures (indicated by italic text), as they appear in Attachment A to the commentor letter, are addressed individually below.

### ***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.*

Pursuant to CARB recommendations, new mitigation measure MM-AQ-7 is incorporated as follows.

MM-AQ-7: During construction activity, electrical hook ups to the power grid for electric construction tools, such as saws, drills, and compressors, and using electric tools shall be provided where feasible.

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.*

As presented above, new mitigation measure MM-AQ-7 has been incorporated to address construction equipment. For on-road vehicles, this measure presupposes availability of electric engines, infrastructure, and technology that does not exist today.

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.*

Pursuant to CARB recommendations, new mitigation measure MM-AQ-8 is incorporated as follows.

MM-AQ-8: All non-road construction equipment greater than 50 horsepower shall meet EPA Tier 4 emission standards with the following exception. Equipment with an engine compliant with only Tier 3 emissions standards will be allowed when the Applicant shows a good faith effort to procure Tier 4 equipment, and documents that no Tier 4 equipment is available for a particular equipment type within the County of Riverside within the scheduled construction period. In the event rental equipment needs to be procured via a third-party vendor, each case shall be documented with signed written or emailed correspondence by the appropriate construction contractor, along with documented correspondence from at least two construction equipment rental firms representing a good faith effort to locate engines that meet Tier 4 requirements, as applicable. Documentation will be submitted to County staff for review before Tier 3 equipment is used on the Project.

- 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.*

The commentor does not provide substantial evidence indicating if or how this measure would reduce the Project's significant air quality impacts. Notwithstanding, new mitigation measure MM-AQ-8 has been incorporated, as presented above.

- 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-NOx standard starting in the year 2022.*

The commentor does not provide substantial evidence how this measure would reduce impacts associated with implementation of this measure. Notwithstanding, the Project will ensure compliance with state law.

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.*

The commentor does not provide substantial evidence how this measure would reduce impacts associated with implementation of this measure. Notwithstanding, the Project will be required by law to comply with applicable air quality regulations.

### ***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.*

The Project anticipates the use of Alternative Fueled Outdoor Cargo Handling Equipment; specifically, on-site outdoor cargo-handling equipment (including yard trucks, hostlers, yard goats, pallet jacks, forklifts, and other on-site equipment) will be powered by compressed natural gas, propane, or electric engines. Please note further, that the Lead Agency would implement the following standard Conditions of Approval, acting to generally reduce air pollutant emissions and diminish air quality impacts:

- Warehouse/distribution facilities shall install electrical panels and conduit to facilitate future electrical connections, to eliminate idling of main and auxiliary engines during the loading and unloading process.
  - On-site equipment, such as forklifts, shall be electric with the necessary electrical charging stations provided.
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.*

The Project does not propose refrigerated warehouse uses, and would not generated substantive TRU truck traffic. Please refer also to Response CARB-3. Findings and conclusions of the DEIR are not affected.

- 3. Include contractual language in tenant lease agreements that requires all TRUs entering the project site be plug-in capable.*

The Project does not propose refrigerated warehouse uses, and would not generate substantive TRU truck traffic. Please refer also to Response CARB-3. Findings and conclusions of the DEIR are not affected.

- 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.*

The Lead Agency supports compliance with incumbent vehicle emissions standards, and encourages voluntary use of vehicles that surpass incumbent emissions standards. The Lead Agency nonetheless considers measures requiring that all future tenants to exclusively use zero-emission light and medium-duty delivery trucks and vans would substantively restrict the potential tenant pool for the Project. This is contrary to the Project Objectives to:

- Attract new businesses and jobs to unincorporated Riverside County and thereby provide economic growth;
- Develop a vacant or underutilized property with a High-Cube warehouse/logistics building to help meet the substantial unmet regional demand for this type of building and use; and
- Develop a warehouse/logistics building that can attract building occupants seeking modern warehouse building space in the Mead Valley area constructed to

contemporary design standards; and develop a project that is economically competitive with similarly-sized buildings in the local area and in the inland empire.

Further, while the proposed measure may act to reduce certain vehicular-source emissions, the Project NO<sub>x</sub> emissions impacts would remain significant and unavoidable due to the use of heavy-duty trucks that would not be captured with zero emission light or medium duty trucks.

Notwithstanding, tenants for proposed uses like the Project generally utilize the most fuel-efficient fleets for their business activities. These fleets typically include zero-emissions or alternatively fueled light and medium-duty vehicles.

For the reasons listed above, the commentor's proposed measure is not incorporated in the DEIR. No revisions to the DEIR are proposed. Findings and conclusions of the DEIR are not affected.

5. *Include contractual language in tenant lease agreements requiring all TRUs, trucks, and cars entering the Project site be zero-emission.*

The Project does not propose refrigerated warehouse uses, and would not generate substantive TRU truck traffic. Please refer also to Response CARB-3 and the remarks at Item 4., above. Findings and conclusions of the DEIR are not affected.

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.*

Alternative Fueled Outdoor Cargo Handling Equipment will be employed on the site as feasible. All on-site outdoor cargo-handling equipment (including yard trucks, hostlers, yard goats, pallet jacks, forklifts, and other on-site equipment) will be powered by compressed natural gas, propane, or electric engines. Please note further,



that the Lead Agency would implement the following standard Conditions of Approval, acting to generally reduce air pollutant emissions and diminish air quality impacts:

- Warehouse/distribution facilities shall install electrical panels and conduit to facilitate future electrical connections, to eliminate idling of main and auxiliary engines during the loading and unloading process.
  - On-site equipment, such as forklifts, shall be electric with the necessary electrical charging stations provided.
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.*

As discussed in the DEIR, Project vehicular-source emissions would result in significant and unavoidable vehicle-source regional NO<sub>x</sub> emissions impacts. Neither the Lead Agency or the Applicant can meaningfully control vehicular-source NO<sub>x</sub> emissions, and reductions of these emissions in general has been realized through regulatory actions and as the result of the transition to newer and cleaner fuels and fuel-efficient technologies. In combination, regulatory actions and transition to newer/cleaner fuels and energy-efficient technologies are expected to result in significant, Basin-wide reductions in PM<sub>10</sub>/PM<sub>2.5</sub>, NO<sub>x</sub>, VOC, CO emissions.

With respect to the commentor's proposed imposition of 2014 model year emissions standards, expedited transition to zero-emission vehicles, and fully zero-emission vehicles beginning in 2030, the Lead Agency supports compliance with incumbent vehicle emissions standards, and encourages voluntary use of vehicles that surpass incumbent emissions standards. That said, under the current Truck and Bus Regulation (CARB, 2019) all diesel truck fleets operating in California are required to adhere to an aggressive schedule for upgrading and replacing heavy-duty truck engines. Pursuant to the Regulation, older, heavier trucks, i.e., those with pre-2000

year engines and a gross vehicle weight rating (GVWR) greater than 26,000 pounds are already required to have installed a PM filter and must be replaced with a 2010 engine within the timeframe 2015 - 2020, depending on the model year. As of 2015 under the Regulation, heavier pre-1994 trucks must be upgraded to 2010 engines and newer trucks are thereafter required to be replaced over the next eight years. By January 1, 2023, nearly all trucks and buses will need to have 2010 model year engines or equivalent. See also: CARB *Truck and Bus Regulation Compliance Requirement Overview* (CARB) Last Updated June 18, 2019; <https://ww3.arb.ca.gov/msprog/onrdiesel/documents/fsregsum.pdf>. All vehicles accessing the Project site would be required to comply with incumbent vehicle standards and emissions regulations, including the CARB Truck and Bus Regulation.

The commentor's proposed measure would not demonstrably reduce Basin-wide NOx emissions. That is, just because the measure would in effect prohibit older trucks, or non-zero emission trucks access to the Project site, by no means does the measure preclude their operation elsewhere within the Basin. The measure would in effect redirect these older vehicles and non-zero emissions vehicles to numerous other warehouses at other Basin locales, with no net reduction in Basin-wide NOx emissions.

Federal and State agencies are charged with regulating and enforcing vehicle emission standards. It is not feasible for County staff to effectively enforce a prohibition on trucks from entering the property that are otherwise permitted to operate in California and access other properties in the County, region, and state. Moreover, even if the County were to apply such a restriction, it would merely cause warehouse operators using older truck or non-zero emissions fleets to locate in another area within the Basin where the restriction does not apply, thereby resulting in no improvement to regional air quality. Furthermore, if a truck that did not meet this requirement were to attempt access to the site and be denied, there would be more idling emissions and travel emissions associated with that truck. Suggesting that the County require more stringent emissions controls than either the federal government or State of California is neither practical nor feasible for the County to effectively enforce.

For the reasons listed above, the commentor's proposed measure is not incorporated in the DEIR. No revisions to the DEIR are proposed. Findings and conclusions of the DEIR are not affected.

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, Periodic Smoke Inspection Program (PSIP), and the Statewide Truck and Bus Regulation.*

As a matter of law, all vehicles accessing the Project site would be required to comply with the incumbent CARB Heavy-Duty (Tractor-Trailer) Greenhouse Gas Regulation, Periodic Smoke Inspection Program (PSIP), and the Statewide Truck and Bus Regulation. The Project will require contractors and building operators (by contract specifications) to monitor compliance with incumbent CARB Heavy-Duty (Tractor-Trailer) Greenhouse Gas Regulation, Periodic Smoke Inspection Program (PSIP), and the Statewide Truck and Bus Regulation. No revisions to the DEIR are proposed. Findings and conclusions of the DEIR are not affected.

9. *Include contractual language in tenant lease agreements restricting trucks and support equipment from idling longer than five minutes while on site.*

Existing MM-AQ-2 already requires that diesel trucks servicing the Project "shall not idle for more than five (5) minutes" and that signs be posted with the phone number for the building facilities manager and the CARB to report violations.

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.*

The Project does not propose refrigerated warehouse uses and would not generate substantive TRU truck traffic. Please refer also to Response CARB-3. Findings and conclusions of the DEIR are not affected.

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.*

The commentor requests that the Project maximize the installation of solar panels to reduce area source emissions. As presented in the DEIR, only a small percentage of the Project's air pollutant emissions are associated with energy use; as such, the installation of solar panels does not have a proportional nexus to a majority of the Project's air pollutant emissions, which are attributed to mobile sources (vehicle exhaust).

It is also noted that the Project, as implemented, would derive substantive energy through use of on-site solar panels. In this regard, the Project would comply with on-site renewable energy production requirements presented in the Riverside County Climate Action Plan (CAP) (CAP, p. 4-14, R2-E10, *On-Site Renewable Energy Production Requirements for New Land Use Development Projects*). More specifically, the Project incorporates a photovoltaic (PV) system that would provide a portion of the Project electrical energy demands. Current designs indicate that a minimum of 20 percent of the Project electrical demands would be supplied by the proposed PV system. Please refer to DEIR, p. 4.6-8, et al.). No revisions to the DEIR are proposed. Findings and conclusions of the DEIR are not affected.

### **Comment CARB-5**

#### ***III. Conclusion***

*CARB is concerned about the potential public health impacts should the County approve the Project. As discussed above, the DEIR may not have accounted for diesel PM emissions from heavy-duty trucks with TRUs when evaluating the Project's cancer risk impacts. If the proposed warehouse/logistics building will be used for cold storage, CARB urges the County and applicant to revise the Project's HRA and report the findings in the FEIR. The revised HRA should assume*

*a conservative percentage of the trucks visiting the Project site are equipped with TRUs. Furthermore, the FEIR should be revised to include all feasible mitigation measures listed in CARB's comment letter on the DEIR's NOP dated October 29, 2019, found in the attachment to this letter, to reduce the Project's significant and unavoidable impact on air quality.*

#### **Response CARB-5**

The commentor expresses concern about the health impacts from cold storage and implementation of all feasible mitigation. As stated previously in Response CARB-3, the Project design does not anticipate cold storage uses. A condition of approval will be added to the Project that will prohibit cold storage uses until such time as that use is proposed and additional CEQA analysis is performed and approved by the County. No revisions to the DEIR are proposed. Findings and conclusions of the DEIR are not affected.

The DEIR has implemented all feasible mitigation and these responses have addressed proposed mitigation by CARB and added additional mitigation as deemed feasible.

#### **Comment CARB-6**

*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.*

#### **Response CARB-6**

Comment noted; however, CEQA requires all substantive comments be raised during the EIR process so that the Lead Agency can respond.

**Comment CARB-7**

*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, via email at stanley.armstrong@arb.ca.gov.*

**Response CARB-7**

The County appreciates CARB's considered involvement in the Project CEQA review process, and offer of assistance in developing and implementing zero-emission technologies and emission reduction strategies. Contact information for the CARB Air Pollution Specialist is noted. Findings and conclusions of the EIR are not affected.



# South Coast Air Quality Management District

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SENT VIA E-MAIL:

[rbrady@rivco.org](mailto:rbrady@rivco.org)

Russell Brady, Project Planner  
Riverside County, Planning Department  
4080 Lemon Street, 12th Floor  
Riverside, CA 92501

July 22, 2020

## **Draft Environmental Impact Report (Draft EIR) for the Proposed Barker Logistics, LLC Project (SCH No.: 2019090706)**

South Coast Air Quality Management District (South Coast AQMD) staff appreciates the opportunity to comment on the above-mentioned document. The following comments include recommended revisions to the health risk assessment and air quality mitigation measures that the Lead Agency should include in the Final EIR.

AQMD-1

### **South Coast AQMD Staff’s Summary of Project Description**

The Lead Agency is proposing to construct a 699,630-square-foot warehouse/logistics building on 31.55 acres (Proposed Project). The Proposed Project is located on the northeast corner of Placentia Avenue and Patterson Street in the community of Mead Valley within Riverside County. Construction of the Proposed Project is anticipated to occur over a 15- to 16-month period and be completed for operation in August 2021<sup>1</sup>. During construction a maximum of 15,000 cubic yards of soil may be imported or exported to or from the Proposed Project site<sup>2</sup>, resulting in a maximum total of 1,875 haul truck trips<sup>3</sup>. Once operational, the Proposed Project will include 109 dock doors<sup>4</sup> and is expected to generate 276 two-way daily truck trips<sup>5</sup>. Upon review of Exhibit 2-3: *Existing Site-Aerial* in the Draft EIR and aerial photographs, South Coast AQMD staff found that the closest residential sensitive receptors are located within 120 feet of the Proposed Project<sup>6</sup>.

AQMD-2

### **South Coast AQMD Staff’s Summary of the Air Quality Analysis and Health Risk Assessment (HRA)**

In the Draft EIR, the Lead Agency quantified the Proposed Project’s construction emissions and compared those emissions to South Coast AQMD’s recommended localized and regional CEQA significance thresholds for construction. The Proposed Project’s regional construction air quality impacts were found to be less than significant<sup>7</sup>. But, the Proposed Project’s localized construction air quality impacts were found to be significant for PM10 and PM2.5 emissions at 10.69 pounds per day (lbs/day) and 6.05 lbs/day<sup>8</sup>, which would exceed South Coast AQMD’s air quality CEQA localized significance thresholds for construction at 10.69 lbs/day and 6.05 lbs/day, respectively. To reduce those emissions, the Lead Agency is committed to Mitigation Measure Air Quality (MM-AQ)-1 for construction, which commits to watering the project site during site preparation and grading activity four times per day, every two hours<sup>9</sup>. With implementation of MM-AQ-1, the Lead Agency found that the Proposed Project’s

AQMD-3

<sup>1</sup> Draft EIR. Chapter 4: Environmental Impacts. Page 4.18-1.

<sup>2</sup> Draft EIR. Executive Summary. Page 0-6.

<sup>3</sup> Draft EIR. Appendix D: Air Quality Impact Analysis. PDF Page 181.

<sup>4</sup> Draft EIR. Exhibit 2-6: *Proposed Site Plan*. PDF Page 97.

<sup>5</sup> Draft EIR. Appendix D: Air Quality Impact Analysis. Page 44.

<sup>6</sup> Draft EIR. Chapter 4: Environmental Impacts. Page 4.3-22.

<sup>7</sup> Draft EIR. Appendix D: Air Quality Impact Analysis. Page 42.

<sup>8</sup> *Ibid.* Page 54.

<sup>9</sup> *Ibid.* Page 2.

localized PM10 and PM2.5 emissions would be reduced to the less than significant levels at 7.86 lbs/day and 4.71 lbs/day, respectively<sup>10</sup>.

AQMD-3

The Lead Agency quantified the Proposed Project’s localized and regional operational emissions. Based on this analysis, the Lead Agency found that the Proposed Project’s localized operational air quality impacts would be less than significant<sup>11</sup> and unmitigated regional operational air quality impacts would be significant for NOx at 79.34 lbs/day<sup>12</sup>, which would exceed South Coast AQMD’s regional operational air quality CEQA significance threshold at 55 lbs/day. The Lead Agency is committed to implementing operational MM-AQs, which include, but are not limited to, on-site anti-idling and off-site truck route signage, and compliance with the County of Riverside *Good Neighbor Policy for Logistics and Warehouse/Distribution Centers*, as implemented through the Proposed Project’s condition of approval<sup>13</sup>. The Lead Agency did not quantify emissions reductions from those mitigation measures and found that the Proposed Project’s regional operational air quality impacts for NOx would remain significant and unavoidable at 79.34 lbs/day<sup>14</sup>.

AQMD-4

The Lead Agency also conducted an operational HRA, which assumed that 276 daily truck trips would visit the Proposed Project. Using EMFAC2017, the Lead Agency developed a weighted average emission factor for the trucks anticipated to visit the Proposed Project. The Lead Agency included on-site and off-site trucks traveling, and on-site truck idling in the air dispersion model to identify the maximum concentration at the sensitive receptors to calculate the Proposed Project’s inhalation cancer risk. The Lead Agency found that that the Proposed Project’s operational inhalation cancer risk would be 5.02 in one million<sup>15</sup>, which would not exceed South Coast AQMD’s CEQA significance threshold of 10 in one million for cancer risk.

AQMD-5

Summary of South Coast AQMD Staff’s Comments

Based on a review of the Draft EIR and supporting technical documents, South Coast AQMD staff has a comment on the breathing rates that were used to calculate the inhalation cancer risk. Although the Proposed Project’s construction air quality impacts were found to be less than significant, and because sensitive receptors are located in close proximity to the Proposed Project, South Coast AQMD recommends that the Lead Agency incorporate additional air quality mitigation measures in the Final EIR to further reduce the Proposed Project’s construction emissions. Additionally, the Lead Agency should include the specific provisions of the *Good Neighbor Policy for Logistics and Warehouse/Distribution Centers* in the Final EIR. Please see the attachment for more information.

AQMD-6

Conclusion

Pursuant to California Public Resources Code Section 21092.5(a) and CEQA Guidelines Section 15088(b), South Coast AQMD staff requests that the Lead Agency provide South Coast AQMD staff with written responses to all comments contained herein prior to the certification of the Final EIR. In addition, issues raised in the comments should be addressed in detail giving reasons why specific comments and suggestions are not accepted. There should be good faith, reasoned analysis in response. Conclusory statements unsupported by factual information will not suffice (CEQA Guidelines Section 15088(c)). Conclusory statements do not facilitate the purpose and goal of CEQA on public disclosure and are not meaningful, informative, or useful to decision makers and to the public who are interested in the Proposed Project. Further, if the Lead Agency makes the findings that the recommended revisions to the existing air quality mitigation measure and additional recommended mitigation measures are not feasible, the Lead

AQMD-7

<sup>10</sup> *Ibid.* Page 54.

<sup>11</sup> *Ibid.* Page 56.

<sup>12</sup> *Ibid.* Page 48.

<sup>13</sup> Draft EIR. Executive Summary. Page 0-9.

<sup>14</sup> Draft EIR. Appendix D: Air Quality Impact Analysis. Page 48.

<sup>15</sup> Draft EIR. Chapter 4: Environmental Impacts. Page 4.3-23.



Russell Brady

July 22, 2020

Agency should describe the specific reasons supported by substantial evidence for rejecting them in the Final EIR (CEQA Guidelines Section 15091).

AQMD-7

South Coast AQMD staff is available to work with the Lead Agency to address any air quality questions that may arise from this comment letter. Please contact Margaret Isied, Assistant Air Quality Specialist, at [misied@aqmd.gov](mailto:misied@aqmd.gov) if you have questions or wish to discuss the comments.

AQMD-8

Sincerely,

*Lijin Sun*

Lijin Sun, J.D.

Program Supervisor, CEQA IGR

Planning, Rule Development & Area Sources

Attachment

LS:MI

RVC200611-28

Control Number

ATTACHMENT

1. Mobile Source Health Risk Assessment (HRA) Breathing Rates

The Proposed Project includes operation of a warehouse, which is expected to generate 276 two-way truck trips per day during operation<sup>16</sup>. Sensitive receptors adjacent to the Proposed Project would be exposed to diesel particulate matter (DPM) from the transportation and idling of trucks visiting the Proposed Project. DPM is a toxic air contaminant (TAC) and a carcinogen. Therefore, the Lead Agency performed a quantitative mobile source HRA to determine if the Proposed Project would result in a significant incremental increase in potential cancer risk to the surrounding sensitive receptors (i.e., residential units within 120 feet of the Proposed Project)<sup>17</sup>. In the HRA Technical Report, the Lead Agency calculated cancer risk for each age bin and summed the risk together to find that the Proposed Project would result in a cancer risk of 5.02 in one million at the maximum impacted receptor<sup>18</sup>. However, the Lead Agency used the 80<sup>th</sup> percentile daily breathing rate for each respective age bin between the third trimester to 30 years (e.g., 273 L/kg-day for the 0-0.25 age bin, 758 L/kg-day for the 0-2 age bin, 572 L/kg-day for the 2-16 age bins, and 261 L/kg-day for the 16-30 age bin)<sup>19</sup>. Children are more susceptible to the exposure to air toxics. Since the existing residential uses are within 120 feet of the Proposed Project, to avoid underestimating the health risks impacts to children who would be exposed to higher DPM concentrations during the early years of the Proposed Project operation, South Coast AQMD staff recommends that the Lead Agency re-calculate the Proposed Project’s cancer risk based on the 95<sup>th</sup> percentile daily breathing rates (e.g., 361 L/kg-day for the 0-0.25 age bin, 1090 L/kg-day for the 0-2 age bin, 861 L/kg-day for the 2-9 age bin, 745 L/kg-day for the 9-16 age bin, and 335 L/kg-day for the 16-30 age bin) in the Final EIR.

AQMD-9

2. Additional Recommended Air Quality Mitigation Measures

CEQA requires that all feasible mitigation measures that go beyond what is required by law be utilized to minimize or eliminate any significant adverse air quality impacts. Because sensitive receptors are located in close proximity to the Proposed Project, South Coast AQMD recommends that the Lead Agency incorporate additional air quality mitigation measures as follows in the Final EIR to further reduce the Proposed Project’s localized and regional construction emissions.

AQMD-10

*Construction-related Air Quality Mitigation Measures*

- a) Require the use of off-road diesel-powered construction equipment that meets or exceeds the California Air Resources Board (CARB) and U.S. Environmental Protection Agency (USEPA) Tier 4 Final off-road emissions standards for equipment rated at 50 horsepower or greater during construction of the Proposed Project. Such equipment will be outfitted with Best Available Control Technology (BACT) devices including a CARB certified Level 3 Diesel Particulate Filter (DPFs). Level 3 DPFs are capable of achieving at least 85 percent reduction in particulate matter emissions. A list of CARB verified DPFs are available on the CARB website.

AQMD-11

To ensure that Tier 4 Final construction equipment or better would be used during the Proposed Project’s construction, South Coast AQMD staff recommends that the Lead Agency include this requirement in applicable bid documents, purchase orders, and contracts with construction contractor(s). Successful contractor(s) must demonstrate the ability to supply the compliant construction equipment for use prior to any ground disturbing and construction activities. A copy of each unit’s certified tier specification, model year specification, and CARB or South Coast

<sup>16</sup> Draft EIR. Appendix D: Air Quality Impact Analysis. Page 44.

<sup>17</sup> Draft EIR. Chapter 4: Environmental Impacts. Page 4.3-22.

<sup>18</sup> Draft EIR. Chapter 4: Environmental Impacts. Page 4.3-23

<sup>19</sup> Draft EIR. Appendix O: Mobile Source Health Risk Assessment. Page 14. Breathing rates listed in the 2015 Office of Environmental Health Hazard Assessment (OEHHA) *Air Toxics Hot Spots Program Risk Assessment Guidelines*, Page 5-25.

AQMD operating permit (if applicable) shall be available upon request at the time of mobilization of each applicable unit of equipment. Additionally, the Lead Agency should require periodic reporting and provision of written documents by construction contractor(s) to ensure compliance, and conduct regular inspections to the maximum extent feasible to ensure compliance.

AQMD-11

In the event that construction equipment cannot meet the Tier 4 Final engine certification, the Project representative(s) or contractor(s) must demonstrate through future study with written findings supported by substantial evidence that is approved by the Lead Agency before using other technologies/strategies. Alternative applicable strategies may include, but would not be limited to, construction equipment with Tier 4 Interim or Tier 3 emission standards and reduction in the number and/or horsepower rating of construction equipment

b) During the grading phase of construction, it is estimated that the Proposed Project may require a maximum of 1,875 haul trips to import or export up to 15,000 cubic yards of soil<sup>20</sup>. To further reduce NOx emissions from haul truck trips, the Lead Agency should require the use of zero-emissions (ZE) or near-zero emissions (NZE) trucks during construction (e.g., soil import/export), such as trucks with natural gas engines that meet the CARB’s adopted optional NOx emission standard of 0.02 grams per brake horsepower-hour (g/bhp-hr). At a minimum, require that truck operator(s)/construction contractor(s) commit to using 2010 model year or newer engines that meet CARB’s 2010 engine emission standards of 0.01 g/bhp-hr for particulate matter (PM) and 0.20 g/bhp-hr of NOx emissions or newer, cleaner trucks. To monitor and ensure ZE, NZE, or 2010 model year or newer trucks are used at the Proposed Project, the Lead Agency should require that truck operator(s)/construction contractor(s) maintain records of all trucks associated with the Proposed Project’s construction and make these records available to the Lead Agency upon request. Alternatively, the Lead Agency should require periodic reporting and provision of written records by truck operator(s)/construction contractor(s) and conduct regular inspections of the records to the maximum extent feasible and practicable.

AQMD-12

c) Maintain equipment maintenance records for the construction portion of the Proposed Project. All construction equipment must be tuned and maintained in compliance with the manufacturer’s recommended maintenance schedule and specifications. All maintenance records for each equipment and their construction contractor(s) should be made available for inspection and remain on-site for a period of at least two years from completion of construction.

AQMD-13

*Operational-related Air Quality Mitigation Measures*

In the Draft EIR, the Lead Agency required the Proposed Project to comply with provisions of the County of Riverside *Good Neighbor Policy for Logistics and Warehouse/Distribution Centers*<sup>21</sup>, but did not specify which provisions of the Policy would apply to the Proposed Project (MM-AQ-5). CEQA requires specific details of a mitigation measure or specific performance standards the mitigation will achieve be specified (CEQA Guidelines Section 15126.4(a)(1)(B)). Therefore, South Coast AQMD recommends that the Lead Agency specify which provisions of the Policy for the Proposed Project to implement during operation in the Final EIR. The specified provisions are in line with the basic purposes of CEQA for an EIR which is a public document used by the government agency to analyze, the significant environmental effects of a proposed project [...], and to disclose possible ways to reduce or avoid the possible environmental damage (CEQA Guidelines Section 15002(f)). At a minimum, the following recommended mitigation measures should be included in the Final EIR.

AQMD-14

<sup>20</sup> Draft EIR. Appendix D: Air Quality Impact Analysis. PDF Page 181.

<sup>21</sup> Draft EIR. Chapter 4: Environmental Impacts. Page 4.3-33.

- d) Require the use of ZE or NZE trucks during operation, such as trucks with natural gas engines that meet the CARB’s adopted optional NOx emission standard of 0.02 grams per brake horsepower-hour (g/bhp-hr). At a minimum, the project operator(s) shall ensure, through sale or leasing agreements, that the truck fleet consist of trucks that meet the emissions standards of a 2010 vehicle model, and as trucks are replaced they are replaced with the newest available model. To monitor and ensure that ZE, NZE, or 2010 model year or newer trucks are used at the Proposed Project, the Lead Agency should require that operators maintain records of all trucks and equipment associated with the Proposed Project’s operation and make these records available to the Lead Agency upon request. Alternatively, the Lead Agency should require periodic reporting and provision of written records by operators and conduct regular inspections of the records to the maximum extent feasible and practicable.

Technology is transforming the transportation sector at a rapid pace. Cleaner trucks such as ZE or NZE trucks are increasingly more feasible and commercially available as technology advances. If using ZE or NZE trucks as a mitigation measure to reduce the Proposed Project’s operational air quality impacts is not feasible today, cleaner trucks could become feasible in a reasonable period of time within the lifetime of the Proposed Project (CEQA Guidelines Section 15364). Therefore, it is recommended that the Lead Agency develop a process with performance standards to deploy the lowest emission technologies and incentivize the use of ZE or NZE heavy-duty trucks during operation (CEQA Guidelines Section 15126.4(a)). The Lead Agency can and should develop the performance standards as follows or any other comparable standards in the Final EIR.

- Develop a minimum amount of ZE or NZE heavy-duty trucks that the Proposed Project must use during each year of the operation to ensure adequate progress. Include this requirement in the Proposed Project’s tenant selection and operation management bid documents and business agreement.
- Establish a tenant/truck operator(s) selection policy that prefers tenant/truck operator(s) who can supply the use of ZE or NZE heavy-duty trucks at the Proposed Project. Include this policy in the bid documents and business agreement.
- Develop a target-focused and performance-based process and timeline to review the feasibility to implement the use of ZE or NZE heavy-duty trucks during operation. Include this process and timeline in the Proposed Project’s tenant selection and operation management bid documents and business agreement.
- Develop a project-specific process and criteria for periodically assessing progress in implementing the use of ZE or NZE heavy-duty trucks during operation. Include this process and criteria in the Proposed Project’s tenant selection and operation management bid documents and business agreement.

AQMD-15

- e) Limit the daily number of truck trips allowed at the Proposed Project to the level that was analyzed in the Final EIR (e.g., 276 daily truck trips during operation). If it is reasonably foreseeable before the Final EIR is certified that the Proposed Project would generate more than 276 two-way daily truck trips, the Lead Agency should take into account additional daily truck trips and re-evaluate the Proposed Project’s air quality impacts and cancer risk (CEQA Guidelines Section 15088.5). If information becomes available, after the Proposed Project is approved, suggesting that the Proposed Project will generate more than 276 daily truck trips during operation, the Lead Agency should re-evaluate the Proposed Project’s air quality and health risks impacts based on a higher number of daily truck trips through a CEQA process (CEQA Guidelines Section 15162).

AQMD-16

Additional mitigation measures for operational air quality impacts from area sources that the Lead Agency should consider and incorporate in the Final EIR may include the following.

- f) Maximize use of solar energy including solar panels.
- g) Install the maximum possible number of solar energy arrays on the building roofs and/or on the project site to generate solar energy for the facility and/or electric vehicle charging stations.
- h) Maximize the planting of trees in landscaping and parking lots.
- i) Use light colored paving and roofing materials.
- j) Utilize only Energy Star heating, cooling, and lighting devices, and appliances.
- k) Require use of electric or alternatively fueled sweepers with HEPA filters.

AQMD-17

South Coast Air Quality Management District  
21865 Copley Drive  
Diamond Bar, CA 91765

Letter Dated July 22, 2020

**Comment AQMD-1**

*South Coast Air Quality Management District (South Coast AQMD) staff appreciates the opportunity to comment on the above-mentioned document. The following comments include recommended revisions to the health risk assessment and air quality mitigation measures that the Lead Agency should include the Final EIR.*

**Response AQMD-1**

County Staff appreciates the time commitment the District Staff put into its review of the Draft EIR.

**Comment AQMD-2**

*South Coast AQMD Staff's Summary of Project Description*

*The Lead Agency is proposing to construct a 699,630-square-foot warehouse/logistics building on 31.55 acres (Proposed Project). The Proposed Project is located on the northeast corner of Placentia Avenue and Patterson Street in the community of Mead Valley within Riverside County. Construction of the Proposed Project is anticipated to occur over a 15- to 16-month period and be completed for operation in August 2021. During construction a maximum of 15,000 cubic yards of soil may be imported or exported to or from the Proposed Project site, resulting in a maximum total of 1,875 haul truck trips. Once operational, the Proposed Project will include 109 dock doors and is expected to generate 276 two-way daily truck trips. Upon review of Exhibit 2-3: Existing Site-Aerial in the Draft EIR and aerial photographs, South Coast AQMD staff found that the closest residential sensitive receptors are located within 120 feet of the Proposed Project.*

**Response AQMD-2**

The Project description as summarized by the commentor is materially correct.

**Comment AQMD-3**

*South Coast AQMD Staff's Summary of the Air Quality Analysis and Health Risk Assessment (HRA)*

*In the Draft EIR, the Lead Agency quantified the Proposed Project's construction emissions and compared those emissions to South Coast AQMD's recommended localized and regional CEQA significance thresholds for construction. The Proposed Project's regional construction air quality impacts were found to be less than significant. But, the Proposed Project's localized construction air quality impacts were found to be significant for PM10 and PM2.5 emissions at 10.69 pounds per day (lbs/day) and 6.05 lbs/day, which would exceed South Coast AQMD's air quality CEQA localized significance thresholds for construction at 10.69 lbs/day and 6.05 lbs/day, respectively. To reduce those emissions, the Lead Agency is committed to Mitigation Measure Air Quality (MM-AQ)-1 for construction, which commits to watering the project site during site preparation and grading activity four times per day, every two hours. With implementation of MM-AQ-1, the Lead Agency found that the Proposed Project's localized PM10 and PM2.5 emissions would be reduced to the less than significant levels at 7.86 lbs/day and 4.71 lbs/day, respectively.*

**Response AQMD-3**

The commentor accurately describes the findings related to the construction related air quality emissions and results after the implementation of MM-AQ-1 resulting in a less than significant impact. No revisions to the DEIR are proposed. Findings and conclusions of the DEIR are not affected.

**Comment AQMD-4**

*The Lead Agency quantified the Proposed Project's localized and regional operational emissions. Based on this analysis, the Lead Agency found that the Proposed Project's localized operational air quality impacts would be less than significant and unmitigated regional operational air quality impacts would be significant for NOx at 79.34 lbs/day, which would exceed South Coast AQMD's regional operational air quality CEQA significance threshold at 55 lbs/day. The Lead Agency is committed to implementing operational MM-AQs, which include, but are not limited to, on-site anti-idling and off-site truck route signage, and compliance with the County of Riverside Good Neighbor Policy for Logistics and Warehouse/Distribution Centers, as implemented through the Proposed Project's condition of approval. The Lead Agency did not quantify emissions reductions*

*from those mitigation measures and found that the Proposed Project's regional operational air quality impacts for NOx would remain significant and unavoidable at 79.34 lbs/day.*

**Response AQMD-4**

The commentor accurately describes the conclusion of the Air Quality Impact Analysis associated with the operation of the project. Due to the regional non-attainment, the Air Quality analysis accurately concludes that despite implementation of the Good Neighbor Policy for logistics and warehouse/distribution centers, the Project exceeds the regional operational threshold and will result in a significant impact. No revisions to the DEIR are proposed. Findings and conclusions of the DEIR are not affected.

**Comment AQMD-5**

*The Lead Agency also conducted an operational HRA, which assumed that 276 daily truck trips would visit the Proposed Project. Using EMFAC2017, the Lead Agency developed a weighted average emission factor for the trucks anticipated to visit the Proposed Project. The Lead Agency included on-site and off-site trucks traveling, and on-site truck idling in the air dispersion model to identify the maximum concentration at the sensitive receptors to calculate the Proposed Project's inhalation cancer risk. The Lead Agency found that that the Proposed Project's operational inhalation cancer risk would be 5.02 in one million, which would not exceed South Coast AQMD's CEQA significance threshold of 10 in one million for cancer risk.*

**Response AQMD-5**

The commentor accurately describes the conclusion of the HRA that the Project would not exceed the AQMDs CEQA significance threshold of 10 in one million for cancer risk. No revisions to the DEIR are proposed. Findings and conclusions of the DEIR are not affected.

**Comment AQMD-6**

*Summary of South Coast AQMD Staff's Comments*

*Based on a review of the Draft EIR and supporting technical documents, South Coast AQMD staff has a comment on the breathing rates that were used to calculate the inhalation cancer risk.*

*Although the Proposed Project's construction air quality impacts were found to be less than*



*significant, and because sensitive receptors are located in close proximity to the Proposed Project, South Coast AQMD recommends that the Lead Agency incorporate additional air quality mitigation measures in the Final EIR to further reduce the Proposed Project's construction emissions. Additionally, the Lead Agency should include the specific provisions of the Good Neighbor Policy for Logistics and Warehouse/Distribution Centers in the Final EIR. Please see the attachment for more information.*

### **Response AQMD-6**

Commentor is stating AQMD staff has a comment on breathing rates used in the HRA and requests Lead Agency to include specific provisions from the *Good Neighbor Policy for Logistics and Warehouse/Distribution Centers*. These specific comments are addressed in the responses below.

### **Comment AQMD-7**

#### *Conclusion*

*Pursuant to California Public Resources Code Section 21092.5(a) and CEQA Guidelines Section 15088(b), South Coast AQMD staff requests that the Lead Agency provide South Coast AQMD staff with written responses to all comments contained herein prior to the certification of the Final EIR. In addition, issues raised in the comments should be addressed in detail giving reasons why specific comments and suggestions are not accepted. There should be good faith, reasoned analysis in response. Conclusory statements unsupported by factual information will not suffice (CEQA Guidelines Section 15088(c)). Conclusory statements do not facilitate the purpose and goal of CEQA on public disclosure and are not meaningful, informative, or useful to decision makers and to the public who are interested in the Proposed Project. Further, if the Lead Agency makes the findings that the recommended revisions to the existing air quality mitigation measure and additional recommended mitigation measures are not feasible, the Lead Agency should describe the specific reasons supported by substantial evidence for rejecting them in the Final EIR (CEQA Guidelines Section 15091).*

### **Response AQMD-7**

A detailed response to each comment raised by the AQMD has been prepared in accordance in California Public Resources Code Section 21092.5(a) and CEQA Guidelines Section 15088(b).

### **Comment AQMD-8**

*South Coast AQMD staff is available to work with the Lead Agency to address any air quality questions that may arise from this comment letter. Please contact Margaret Isied, Assistant Air Quality Specialist, at [misied@aqmd.gov](mailto:misied@aqmd.gov) if you have questions or wish to discuss the comments.*

### **Response AQMD-8**

The contact for the AQMD is noted and a copy of this Response to Comments will be sent to that individual.

### **Comment AQMD-9**

#### ***1. Mobile Source Health Risk Assessment (HRA) Breathing Rates***

*The Proposed Project includes operation of a warehouse, which is expected to generate 276 two-way truck trips per day during operation. Sensitive receptors adjacent to the Proposed Project would be exposed to diesel particulate matter (DPM) from the transportation and idling of trucks visiting the Proposed Project. DPM is a toxic air contaminant (TAC) and a carcinogen. Therefore, the Lead Agency performed a quantitative mobile source HRA to determine if the Proposed Project would result in a significant incremental increase in potential cancer risk to the surrounding sensitive receptors (i.e., residential units within 120 feet of the Proposed Project). In the HRA Technical Report, the Lead Agency calculated cancer risk for each age bin and summed the risk together to find that the Proposed Project would result in a cancer risk of 5.02 in one million at the maximum impacted receptor. However, the Lead Agency used the 80th percentile daily breathing rate for each respective age bin between the third trimester to 30 years (e.g., 273 L/kg-day for the 0-0.25 age bin, 758 L/kg-day for the 0-2 age bin, 572 L/kg-day for the 2-16 age bins, and 261 L/kg-day for the 16-30 age bin). Children are more susceptible to the exposure to air toxics. Since the existing residential uses are within 120 feet of the Proposed Project, to avoid underestimating the health risks impacts to children who would be exposed to higher DPM concentrations during the early years of the Proposed Project operation, South Coast AQMD staff*

*recommends that the Lead Agency re-calculate the Proposed Project's cancer risk based on the 95th percentile daily breathing rates (e.g., 361 L/kg-day for the 0-0.25 age bin, 1090 L/kg-day for the 0-2 age bin, 861 L/kg-day for the 2-9 age bin, 745 L/kg-day for the 9-16 age bin, and 335 L/kg-day for the 16-30 age bin) in the Final EIR.*

### **Response AQMD-9**

Comment noted. The 80th percentile breathing rates are appropriate and applicable for CEQA determinations, as this adequately represents a reasonable worst-case scenario because the 80th percentile represents an elevated breathing rate that is 80 percent higher than the average population. Further, the calculation assumes that an individual is at the 80th percentile elevated breathing rate for the entire exposure duration (e.g. over several years).

Furthermore, CARB has also previously recommended the use of the 80th percentile value as the minimum value for risk management decisions at residential receptors. CARB states that this will continue to give health protective estimates. "The use of any single risk assessment result that is based on exposures less than the 80th percentile is not considered to be health protective nor prudent public health policy." (<https://www.arb.ca.gov/toxics/harp/rmpolicyfaq.htm>).

Use of a 95th percentile breathing rates for the third trimester and "0 to 2" age bins would not adequately analyze the risk. CEQA does not require a worst-case analysis (*CEQA Guidelines* Section 15144, 15145). The U.S. EPA notes that the 95th percentile values may be unrealistically high and not representative of the average person (*Exposure Factors Handbook* 2011, Page 6-3). The change in the calculated risk values based on changing the breathing rate as discussed above is negligible. For informational purposes only, use of 95th percentile breathing rates for the third trimester and "0 to 2" age bins result in a revised risk value of 5.90 in one million versus 5.02 in one million.

No revisions to the DEIR are proposed. Findings and conclusions of the DEIR are not affected.

**Comment AQMD-10**

***2. Additional Recommended Air Quality Mitigation Measures***

*CEQA requires that all feasible mitigation measures that go beyond what is required by law be utilized to minimize or eliminate any significant adverse air quality impacts. Because sensitive receptors are located in close proximity to the Proposed Project, South Coast AQMD recommends that the Lead Agency incorporate additional air quality mitigation measures as follows in the Final EIR to further reduce the Proposed Project's localized and regional construction emissions.*

**Response AQMD-10**

This comment states that CEQA requires lead agencies to adopt feasible mitigation measures to minimize the significant impacts of a project. Where the analysis demonstrates that a physical adverse environmental effect may or would occur without undue speculation, feasible mitigation measures have been recommended to reduce or avoid the significant effect. The Lead Agency has reviewed the recommended mitigation measures and provides the following responses to each measure considered.

**Comment AQMD-11**

*Construction-related Air Quality Mitigation Measures*

*a) Require the use of off-road diesel-powered construction equipment that meets or exceeds the California Air Resources Board (CARB) and U.S. Environmental Protection Agency (USEPA) Tier 4 Final off-road emissions standards for equipment rated at 50 horsepower or greater during construction of the Proposed Project. Such equipment will be outfitted with Best Available Control Technology (BACT) devices including a CARB certified Level 3 Diesel Particulate Filter (DPFs). Level 3 DPFs are capable of achieving at least 85 percent reduction in particulate matter emissions. A list of CARB verified DPFs are available on the CARB website.*

*To ensure that Tier 4 Final construction equipment or better would be used during the Proposed Project's construction, South Coast AQMD staff recommends that the Lead Agency include this requirement in applicable bid documents, purchase orders, and contracts with construction contractor(s). Successful contractor(s) must demonstrate the ability to supply the compliant construction equipment for use prior to any ground disturbing and construction activities. A copy of each unit's certified tier specification, model year specification, and CARB or South Coast*

*AQMD operating permit (if applicable) shall be available upon request at the time of mobilization of each applicable unit of equipment. Additionally, the Lead Agency should require periodic reporting and provision of written documents by construction contractor(s) to ensure compliance, and conduct regular inspections to the maximum extent feasible to ensure compliance.*

*In the event that construction equipment cannot meet the Tier 4 Final engine certification, the Project representative(s) or contractor(s) must demonstrate through future study with written findings supported by substantial evidence that is approved by the Lead Agency before using other technologies/strategies. Alternative applicable strategies may include, but would not be limited to, construction equipment with Tier 4 Interim or Tier 3 emission standards and reduction in the number and/or horsepower rating of construction equipment.*

### **Response AQMD-11**

This comment requests that all off-road diesel-powered construction equipment that meet or exceed Tier 4 emission standards for all construction off-road equipment greater than 50 horsepower.

New mitigation measure MM-AQ-8 (referenced previously in Response CARB-4) has been incorporated as follows:

MM-AQ-8: All non-road construction equipment greater than 50 horsepower shall meet EPA Tier 4 emission standards with the following exception. Equipment with an engine compliant with only Tier 3 emissions standards will be allowed when the Applicant shows a good faith effort to procure Tier 4 equipment, and documents that no Tier 4 equipment is available for a particular equipment type within the County of Riverside within the scheduled construction period. In the event rental equipment needs to be procured via a third-party vendor, each case shall be documented with signed written or emailed correspondence by the appropriate construction contractor, along with documented correspondence from at least two construction equipment rental firms representing a good faith effort to locate engines that meet Tier 4 requirements, as applicable. Documentation will be submitted to County staff for review before Tier 3 equipment is used on the Project.

**Comment AQMD-12**

*b) During the grading phase of construction, it is estimated that the Proposed Project may require a maximum of 1,875 haul trips to import or export up to 15,000 cubic yards of soil. To further reduce NOx emissions from haul truck trips, the Lead Agency should require the use of zero-emissions (ZE) or near-zero emissions (NZE) trucks during construction (e.g., soil import/export), such as trucks with natural gas engines that meet the CARB's adopted optional NOx emission standard of 0.02 grams per brake horsepower-hour (g/bhp-hr). At a minimum, require that truck operator(s)/construction contractor(s) commit to using 2010 model year or newer engines that meet CARB's 2010 engine emission standards of 0.01 g/bhp-hr for particulate matter (PM) and 0.20 g/bhp-hr of NOx emissions or newer, cleaner trucks. To monitor and ensure ZE, NZE, or 2010 model year or newer trucks are used at the Proposed Project, the Lead Agency should require that truck operator(s)/construction contractor(s) maintain records of all trucks associated with the Proposed Project's construction and make these records available to the Lead Agency upon request. Alternatively, the Lead Agency should require periodic reporting and provision of written records by truck operator(s)/construction contractor(s) and conduct regular inspections of the records to the maximum extent feasible and practicable.*

**Response AQMD-12**

Commentor accurately describes the amount of truck trips anticipated to import or export dirt from the project site. The commentor is requesting that the Lead Agency require the use of zero-emission (ZE) or near zero-emission trucks during construction (import/export). The Project will ensure that contractors are licensed for using on-road haul trucks in accordance with state law. However, construction contractors contract out for haul services. Therefore, the control of this measure is not under the authority of the Applicant or County. As a result, this measure is considered infeasible. However, it should be noted that under the California Air Resources Board's (CARB) Truck and Bus Regulation, by January 1, 2023, nearly all trucks and buses will be required to have 2010 or newer model year engines. Starting in 2020, under Senate Bill 1, only vehicles compliant with the Truck and Bus Regulation will be registered by the California Department of Motor Vehicles. In addition, all trucking companies will be required to comply with CARB's recently adopted Advanced Clean Truck Rule requiring truck manufacturers to transition from diesel trucks and vans to electric zero-emission trucks

beginning in 2024. By 2045, every new truck sold in California will be required to be zero-emission. Manufacturers who certify Class 2b-8 chassis or complete vehicles with combustion engines would be required to sell zero-emission trucks as an increasing percentage of their annual California sales from 2024 to 2035. By 2035, zero-emission truck/chassis sales would need to be 55% of Class 2b – 3 truck sales, 75% of Class 4 – 8 straight truck sales, and 40% of truck tractor sales. CARB reports that as of 2020, most commercially-available models of zero-emission vans, trucks and buses operate less than 100 miles per day. Commercial availability of electric-powered long-haul trucks is extremely limited. However, as technology advances over the next 20 years, zero-emission trucks will become suitable for more applications, and several truck manufacturers have announced plans to introduce market ready zero-emission trucks in the future. When commercial availability of electric-powered long-haul trucks is more readily available, implementation of the Advanced Clean Truck Rule Regulation is anticipated to significantly further reduce criteria pollutant concentrations in the SCAB.

No revisions to the DEIR are proposed. Findings and conclusions of the DEIR are not affected.

### **Comment AQMD-13**

*c) Maintain equipment maintenance records for the construction portion of the Proposed Project. All construction equipment must be tuned and maintained in compliance with the manufacturer's recommended maintenance schedule and specifications. All maintenance records for each equipment and their construction contractor(s) should be made available for inspection and remain on-site for a period of at least two years from completion of construction.*

### **Response AQMD-13**

Commentor is requesting that all construction equipment be maintained in compliance with the manufacturer's recommended maintenance schedule and specifications. New mitigation measure MM-AQ-9 has been incorporated as follows.

MM-AQ-9: All construction must be maintained in accordance with the manufacturer's recommended maintenance schedule and specifications. Maintenance records shall be

maintained by the Contractor and made available for inspection and remain on-site for a period of two-years following the completion of construction.

**Comment AQMD-14**

*Operational-related Air Quality Mitigation Measures*

*In the Draft EIR, the Lead Agency required the Proposed Project to comply with provisions of the County of Riverside Good Neighbor Policy for Logistics and Warehouse/Distribution Centers, but did not specify which provisions of the Policy would apply to the Proposed Project (MM-AQ-5). CEQA requires specific details of a mitigation measure or specific performance standards the mitigation will achieve be specified (CEQA Guidelines Section 15126.4(a)(1)(B)). Therefore, South Coast AQMD recommends that the Lead Agency specify which provisions of the Policy for the Proposed Project to implement during operation in the Final EIR. The specified provisions are in line with the basic purposes of CEQA for an EIR which is a public document used by the government agency to analyze, the significant environmental effects of a proposed project [...], and to disclose possible ways to reduce or avoid the possible environmental damage (CEQA Guidelines Section 15002(f)). At a minimum, the following recommended mitigation measures should be included in the Final EIR.*

**Response AQMD-14**

The commentor references the County's *Good Neighbor Policy for Logistics and Warehouse/Distribution Centers* and requested that the specific measures to be implemented by the Project be identified. The County of Riverside Good Neighbor Policy for Logistics and Warehouse/Distribution Centers is not an adopted policy in the First District. When the policy was approved, each Supervisor was given the ability to opt their District out of the policy. The Supervisor for the First District has opted out of the policy. Nevertheless, the Applicant has voluntarily agreed to be subject to the policy and therefore adherence with such voluntary action is more appropriate as conditions of approval than mitigation measures.

In addition, the commentor requests several additional mitigation measures be placed on the Project – those specific measures are addressed below.



**Comment AQMD-15**

*d) Require the use of ZE or NZE trucks during operation, such as trucks with natural gas engines that meet the CARB's adopted optional NOx emission standard of 0.02 grams per brake horsepower-hour (g/bhp-hr). At a minimum, the project operator(s) shall ensure, through sale or leasing agreements, that the truck fleet consist of trucks that meet the emissions standards of a 2010 vehicle model, and as trucks are replaced they are replaced with the newest available model. To monitor and ensure that ZE, NZE, or 2010 model year or newer trucks are used at the Proposed Project, the Lead Agency should require that operators maintain records of all trucks and equipment associated with the Proposed Project's operation and make these records available to the Lead Agency upon request. Alternatively, the Lead Agency should require periodic reporting and provision of written records by operators and conduct regular inspections of the records to the maximum extent feasible and practicable.*

*Technology is transforming the transportation sector at a rapid pace. Cleaner trucks such as ZE or NZE trucks are increasingly more feasible and commercially available as technology advances. If using ZE or NZE trucks as a mitigation measure to reduce the Proposed Project's operational air quality impacts is not feasible today, cleaner trucks could become feasible in a reasonable period of time within the lifetime of the Proposed Project (CEQA Guidelines Section 15364). Therefore, it is recommended that the Lead Agency develop a process with performance standards to deploy the lowest emission technologies and incentivize the use of ZE or NZE heavy-duty trucks during operation (CEQA Guidelines Section 15126.4(a)). The Lead Agency can and should develop the performance standards as follows or any other comparable standards in the Final EIR.*

- Develop a minimum amount of ZE or NZE heavy-duty trucks that the Proposed Project must use during each year of the operation to ensure adequate progress. Include this requirement in the Proposed Project's tenant selection and operation management bid documents and business agreement.*
- Establish a tenant/truck operator(s) selection policy that prefers tenant/truck operator(s) who can supply the use of ZE or NZE heavy-duty trucks at the Proposed Project. Include this policy in the bid documents and business agreement.*
- Develop a target-focused and performance-based process and timeline to review the feasibility to implement the use of ZE or NZE heavy-duty trucks during operation. Include*

*this process and timeline in the Proposed Project's tenant selection and operation management bid documents and business agreement.*

- *Develop a project-specific process and criteria for periodically assessing progress in implementing the use of ZE or NZE heavy-duty trucks during operation. Include this process and criteria in the Proposed Project's tenant selection and operation management bid documents and business agreement.*

### **Response AQMD-15**

Commentor is requesting the implementation and use of zero-emission and near zero-emission trucks during operation of the Project. The DEIR requires that all trucks entering and leaving the site will be required to meet the applicable vehicle standards in place at that time.

At present, requiring zero-emission vehicles is economically and technologically infeasible; also, such vehicles are not available on a large enough scale to be relied upon. In a report titled "Transitioning to Zero-Emission Heavy Duty Freight Vehicles," the International Council on Clean Transportation (ICCT) provides an overview of advancing technologies (ICCT, September 2017). The ICCT reports that although the technology is advancing and although at some point in the distant future non-diesel technology will likely be used in mass to power freight movement, "zero-emission vehicle technologies do present considerable challenges. They have a combination of near- and long-term barriers, issues, and questions that will have to be addressed before they can become widespread replacements for conventional trucks and tractor-trailers that are typically diesel fueled" (ICCT, p. 31). "Tesla's announced battery electric semi-tractor prototype is the only (emphasis added) battery electric project we found in our [world-wide] assessment targeting long-haul heavy-duty applications" (ICCT, p. 31). Imposing extensive requirements on the proposed Project related to emerging technology, when the various types of technological advancements and their timeframes for common availability are not known with any certainty, is not a feasible mitigation measure.

While penetration of ZE trucks into the commercial market is looming, there are no commercially available ZE trucks today. As a result, it is speculative to determine what the market penetration and availability of ZE trucks will be in year 2030. Additionally, at this time, it is not possible to determine whether or not individual warehouse operators would have their own truck fleets or be served by third-party trucks operated by carriers contracted by beneficial cargo owners (BCO) (i.e., the Project Applicant nor tenants own the trucks).

However, as technology advances and in accordance with CARBs Advanced Clean Truck rule; truck fleets are required to comply with applicable rules and regulations for transportation and fleet management. See also Response AQMD-12.

No revisions to the DEIR are proposed. Findings and conclusions of the DEIR are not affected.

#### **Comment AQMD-16**

*e) Limit the daily number of truck trips allowed at the Proposed Project to the level that was analyzed in the Final EIR (e.g., 276 daily truck trips during operation). If it is reasonably foreseeable before the Final EIR is certified that the Proposed Project would generate more than 276 two-way daily truck trips, the Lead Agency should take into account additional daily truck trips and re-evaluate the Proposed Project's air quality impacts and cancer risk (CEQA Guidelines Section 15088.5). If information becomes available, after the Proposed Project is approved, suggesting that the Proposed Project will generate more than 276 daily truck trips during operation, the Lead Agency should re-evaluate the Proposed Project's air quality and health risks impacts based on a higher number of daily truck trips through a CEQA process (CEQA Guidelines Section 15162).*

#### **Response AQMD-16**

The commentor asserts that the Lead Agency should restrict the amount of daily truck traffic to and from the Project. The recommendation to impose and enforce a truck trip cap is not feasible or practical nor required by CEQA. CEQA requires that an EIR evaluate the proposed Project based on reasonable assumptions and foreseeable actions. The

number of passenger vehicle and truck trips that the Project is expected to generate is based on Institute of Transportation Engineers (ITE) in their Trip Generation Manual, recommendations, which rely on surveyed data from other operating industrial warehouse buildings, which is reasonable and reliable information. The comment does not present any evidence that truck trips associated with the Project would be greater than disclosed in the DEIR. There is no substantive information presented by this comment or by any of the information in the Project's administrative record that contradicts the reasonable assumptions made in the Draft EIR about the expected number of truck trips. Instituting a cap on the number of trucks that can access the Project's building is not required under CEQA, nor would it be reasonable or feasible for the County of Riverside to monitor and enforce such a requirement. Restricting the amount of daily truck traffic would also not account for variations in daily truck trips, such as day-to-day variations and potential weekday-weekend variations. Further, requiring a daily vehicle count with the intent of limiting the number of vehicles that could collectively enter or exit more from multiple tenants on the Project site on a daily basis would render the Project economically and functionally infeasible. The DEIR has made reasonable assumptions based on substantial evidence by using ITE recommendations based on a reasonable type of building occupant that would be permitted by the site's zoning. For this reason, the County respectfully rejects the commentor's recommendation to impose and enforce a numerical cap on the number of trucks that the Project attracts during its operation.

Based on the foregoing discussion, the County concludes that it would be infeasible to impose and enforce a numerical cap on the number of trucks that access the site on a daily basis during the Project's operation.

No revisions to the DEIR are proposed. Findings and conclusions of the DEIR are not affected.

**Comment AQMD-17**

*Additional mitigation measures for operational air quality impacts from area sources that the Lead Agency should consider and incorporate in the Final EIR may include the following.*

- f) Maximize use of solar energy including solar panels.*
- g) Install the maximum possible number of solar energy arrays on the building roofs and/or on the project site to generate solar energy for the facility and/or electric vehicle charging stations.*
- h) Maximize the planting of trees in landscaping and parking lots.*
- i) Use light colored paving and roofing materials.*
- j) Utilize only Energy Star heating, cooling, and lighting devices, and appliances.*
- k) Require use of electric or alternatively fueled sweepers with HEPA filters.*

**Response AQMD-17**

The Commentor recommends additional mitigation measures for operational air quality impacts be considered for the Project as outlined below. It should be noted that the Project has been designed to comply with the County's Climate Action Plan for Greenhouse Gas reduction as discussed in DEIR Section 4.8, *GHG Emissions*.

- ***Maximize use of solar energy including solar panels.***

The commentor requests that the Project maximize the installation of solar panels to reduce area source emissions. As shown in DEIR Section 4.3, *Air Quality*, only a small percentage of the Project's air pollutant emissions are associated with energy use; as such, the installation of solar panels does not have a proportional nexus to a majority of the Project's air pollutant emissions, which are attributed to mobile sources (vehicle exhaust).

It is also noted that the Project, as implemented, would derive substantive energy through use of on-site solar panels. In this regard, the Project would comply with on-site renewable energy production requirements presented in the Riverside County Climate Action Plan (CAP) (CAP, p. 4-14, R2-E10, *On-Site Renewable Energy Production Requirements for New Land Use Development Projects*). More specifically, the Project incorporates a photovoltaic (PV) system. that would provide a portion of the Project electrical energy demands. Current designs indicate that a minimum of 20 percent of the

Project electrical demands would be supplied by the proposed PV system. Please refer to DEIR, p. 4.6-8, et al.). No revisions to the DEIR are proposed. Findings and conclusions of the DEIR are not affected.

- *Install the maximum possible number of solar energy arrays on the building roofs and/or on the project site to generate solar energy for the facility and/or electric vehicle charging stations.*

Please refer to previous Response addressing on-site energy production via PV solar panels. With respect to electric vehicle charging stations, at a minimum, electric charging stations will be provided consistent with County Policies, e.g. Policy Q 20.6 “Reduce emissions from commercial vehicles, through VMT, by requiring all new commercial buildings, in excess of 162,000 square feet, to install circuits and provide capacity for electric vehicle charging stations”; and CALGreen Standards, “[e]lectric vehicle charging stations. New construction shall facilitate the future installation of electric vehicle supply equipment. The compliance requires empty raceways for future conduit and documentation that the electrical system has adequate capacity for the future load.” No revisions to the DEIR are proposed. Findings and conclusions of the DEIR are not affected.

- *Maximize the planting of trees in landscaping and parking lots.*

The Project site has been designed to comply with the Lead Agency’s development standards for warehouse projects including installation of trees within the landscaping and parking lots. No revisions to the DEIR are proposed. Findings and conclusions of the DEIR are not affected.

- *Use of light colored paving and roofing materials.*

The Project Applicant intends to utilize light-colored concrete and roofing materials. No revisions to the DEIR are proposed. Findings and conclusions of the DEIR are not affected.

- ***Utilize only Energy Star heating, cooling, and lighting devices and appliances.***

Pursuant to DEIR Section 4.6, *Energy*, the Project is required to implement energy-saving features consistent with the County's Climate Action Plan and must comply with California Title 2 standards, published by the California Energy Commission, which contain mandatory standards for mechanical systems, lighting (indoor and outdoor), and appliances to minimize energy use. No revisions to the DEIR are proposed. Findings and conclusions of the DEIR are not affected.

- ***Require use of electric or alternatively fueled sweepers with HEPA filters.***

The commentor requests that the DEIR include a mitigation measure requiring the use of alternatively fueled sweepers with HEPA filters. In compliance with SCAQMD Rule 403, all street frontages adjacent to Project site are required to be swept during Project construction using SCAQMD Rule 1186 certified street sweepers. During the Project's operation, it is reasonable to assume that the site's parking areas and truck courts would be periodically swept. In the event that the property is not properly maintained, the County has the authority to remedy any nuisance condition on any property if it qualifies as a nuisance under the County's Code. *CEQA Guidelines* Section 15091 provides that mitigation measures must be within the responsibility and jurisdiction of the lead agency and have a proportional nexus to the Project's impact on the environment. As shown in the Project's Air Quality Impact Analysis, only a small percentage of the Project's air pollutant emissions are associated with the use of site maintenance equipment; as such, the use of alternatively fueled sweepers does not have a proportional nexus to a majority of the Project's air pollutant emissions, which are attributed to mobile sources (vehicle exhaust). Furthermore, the commentor does not provide substantial evidence that use of the alternatively fueled sweepers would result in any demonstrable, quantifiable reduction in the Project's operational NO<sub>x</sub> emissions. Therefore, the County has determined that this recommendation is not reasonable or feasible to require as a mitigation measure. No revisions to the DEIR are proposed. Findings and conclusions of the DEIR are not affected.

# Rincon Band of Luiseño Indians

## CULTURAL RESOURCES DEPARTMENT



One Government Center Lane | Valley Center | CA 92082  
(760) 749-1051 | Fax: (760) 749-8901 | rincon-nsn.gov

June 25, 2020

Sent via email: [rbrady@rivco.org](mailto:rbrady@rivco.org)  
Riverside County  
Planning Department  
Attn.: Russel Brady  
PO Box 1409  
Riverside, CA 92502-1409

Re: PPT190008 Barker Logistics LLC EIR

Dear Mr. Brady,

This letter is written on behalf of the Rincon Band of Luiseño Indians (“Rincon Band” or “Band”), a federally recognized Indian Tribe and sovereign government. Thank you for providing us with the Notice of Availability of a Draft Environmental Impact Report (DEIR) for the above referenced project. The identified location is within the Territory of the Luiseño people, and is also within Rincon’s specific area of Historic interest.

RIN-1

The Band has reviewed the provided documents and we are in agreement with the proposed mitigation measures which include archaeological and tribal monitoring, a monitoring report, and protocols for discovery of cultural material and human remains.

RIN-2

We do request that the Rincon Band be notified of any changes in project plans. In addition, we request a copy of the final monitoring report, when available. If you have additional questions or concerns, please do not hesitate to contact our office at your convenience at (760) 297-2635.

RIN-3

Thank you for the opportunity to protect and preserve our cultural assets.

Sincerely,

Cheryl Madrigal  
Tribal Historic Preservation Officer  
Cultural Resources Manager



Rincon Band of Luiseño Indians  
One Government Center Lane  
Valley Center, CA 92082

Letter Dated June 25, 2020

**Comment RIN-1**

*This letter is written on behalf of the Rincon Band of Luiseño Indians (“Rincon Band” or “Band”), a federally recognized Indian Tribe and sovereign government. Thank you for providing us with the Notice of Availability of a Draft Environmental Impact Report (DEIR) for the above referenced project. The identified location is within the Territory of the Luiseño people, and is also within Rincon’s specific area of Historic interest.*

**Response RIN-1**

Federal recognition of the Rincon Band of Luiseño Indians (“Rincon Band” or “Band”) as an Indian Tribe and sovereign government is acknowledged. The Rincon Band receipt of the DEIR Notice of Availability (NOA) is acknowledged. Location of the Barker Logistics LLC Warehouse/Logistics Building Project (Project) within the Territory of the Luiseño people, and within Rincon’s specific area of Historic interest is acknowledged. Findings and conclusions of the EIR are not affected.

**Comment RIN-2**

*The Band has reviewed the provided documents and we are in agreement with the proposed mitigation measures which include archaeological and tribal monitoring, a monitoring report, and protocols for discovery of cultural material and human remains.*

**Response RIN-2**

The Band’s concurrence with the DEIR proposed mitigation measures addressing and including archaeological and tribal monitoring, a monitoring report, and protocols for discovery of cultural material and human remains is acknowledged. Findings and conclusions of the EIR are not affected.

**Comment RIN-3**

*We do request that the Rincon Band be notified of any changes in project plans. In addition, we request a copy of the final monitoring report, when available. If you have additional questions or concerns, please do not hesitate to contact our office at your convenience at (760) 297-2635.*

*Thank you for the opportunity to protect and preserve our cultural assets.*

**Response RIN-3**

The Rincon Band will be notified of any substantive change in the Project plans. The Rincon Band will be provided a copy of the final monitoring report when available. Contact information for the Rincon band is noted. Findings and conclusions of the EIR are not affected. The County appreciates the Rincon Band's considered involvement in the Project CEQA review process.

## **4.0 MITIGATION MONITORING PROGRAM**

## 4.0 MITIGATION MONITORING PROGRAM

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### 4.1 INTRODUCTION

To ensure that the mitigation measures contained in this EIR are properly implemented, a mitigation monitoring program has been developed pursuant to state law. This Mitigation Monitoring Program (MMP) identifies measures incorporated in the Project which reduce its potential environmental effects; the entities responsible for implementation and monitoring of mitigation measures; and timing for implementation of mitigation measures. As described in *CEQA Guidelines* §15097, this MMP employs both reporting on, and monitoring of, Project mitigation measures.

The objectives of the MMP are to:

- Assign responsibility for, and further proper implementation of mitigation measures;
- Assign responsibility for, and provide for monitoring and reporting of compliance with mitigation measures;
- Provide the mechanism to identify areas of noncompliance and need for enforcement action before irreversible environmental damage occurs.

Mitigation monitoring and reporting procedures incorporated in the Project are presented in the following Section 4.2. Specific mitigation measures incorporated in the Project, mitigation timing, and implementation and reporting/monitoring responsibilities are presented within this Section in Table 4.2-1.

## 4.2 MITIGATION MONITORING AND REPORTING

### **Mitigation Monitoring and Responsibilities**

As the Lead Agency, the County of Riverside is responsible for ensuring full compliance with the mitigation measures adopted for the proposed Project. The County will monitor and report on all mitigation activities. Mitigation measures shall be implemented at different stages of development throughout the Project area. In this regard, the responsibilities for implementation have been assigned to the Lead and Responsible Agencies, Applicant, Contractors, On-Site Monitors, or combinations thereof.

If during the course of Project implementation, any of the mitigation measures identified herein cannot be successfully implemented, the County shall be immediately informed, and the County shall then inform any affected responsible agencies. The County, in conjunction with any affected responsible agencies, shall then determine if modification to the Project is required and/or whether alternative mitigation is appropriate.

**Table 4.2-1: Mitigation Monitoring Reporting Program**

**General Note:** To facilitate coordination and effective implementation of mitigation measures, the mitigation measures provided herein shall appear on all grading plans, construction specifications, and bid documents. Incorporation of required notations shall be verified by the County prior to issuance of first development permit. Implementation Entities shall comply with listed mitigation requirements.

Section / MM No.	Mitigation Measure	Method of Verification	Timing of Verification	Implementation Entity	Monitoring Agency	Date of Completion/ Initials
<b>4.1 Air Quality</b>						
MM-AQ-1	During Project site preparation and grading activity, all actively graded areas within the Project site shall be watered at 2.1-hour watering intervals (e.g., 4 times per day) or a movable sprinkler system shall be in place to ensure minimum soil moisture of 12% is maintained for actively graded areas. Moisture content can be verified with use of a moisture probe by the grading contractor.	Notes on Grading Plans; ongoing periodic on-site verification of appropriate watering treatments by the County of Riverside staff.	Ongoing during site grading.	Applicant, Contractors	Building & Safety Department	
MM-AQ-2	Truck access gates and loading docks within the truck court on the Project site shall be posted with <u>signs</u> that state as follows: <ul style="list-style-type: none"> <li>Truck drivers shall turn off engines when not in use;</li> <li>Diesel delivery trucks servicing the Project shall not continuously idle for more than five (5) minutes once the vehicle is stopped, the transmission is set to “neutral” or “park,” and the parking brake is engaged in compliance with the California Air Resources Board regulations; and,</li> <li>Telephone numbers of the building facilities manager and the California Air Resources Board to report violations.</li> </ul>	Verification of posting at Final Inspection.	Building permit Final Inspection.	Applicant & Contractors	Building & Safety Department	

**Table 4.2-1: Mitigation Monitoring Reporting Program**

**General Note:** To facilitate coordination and effective implementation of mitigation measures, the mitigation measures provided herein shall appear on all grading plans, construction specifications, and bid documents. Incorporation of required notations shall be verified by the County prior to issuance of first development permit. Implementation Entities shall comply with listed mitigation requirements.

Section / MM No.	Mitigation Measure	Method of Verification	Timing of Verification	Implementation Entity	Monitoring Agency	Date of Completion/ Initials
MM-AQ-3	<ul style="list-style-type: none"> <li>Site design shall allow for trucks to check-in within the facility area to prevent queuing of trucks outside the facility.</li> <li>Signs shall be posted in loading dock areas that instruct truck drivers to shut down the engine after 300 seconds of continuous idling operation once the vehicle is stopped, the transmission is set to “neutral” or “park,” and the parking brake is engaged.</li> </ul>	County Planning Department and County Building & Safety Department review of plans.	Plans verified prior to issuance of Building Permits. Implemented designs/facilities verified prior to issuance of Certificate of Occupancy.	Applicant	County Planning Department; County Building & Safety Department	
MM-AQ-4	The Project shall be designed to incorporate electric vehicle charging stations and carpool parking spaces for employees. <u>Specifically, at a minimum, the Project shall comply with County Ordinance No. 348, Section 18.12, Off-Street Vehicle Parking, EV parking requirements; and CALGreen Section 5.106.5.2, Designated Parking for Clean Air Vehicles, Table 5.106.5.2 requirements.</u>	County Planning Department and Building & Safety Department review of plans.	Plans verified prior to issuance of Building Permits. Implemented designs/facilities verified prior to issuance of Certificate of Occupancy.	Applicant	County Planning Department; County Building & Safety Department	
MM-AQ-5	The Project shall comply with provisions of the County of Riverside <i>Good Neighbor Policy for Logistics and Warehouse/Distribution Centers</i> as implemented through the Project Conditions of Approval.	County Planning Department and County Building & Safety Department review of plans.	Plans verified prior to issuance of Building Permits. Implemented designs/facilities verified prior to issuance of Certificate of Occupancy.	Applicant, Contractors	County Planning Department; County Building & Safety Department	

**Table 4.2-1: Mitigation Monitoring Reporting Program**

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Section / MM No.	Mitigation Measure	Method of Verification	Timing of Verification	Implementation Entity	Monitoring Agency	Date of Completion/ Initials
			Ongoing monitoring of Good Neighbor Operational Policies.			
MM-AQ-6	The Project shall comply with CAP Update Measure R2-CE1. CAP Update Measure R2-CE1 requires that the Project provide onsite renewable energy production generation comprising at least 20 percent of the Project energy demand. The County shall verify implementation of CAP Update Measure R2-CE1 within the Project building plans and site designs prior to the issuance of building permit(s) and/or site plans (as applicable). The County shall verify implementation of CAP Update Measure R2-CE1 prior to the issuance of Certificate(s) of Occupancy.	Planning Department and Building & Safety Department review of plans.	Ongoing during Project development.  Plans verified prior to issuance of Building Permits.  Implemented designs/facilities verified prior to issuance of Certificate of Occupancy.	Applicant, Contractors	Planning Department; Building & Safety Department	
MM-AQ-7	<u>During construction activity, electrical hook ups to the power grid for electric construction tools, such as saws, drills, and compressors, and using electric tools shall be provided where feasible.</u>	<u>On-site verification by contractors and County Building Official(s).</u>	<u>On-going during Project construction.</u>	<u>Applicant, Contractors</u>	<u>Building &amp; Safety Department</u>	



**Table 4.2-1: Mitigation Monitoring Reporting Program**

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<u>MM-AQ-8</u>	<u>All non-road construction equipment greater than 50 horsepower shall meet EPA Tier 4 emission standards with the following exception. Equipment with an engine compliant with only Tier 3 emissions standards will be allowed when the Applicant shows a good faith effort to procure Tier 4 equipment, and documents that no Tier 4 equipment is available for a particular equipment type within the County of Riverside within the scheduled construction period. In the event rental equipment needs to be procured via a third-party vendor, each case shall be documented with signed written or emailed correspondence by the appropriate construction contractor, along with documented correspondence from at least two construction equipment rental firms representing a good faith effort to locate engines that meet Tier 4 requirements, as applicable. Documentation will be submitted to County staff for review before Tier 3 equipment is used on the Project.</u>	<u>On-site verification of equipment use by Tier category by contractors and County Building Official(s).</u>  <u>Documentation for use of Tier 3 equipment provided prior to use of such equipment.</u>	<u>Verification of equipment use by Tier category on-going during Project construction.</u>  <u>Documentation for use of Tier 3 equipment provided prior to use of such equipment.</u>	<u>Applicant, Contractors</u>	<u>Building &amp; Safety Department</u>	
<u>MM-AQ-9</u>	<u>All construction equipment shall be maintained in accordance with the manufacturer's recommended maintenance schedule and specifications. Maintenance records shall be maintained by the Contractor and made available for inspection and remain on-site for a period of two-years following the completion of construction.</u>	<u>On-site verification equipment maintenance by contractors and County Building Official(s).</u>  <u>Maintenance records available upon request.</u>	<u>Verification of equipment maintenance on-going during Project construction.</u>	<u>Applicant, Contractors</u>	<u>Building &amp; Safety Department</u>	

**Table 4.2-1: Mitigation Monitoring Reporting Program**

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Section / MM No.	Mitigation Measure	Method of Verification	Timing of Verification	Implementation Entity	Monitoring Agency	Date of Completion/ Initials
<b>4.4 Biological Resources</b>						
<b>MM-BR-1</b>	Prior to commencement of any development activity on the Project site, the Project Applicant/Developer shall remit required Multiple Habitat Species Conservation Plan fees to the County of Riverside.	Receipt of MSHCP fee.	Prior to issuance of the first grading permit.	Applicant	County Building & Safety Department	
<b>MM-BR-2</b>	Prior to commencement of any grading activities, the developer shall conduct a 30-day burrowing owl pre-construction clearance survey. If burrowing owls and/or birds displaying nesting behaviors are observed within the Project site during future Project development, further review may be necessary to ensure compliance with the Multiple Species Habitat Conservation Plan, Migratory Bird Treaty Act, and California Fish and Game Code.	Applicant provision of burrowing owl survey to County Environmental Programs Department (EPD). Compliance with any subsequent EPD requirements.	Prior to issuance of the first grading permit.	Applicant, Project Biologist	County EPD	
<b>MM-BR-3</b>	Prior to commencement of any development activity on the Project site, the Project Applicant/Developer shall remit required Stephens' Kangaroo Rat HCP Mitigation Fee to the County of Riverside in compliance with County of Riverside Ordinance Nol. 663.10; SKR HCP.	Receipt of Stephens' Kangaroo Rat HCP Mitigation Fee.	Prior to issuance of the first grading permit.	Applicant	County Building & Safety Department	
<b>MM-BR-4</b>	The Project developer/Applicant shall conduct a pre-construction clearance survey prior to commencement of grading activities.	Written evidence of the survey provided to County EPD.	Prior to issuance of the first grading permit.	Applicant	County EPD, County Building & Safety Department	

**Table 4.2-1: Mitigation Monitoring Reporting Program**

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MM-BR-5	<p>In coordination with the RCA, if ground disturbance and vegetation removal cannot occur outside of the nesting season, a pre-construction clearance survey for nesting birds should be conducted within three (3) days of the commencement of any ground disturbing activity to ensure no nesting birds will be disturbed during Project development. Furthermore, the biologist who conducts the clearance survey should document a negative survey with a brief letter report indicating no impacts to active avian nests will occur. If an active avian nest is discovered during the pre-construction clearance survey, construction activities should stay outside a 300-foot buffer around the active nest. For raptor species, the buffer is expanded to 500 feet. Furthermore, it is recommended a biological monitor be present to delineate the boundaries of the buffer area and to monitor the active nest to ensure nesting behavior is not adversely affected by construction. Once the young have fledged and left the nest, or the nest otherwise becomes inactive under natural conditions, normal construction activities can occur. The nesting bird clearance survey shall include a pre-construction burrowing owl clearance survey to ensure that burrowing owl remain absent from the Project site.</p>	<p>Provision of any required clearance survey(s) to EPD.</p>	<p>Prior to issuance of the first grading permit; on-going during ground disturbing activities.</p>	<p>Applicant, Project Biologist</p>	<p>County EPD, County Building &amp; Safety Department</p>	

**Table 4.2-1: Mitigation Monitoring Reporting Program**

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<b>4.5 Cultural Resources</b>						
MM-CR-1	<p>Prior to issuance of grading permits: The applicant/developer shall provide evidence to the County of Riverside Planning Department that a County certified professional archaeologist (Project Archaeologist) has been contracted to implement a Cultural Resource Monitoring Program (CRMP). A Cultural Resource Monitoring Plan shall be developed that addresses the details of all activities and provides procedures that must be followed in order to reduce the impacts to cultural and historic resources to a level that is less than significant as well as address potential impacts to undiscovered buried archaeological resources associated with this project. A fully executed copy of the contract and a wet-signed copy of the Monitoring Plan shall be provided to the County Archaeologist to ensure compliance with this condition of approval.</p> <p>Working directly under the Project Archaeologist, an adequate number of qualified Archaeological Monitors shall be present to ensure that all earth moving activities are observed and shall be on-site during all grading activities for areas to be monitored including off-site improvements. Inspections will vary based on the rate of excavation, the materials excavated, and the presence and abundance of artifacts and features. The frequency and</p>	<p>Evidence provided to the County Planning Department that a qualified Project Archaeologist has been contracted to implement a Cultural Resource Monitoring Program (CRMP).</p> <p>CRMP to be reviewed and approved by County Planning Department and County Archaeologist.</p>	<p>Verified contract with qualified Project Archaeologist and CRMP approval prior to issuance of first the first grading permit.</p> <p>Archaeological resources monitoring ongoing during ground disturbing activities.</p>	Applicant, Project Archaeologist	County Planning Department and County Archaeologist	

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Section / MM No.	Mitigation Measure	Method of Verification	Timing of Verification	Implementation Entity	Monitoring Agency	Date of Completion/ Initials
	location of inspections will be determined by the Project Archaeologist.					
MM-CR-2	<p>If during ground disturbance activities, unique cultural resources* are discovered, the following procedures shall be followed:</p> <p>i. All ground disturbance activities within 100 feet of the discovered cultural resource shall be halted and the applicant shall call the County Archaeologist immediately upon discovery of the cultural resource. A meeting shall be convened between the developer, the archaeologist, the tribal representative, and the Planning Director to discuss the significance of the find.</p> <p>ii. At the meeting, the significance of the discoveries shall be discussed and after consultation with the tribal representative(s) and the archaeologist, a decision shall be made, with the concurrence of the Planning Director, as to the appropriate mitigation (documentation, recovery, avoidance, etc.) for the cultural resources.</p> <p>iii. Grading or further ground disturbance shall not resume within the area of the discovery until a decision has been made through consultation with all relevant parties as to the appropriate mitigation. Work shall be</p>	Applicant/contractors required to contact County Archaeologist in the event of potentially significant cultural resources find(s).	On-going during ground-disturbing activities.	Applicant, Project Archaeologist	County Planning Department, County Archaeologist	

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	<p>allowed to continue outside of the buffer area and will continue if needed.</p> <p>iv. Treatment and avoidance of the newly discovered resources shall be consistent with the Cultural Resources Management Plan and Monitoring Agreements entered into with the appropriate tribes. This may include avoidance of the cultural resources through project design, in-place preservation of cultural resources located in native soils and/or re-burial on the Project property so they are not subject to further disturbance in perpetuity as identified in Non-Disclosure of Reburial Condition.</p> <p>v. If the find is determined to be significant and avoidance of the site has not been achieved, a Phase III data recovery plan shall be prepared by the project archeologist, in consultation with the Tribe, and shall be submitted to the County for their review and approval prior to implementation of the said plan.</p> <p>vi. Pursuant to Calif. Pub. Res. Code § 21083.2(b), if the project will cause damage to a unique archaeological resource, the County shall determine if reasonable efforts can be formulated to permit any or all of these resources to be preserved in place or left in an undisturbed state. If the landowner and the Tribe(s) cannot agree on the significance or the</p>					

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	<p>mitigation for the archaeological or cultural resources, these issues will be presented to the County Planning Director for decision. The County Planning Director shall make the determination based on the provisions of the California Environmental Quality Act with respect to archaeological resources, recommendations of the project archeologist and shall take into account the cultural and religious principles and practices of the Tribe(s).</p> <p>* Unique cultural resources are defined, for this condition only, as being multiple artifacts in close association with each other, but may include fewer artifacts if the area of the find is determined to be of significance due to its sacred or cultural importance as determined in consultation with the Native American Tribe(s).</p>					
MM-CR-3	<p>Prior to Grading Permit Final Inspection, a Phase IV Cultural Resources Monitoring Report shall be submitted that complies with the Riverside County Planning Department's requirements for such reports for all ground disturbing activities associated with this grading permit. The report shall follow the County of Riverside Planning Department Cultural Resources (Archaeological) Investigations Standard Scopes of Work posted on the TLMA website. The report shall include results of any feature relocation or residue analysis required as well as evidence of the</p>	<p>Phase IV Cultural Resources Monitoring Report reviewed and approved by County Planning Department and County Archaeologist.</p>	<p>Prior to Grading Permit Final Inspection.</p>	<p>Applicant, Project Archaeologist</p>	<p>County Planning Department</p>	

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	required cultural sensitivity training for the construction staff held during the required pre-grade meeting and evidence that any artifacts have been treated in accordance to procedures stipulated in the Cultural Resources Management Plan.					
<b>4.7 Greenhouse Gas Emissions</b>						
<b>MM-GHG-1</b>	The Project shall implement Screening Table Measures providing for a minimum 100 points per the County Screening Tables. The County shall verify incorporation of the identified Screening Table Measures within the Project building plans and site designs prior to the issuance of building permit(s) and/or site plans (as applicable). The County shall verify implementation of the identified Screening Table Measures prior to the issuance of Certificate(s) of Occupancy.	The County shall verify incorporation of the Screening Table Measures	The County shall verify incorporation of the identified Screening Table Measures within the Project building plans and site designs prior to the issuance of building permit(s) and/or site plans (as applicable). The County shall verify implementation of the identified Screening Table Measures prior to the issuance of Certificate(s) of Occupancy.	Applicant	County Planning Department, County Building & Safety Department	



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Section / MM No.	Mitigation Measure	Method of Verification	Timing of Verification	Implementation Entity	Monitoring Agency	Date of Completion/ Initials
MM-GHG-2	The Project shall comply with CAP Update Measure R2-CE1. CAP Update Measure R2-CE1 requires that the Project provide onsite renewable energy production generation comprising at least 20 percent of the Project energy demand. The County shall verify implementation of CAP Update Measure R2-CE1 within the Project building plans and site designs prior to the issuance of building permit(s) and/or site plans (as applicable). The County shall verify implementation of CAP Update Measure R2-CE1 prior to the issuance of Certificate(s) of Occupancy.	The County shall verify implementation of CAP Update Measure R2-CE.	CAP Update Measure R2-CE1 within the Project building plans and site designs verified prior to the issuance of building permit(s) and/or site plans (as applicable).  Implementation of CAP Update Measure R2-CE1 verified prior to the issuance of Certificate(s) of Occupancy.	Applicant	County Planning Department, County Building & Safety Department	
MM-GHG-3	The Project shall comply with applicable provisions of the County of Riverside Good Neighbor Policy for Logistics and Warehouse/Distribution Centers as implemented through the Project Conditions of Approval.	Planning Department and Building & Safety Department review of plans.	Plans verified prior to issuance of Building Permits. Implemented designs/facilities verified prior to issuance of Certificate of Occupancy. Ongoing monitoring	Applicant, Contractors	County Planning Department; County Building & Safety Department	

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Section / MM No.	Mitigation Measure	Method of Verification	Timing of Verification	Implementation Entity	Monitoring Agency	Date of Completion/ Initials
			of Good Neighbor Operational Policies			
<b>4.8 Hazards</b>						
<b>MM-HA-1</b>	Prior to issuance of a grading permit for site preparation for the proposed warehouse/logistics building, the Applicant shall complete and submit an asbestos and hazardous materials survey of all irrigation pipes and building materials for review and approval of the County of Riverside Department of Environmental Health (DEH) Should asbestos containing materials (ACMs) be identified on-site, such materials shall be handled and disposed of by licensed contractors in accordance with all appropriate regulatory agency guidelines.	Review and approval of hazardous material survey by County DEH.	Hazardous materials survey reviewed and approved prior to issuance of the first grading permit. On-going monitoring for ACMs during site disturbing activities.	Applicant, Contractors	County DEH, County Building & Safety Department	
<b>4.12 Noise</b>						
<b>MM-N-1</b>	The following noise barrier is required to reduce the operational noise level impacts to owned and/or occupied noise-sensitive uses at the time of Project operation. <ul style="list-style-type: none"> <li>If residential or other noise sensitive uses exist immediately to the east of the Project site at time of building permit issuance, a minimum 17-foot tall noise barrier at the eastern truck court boundary is required. The barrier shall provide a weight of at least four (4) pounds per square foot</li> </ul>	Verification of noise barrier in Project building plans/site plans.	Noise barrier design, specifications, location verified prior to site plan approval/issuance of building permits.	Applicant	County Planning Department, County Building & Safety Department	

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	<p>of face area with no decorative cutouts or line-of-sight openings between shielded areas and the roadways, or a minimum transmission loss of 20dBA. The barriers shall consist of a solid face from top to bottom. Unnecessary openings or decorative cutouts shall not be made. All gaps (except for weep holes) should be filled with grout or caulking. The noise barriers shall be constructed using the following materials:</p> <ul style="list-style-type: none"> <li>o Masonry block;</li> <li>o Earthen berm;</li> <li>o Or any combination of construction materials capable of the minimum weight of 4 pounds per square foot or a minimum transmission loss of 20 dBA.</li> </ul>					
MM-N-2	<p>For Project-related construction activities, large loaded trucks and dozers (greater than 80,000 pounds) shall not be used within 90 feet of owned and occupied noise-sensitive residential homes east of the Project site as identified in the Noise Impact Analysis prepared for the Project during construction activities. Instead, small rubber-tired or alternative equipment shall be</p>	Contractor enforcement	On-going during ground disturbing activities	Applicant, Contractors	County Building & Safety Department	

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Section / MM No.	Mitigation Measure	Method of Verification	Timing of Verification	Implementation Entity	Monitoring Agency	Date of Completion/ Initials
	used within this area during Project construction to reduce vibration effects.					
<b>4.13 Paleontological Resources</b>						
<b>MM-PR-1</b>	Project development shall adhere to all guidelines and recommendations of the <i>Paleontological Monitoring Plan as presented within Paleontological Resource Assessment and Impact Mitigation Program, for the Barker Logistics (APN 317-240-001-8) Project in Perris, Riverside County, California</i> (Environmental Planning Group, LLC) March 28, 2019.	On-going monitoring by Project Paleontologist.	On-going during ground-disturbing activities.	Applicant, Contractors, Project Paleontologist	County Planning Department, County Building & Safety Department	
<b>MM-TR-1</b>	MVAP DIF shall be paid pursuant to County Ordinance 659. TUMF shall be paid pursuant to County Ordinance 824. Applicant responsibility for improvements not covered by the MVAP DIF or TUMF Programs, and/or not constructed the Project shall be fulfilled by payment of Fair Share fees.	<ul style="list-style-type: none"> <li>• Receipt of DIF;</li> <li>• Receipt of TUMF;</li> <li>• Receipt of Fair Share Fees (if any)</li> </ul>	<ul style="list-style-type: none"> <li>• DIF payment pursuant to County Ordinance 659;</li> <li>• TUMF payment pursuant to County Ordinance 824;</li> <li>• Fair Share Fees (if any) prior to issuance of Certificate of Occupancy</li> </ul>	Applicant	County Transportation Department	

**Table 4.2-1: Mitigation Monitoring Reporting Program**

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<b>4.18 Tribal Cultural Resources</b>						
<b>MM-TCR-1</b>	<p>Prior to the issuance of grading permits, the developer/permit applicant shall enter into an agreement with the consulting tribe(s) for a Native American Monitor. The Agreement shall be consistent with the CRMP and address the treatment of known cultural resources; the treatment and final disposition of any tribal cultural resources, sacred sites, human remains or archaeological and cultural resources inadvertently discovered on the Project site.</p> <p>The Native American Monitor(s) shall be on-site during all initial ground disturbing activities and excavation of each portion of the Project site including clearing, grubbing, tree removals, grading and trenching. In conjunction with the Archaeological Monitor(s), the Native American Monitor(s) shall have the authority to temporarily divert, redirect or halt the ground disturbance activities to allow identification, evaluation, and potential recovery of cultural resources. The developer/permit applicant shall submit a fully executed copy of the agreement to the County Archaeologist to ensure compliance with this condition of approval. Upon verification, the County Archaeologist shall clear this condition. This agreement shall not modify any condition of approval or mitigation measure.</p>	Consulting tribe(s) agreement verified by Planning Department and County Archaeologist. On-going monitoring by Native American Monitor(s).	Prior to issuance of first grading permit.	Applicant	County Planning Department, Building & County Safety Department, County Archaeologist, Native American Monitors	

**Table 4.2-1: Mitigation Monitoring Reporting Program**

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Section / MM No.	Mitigation Measure	Method of Verification	Timing of Verification	Implementation Entity	Monitoring Agency	Date of Completion/ Initials
MM-TCR-2	<p>Prior to Grading Permit Final Inspection, the landowner(s) shall relinquish ownership of all cultural resources that are unearthed on the Project property during any ground-disturbing activities, including previous investigations and/or Phase III data recovery.</p> <p><b>Historic Resources-</b> All historic archaeological materials recovered during the archaeological investigations (this includes collections made during an earlier project, such as testing of archaeological sites that took place years ago), shall be curated at the Western Science Center, a Riverside County curation facility that meets State Resources Department Office of Historic Preservation Guidelines for the Curation of Archaeological Resources ensuring access and use pursuant to the Guidelines.</p> <p><b>Prehistoric Resources-</b> One of the following treatments shall be applied.</p> <p>a. Preservation-In-Place of the cultural resources, if feasible. Preservation in place means avoiding the resources, leaving them in the place where they were found with no development affecting the integrity of the resources.</p> <p>b. Reburial of the resources on the Project property. The measures for reburial shall include, at least, the following: Measures to</p>	<p>On-going monitoring during ground disturbing activities. Any excavated cultural resources of potential significance reburied or relinquished as provided for under MM-TCR-2.</p>	<p>On-going monitoring during ground disturbing activities. Written verification of any relinquishment of unearthed cultural resources prior to Final Inspection of Grading Permit.</p>	<p>Applicant, Contractors, Project Archaeologist, Native American Monitor(s)</p>	<p>County Planning Department, Native American Monitor(s) County Archaeologist</p>	

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	<p>protect the reburial area from any future impacts. Reburial shall not occur until all required cataloguing, analysis and studies have been completed on the cultural resources, with an exception that sacred items, burial goods and Native American human remains are excluded. Any reburial processes shall be culturally appropriate. Listing of contents and location of the reburial shall be included in the confidential Phase IV Report. The Phase IV Report shall be filed with the County under a confidential cover and not subject to a Public Records Request.</p> <p>c. If reburial is not agreed upon by the Consulting Tribes then the resources shall be curated at a culturally appropriate manner at a Riverside County curation facility that meets State Resources Department Office of Historic Preservation Guidelines for the Curation of Archaeological Resources ensuring access and use pursuant to the Guidelines. The collection and associated records shall be transferred, including title, and are to be accompanied by payment of the fees necessary for permanent curation. Evidence of curation in the form of a letter from the curation facility stating that subject archaeological materials have been received and that all fees have been paid, shall be provided by the landowner to the County. There shall be no destructive or invasive testing</p>					

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Section / MM No.	Mitigation Measure	Method of Verification	Timing of Verification	Implementation Entity	Monitoring Agency	Date of Completion/ Initials
	on sacred items, burial goods and Native American human remains.					
MM-TCR-3	If human remains are found on this site, the developer/permit holder or any successor in interest shall comply with State Health and Safety Code Section 7050.5. If human remains are encountered, State Health and Safety Code Section 7050.5 states that no further disturbance shall occur until the Riverside County Coroner has made the necessary findings as to origin. Further, pursuant to Public Resources Code Section 50.97.98(b), remains shall be left in place and free from disturbance until a final decision as to the treatment and disposition has been made. If the Riverside County Coroner determines the remains to be Native American, the Native American Heritage Commission shall be contacted within the period specified by law (24 hours). Subsequently, the Native American Heritage Commission shall identify the "most likely descendant." The most likely descendant shall then make recommendations and engage in consultation concerning the treatment of the remains as provided in Public Resources Code Section 5097.98. Evidence of compliance with this condition, if human remains are found, shall be provided to the County of Riverside upon the completion of a	On-going monitoring during ground disturbing activities. Any encountered human remains treated as provided for under MM-TCR-3.	On-going monitoring during ground disturbing activities. Evidence of MM-TCR-3 compliance (if applicable) shall be provided to the County of Riverside upon the completion of a treatment plan and final report detailing the significance and treatment of the finding.	Applicant, Contractors, Project Archaeologist, Native American Monitor(s)	County Planning Department, Native American Monitor(s) County Archaeologist, NAHC, County Coroner	



**Table 4.2-1: Mitigation Monitoring Reporting Program**

**General Note:** To facilitate coordination and effective implementation of mitigation measures, the mitigation measures provided herein shall appear on all grading plans, construction specifications, and bid documents. Incorporation of required notations shall be verified by the County prior to issuance of first development permit. Implementation Entities shall comply with listed mitigation requirements.

Section / MM No.	Mitigation Measure	Method of Verification	Timing of Verification	Implementation Entity	Monitoring Agency	Date of Completion/ Initials
	treatment plan and final report detailing the significance and treatment of the finding.					
<b>MM-TCR-4</b>	Prior to ground disturbance, the Project Archaeologist and, if required, a representative designated by the Tribe shall attend the pre-grading meeting with the contractors to provide Cultural Sensitivity Training for all Construction Personnel. Training will include a brief review of the cultural sensitivity of the Project and the surrounding area; what resources could potentially be identified during earthmoving activities; the protocols that apply in the event unanticipated cultural resources are identified, including who to contact and appropriate avoidance measures until the find(s) can be properly evaluated; and any other appropriate protocols. This is a mandatory training and all construction personnel must attend prior to beginning work on the project site. A copy of the agreement and a copy of the sign-in sheet shall be submitted to the County Archaeologist to ensure compliance with this condition of approval.	Project Archaeologist, Contractors, Native American Monitor enforcement. Attendance at Cultural Sensitivity Training session verified through sign-in sheet.	Prior to issuance of the first grading permit.	Project Archaeologist, Contractors, Native American Monitor	County Planning Department, Native American Monitor(s) County Archaeologist	

**Table 4.2-1: Mitigation Monitoring Reporting Program**

**General Note:** To facilitate coordination and effective implementation of mitigation measures, the mitigation measures provided herein shall appear on all grading plans, construction specifications, and bid documents. Incorporation of required notations shall be verified by the County prior to issuance of first development permit. Implementation Entities shall comply with listed mitigation requirements.

Section / MM No.	Mitigation Measure	Method of Verification	Timing of Verification	Implementation Entity	Monitoring Agency	Date of Completion/ Initials
<b>4.20 Wildfire</b>						
MM-WI-1	The Project Applicant/Developer shall demonstrate compliance with County of Riverside General Plan policies, with the Riverside County Fire Department Fire Protection and Emergency Medical Services Strategic Master Plan requirements, with the Riverside County Emergency Operations Plan requirements, and with County of Riverside Standard Conditions at appropriate and required stages of Project development as determined by the County of Riverside staff.	Approval of plans by affected reviewing agencies.	Prior to issuance of a grading permit; prior to issuance of a building permit; and/or prior to issuance of a Certificate of Occupancy, as determined appropriate by County of Riverside.	Applicant, Contractors	County Fire Department, County Emergency Medical Services, County Emergency Management Department, County Planning Department	