CALIFORNIA
AIR RESOURCES BOARD

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April 24, 2019

Mr. Steve Gonzales
Associate Planner
City of Colton
Development in Services Department
659 North La Cadena Drive
Colton, California 92324

Dear Mr. Gonzales:

Thank you for providing the California Air Resources Board (CARB) with the opportunity to comment on the Ashley Way Logistics Center Project (Project) Initial Study/Mitigated Negative Declaration (IS/MND), State Clearinghouse No. 2019039149. The Project consists of the construction and operation of a 220,185 square foot logistical center on 11.19 acres of land in the City of Colton (City), which is the lead agency for California Environmental Quality Act (CEQA) purposes. Implementation of the Project would require a change to the existing land use designation from commercial to light industrial.

Residences are located directly south and east of the Project site, with the closest residences situated approximately 240 feet southwest of the Project's southwestern boundary. In addition to residences, there is a senior care facility (Home Instead Senior Care) and a childcare services organization (Trinity Youth Services) located approximately 330 and 230 feet west of the Project's western boundary, respectively. The community is surrounded by existing toxic diesel emission sources, which include the existing Ashley Homestore warehouse and a major freeway (I-215). Due to the Project's proximity to residences and senior/child care facilities 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 disproportionally 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 standpoint, as a community that scores within the top 25 percent of the census tracts, as analyzed by the California Communities Environmental Health Screening Tool Version 3.0 (CalEnviroScreen). CalEnviroScreen uses a screening methodology to help identify California communities currently disproportionately burdened by multiple sources of pollution. The census tract containing the Project is within the top 4 percent for Pollution Burden.[1] Therefore, CARB urges the City to bolster its currently deficient air quality analysis to ensure that the Project and land use zoning change do not have a significant effect, cumulative or otherwise, on neighboring disadvantaged communities.

The Air Quality section of the IS/MND concludes that Project impacts associated with the exposure of sensitive receptors to substantial pollutant concentrations and cumulative impacts from long-term operation would be less than significant. It further concludes that volatile organic compound (VOC) emissions generated during the construction of the Project would be cumulatively considerable; however, this impact would be reduced to a less than significant level after the implementation of MM AIR-1. Mitigation Measure MM AIR-1 includes a series of measures aimed at reducing VOC emissions from architectural coatings.

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

1. Modeling in support of the IS/MND and HRA did not account for diesel exhaust and idling emissions during the operation of trucks or trailers with transport refrigeration units (TRU).[2] 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., day care facilities, senior care facilities, and schools)

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

[2] Transport refrigeration units (TRU) are refrigeration systems powered by integral diesel engines that protect perishable goods during transport in insulated truck and trailer vans, rail cars, and domestic shipping containers.

located near where these TRUs could be operating would be exposed to diesel exhaust emissions that would result in significant cancer risk.

Since the Project description in the IS/MND did not explicitly state the Project would not include cold storage space, there is a possibility that trucks and trailers visiting the Project site would be equipped with TRUs. The City should revise the IS/MND using the assumption that a conservative percentage of the trucks and trailers serving the Project are equipped with TRUs.

2. The HRA should evaluate and present the existing baseline (current conditions) and future baseline without the Project, and the future conditions 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 all baselines, the public and City planners will have a complete understanding of the potential health impacts that would result from the Project. These include the impacts from the loss of expected emission reductions as truck fleets turn over to cleaner models.

3. The air quality and health impacts associated with the construction and operation of the Project were modeled using CARB's 2014 Emission Factors model (EMFAC2014). Project-related air pollutant emissions from mobile sources should be modeled using CARB's latest EMFAC2017. This model generally shows higher emissions of particulate matter from trucks than EMFAC2014.

4. The HRA did not evaluate cancer risk and noncancer impacts at residences located downwind of the Project site. Additionally, the results of the HRA should be presented graphically with cancer risk isopleths overlaid on a map.

5. The IS/MND assumes that the Project would result in approximately 383 average daily trips. The air quality impact analysis assumed 20 percent of the Project's total 383 average daily trips would consist of haul trucks, which equates to 75 average daily haul truck trips. Since the Project would include 28 loading docks and 33 trailer parking spaces, CARB staff is concerned that the Project's estimated haul truck traffic volume is underestimated. Based on evaluations of general industry practices, we would expect multiple visits to each loading dock in the course of a typical operating day.

CARB staff is concerned with the conclusions found in the Air Quality section of the IS/MND. The emissions and health risks reported in the IS/MND were estimated under the assumption that the proposed logistics center would not be utilized for cold storage. As a result, the IS/MND did not account for potential air quality impacts associated with

the operation of TRUs. Because the future tenant of the proposed logistics center is unknown, the air quality impact analysis in the IS/MND should have accounted for trucks and trailers with TRUs entering the Project site. In this case, the IS/MND does not study the air quality impacts from the Project adequately. Without proper analysis, it is impossible to understand the Project's air quality impacts and the resulting health risk to nearby communities. The City must adequately account for all sources that may contribute to operational emissions, and clearly articulate the foundation and calculations used to assess the effectiveness of mitigation measures.

The HRA concluded that the nearest residences to the Project site would be exposed to a cancer risk of 9.62 in a million. Since the modeled operational cancer risk at the nearest residence is just below the SCAQMD's 10 in a million significance threshold, CARB staff does not agree with IS/MND's less than significant impact conclusion for the public's exposure to toxic air contaminants given the potential inaccuracies relative to the type and quantity of emissions generated by the Project.

As it stands, the IS/MND does not meet the bare legal minimum of serving as an adequate informational document relative to informing decision makers and the public that there is no substantial evidence[3] in the record that the Project, as revised, may have a significant effect on the environment. (See Sierra Club v. County of Fresno (2018) 6 Cal.5th 502, 520.) CARB staff believes that there would be substantial evidence in the record to find that the Project may have a significant effect on the environment if the air quality impact analysis used project-specific facts and EMFAC2017 to better estimate the Project's daily haul truck trips, and if the HRA accounted for diesel emissions from TRUs. In this event, the City would be required to prepare a full Environmental Impact Report (EIR) for the Project under the "fair argument" standard. (See No Oil, Inc. v. City of Los Angeles (1974) 13 Cal.3d 68, 83.)[4]

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[3] "Substantial evidence" is defined, in part, as "enough relevant information and reasonable information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached.... Substantial evidence shall include facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts."

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

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

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

CARB encourages the City 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 appreciates the opportunity to comment on the IS/MND for the Project and can provide assistance on zero-emission technologies and emission reduction strategies, as needed. If you have questions, please contact Stanley Armstrong, Air Pollution Specialist, at (916) 440-8242 or via email at stanley.armstrong@arb.ca.gov.

Sincerely,

Richard Boyd

Richard Boyd, Chief
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Attachment

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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 onsite. Necessary infrastructure may include the physical (e.g., needed footprint), energy, and fueling infrastructure for construction equipment, onsite vehicles and equipment, and medium-heavy and heavy-heavy duty trucks.

3. In construction contracts, include language that requires all off-road diesel-powered equipment used during construction to be equipped with Tier 4 or cleaner engines, except for specialized construction equipment in which Tier 4 engines are not available. In place of Tier 4 engines, off-road equipment can incorporate retrofits such that emission reductions achieved equal or exceed that of a Tier 4 engine.

4. In construction contracts, include language that requires all off-road equipment with a power rating below 19 kilowatts (e.g., plate compactors, pressure washers,) used during project construction be battery powered.

5. In construction contracts, include language that requires all heavy-duty trucks entering the construction site, during either the grading or building construction phases be model year 2014 or later. All heavy-duty haul trucks should also meet CARB's lowest optional low-NO_x standard starting in the year 2022.[1]

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[1] In 2013, CARB adopted optional low-NO_x emission standards for on-road heavy-duty engines. CARB staff encourages engine manufacturers to introduce new technologies to reduce NO_x emissions below the current mandatory on-road heavy-duty diesel engine emission standards for model years 2010 and later. CARB's optional low-NO_x emission standard is available at https://www.arb.ca.gov/msprog/onroad/optionnox/optionnox.htm.

6. In construction contracts, include language that requires all construction equipment and fleets to be in compliance with all current air quality regulations. CARB 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 onsite.

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 (APU). This requirement will eliminate 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.[2]

3. 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 electric or powered by compressed natural gas.

4. Include contractual language in tenant lease agreements that requires all heavy-duty trucks entering the project site to be model year 2014 or later.

5. Starting in the year 2022, include contractual language in tenant lease agreements that requires all trucks entering the project site to meet CARB's lowest optional low-NO_x standard.

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

6. Include contractual language in tenant lease agreements that requires the tenant be in, and monitor compliance with, all current air quality regulations for on-road trucks including CARB's Heavy-Duty (Tractor-Trailer) Greenhouse Gas Regulation,[3] Periodic Smoke Inspection Program (PSIP),[4] and the Statewide Truck and Bus Regulation.[5]

7. Include contractual language in tenant lease agreements restricting trucks and support equipment from idling longer than five minutes while onsite.

8. Include contractual language in tenant lease agreements that limits onsite TRU diesel engine runtime to no longer than 15 minutes. If no cold storage operations are planned, include contractual language and permit conditions that prohibit cold storage operations unless a health risk assessment is conducted and the health impacts mitigated.

9. 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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[3] In December 2008, CARB adopted a regulation to reduce greenhouse gas emissions by improving the fuel efficiency of heavy-duty tractors that pull 53-foot or longer box-type trailers. The regulation applies primarily to owners of 53-foot or longer box-type trailers, including both dry-van and refrigerated-van trailers, and owners of the heavy-duty tractors that pull them on California highways. CARB's Heavy-Duty (Tractor-Trailer) Greenhouse Gas Regulation is available at https://www.arb.ca.gov/cc/hdghg/hdghg.htm.

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

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