

XAVIER BECERRA
Attorney General

State of California
DEPARTMENT OF JUSTICE



1515 CLAY STREET, 20TH FLOOR
P.O. BOX 70550
OAKLAND, CA 94612-0550

Public: (510) 879-1300
Telephone: (510) 879-0090
Facsimile: (510) 622-2272
E-Mail: Abigail.Blodgett@doj.ca.gov

February 7, 2020

Via Overnight Mail and E-Mail

Joanne Coletta
Community Development Director
Corona Community Development Department
400 South Vicentia Avenue
Corona, CA 92882-2187
Joanne.Coletta@CoronaCA.gov

RE: Mitigated Negative Declaration for the Latitude Business Park (SCH #2020019017)

Dear Ms. Coletta:

Thank you for the opportunity to provide comments on Corona's Joint Initial Study and Mitigated Negative Declaration (collectively, the MND) for the Latitude Business Park (the Project). After reviewing the MND, the California Attorney General's Office believes the MND does not comply with the California Environmental Quality Act (CEQA) due to its insufficient project description, flawed environmental impact assessments, and inadequate mitigation measures. We are also concerned about Corona's process for evaluating the Project, including its failure to consult with responsible agencies and its rushed timeline for approving the Project. We respectfully submit these comments to urge Corona to conduct further environmental analysis in an environmental impact report to ensure the Project's impacts are understood, disclosed, and mitigated to the maximum extent feasible.¹

I. THE PROJECT SEEKS TO CONSTRUCT AN ENORMOUS INDUSTRIAL PARK WITH MULTIPLE WAREHOUSES IN A HIGHLY POLLUTED COMMUNITY PREDOMINANTLY OF COLOR.

The Project consists of 15 industrial buildings and warehouses on 75 acres of land, and is located within 85 feet of a residential community of color. The buildings will host over a million square feet of different land uses that typically have significant environmental impacts, including

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, 12600-12612; *D'Amico v. Bd. of Medical Examiners* (1974) 11 Cal.3d 1, 14-15.)

warehousing (535,205 square feet), light industrial (205,767 square feet), industrial park (174,055 square feet), manufacturing (159,744 square feet), and related office space (undetermined square footage is included with the other land uses). To support these activities, the Project will have 66 loading docks, 60 truck trailer spaces, and an unspecified amount of parking spaces. Further, the Project will generate approximately 4,127 vehicle trips a day, including trips from refrigerated and unrefrigerated diesel trucks.

The MND states the Project will have five buildings that are designated for warehouse and manufacturing uses, including the largest buildings on the Project site. Warehouses generate substantial environmental impacts since they are used to transport goods in heavy-duty trucks that run on diesel fuel. This large influx of truck traffic creates air pollution, noise, and traffic impacts that burden nearby communities. Among other pollutants, diesel trucks visiting warehouses emit nitrogen oxide (NO_x) – a primary precursor to smog formation that causes respiratory problems like asthma, bronchitis, lung irritation, and lung cancer – and diesel particulate matter (PM) – which can lead to cancer, heart disease, respiratory illnesses, and premature death.² Trucks and on-site loading activities can also be loud, bringing disruptive noise levels during all hours of the day and may cause hearing damage for residents and workers after prolonged exposure.³ Further, the thousands of daily truck and passenger car trips that will be generated by the Project's warehouses will contribute to traffic jams, deterioration of road surfaces, and traffic accidents in Corona.

The Project is located at the northwest corner of Tom Barns Street and Temescal Canyon Road, at the intersection of a large residential area in Southeastern Corona and the unincorporated community of El Cerrito. There are single-family homes immediately across Liberty Avenue along the northern border of the Project and a sprawling neighborhood on the other side of Interstate 15 to the west. According to 2013 – 2017 data from the American Community Survey, there are at least 775 people living within 1,000 feet of the Project, 55 percent of whom are people of color.⁴ There are also sensitive receptors near the Project, including the El Cerrito Outdoor Sports Park 0.3 mile to the north, the El Cerrito Middle School 0.4 mile to the north, and the Gumdrop Kids Daycare 0.9 mile to the southwest. All of these community residents will be exposed to the Project's environmental impacts.

² California Air Resources Board (CARB), Nitrogen Dioxide & Health, <https://ww2.arb.ca.gov/resources/nitrogen-dioxide-and-health>; CARB, Summary: Diesel Particulate Matter Health Impacts, <https://ww2.arb.ca.gov/resources/summary-diesel-particulate-matter-health-impacts>; Office of Environmental Health Hazard Assessment (OEHHA) and American Lung Association of California, Health Effects of Diesel Exhaust, <https://oehha.ca.gov/media/downloads/calenviroscreen/indicators/diesel4-02.pdf>.

³ See, e.g., Noise Sources and Their Effects, <https://www.chem.purdue.edu/chemsafety/Training/PPETrain/dblevels.htm> (stating that a diesel truck moving 40 miles per hour, 50 feet away, produces 84 decibels of sound).

⁴ United States Environmental Protection Agency (EPA), EJSCREEN, <https://ejscreen.epa.gov/mapper/>.

The neighborhoods surrounding the Project already face disproportionately high levels of pollution. According to CalEnviroScreen 3.0, CalEPA's screening tool that ranks each census tract in the state for pollution and socioeconomic vulnerability, the Project's census tract has more pollution than 88 percent of census tracts in California.⁵ The census tracts to the north and east of the Project have even greater pollution burdens. Most of the pollution problems in the Project's census tract and the surrounding area are attributable to serious air quality issues in the community—the tracts are in the 93rd – 94th percentile for PM_{2.5} and the 85th – 91st percentile for ozone.

The air pollution in Corona and surrounding areas grows dramatically each year due to the rapid expansion of the logistics industry in the Inland Empire. Over just the past decade, more than 150 million square feet of industrial spaces, which includes mostly warehouses, have been built in this region.⁶ These warehouses, and the dozens of approved warehouses that are still under construction, attract diesel trucks and the accompanying air pollution into residential neighborhoods. As a result, the South Coast Air Basin, which contains the Inland Empire and the Project site, is designated as a non-attainment area for ozone and PM_{2.5} by the EPA and as a non-attainment area for ozone, PM₁₀, and PM_{2.5} by CARB. The Project will add even more air pollution to this highly burdened area.

II. THE MND FAILS TO COMPLY WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.

A. The Project Description is Insufficient.

The CEQA Guidelines require an initial study to describe the project.⁷ Project descriptions should contain all details that are essential components of a project since an “accurate project description is necessary for an intelligent evaluation of the potential environmental effects of a proposed activity.”⁸ In this case, the MND's project description does not adequately describe the Project because it omits key details that are essential for accurately assessing the Project's environmental impacts.

First, even though the Traffic Impact Analysis for the Project states that the Project will include a “high-cube warehouse use area,” the MND's project description does not describe the Project's warehouse facilities with any specificity, including how much square footage can

⁵ California EPA and OEHHA, CalEnviroScreen 3.0,

<https://oehha.ca.gov/calenviroscreen/report/calenviroscreen-30>.

⁶ Los Angeles Times, When Your House is Surrounded by Massive Warehouses (Oct. 27, 2019), <https://www.latimes.com/california/story/2019-10-27/fontana-california-warehouses-inland-empire-pollution>.

⁷ CEQA Guidelines, § 15063, subd. (d)(1). “In interpreting CEQA, [courts] accord the CEQA Guidelines great weight except where they are clearly unauthorized or erroneous.” *Muzzy Ranch Co. v. Solano County Airport Land Use Commission* (2007) 41 Cal.4th 372, 380 n.2. In practice, the CEQA Guidelines are treated as law.

⁸ *San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus* (1994) 27 Cal.App.4th 713, 731 (quotation omitted).

accommodate high-cube warehouse activities or which types of activities will occur in the Project's warehouses.⁹ These details are important since high-cube warehouses generate significantly more truck traffic, noise, and air quality impacts than other types of warehouses, and the scope of impacts vary depending on the type of operations that occur at the warehouses. According to the Institute of Transportation Engineers, a high-cube warehouse typically has at least 200,000 square feet of floor space and can serve as a fulfillment center, parcel hub, cold storage facility, transload facility, or a short-term storage building.¹⁰ Since the Project includes at least two large buildings that could be used as high-cube warehouses, the project description should clearly state whether these buildings, or any other buildings at the Project, will be equipped as high-cube warehouses, how much space will be used for high-cube warehouse activities, and the types of operations that will occur in these areas.

Second, the Project's Noise Study briefly states that trucks utilizing the Project's parking spaces and loading docks will "consist of regular trucks and refrigerated trucks," but the MND fails to include any discussion of whether the Project will have cold storage facilities.¹¹ If the Project's buildings have cold storage, the Project's environmental impacts could be dramatically greater since refrigerated trucks produce substantially more air pollution and greenhouse gas emissions than trucks that visit standard storage facilities. As explained by CARB:

Transport Refrigeration Units (TRUs) are refrigeration systems powered by diesel internal combustion engines designed to refrigerate or heat perishable products that are transported in various containers, including semi-trailers, truck vans, shipping containers, and rail cars. Although TRU engines are relatively small, ranging from 9 to 36 horsepower, significant numbers of these engines congregate at distribution centers, truck stops, and other facilities, resulting in the potential for health risks to those that live and work nearby.¹²

This critical detail should be disclosed in the MND.

Third, the MND's project description fails to describe how many parking spaces will be provided for vehicles other than trucks. This is an important aspect of the Project considering its large size, and is information that is necessary to accurately assess traffic, noise, and air quality impacts. Without this information, there is no way to correctly determine how many passenger cars will visit the Project site, which is critical to accurately assessing the Project's environmental impacts. Therefore, the project description should fully disclose the planned parking spaces for the Project.

⁹ Compare Traffic Impact Analysis, p. 14; with MND, p. 2.

¹⁰ Institute of Transportation Engineers, High-Cube Warehouse Vehicle Trip Generation Analysis, at p. 3 (Oct. 2016), <https://www.ite.org/pub/?id=a3e6679a%2De3a8%2Dbf38%2D7f29%2D2961becdd498>.

¹¹ Compare Noise Study, p. 12; with MND, p. 2.

¹² CARB, Transport Refrigeration Unit (TRU or Reefer) Regulation, <https://ww3.arb.ca.gov/msprog/truckstop/trus/trus.htm>.

B. The MND Relies on an Air Quality Assessment that Uses Faulty Methods to Analyze Environmental Impacts.

The purpose of CEQA is to ensure that a lead agency fully evaluates, discloses, and, whenever feasible, mitigates a project's significant environmental effects.¹³ To comply with CEQA, a lead agency must make "a reasoned and good faith effort to inform decision makers and the public" about a project's potential impacts.¹⁴ If a lead agency fails to analyze a certain aspect of a project's potential environmental impact, a court may conclude that the limited facts in the record support a fair argument that the project may have a significant environmental impact.¹⁵ CEQA's requirements for full disclosure are not satisfied if an environmental impacts analysis uses outdated models and inaccurate information, as the Project's Air Quality Assessment did here.

First, the MND's Air Quality Assessment uses CARB's outdated 2014 Emission Factors Model (EMFAC2014) to calculate air emissions from mobile sources instead of the current model (EMFAC2017).¹⁶ This difference is significant since EMFAC2017 uses the latest scientific data available to evaluate environmental impacts.¹⁷ For example, the new model includes higher NOx emissions, PM emissions, and idling emissions rate for heavy-duty trucks. Considering the serious air quality problems already present in the communities surrounding the Project, it is essential for the MND to provide accurate estimates of how the Project will contribute to air pollution. Corona should use the current EMFAC2017 model to assess the Project's mobile source emissions.

In addition, the Air Quality Assessment uses only three land use designations to analyze emissions—office park, industrial park, and unrefrigerated warehouse—even though the MND states the Project will host additional land uses that typically have serious environmental impacts.¹⁸ As previously discussed, the MND's Traffic Impact Analysis states that the Project will include a high-cube warehouse area, but the Air Quality Assessment fails to analyze the environmental impacts from this particular land use type. Similarly, the MND's Noise Study indicates that refrigerated trucks will visit the Project, but the Air Quality Assessment fails to analyze the impacts from using the Project for cold storage or the associated refrigerated trucks that will visit the Project.¹⁹ The MND also claims that the Project will include 159,744 square

¹³ Pub. Resources Code, § 21002.1.

¹⁴ *See Berkeley Keep Jets Over the Bay Com. v. Bd. of Port Comrs.* (2001) 91 Cal.App.4th 1344, 1367, *as modified on denial of rehearing* (Sept. 26, 2001).

¹⁵ *Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 311.

¹⁶ Air Quality Assessment, p. 19.

¹⁷ CARB, EMFAC2017: An Update to California On-Road Mobile Source Emission Inventory, https://ww3.arb.ca.gov/msei/downloads/emfac2017_workshop_june_1_2017_final.pdf.

¹⁸ Air Quality Assessment, Attachment A, pp. 1, 25-27.

¹⁹ There are many examples of air quality assessments that separately analyze emissions from the refrigerated portions of warehouse projects along with unrefrigerated portions. *See, e.g.*, City of Fontana, Cherry Distribution Facility: Air Quality Impact Analysis (Nov. 20, 2019),

feet of manufacturing activities, but this land use is similarly ignored in the Air Quality Assessment. Corona should revise its Air Quality Assessment to include an accurate and complete assessment of emissions from all of the Project's operations.

Further, to estimate emissions from mobile sources, the Air Quality Assessment applies the same length of vehicle miles traveled for each analyzed land use type—only 9.37 miles.²⁰ It is unclear what this mileage is based on, since it is unlikely that vehicles visiting the Project's very different land uses—warehouses, manufacturing buildings, industrial facilities, and offices—will all travel this identical and relatively short distance. The Project includes industrial, warehouse, and manufacturing uses, where heavy-duty trucks will be hauling consumer goods from the Project site to destinations all over California and potentially out of the State. Most of these destinations are much farther than 9.37 miles from the Project, including the Port of Long Beach (approximately 35 miles to the west) and the San Bernardino International Airport (approximately 25 miles to the northeast). Considering the distances frequently traveled by trucks serving the logistics industry, the South Coast Air Quality Management District (SCAQMD) recommends that lead agencies use a default truck trip length of 40 miles one-way for air quality assessments.²¹ Some lead agencies calculate the appropriate truck trip length by averaging the distances between a project and the edge of the air basin in several directions.²² Even the California Emissions Estimator Model's (CalEEMod) default trip length for passenger cars is higher than the trip length for the Project—16.6 miles each way, although the SCAQMD often states in its comment letters that this length is not appropriate for industrial and warehouse projects. Regardless of which method is chosen, the MND should calculate vehicle trip lengths based on the actual likely destinations of trucks and passenger cars visiting the Project and explain the basis for the chosen trip lengths. In its current form, the MND's Air Quality Assessment is defective since it relies on a single, arbitrary trip length to analyze the Project's impacts.

Finally, the Air Quality Assessment applies the same vehicle fleet mixture for each land use despite the vast differences between these uses.²³ The most recent version of CalEEMod includes default vehicle fleet mixes that can be modified by the user since it is commonly understood that different types of land uses attract different types of vehicles at different rates.²⁴

<https://www.fontana.org/DocumentCenter/View/31595/CDF-Appendix-B---Air-Quality-Impact-Analysis>.

²⁰ Air Quality Assessment, Attachment A, p. 25.

²¹ The SCAQMD's recommended truck trip length is frequently used to analyze air quality emissions in CEQA documents. *See, e.g.*, City of Jurupa Valley, Aqua Mansa Commerce Park Specific Plan Draft EIR, Appendix C1a: Air Quality Study, pp. 50-51 (Dec. 2019), <https://ceqanet.opr.ca.gov/2017071034/2/Attachment/WEcK20>.

²² *See, e.g.*, City of Rancho Cucamonga, Phelan Development 9th and Vineyard Warehouses Initial Study, p. 37, <https://ceqanet.opr.ca.gov/2019129018/2/Attachment/YxQQ3U> (finding an average weighted truck trip length of 53.26 miles).

²³ Air Quality Assessment, Attachment A, p. 26.

²⁴ CalEEMod User's Guide, p.38 (Nov. 2017), http://www.aqmd.gov/docs/default-source/caleemod/01_user-39-s-guide2016-3-2_15november2017.pdf?sfvrsn=4.

In particular, projects that contain warehouses tend to have far more trucks visiting their facilities than other land uses, so the SCAQMD recommends that lead agencies assume that 40 percent of vehicle trips from warehouses are from trucks.²⁵ Thus, Corona's failure to analyze the emissions from the mix of vehicles that will visit the Project likely underestimates the emissions the Project will generate and renders the MND flawed.

C. The MND Fails to Include an Analysis of Cumulative Air Quality Impacts.

The CEQA Guidelines mandate all assessments of environmental impacts to include an analysis of cumulative impacts that "take[s] account of the whole action involved."²⁶ A proper cumulative impacts analysis considers the incremental impact of a project combined with the impacts of past, present, and reasonably foreseeable future projects.²⁷ The analysis of a project's own impacts is an inquiry that is distinct from considering the project's cumulative impacts.²⁸ If an initial study finds no significant cumulative impact, it must "[e]xplain[] the reasons for determining that potentially significant effects would not be significant."²⁹

In this case, the MND fails to include any discussion of cumulative air quality impacts, and the MND's Air Quality Assessment assumes the Project will have no cumulative impacts since it did not find any significant air quality impacts from the Project itself.³⁰ This conclusory assertion ignores CEQA's requirements for cumulative impacts assessments. Further, given the Project's location in a community that already suffers from serious air pollution concerns, it is essential that the MND includes a proper cumulative impacts analysis. Even if the Project's air quality impacts may not be significant in isolation, they become more concerning when combined with the pollution produced by other nearby warehouses and industrial sites. This failure to analyze cumulative impacts renders the MND inadequate and unlawful.

D. The MND Fails to Analyze the Project's Consistency with Corona's General Plan.

The CEQA Guidelines require an initial study to examine whether a project "would be

²⁵ CalEEMod User's Guide, Appendix E: Technical Source Documentation, p. 15 (July 2013), <http://www.aqmd.gov/docs/default-source/caleemod/caleemod-appendixe.pdf>.

²⁶ CEQA Guidelines, § 15355; *id.*, Appendix G.

²⁷ *Id.*, § 15065, subd. (a)(3); *Communities for a Better Environment v. Cal. Resources Agency* (2002) 103 Cal.App.4th 98, 118 ("[T]he guiding criterion on the subject of cumulative impact is whether any additional effect caused by the proposed project should be considered significant given the existing cumulative effect.").

²⁸ *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 719-21 (holding that relatively small air quality impacts from a project do not eliminate the need to consider the project's combined impacts with other development).

²⁹ CEQA Guidelines, § 15063, subd. (c)(3)(C).

³⁰ *See generally* MND; Air Quality Assessment, p. 25.

consistent with existing zoning, plans, and other applicable land use controls.”³¹ Despite this requirement, the MND quickly concludes that the Project does not conflict with Corona’s General Plan since the Project site does not have to be rezoned from light industrial use.³² The MND does not analyze whether the Project will conflict with any policies in Corona’s General Plan, including several policies that will apply to the Project:

- Policy 1.8.12: Requires “nonresidential uses be located and designed to maintain the quality and character of the neighborhood and prevent traffic, noise, odor, lighting, and other adverse impacts on adjoining housing units”;
- Policy 1.12.8: Requires new industrial properties to “be compatible with adjoining uses in consideration of the following principles: ... Location of driveways to minimize conflicts with adjoining uses,” and “[m]itigation of noise, odor, lighting”; and
- Policy 1.12.11: Requires “heavy truck and vehicle access in industrial areas be managed to ensure that it is safe and efficient and minimizes noise, odor, vibration, and safety impacts on adjoining uses.”³³

Corona also has new proposed policies in its Draft 2040 General Plan Update that, if adopted, will apply to the Project. Pursuant to SB 1000’s requirements, the General Plan Update includes several policies designed to reduce impacts in environmental justice communities:

- Policy HC-2.1: Requires proposals for new industrial uses to “incorporate the adequate use of setbacks, barriers, landscaping, or other design measures as necessary to minimize air quality impacts and achieve appropriate health standards”; and
- Policy HC-2.2: “Designate and maintain truck routes that ... avoid[] residential areas, schools, or other sensitive land uses so as to minimize exposure to the noise, air pollution, and vibration associated with trucks.”³⁴

Since the MND fails to discuss the Project’s consistency with the policies contained in Corona’s General Plan, the MND’s assessment of land use impacts is flawed.

³¹ CEQA Guidelines, § 15063, subd. (d)(5).

³² MND, p. 6.

³³ City of Corona General Plan, pp. 43, 53-54 (Mar. 2004), <https://www.coronaca.gov/home/showdocument?id=4637>.

³⁴ City of Corona 2040 General Plan, p. HC-4 (Dec. 2019), <https://www.coronaca.gov/home/showdocument?id=17292>.

E. The MND Does Not Include All Feasible Mitigation Measures to Reduce the Project’s Potentially Significant Impacts.

CEQA requires a lead agency to adopt all feasible mitigation measures that minimize the significant environmental impacts of a project.³⁵ An MND’s mitigation measures must be specific, binding, and enforceable through permit conditions, agreements, or other legally binding instruments.³⁶ In this case, the Project’s MND lists potential significant impacts to air quality, noise, geology, transportation/traffic, and biological resources, but finds that a handful of mitigation measures will make those impacts less than significant. The mitigation measures proposed by the MND are insufficient to protect the community from significant environmental impacts, especially given the Project’s close proximity to residents and other sensitive receptors.

For example, the MND checklist states that the Project may “[e]xpose sensitive receptors to pollutants,” but the MND only includes one mitigation measure to address this potentially significant impact: “The project shall use Tier 4 diesel construction equipment during project construction. The project’s grading plans shall clearly note the use of this equipment.”³⁷ This measure is a good way to reduce construction impacts, but is not the only method that should be used to lower the Project’s air quality impacts during construction. Further, the MND fails to include any mitigation measures that address air quality impacts from the Project’s operations.

We urge Corona to consider adopting additional specific, binding, and enforceable mitigation measures to address the Project’s air quality impacts from its construction and operation. Please see Attachment A for a list of air quality, noise, and traffic measures that would further mitigate the Project’s impacts on the surrounding communities. These measures have been adopted in comparable or smaller projects, indicating that they are feasible.

F. Corona Ignored its Mandate to Consult with Responsible and Trustee Agencies.

CEQA requires a lead agency to consult with responsible and trustee agencies that have jurisdiction over resources impacted by a proposed project prior to adopting an MND.³⁸ Despite this requirement, the Project’s MND states that Corona distributed the MND to statewide agencies via the State Clearinghouse.³⁹ This limited consultation resulted in Corona failing to notify the SCAQMD—the regional agency with jurisdiction over the air basin where the Project is located—of the Project and its potential impacts. Therefore, Corona did not comply with CEQA’s consultation requirements for this Project.

³⁵ Pub. Resources Code, § 21002; CEQA Guidelines, § 15126.4, subd. (a)(1).

³⁶ Pub. Resources Code, § 21081.6, subd. (b); CEQA Guidelines §§ 15071, subd. (e) & 15126.4, subd. (a)(2).

³⁷ MND, pp. 11, 16.

³⁸ Pub. Resources Code § 21080.3, subd. (a); CEQA Guidelines, § 15073, subd. (c).

³⁹ MND, p. 5.

III. CORONA MUST PREPARE AN ENVIRONMENTAL IMPACT REPORT TO ADEQUATELY ANALYZE THE PROJECT'S IMPACTS.

One of the “basic purposes of CEQA” is to “[i]nform governmental decision makers and the public about the potential, significant environmental effects of proposed activities.”⁴⁰ The threshold for determining whether an environmental impact report (EIR) is required is low – an EIR must be prepared by a lead agency if substantial evidence supports a “fair argument” that that “any aspect of the project, either individually or cumulatively, may cause a significant effect on the environment.”⁴¹

Corona must prepare an EIR for the Project since there is substantial evidence supporting a fair argument that the Project will have significant environmental impacts. As discussed above, the Project is a large business park that will consist of over a million square feet of warehouse, manufacturing, and industrial uses that typically have significant environmental impacts. The Project will include 126 spaces for trucks, and generate approximately 4,127 vehicle trips a day in Corona and the surrounding areas. Considering the Project’s large scope, mixed industrial uses, and residential location, there is a fair argument that the Project will cause significant environmental impacts. The MND’s deficient analysis of direct and cumulative environmental impacts also creates a fair argument that the Project will have impacts that have not be adequately analyzed and disclosed.⁴² Therefore, CEQA requires Corona to prepare an EIR that fully analyzes the Project’s impacts.

Further, it is highly unusual for a local government to approve a project of this size and type without preparing an EIR. Several jurisdictions close to Corona are considering warehouse projects that are similar to the Project, but are preparing EIRs rather than negative declarations to analyze the projects’ impacts, including:

- Barker Logistics Project (Riverside County): a 694,630-square foot warehouse building with paved surface parking for 385 automobiles and 124 trucks/truck trailers on a 31.55-acre property;
- Goodman Logistics Center III (Fontana): a three-building industrial park containing 1,118,460 square feet of building area on 47.5 acres;
- Indian Street Commerce Center (Moreno Valley): a 446,350-square foot building with warehouse, light industrial, and office uses on 19.64 acres; and
- Slover/Cactus Avenue Warehouse (San Bernardino County): a 257,855-square foot warehouse on 13.27 acres.

These projects are all significantly smaller than the Project or a similar size, yet are receiving more environmental review. Therefore, an EIR for this large Project is necessary.

⁴⁰ CEQA Guidelines, § 15002, subd. (a)(1).

⁴¹ *Id.*, § 15063, subd. (b)(1); *Pocket Protectors v. City of Sacramento* (2005) 124 Cal.App.4th 903, 928; *Gentry v. City of Murrieta* (1995) 36 Cal.App.4th 1359, 1399–1400.

⁴² *Sundstrom v. County of Mendocino, supra*, 202 Cal.App.3d 296, 311.

IV. CORONA MUST PROVIDE ITS PLANNING COMMISSION AND CITY COUNCIL WITH ADEQUATE TIME TO CONSIDER PUBLIC COMMENTS.

CEQA requires the decision-making body of a lead agency to consider an MND along with all comments received during the public review process prior to approving a project.⁴³ However, Corona's Notice of Completion for the MND states that public comments are due on February 8, 2020 and the City's Planning Commission will consider the Project the next business day on February 10, 2020. Since the comment deadline is a Saturday, Corona's planning staff indicated on our January 21, 2020 call that the City will accept comments until February 10, 2020. As a result, Corona may receive public comments on the Project that will not be considered by the Planning Commission prior to its February 10 hearing to consider the Project. Corona's solution to this problem is to present public comments to the City Council prior to its planned adoption hearing for the Project on March 4, 2020, but this is not sufficient to satisfy CEQA's requirement that all decision-making bodies have a meaningful opportunity to consider public comments for a proposed project. Therefore, we urge Corona to reconsider this rushed timeline for considering the Project to ensure that both the Planning Commission and City Council have sufficient time to consider all public comments, including the comments we provide in this letter. At the very least, Corona should delay the Planning Commission's upcoming hearing by 30 days or more.

V. CONCLUSION

Thank you for the opportunity to provide these comments. We encourage Corona to comply with CEQA's requirements and adequately disclose, analyze, and mitigate the environmental impacts of the Project prior to its approval. The Attorney General's Office is available to provide assistance to Corona as it works on its CEQA compliance for the Project. Please do not hesitate to contact me if you have any questions or would like to discuss these issues further.

Sincerely,



ABIGAIL BLODGETT
Deputy Attorney General

For XAVIER BECERRA
Attorney General

⁴³ CEQA Guidelines, § 15074, subd. (b).

Attachment A: Air Quality Mitigation Measures

Measures to mitigate air quality impacts from construction include:

- Requiring off-road construction equipment to be electric, where available.
- Prohibiting off-road diesel-powered equipment from being in the “on” position for more than 10 hours per day.
- Requiring on-road haul trucks to be model year 2010 or newer if diesel-fueled.
- 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.
- Forbidding idling of heavy equipment for more than three minutes.
- 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.
- 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.
- Limit the Project’s construction days and times.

Measures to mitigate air quality impacts from operations include:

- Limiting the times and days that the project operates, such as only daytime hours on weekdays.
- Require project proponent to follow CARB’s guidance for siting warehouses at least 1,000 feet away from sensitive land uses to avoid health impacts.⁴⁴
- Requiring that all facility-owned and operated fleet equipment with a gross vehicle weight rating greater than 14,000 pounds accessing the site meet or exceed 2010 model-year emissions equivalent engine standards as currently defined in California Code of Regulations Title 13, Division 3, Chapter 1, Article 4.5, Section 2025. Facility operators shall maintain records on-site demonstrating compliance with this requirement and shall make records available for inspection by the local jurisdiction, air district, and state upon request.
- Requiring all heavy-duty vehicles entering or operated on the project site to be zero-emission beginning in 2030.

⁴⁴ CARB, Air Quality and Land Use Handbook: A Community Health Perspective, at p. 4 (April 2005), <https://ww3.arb.ca.gov/ch/handbook.pdf>.

- Requiring on-site equipment, such as forklifts and yard trucks, to be electric with the necessary electrical charging stations provided.
- Requiring tenants to use zero-emission light- and medium-duty vehicles as part of business operations.
- Forbidding trucks from idling for more than three minutes and requiring operators to turn off engines when not in use.
- Posting both interior- and exterior-facing signs, including signs directed at all dock and delivery areas, identifying idling restrictions and contact information to report violations to CARB, the air district, and the building manager.
- 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 impacts of a facility, it nonetheless benefits the affected community by providing information that can be used to improve air quality.
- Constructing electric truck charging stations proportional to the number of dock doors at the project.
- Constructing plugs for transport refrigeration units at every dock door, if the warehouse use could include refrigeration.
- Constructing electric light-duty vehicle charging stations proportional to the number of parking spaces at the project.
- 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.
- Requiring operators to establish and promote a rideshare program that discourages single-occupancy vehicle trips and provides financial incentives for alternate modes of transportation, including carpooling, public transit, and biking.
- 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.
- Providing meal options onsite or shuttles between the facility and nearby meal destinations.
- Establishing and enforcing truck routes that avoid residents and sensitive receptors.
- 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.
- Requiring that every tenant train its staff in charge of keeping vehicle records in diesel technologies and compliance with CARB regulations, by attending California Air Resources Board-approved courses. Facility operators shall maintain records on-site demonstrating compliance with this requirement and shall make records available for inspection by the local jurisdiction, air district, and state upon request.

- Requiring tenants to enroll in the United States Environmental Protection Agency's SmartWay program, and requiring tenants to use carriers that are SmartWay carriers.
- Providing tenants with information on incentive programs, such as the Carl Moyer Program and Voucher Incentive Program, to upgrade their fleets.

Measures to mitigate noise impacts include:

- Constructing physical, structural, or vegetative noise barriers on and/or off the project site.
- Locating or parking all stationary construction equipment as far from sensitive receptors as possible, and directing emitted noise away from sensitive receptors.
- Verifying that construction equipment has properly operating and maintained mufflers.
- Requiring all combustion-powered construction equipment to be surrounded by a noise protection barrier.
- Limiting operation hours to daytime hours on weekdays.
- Paving roads where truck traffic is anticipated with low noise asphalt.
- Orienting any public address systems onsite away from sensitive receptors and setting system volume at a level not readily audible past the property line.

Measures to mitigate traffic impacts include:

- Designing, clearly marking, and enforcing truck routes that keep trucks out of residential neighborhoods and away from sensitive receptors.
- Constructing new or improved transit stops, sidewalks, bicycle lanes, and crosswalks, with special attention to ensuring safe routes to schools.
- Consulting with the local public transit agency and securing increased public transit service to the project area.
- Implementing traffic control and safety measures, such as speed bumps, speed limits, or new traffic signs or signals.
- Placing facility entry and exit points on major streets that do not have fronting sensitive receptors.
- Restricting the turns trucks can make entering and exiting the facility to route trucks away from sensitive receptors.
- Constructing roadway improvements to improve traffic flow.
- Preparing a construction traffic control plan prior to grading, detailing the locations of equipment staging areas, material stockpiles, proposed road closures, and hours of construction operations, and designing the plan to minimize impacts to roads frequented by passenger cars, pedestrians, bicyclists, and other non-truck traffic.