

July 14, 2021

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Dear Corey Alvin:

Thank you for providing the California Air Resources Board (CARB) with the opportunity to comment on the Air Quality Plan (Plan) for the operations of the Custom Goods Facility (Project) located in the City of Oakland (City). The Project consists of the operation of a 189,038 square foot warehouse facility located within an area designated as CC-1 or New Central Gateway Parcel in the former Oakland Army Base (OAB). The Plan is required as part of the 2013 approved Standard Conditions of Approval/Mitigation Monitoring and Reporting Program (SCA/MMRP) prepared for the 2012 OAB Redevelopment Initial Study Addendum (IS/Addendum). The SCA/MMRP was adopted by the City to mitigate the significant health and air quality impacts in the West Oakland Community and the impacts to regional air quality resulting from the redevelopment of the former OAB.

Prologis is the lessee of the 58 acre Project site for the next 66 years. The 189,038 square foot warehouse facility will be leased solely to Custom Goods, who will operate the site as a United States Customs and Border Protection Centralized Examination Station. Tenant Improvements inside the building will include roughly 3,000 square feet of administrative offices, 11,000 square feet of secure U.S. Customs offices with accessory inspection areas, approximately 40,000 square feet of cold dock and refrigerated warehouse space for cold chain inspections, and a remainder of space to be used as dry cargo hold or inspection areas. Once fully operational, the Project is anticipated to add 307 daily vehicle trips, including 140 daily diesel-powered drayage trucks and 90 diesel-powered over the road heavy-duty trucks, along local roadways. Approximately 46 of the trucks serving the Project are anticipated to be equipped with 34 horsepower (hp) transportation refrigeration units (TRU). The Project also includes the operation of two diesel-powered yard hostlers and one diesel-powered forklift.

Freight facilities, like the described in the Plan, can result in high volumes of heavy-duty diesel trucks, 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.¹

¹ With regard to greenhouse gas emissions from this project, CARB has been clear that local governments and project proponents have a responsibility to properly mitigate these impacts. CARB's guidance, set out in detail

Governor Gavin Newsom signed Executive Order N-79-20 on September 23, 2020. The executive order states: "It shall be a goal of the State that 100 percent of in-state sales of new passenger cars and trucks will be zero-emission by 2035. It shall be a further goal of the State that 100 percent of medium and heavy-duty vehicles in the State be zero-emission by 2045 for all operations where feasible and by 2035 for drayage trucks. It shall be further a goal of the State to transition to 100 percent zero emission off-road vehicles and equipment by 2035 where feasible." The executive order further directs the development of regulations to help meet these goals. To ensure that lead agencies, like the City, stay in step with evolving scientific knowledge to protect public health from adverse air quality and greenhouse gas impacts from the transportation sector, which serves as the basis of the Governor's Executive Order N-79-20, CARB urges the City to require all trucks, TRUs, and cargo handling equipment servicing the Project to transition to zero emission prior to start of operations.

The Project Would Increase Exposure to Air Pollution in Disadvantaged Communities

The Project, in conjunction with the operation of the other industrial development at the former OAB, will expose nearby disadvantaged communities to increased levels of air pollution. Addressing the disproportionate impacts that air pollution has on disadvantaged communities is a pressing concern across the State, as evidenced by statutory requirements compelling California's public agencies to target these communities for clean air investment, pollution mitigation, and environmental regulation. The following three pieces of legislation need to be considered and included in the Plan when developing a project like this near a disadvantaged community:

Senate Bill 535 (De León, 2012)

Senate Bill 535 (De León, Chapter 830, 2012)² recognizes the potential vulnerability of low-income and disadvantaged communities to poor air quality and requires funds to be spent to benefit disadvantaged communities. 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

in the Scoping Plan issued in 2017, makes clear that in CARB's expert view, local mitigation is critical to achieving climate goals and reducing greenhouse gases below levels of significance.

² Senate Bill 535, De León, K., Chapter 800, Statutes of 2012, modified the California Health and Safety Code, adding § 39711, § 39713, § 39715, § 39721 and § 39723.

Screening Tool Version 3.0 (CalEnviroScreen).³ This Project is located with the boundary of the West Oakland Community. The maximum CalEnviroScreen score for the West Oakland Community is in the top 15 percent, indicating that the area is home to some of the most vulnerable neighborhoods in the State. The air pollution levels in the West Oakland Community routinely exceed state and federal air quality standards. CARB urges the City to ensure that the Project does not adversely impact neighboring disadvantaged communities.

Senate Bill 1000 (Leyva, 2016)

Senate Bill 1000 (SB 1000) (Leyva, Chapter 587, Statutes of 2016)⁴ amended California's Planning and Zoning Law. SB 1000 requires local governments that have identified disadvantaged communities to incorporate the addition of an environmental justice element into their general plans upon the adoption or next revision of two or more elements concurrently on or after January 1, 2018. SB 1000 requires environmental justice elements to identify objectives and policies to reduce unique or compounded health risks in disadvantaged communities. Generally, environmental justice elements will include policies to reduce the community's exposure to pollution through air quality improvement. SB 1000 affirms the need to integrate environmental justice principles into the planning process to prioritize improvements and programs that address the needs of disadvantaged communities.

Assembly Bill 617 (Garcia, 2017)

The State of California has emphasized 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).⁵ AB 617 requires CARB to develop the process that creates new community-focused and community-driven action to reduce air pollution and improve public health in communities that experience disproportionate burdens from exposure to air pollutants. In response to AB 617, CARB established the Community Air Protection Program with the goal of reducing exposure in communities heavily impacted by air pollution. As part of its role in implementing AB 617, CARB must annually consider the selection of communities for development and implementation of community air monitoring plans and/or community emission reduction programs for those communities affected by a high cumulative exposure burden. The West Oakland Community is one of 15 communities statewide chosen thus far for inclusion in the Community Air Protection Program.

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

4 Senate Bill 1000, Leyva, S., Chapter 587, Statutes of 2016, amended the California Health and Safety Code, § 65302.

5 Assembly Bill 617, Garcia, C., Chapter 136, Statutes of 2017, modified the California Health and Safety Code, amending § 40920.6, § 42400, and § 42402, and adding § 39607.1, § 40920.8, § 42411, § 42705.5, and § 44391.2.

The West Oakland Community was selected the development of a Community Emissions Reduction Plan (CERP) due to its high cumulative exposure burden, the presence of a significant number of sensitive populations (children, elderly, and individuals with pre-existing conditions), and the socioeconomic challenges experienced by its residents. CARB approved the West Oakland Community Action Plan (WOCAP) in December 2019, which included 89 strategies to achieve emission and exposure reductions throughout this community, including significantly reducing or eliminating emissions from heavy-duty mobile sources and industrial stationary sources.

Health-harming emissions, including particulate matter (PM), toxic air contaminants, and diesel PM generated from the proposed increase in heavy and light industrial development in the Project area will negatively impact the community, which is already disproportionately impacted by air pollution from existing freight operations as well as stationary sources of air pollution. Part of the AB 617 process required CARB and the Bay Area Air Quality Management District (BAAQMD) to create a highly-resolved inventory of air pollution sources within this community.

The City and Prologis Must Implement All Feasible Mitigation Measures to Reduce the Project's Potentially Cumulatively Considerable Impact on Air Quality and Public Health

As previously mentioned, the Project is located within the former OAB. Based on the air quality impact analysis presented in the 2012 IS/Addendum, which included the Project, the operation of the development proposed within the OAB would emit nitrogen oxide (NOx) emissions that would exceed the BAAQMD's significance thresholds. Consequently, the City concluded in the 2012 IS/Addendum that the development proposed within the OAB would result in a cumulatively considerable impact on air quality. Furthermore, the City concluded in the 2012 IS/Addendum that the combined operation of the industrial developments within the OAB, which includes the Project, would expose nearby residences within the West Oakland that would result in significant and unavoidable impact. Outside of the OAB area, the Project is also located near other air pollutant emission sources such as the Port of Oakland and Union Pacific Rail Yard.

The Plan includes a series of measures to reduce the Project's contribution to regional and local cumulative air quality and health risk impacts. CARB has reviewed the measures presented in the Plan and have the following comments:

All TRUs Accessing the Project Site Should be Required to be Plug-In Capable

According to the Plan, approximately 40 percent of the trucks arriving at the Project site will be equipped with TRUs. 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 resulting in significant cancer risk. To reduce the air pollutant emissions emitted during the operation of these TRUs, the Plan requires the installation of electrical outlets to serve the plug-in capable TRUs and a requirement that plug-in capable TRUs are plugged in while loading or unloading goods either in loading docks or non-dock parking spaces. However, the Plan states that a “good faith” effort will be made to encourage the use of these electrical outlets by posting signs on the loading docks indicating plug-in availability and email notifications to vendors. Although the Plan includes the infrastructure to support plug-in capable TRUs, there is no plan or enforcement mechanism to require that they are used by all plug-in capable TRUs visiting the Project site. To this end, CARB urges the City to include in the Plan that would require Custom Goods to have contractual language in tenant lease agreements that requires all TRUs entering the Project site to be plug-in capable and to plug-in while at loading/unloading docks.

The City Should Require all Project-related Trucks and On-site equipment to be Zero-Emission

The Project would include the operation of diesel-powered trucks and onsite equipment. These trucks and onsite equipment, and others operating at industrial facilities within the OAB, will increase air pollution exposure in the West Oakland Community. As previously discussed, the Project would result in 140 daily diesel-powered drayage truck trips and 90 daily diesel-powered on-road truck trips. The Plan also states that the operation of the Project would include the operation of one 35,000 pound capacity diesel forklift and two diesel yard hostlers. To reduce the Project’s air pollutant emissions and be consistent with Executive Order N-79-20, CARB urges the City to require the trucks and onsite equipment serving the Project to be completely zero emission.

The City can obtain a list of commercially available zero-emission trucks from the Hybrid and Zero Emission Truck and Bus Voucher Incentive Project (HVIP).⁶ The HVIP is a part of California Climate Investments to incentivize the purchase of zero emission trucks. According to the emission calculations presented in the Plan, the drayage trucks would consist of heavy-duty drayage, and the on-road trucks would consist of heavy heavy-duty T7 Trucks. Based on CARB review of the zero emission trucks listed in the HVIP, electric trucks such as the Kenworth T680E Battery Electric Truck or BYD 8TT Class 8 Battery Electric Truck could meet the cargo transportation needs of the Project today. Yard tractors and forklifts are also commercially available and can be purchased using incentive funding from CARB’s Clean Off-Road Equipment Voucher Incentive Project (CORE) administered by CALSTART⁷ or the HVIP.

Although the Plan does include a Technology Assessment Program that commits Custom Goods to search out cleaner technology that could be implemented into the Project every

⁶ Zero-Emission Truck and Bus Voucher Incentive Project. Accessible at: <https://californiahvip.org/>

⁷ Clean Off-Road Equipment Voucher Incentive Project. Accessible at: <https://californiacore.org/how-to-participate/>

three years, the technology for zero emission trucks is readily available today. To guarantee that the Project does not increase air pollution emissions in the West Oakland Community, the Plan should include a measure requiring the use of electric trucks. CARB urges the City to include in the Plan, a requirement that Custom Goods should include contractual language in tenant lease agreements that requires all trucks accessing the Project site to be completely electric starting no later than 2023.

The Plan Should Include Cumulative Air Pollutant Emissions from the OAB Development

The Plan includes a measure that would require the City and tenants to evaluate feasible emission reduction measures in the event cumulative air pollutant emissions from the combined operation of the OAB exceed the BAAQMD's significance thresholds. This measure further states that "any measures agreed to by both City and tenants shall be implemented within a reasonable time period agreed upon by the City and the tenant(s)." For complete transparency to the public, specifically the West Oakland Community, the City should define, in the Plan, the criteria that would be used to determine if an emission reduction measure is feasible or not, and what constitutes a reasonable period of time in which a measure would be implemented. The Plan also includes a measure that would require the City to calculate the cumulative air pollutant emissions of all permanent projects at the OAB, based on the prior operational air quality plans, and compare them against the BAAQMD's significance thresholds. However, the Plan does not appear to include the cumulative air pollutant emissions of industrial developments in the OAB to date. CARB urges the City to a table in the revised Plan summarizing the cumulative air pollution emissions from the OAB.

The Technology Review Program Should Evaluate New Technologies Every Two Years.

The Plan commits Custom Goods to implement a Technology Review Program. As part of this program, Custom Goods will identify the cleanest commercially available technologies every three years. Custom Goods will implement the technologies within 12 months if the identified technologies are practical and economically feasible. Given the rate of advancement in technology, the City should require that these technology reviews occur every two years and be submitted to the City for evaluation and approval, in consultation with BAAQMD and CARB.

The Plan Should Include Substantial Evidence to Support the Assumptions Used in the Project's Air Pollutant Emissions Calculations.

CARB has reviewed the air pollution emission calculations presented in Exhibit A of the Plan and has concerns regarding the assumptions used to estimate the Project's PM and NO_x emissions.

The City assumed all TRUs visiting the Project site would not idle longer than one hour. Data obtained by CARB staff indicates that TRUs can operate for as long as two hours per visit, which is well above the one-hour duration assumed in the Project's air quality analysis. Unless the City restricts TRU idling durations to less than one hour, the Project's air pollutant emission estimates should be revised. The revised air pollutant calculations should assume a TRU idling duration legitimized by substantial evidence.

The City assumed 40 percent of the trucks assessing the Project site would be equipment with TRUs. It is unclear in the Plan how this estimate was derived. Due to the large size of the proposed warehouse development, CARB is concerned that the number of TRUs visiting the Project site may be underestimated in the Project's air quality analysis. CARB urges the City to provide substantial evidence to support this assumption.

The City assumed the TRUs accessing the Project site would have an average power rating of 34 hp. TRUs with a power rating of less than 25 hp have a higher PM emission rate (0.3 g/bhp-hr) than those greater than 25 hp (0.02 g/bhp-hr). Unless the City prohibit TRUs with a power rating of less than 25 hp from accessing the Project site, the Project's air quality analysis should be revised. The revised Plan should assume a conservative percentage of the TRUs entering the Project site will have a power rating of less than 25 hp, legitimized by substantial evidence.

The Plan used CalEEMod's 9.5-mile default trip distance to model the Project's mobile emissions from the 90 daily over the road trucks trips leaving the Project site. According to the Plan, port drayage trucks would transport goods to the Project site and over the road trucks would transport the inspected goods to other destinations. It is unclear in the Plan how far outbound trucks would travel from the Project. CARB urges the City to base the Project's air quality analysis on Project-specific trip distances in the revised Plan.

The air pollutant emission calculations presented in the Plan assumed 28 percent of the total daily TRUs visiting the Project site would be plug-in capable and will be connect to electrical outlets while at loading/unloading docks. Unless the Plan includes a measure that would require at a minimum of 28 percent of the all TRUs visiting the Projects site to plug-in while loading or unloading goods at the Project site, the Project's air pollutant emission estimates should be revised assuming none of the TRUs are plug-in capable.

Conclusion

To reduce the exposure of toxic diesel PM emissions in disadvantaged communities already impacted by air pollution, the final design of the Project should include all existing and emerging zero-emission technologies to minimize diesel PM and NOx emissions, as well as the greenhouse gas emissions that contribute to climate change. CARB encourages the City to implement the recommendations listed in this comment letter to reduce the Project's operational air pollution emissions.

CARB also urges the City to extend the 17-day review and comment period for this and future air quality plans within the OAB to at least 45 days. An extension of the review and

comment period will allow stakeholders and members of the community more time to review the plans submitted by the City.

Given the breadth and scope of projects subject to review under the California Environmental Quality Action (CEQA) throughout California that have air quality and greenhouse gas impacts, coupled with CARB's limited staff resources to substantively respond to all issues associated with a project, CARB must prioritize its substantive comments here based on staff time, resources, and its assessment of impacts. CARB's deliberate decision to substantively comment on some issues does not constitute an admission or concession that it substantively agrees with the lead agency's findings and conclusions on any issues on which CARB does not substantively submit comments.

CARB appreciates the opportunity to comment on the Plan 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.

Sincerely,

A handwritten signature in blue ink, appearing to read "R. Krieger".

Robert Krieger, Branch Chief, Risk Reduction Branch

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