



South Coast Air Quality Management District

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SENT VIA E-MAIL AND USPS:

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Draft Environmental Impact Report (Draft EIR) for the Proposed Mercury Lane Residential Project (SCH No.: 2018121032)

South Coast Air Quality Management District (South Coast AQMD) staff appreciates the opportunity to comment on the above-mentioned document. The following comments are meant as guidance for the Lead Agency and should be incorporated into the Final EIR.

South Coast AQMD Staff's Summary of Project Description

The Lead Agency proposes to construct a 141,137-square-foot building with 114 residential units on 1.01 acres of vacant land (Proposed Project). The Proposed Project is located on the southeast corner of Mercury Lane and South Berry Street in the City of Brea. Based on a review of Figure 3-3, *Aerial Photograph*, in the Draft EIR, South Coast AQMD staff found that the Proposed Project is located within close proximity to existing industrial land uses, such as a railroad track, a plastics manufacturer¹, and a distribution center. Although the railroad track is not operational past the eastern portion of Berry Street, it is still used for delivering freight to the plastics manufacturer, which is within 300 feet of the Proposed Project². The Proposed Project will be constructed over a period of 18 months³ and is anticipated to be operational as early as 2020⁴. Due to the historical site usage, the Lead Agency conducted a Phase I Environmental Site Assessment (ESA) and found that the Proposed Project site may be adversely impacted by previous site usage as agricultural land⁵.

South Coast AQMD Staff's Summary of the Air Quality Analysis

In the Air Quality Analysis Section, the Lead Agency quantified the Proposed Project's construction and operational emissions and compared those emissions to South Coast AQMD's recommended regional and localized air quality CEQA significance thresholds. Based on the analysis, the Lead Agency found that the Proposed Project's construction and operational air quality impacts would be less than significant⁶. No air quality mitigation was included⁷. The Lead Agency also included discussions on applicable South Coast AQMD rules, including Rule 401 – Visible Emissions, Rule 402 – Nuisance, Rule 403 – Fugitive Dust, Rule 445 – Wood Burning Devices, Rule 1113 – Architectural Coatings, and Rule 1403 – Control of Particulate Emissions from Demolition/Renovation Activities⁸.

¹ South Coast AQMD Facility Information Detail (FIND). Facility ID No. 112396. Accessed at: <https://xappprod.aqmd.gov/find/>.

² Draft EIR. Section 3 Project Description. Page 3-1.

³ *Ibid.* Section 5 Air Quality Analysis. Page 5.1-20.

⁴ *Ibid.* Appendix B: Air Quality and Greenhouse Gas Modeling. CalEEMod Project Characteristics Inputs (Operation). PDF Page B-35.

⁵ *Ibid.* Appendix G: Phase I Environmental Site Assessment Report. Page G-42.

⁶ *Ibid.* Section 5 Air Quality Analysis. Pages 5.1-20 through 5.1-25.

⁷ *Ibid.* Page 5.1-27.

⁸ *Ibid.* Page 5.1-10.

South Coast AQMD Staff's Comments

After a review of the Draft EIR's air quality analysis and supporting technical documents, South Coast AQMD staff has concerns about the Proposed Project's air quality analysis for construction. The Lead Agency is recommending a Phase II ESA to assess if the surface soil at the Proposed Project site has been adversely impacted by the previous site usage as agricultural land. However, the Lead Agency did not account for emissions from soil investigation activities in the Air Quality Analysis when calculating the Proposed Project's construction emissions. This has likely underestimated the Proposed Project's air quality impacts in the Draft EIR. Additionally, the Lead Agency did not include a discussion on the potential long-term health risks to residents who will live at the Proposed Project in close proximity to the existing railroad track, manufacturing facility, and distribution center in the Draft EIR. As such, South Coast AQMD staff recommends that the Lead Agency perform a mobile source health risk assessment (HRA) analysis and include strategies to maximize protection against exposures to toxic air contaminants such as diesel particulate matter in the Final EIR. Please see the attachment for more information. The attachment also includes a list of South Coast AQMD Rules that should be discussed in the Final EIR.

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.

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 Alina Mullins, Assistant Air Quality Specialist, at amullins@aqmd.gov or (909) 396-2402, should you have any questions.

Sincerely,

Lijin Sun

Lijin Sun, J.D.

Program Supervisor, CEQA IGR

Planning, Rule Development & Area Sources

Attachment
LS:AM
ORC190725-01
Control Number

ATTACHMENT

Construction Air Quality Impacts Analysis

1. While the Air Quality Section in the Draft EIR quantified the Proposed Project's emissions from construction of 114 residential units, it did not describe soil sampling activities that would be performed as part of a limited Phase II ESA soil investigation or quantify associated emissions. For example, a limited Phase II soil investigation will likely use drilling equipment, and soil sampling activities could take place concurrently with construction activities for the proposed residential development. Their emissions should be included in the Air Quality Analysis of the Final EIR. The Lead Agency should use its good faith, best efforts to provide information on the scope, types, and duration of the soil removal activities and disclose their impacts on air quality in the CEQA document since these activities are reasonably foreseeable and must be completed before the proposed residential units are occupied. Therefore, South Coast AQMD staff recommends that the Lead Agency revise the Air Quality Analysis to provide such information for a limited Phase II soil investigation, quantify emissions, and include those emissions in the Proposed Project's construction emissions profile to be compared to South Coast AQMD's air quality CEQA significance thresholds for construction to determine the level of significance in the Final EIR. Alternatively, the Lead Agency should include a new air quality mitigation measure in the Air Quality Section of the Final EIR to commit to evaluating the limited Phase II soil investigation through a CEQA process prior to commencing the Proposed Project's construction activities.

Health Risk Assessment (HRA) from Mobile Sources and Other Sources of Air Pollution

2. Notwithstanding the court rulings, South Coast AQMD staff recognizes that Lead Agencies that approve CEQA documents retain the authority to include any additional information they deem relevant to assessing and mitigating the environmental impacts of a project. Because of South Coast AQMD's concern about the potential public health impacts of siting sensitive populations within a close proximity to major sources of air pollution, such a railroad track, a manufacturing facility, and a distribution center, South Coast AQMD staff recommends that the Lead Agency review and consider the following comments when making local planning and land use decisions.

Sensitive receptors are people that have an increased sensitivity to air pollution or environmental contaminants. Sensitive receptors include schools, daycare centers, nursing homes, elderly care facilities, hospitals, and residential dwelling units. As stated above, the Proposed Project will include construction of an apartment building with 114 dwelling units. Based on a review of Figure 3-3, *Aerial Photograph*, in the Draft EIR, South Coast AQMD staff found that the Proposed Project is located in the vicinity of existing railroad track, a manufacturing facility, and a distribution center. These operations are capable of generating and/or attracting the use of locomotive engines and heavy-duty, diesel-fueled trucks. Residents living at the Proposed Project could be exposed to diesel particulate matter (DPM), which the California Air Resources Board has identified as a toxic air contaminant based on its carcinogenic effects⁹. Therefore, South Coast AQMD staff recommends that the Lead Agency consider health impacts on future residents living at the Proposed Project by performing a mobile source HRA¹⁰ analysis to disclose the potential health risks in the Final EIR¹¹.

⁹ California Air Resources Board. August 27, 1998. Resolution 98-35. Accessed at: <http://www.arb.ca.gov/regact/diesltac/diesltac.htm>.

¹⁰ South Coast Air Quality Management District. Health Risk Assessment Guidance for Analyzing Cancer Risk from Mobile Source Diesel Idling Emissions for CEQA Air Quality Analysis. Accessed at: <http://www.aqmd.gov/home/regulations/ceqa/airquality-analysis-handbook/mobile-source-toxics-analysis>.

¹¹ South Coast AQMD has developed the CEQA significance threshold of 10 in one million for cancer risk. When South Coast AQMD acts as the Lead Agency, South Coast AQMD staff conducts a HRA, compares the maximum cancer risk to the threshold of 10 in one million to determine the level of significance for health risk impacts, and identifies mitigation measures if the risk is found to be significant.

This will facilitate the purpose and goal of CEQA on public disclosure and enable decision-makers with meaningful information to make an informed decision on project approval. This will also foster informed public participation by providing the public with information that is needed to understand the potential health risks from living in close proximity to existing sources of air pollution.

Guidance on Siting Sensitive Receptors Near Sources of Air Pollution

3. South Coast AQMD staff recognizes that there are many factors Lead Agencies must consider when making local planning and land use decisions. To facilitate stronger collaboration between Lead Agencies and South Coast AQMD to reduce community exposure to source-specific and cumulative air pollution impacts, South Coast AQMD adopted the *Guidance Document for Addressing Air Quality Issues in General Plans and Local Planning* in 2005¹². This Guidance document provides recommended policies that local governments can use in their General Plans or through local planning to prevent or reduce potential air pollution impacts and protect public health. In addition, guidance on siting incompatible land uses (such as placing new sensitive land uses near distribution centers) can be found in the California Air Resources Board's *Air Quality and Land Use Handbook: A Community Health Perspective*, which can be found at: <http://www.arb.ca.gov/ch/handbook.pdf>. CARB's Land Use Handbook is a general reference guide for evaluating and reducing air pollution impacts associated with new projects that go through the land use decision-making process.

Health Risk Reduction Strategies

4. Many strategies are available to reduce exposure, including, but not limited to, building filtration systems with Minimum Efficiency Reporting Value (MERV) 13 or better, or in some cases, MERV 15 or better is recommended; building design, orientation, location; vegetation barriers or landscaping screening, etc. Enhanced filtration units are capable of reducing exposures. Installation of enhanced filtration units can be verified during occupancy inspection prior to the issuance of an occupancy permit.

Enhanced filtration systems have limitations. In a study that South Coast AQMD conducted to investigate filters¹³, a cost burden is expected to be within the range of \$120 to \$240 per year to replace each filter. The initial start-up cost could substantially increase if an HVAC system needs to be installed. In addition, because the filters would not have any effectiveness unless the HVAC system is running, there may be increased energy costs to the building tenants. It is typically assumed that the filters operate 100 percent of the time while sensitive receptors are indoors, and the environmental analysis does not generally account for the times when sensitive receptors have windows or doors open or are in common space areas of a project. Moreover, these filters have no ability to filter out any toxic gases from vehicle exhaust. Therefore, the presumed effectiveness and feasibility of any filtration units should be carefully evaluated in more detail and disclosed to prospective residences prior to assuming that they will sufficiently alleviate exposures to DPM emissions.

5. Because of limitations, to ensure that enhanced filters are enforceable throughout the lifetime of the Proposed Project and effective in reducing exposures to DPM emissions, South Coast AQMD staff recommends that the Lead Agency make the installation of enhanced filtration units a project design feature and provide additional details regarding the ongoing, regular maintenance, and monitoring of filters in the Final EIR. To facilitate a good-faith effort at full disclosure and provide useful

¹² South Coast AQMD. May 2005. "Guidance Document for Addressing Air Quality Issues in General Plans and Local Planning" Accessed at: <http://www.aqmd.gov/docs/default-source/planning/air-quality-guidance/complete-guidance-document.pdf>.

¹³ This study evaluated filters rated MERV 13 or better. Accessed at: <http://www.aqmd.gov/docs/default-source/ceqa/handbook/aqmdpilotstudyfinalreport.pdf>. Also see 2012 Peer Review Journal article by South Coast AQMD: <http://d7.iqair.com/sites/default/files/pdf/Polidori-et-al-2012.pdf>.

information to future residents who will live at the Proposed Project in proximity to sources of air pollution, at a minimum, the Final EIR should include the following information:

- Disclose the potential health impacts to prospective residents from living in a close proximity to sources of air pollution (e.g., railroad track, manufacturing facility, distribution center etc.) and the reduced effectiveness of the air filtration system when windows are open and/or when residents are outdoors (e.g., in the common usable open space areas);
- Identify the responsible implementing and enforcement agency such as the Lead Agency to ensure that enhanced filtration units are installed on-site at the Proposed Project before a permit of occupancy is issued;
- Identify the responsible implementing and enforcement agency such as the Lead Agency to ensure that enhanced filtration units are inspected and maintained regularly;
- Disclose the potential increase in energy costs for running the HVAC system to prospective residents;
- Provide information to residents on where the MERV filters can be purchased;
- Provide recommended schedules (e.g., every year or every six months) for replacing the enhanced filtration units;
- Identify the responsible entity such as residents themselves, Homeowner's Association, or property management for ensuring enhanced filtration units are replaced on time, if appropriate and feasible (if residents should be responsible for the periodic and regular purchase and replacement of the enhanced filtration units, the Lead Agency should include this information in the disclosure form);
- Identify, provide, and disclose ongoing cost sharing strategies, if any, for replacing the enhanced filtration units;
- Set City-wide or Proposed Project-specific criteria for assessing progress in installing and replacing the enhanced filtration units; and
- Develop a City-wide or Proposed Project-specific process for evaluating the effectiveness of the enhanced filtration units.

South Coast AQMD Rules and Regulations

6. In the Phase I ESA, the Lead Agency found that due to the historical site usage, there is evidence of a recognized environmental condition at the Proposed Project. Based on the results of the assessment, the Lead Agency has recommended a limited Phase II ESA soil investigation be conducted to determine if the Proposed Project site has been adversely impacted by the previous site usage, which may have used organochlorine and lead arsenate pesticides¹⁴.

If the soil investigation shows any subsequent removal or remedial cleanup measures would be required for the Proposed Project, the Lead Agency should commit to re-evaluating the environmental impacts of the cleanup measures through a CEQA process prior to commencing any construction activities for the residential development portion of the Proposed Project.

¹⁴ Draft EIR. Section 4 Hazards and Hazardous Materials. Pages 5.4-17 - 5.4-18.

If there is any information in the subsequent CEQA process suggesting that the soil sampling activities or any soil removal or remedial cleanup measures that would be needed for the Proposed Project, after consultation with appropriate agencies, would result in significant adverse air quality impacts not analyzed in the Final EIR for the Proposed Project, or substantially more severe air quality impacts than those analyzed in the Final EIR for the Proposed Project, the Lead Agency should commit to reevaluating the Proposed Project's air quality impacts through a CEQA process (CEQA Guidelines Section 15162)..

It is important to note that disturbing and excavated soils that may contain hydrocarbons or toxic air contaminants are subject to the requirements of South Coast AQMD Rule 1166 – Volatile Organic Compound Emissions from Decontamination of Soil¹⁵, and Rule 1466 – Control of Particulate Emissions from Soils with Toxic Air Contaminants¹⁶. Since the soil investigation is reasonably foreseeable pursuant to the Lead Agency's recommendation, the Lead Agency should include a discussion on South Coast AQMD Rules 1166 and 1466 in the Air Quality Section of the Final EIR. Additionally, the Final EIR should discuss how the soil investigation will comply with South Coast AQMD Rule 402 – Nuisance¹⁷, in the event that the volatile organic compounds (VOCs) and/or odors are emitted during the investigation.

It is also important to note that if the soil investigation involves equipment or operations which either emits or controls air pollution, South Coast AQMD staff should be consulted in advance to determine whether or not any permits or plans are required to be filed and approved by South Coast AQMD prior to start of the investigation, and to identify potentially applicable South Coast AQMD Rules, such as Rule 431.2 – Sulfur Content of Liquid Fuels¹⁸ and Rule 1110.2 – Emissions from Gaseous and Liquid-Fueled Engines¹⁹. Generally, operation of portable engines and portable equipment units of 50 horsepower or greater that emit particulate matter require a permit from South Coast AQMD or registration under the Portable Equipment Registration Program (PERP) through the California Air Resources Board (CARB)²⁰. The Lead Agency should consult with South Coast AQMD's Engineering and Permitting staff to determine if there is any diesel-powered equipment during implementation that will require a South Coast AQMD permit or if the equipment will need to be registered under the PERP through CARB. If a permit from South Coast AQMD is required, South Coast AQMD should be identified as a Responsible Agency for the Proposed Project in the Final EIR. Any assumptions used in the Air Quality Analysis in the Final EIR will be used as the basis for permit conditions and limits for the Proposed Project. Should there be any questions on permits, please contact South Coast AQMD's Engineering and Permitting staff at (909) 396-3385. For more general information on permits, please visit South Coast AQMD's webpage at: <http://www.aqmd.gov/home/permits>. For more information on the PERP Program, please contact CARB at (916) 324-5869 or visit CARB's webpage at: <https://ww2.arb.ca.gov/our-work/programs/portable-equipment-registration-program-perp>.

¹⁵ South Coast AQMD. Rule 1166 – Volatile Organic Compound Emissions from Decontamination of Soil. Accessed at: <http://www.aqmd.gov/docs/default-source/rule-book/reg-xi/rule-1166.pdf>.

¹⁶ South Coast AQMD. Rule 1466 – control of Particulate Emissions from Soils with Toxic Air Contaminants. Accessed at: <https://www.aqmd.gov/docs/default-source/rule-book/reg-xiv/rule-1466.pdf>.

¹⁷ South Coast AQMD. Rule 402 – Nuisance. Accessed at: <http://www.aqmd.gov/docs/default-source/rule-book/rule-iv/rule-402.pdf>.

¹⁸ South Coast AQMD. Rule 431.2 – Sulfur Content of Liquid Fuels. Accessed at: <http://www.aqmd.gov/docs/default-source/rule-book/rule-iv/rule-431-2.pdf>.

¹⁹ South Coast AQMD. Rule 1110.2 – Emissions from Gaseous- and Liquid-Fueled Engines. Accessed at: <http://www.aqmd.gov/docs/default-source/rule-book/reg-xi/rule-1110-2.pdf>.

²⁰ South Coast AQMD. *Portable Equipment Registration Program (PERP)*. Accessed at: <http://www.aqmd.gov/home/permits/equipment-registration/perp>.