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Mr. Francisco Avila
Senior Planner
Contra Costa County, Department of Conservation & Development
Community Development Division
30 Muir Road
Martinez, CA 94553

RE: Notice of Preparation for the Centerpoint North Richmond Warehouse Project (SCH # 2019110003)

Dear Mr. Avila:

Thank you for the opportunity to provide comments on Contra Costa County's Notice of Preparation (NOP) for the Centerpoint North Richmond Warehouse Project (Project) in the unincorporated community of North Richmond. The NOP indicates that the County seeks comments regarding environmental concerns from the implementation of the proposed project. Given the Project's setting in a community of color that already suffers some of the worst pollution in the State, we submit these comments for the County's consideration as it prepares the draft environmental impact report (EIR).¹

I. THE PROJECT SITE IS SURROUNDED BY SENSITIVE RECEPTORS ALREADY EXPOSED TO SIGNIFICANT POLLUTION BURDENS.

The Project consists of the construction of three warehouse buildings, totaling 555,537 square feet, to be built next to a park and elementary school. Beyond those sensitive receptors to the south is a disadvantaged neighborhood that already suffers from multiple sources of pollution.

Based on the tentative parcel map, it appears the Project will have 72 dock doors for trucks to load and unload. The Project will pave 438 parking spots for cars and 266 parking spots for truck trailers. While the NOP does not say, warehouse projects typically operate 24 hours a day, seven days a week. The NOP also does not disclose whether the facilities will

¹ 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.)

include refrigerated uses. Cold storage warehouses require diesel trucks with transport refrigeration units (TRUs), which emit significantly higher levels of toxic diesel particulate matter (PM), nitrogen oxides (NO_x), and greenhouse gas emissions than trucks without TRUs.

The Project is located on the southeast corner of Fred Jackson Way and Brookside Drive in North Richmond. North of the Project site is Urban Tilth, a three-acre urban farm that teaches youth and community members to grow food, and then distributes the produce to members of the community. To the south, the site borders the North Richmond Ballpark, Verde Elementary School,² and a Head Start Preschool. Further south is residential neighborhood full of single- and multi-family homes, as well as several places of worship. According to the 2017 American Community Survey, 513 individuals live within approximately 1,000 feet of the site, 95 percent of whom are people of color.³ Of those nearby residents, a significant number (36 percent) are children.⁴

This community already is exposed to significant pollution in the surrounding area, including a hazardous waste facility, landfill, railroad tracks, and the Chevron Richmond Refinery. According to CalEnviroScreen 3.0, CalEPA's screening tool that ranks each census tract in the state for pollution and vulnerability, the Project's census tract ranks worse than 94 percent of the rest of the state for pollution burden and worse than 77 percent of the state for population vulnerability.⁵ This census tract is in the 84th percentile for diesel pollution and in the top ten percent for exposure to hazardous waste, cleanup sites, solid wastes, impaired water, and groundwater threats.

Residents of this census tract are in the 100th percentile for asthma rates. In 2017, this zip code had more than double the state's average age-adjusted hospital emergency department visit rate for asthma attacks.⁶ Children are more vulnerable to the health effects of pollution and this Project would further add to the environmental and health problems faced by the families that live in the area.

² Verde Elementary is composed predominantly of low-income students of color. Its 328 students are 99% people of color and 97% free/reduced lunch eligible. (*National Center for Education Statistics*, <https://nces.ed.gov/ccd/schoolsearch/>, last visited Dec. 9, 2019.)

³ *Environmental Protection Agency*, EJSscreen, <<https://ejsscreen.epa.gov/mapper/demogreportpdf.aspx?report=acs2017>> (as of Dec. 12, 2019).

The nearby residents of color are predominantly Latinx (65%) and African American (24%).

⁴ By comparison, in 2018, 22.4 percent of the national population was under 18 years of age. *U.S. Census*, <https://www.census.gov/quickfacts/fact/table/US/PST045218>.

⁵ CalEPA, *CalEnviroScreen 3.0*, <<https://oehha.ca.gov/calenviroscreen>> (as of January 16, 2020).

⁶ *California Health & Human Services Agency Open Data*, Asthma ED Visit Rates by ZIP Code, <https://data.chhs.ca.gov/dataset/34f3464e-b2eb-4f74-9ef9-f378711aa0f5/resource/5b9309d9-5680-4970-85a6-804cce466040/download/asthmaedvisitrates-by-zipcode-2009-2012to2017-ca-cdph.xlsx> (as of Dec. 12, 2019).

The Bay Area fails to meet federal and state attainment standards for ozone, PM₁₀, and PM_{2.5}.⁷ North Richmond is part of a community the California Air Resources Board (CARB) has selected for a community air monitoring program pursuant to Assembly Bill 617. AB 617 communities are selected based on their high cumulative exposure burdens for toxic air contaminants and criteria air pollutants. One of the Richmond community's air monitoring sensors is located near the Project at the North Richmond Ballpark, where residents come to play baseball, softball, and soccer.

II. THE COUNTY MUST COMPREHENSIVELY EVALUATE THE PROJECT'S ENVIRONMENTAL IMPACTS, INCLUDING CUMULATIVE IMPACTS ON SENSITIVE RECEPTORS.

The purpose of CEQA is to ensure that a lead agency fully evaluates, discloses, and, whenever feasible, mitigates a project's significant environmental effects.⁸ An EIR serves as an "informational document" that informs the public and decisionmakers of the significant environmental effects of a project and ways in which those effects can be minimized.⁹ CEQA requires an EIR to include "enough detail 'to enable those who did not participate in its preparation to understand and to consider meaningfully the issues raised by the proposed project.'"¹⁰ In the context of air quality analysis, an EIR must "make[] a reasonable effort to substantively connect a project's air quality impacts to likely health consequences."¹¹

Here, the County provides that the Project applicant seeks approval of a Development Plan that includes consolidation of 20 parcels into three larger parcels; demolition of existing improvements on the site; construction of three tilt-up warehouse buildings totaling 555,537 square feet; paving for 438 auto parking spaces and 266 trailer parking spaces; removal of eight trees; grading of approximately 168,000 cubic yards (37,000 cut and 131,000 fill); and soil remediation due to the site's previous agricultural uses.¹²

The County's EIR should analyze the full environmental impacts of the Project, which will add a considerable number of diesel truck trips, and their attendant air pollution, to this already overburdened area. That includes the Project's impact on the sensitive receptors that surround the Project to the north and south who already suffer the health impacts of environmental pollution.¹³ The area is a non-attainment area for ozone and particulate matter

⁷ Bay Area Air Quality Management District, *Air Quality Standards and Attainment Status*, <<https://www.baaqmd.gov/about-air-quality/research-and-data/air-quality-standards-and-attainment-status>> (as of Jan. 16, 2020).

⁸ Pub. Resources Code, §§ 21000–21002.1.

⁹ CEQA Guidelines, § 15121, subd. (a).

¹⁰ *Sierra Club v. County of Fresno [Friant Ranch]* (2018) 6 Cal.5th 502, 516.

¹¹ *Ibid.* at p. 510.

¹² NOP at pp. 1–2.

¹³ Because sensitive receptors are uniquely vulnerable to the health effects of environmental damage, CARB recommends 1,000 feet separation between sensitive receptors and distribution

and Project operations will likely increase emissions of those pollutants. Additionally, the neighborhood around the Project already has one of the worst asthma rates in the state—adding additional air pollutants will contribute to this problem.

The County also must sufficiently relate pollutant data to specific adverse human health effects in the Project's EIR. In *Friant Ranch*, the California Supreme Court found a project's air quality impact analysis to be inadequate under CEQA because its "general description of symptoms that are associated with exposure" "fail[ed] to indicate the concentrations at which such pollutants would trigger the identified symptoms" and did not provide the public with an "idea of the health consequences that result when more pollutants are added to a nonattainment basin."¹⁴ The Project's EIR can avoid this problem by detailing the existing conditions and projecting the impact that additional pollution will have on the community.

For instance, studies have shown that increases in near-roadway air pollution are associated with reduced lung function in non-asthmatic children.¹⁵ Exposure may be particularly harmful during the first year of life, resulting in decreased lung function into adolescence.¹⁶ Increased NO_x emissions are also associated with an increased risk of developing asthma.¹⁷ Human health is not the only potential impact from Project-generated air emissions. Chronic exposure to air pollution may negatively influence children's cognitive processing and memory.¹⁸ Since the Project seeks to build next to an elementary school, park, and preschool, in an area with a high percentage of children, the EIR should account for the Project's cumulative impacts on the community.

centers or other land uses that would generate more than 100 trucks per day. (California Air Resources Board, *Air Quality and Land Use Handbook: A Community Health Perspective* (April 2005) ("CARB Handbook"), p. 4.)

¹⁴ *Friant Ranch*, *supra*, 6 Cal.5th at p. 519.

¹⁵ Urman, et al., *Associations of Children's Lung Function with Ambient Air Pollution: Joint Effects of Regional and Near-Roadway Pollutants* (2014) 69 *Thorax* 540, 546; Chen, et al., *Chronic Effects of Air Pollution On Respiratory Health in Southern California Children: Findings from The Southern California Children's Health Study* (2015) 7 *Journal of Thoracic Disease* 46, 49.

¹⁶ Schultz, et al., *Early-Life Exposure to Traffic-Related Air Pollution and Lung Function in Adolescence* (2016) 193 *American Journal of Respiratory and Critical Care Medicine* 171, 174–75; Usemann, et al., *Exposure to Moderate Air Pollution and Associations with Lung Function at School-Age: A Birth Cohort Study* (2019) 126 *Environment International* 682, 688.

¹⁷ Gauderman, et. al., *Childhood Asthma And Exposure To Traffic And Nitrogen Dioxide* (2005) 16 *Epidemiology* 737, 742; Nishimura, et al., *Early-Life Air Pollution and Asthma Risk in Minority Children. The GALA II and SAGE II Studies* (2013) 188 *American Journal of Respiratory and Critical Care Medicine* 309, 312.

¹⁸ Grineski, et al., *Hazardous Air Pollutants Are Associated With Worse Performance In Reading, Math, And Science Among US Primary Schoolchildren* (2019) *Environmental Research* 108925.

III. THE COUNTY SHOULD CONSIDER ALL FEASIBLE MEASURES TO MITIGATE ANY POTENTIALLY SIGNIFICANT PROJECT IMPACTS

CEQA requires a lead agency to adopt all feasible mitigation measures that minimize the significant environmental impacts of a project.¹⁹ The lead agency is expected to develop mitigation in an open public process,²⁰ and mitigation measures must be fully enforceable and nondeferrable.²¹ To the extent the EIR determines the Project will have significant environmental impacts—especially any affecting sensitive receptors—the County should consider robust mitigation measures to avoid or limit those impacts.

For example, possible air quality mitigation measures²² could include:

- Requiring buffer zones of at least 1,000 feet between warehouses and sensitive receptors;
- Ensuring that operations of diesel trucks or equipment on site are as far from sensitive receptors as possible;
- Limiting operation and construction days and times;
- Establishing and enforcing truck routes that avoid sensitive receptors;
- Requiring special consideration and mitigation for warehouses with cold storage capability, including requiring the use of zero-emission or all-electric, plug-in capable TRUs;
- Establishing fleet requirements for warehouse tenants and carriers serving tenants, such as requiring the exclusive use of zero-emission delivery trucks and vans and requiring any Class 8 trucks entering the site use zero-emissions technology or meet CARB's lowest optional NO_x emissions standard;
- Requiring installation of indoor air filtration at nearby schools (at minimum, Verde Elementary School) and residences;
- Requiring installation of indoor air filtration and climate control at the warehouse to reduce-impacts on workers;
- Requiring electric vehicle charging infrastructure for both cars and trucks necessary to support zero-emission vehicles and equipment on site;
- Requiring all trucks and trailers entering the site be in compliance with all current air quality regulations;
- Requiring and enforcing no idling policies;
- Requiring the use of electric-powered yard equipment onsite;
- Requiring that all construction equipment meet Tier 4 emission standards;

¹⁹ Pub. Resources Code, § 21100, subd. (b)(3).

²⁰ *Communities for a Better Environment v. City of Richmond* (2010) 184 Cal.App.4th 70, 93.

²¹ CEQA Guidelines, § 15126.4

²² For more in-depth information about potential air quality mitigation measures near high volume roadways, see CARB's Technical Advisory on the topic and, more generally, the CARB Handbook, which offers more mitigation ideas. Both are available at <https://www.arb.ca.gov/ch/landuse.htm>. The mitigation measures included here are focused on air quality; however, additional mitigation measures may be necessary for traffic, noise, or other significant impacts.

- Constructing new or improved transit stops, sidewalks, bicycle lanes, crosswalks, and traffic control or traffic safety measures, such as speed bumps or speed limits;
- Improving vegetation and tree canopy for community members in and around the Project site;
- Requiring methods to reduce employee vehicle traffic, such as van shuttles, transit and carpool incentives, and bicycle parking and facilities for employees;
- Requiring installation of solar panels with backup energy storage on each building roof area with a capacity that matches the maximum allowed for distributed solar connections to the grid;
- Adhering to California green building standards; and
- Constructing the warehouse to meet Leadership in Energy and Environmental Design standards.

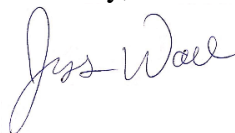
Mitigation measures like these have been adopted by similar projects throughout California. The Attorney General's Office would be happy to provide any assistance it can as the County considers how best to mitigate the Project's environmental impacts.

IV. CONCLUSION

This Project's EIR affords the County the opportunity to serve its constituents by transparently evaluating, disclosing, and mitigating the environmental impacts of this proposed Project. When implemented well, CEQA builds public trust and promotes sustainable development that will serve the local community for years to come. The Project could result in a large expansion of industrial uses in North Richmond, along with those uses' environmental impacts. The County is correct that a project of this size and potential impacts necessitates an EIR. In drafting the EIR, we urge the County to evaluate the Project's impacts comprehensively, particularly those affecting the many nearby sensitive receptors. CEQA entitles this already-overburdened community to full disclosure and mitigation of the environmental impacts of the Project prior to its approval.

Please do not hesitate to contact me if you have any questions or would like to discuss these issues further.

Sincerely,



JESSICA WALL
Deputy Attorney General

For XAVIER BECERRA
Attorney General

Appendix:



Satellite Image of Project Area with Blueprint of Proposed Warehouses, with Sensitive Receptors Highlighted in Green