



SAN FRANCISCO PLANNING DEPARTMENT

MEMO

Appeal of Planning Case No. 2014-002541ENV India Basin Mixed Use Project

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DATE: October 10, 2018

TO: Angela Calvillo, Clerk of the Board of Supervisors

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RE: BOS File No. 180841,
Planning Department Case No. 2014-002541ENV –Appeal of the
Certification of the Environmental Impact Report for the India Basin
Mixed Use Project

HEARING DATE: October 16, 2018 (Continued from September 25 and October 2, 2018)

ATTACHMENTS: Attachment A - Memorandum to the Board of Supervisors, *Revisions to air quality mitigation measures for the India Basin Mixed-Use Project, Planning Department Case No. 2014-002541ENV, October 2, 2018.*
Attachment B – Modification to Design Standards and Guidelines

PROJECT SPONSOR: BUILD
San Francisco Recreation and Park Department
Supervisor Cohen (legislative sponsor)

APPELLANT: Mikhail Brodsky on behalf of Archimedes Banya SF and 748 Innes Ave. HOA
Bradley Angel on behalf of Greenaction for Health & Environmental Justice

INTRODUCTION:

Summary of Key Events at October 2, 2018 Board Hearing on India Basin EIR Appeal

On October 2, 2018, the Board of Supervisors (the “Board”) conducted an appeal hearing regarding the Planning Commission’s (“Commission’s”) certification of the Environmental Impact Report (“EIR”) for the India Basin Mixed-Use Project (“proposed project”) under the California Environmental Quality Act. On the day of the hearing, a staff member of the Bay Area Air Quality Management District (“Air District”) informed Planning Department (“Department”) staff that Air District staff would attend the

hearing to present oral comments including recommendations for additional air quality mitigation measures that could be considered for the proposed project.

In response, in the hours before the hearing, Department staff prepared a memorandum that described how the construction air quality mitigation measures in the EIR could be revised to reflect the Air District's recommendation that diesel-powered equipment be fueled with renewable diesel fuel (see Attachment A). Planning staff distributed that memorandum, dated October 2, 2018, to the Board at the hearing, where it was also presented to the appellants. The Board conducted the hearing and closed public comment, continuing the hearing to October 16, 2018 to allow for the public and the Board to consider the information presented at the hearing and to take further public testimony on the air quality analysis and the potential mitigation relating to air quality.

Purpose of This Memorandum

The purpose of this memorandum is to: 1) provide greater context for the Air District's comments; 2) clarify the intent of the Department's October 2, 2018 memorandum; 3) describe how the Board may elect to incorporate the Air District's recommended language as part of its consideration of whether to approve the proposed project, and how taking such action would not affect the adequacy of the EIR or require recirculation; and 4) justify why the air quality analysis in the EIR, as certified by the Commission, complies with the requirements of CEQA, the CEQA Guidelines, and Chapter 31 of the San Francisco Administrative Code. As indicated below, the comments raised by the Air District do not indicate the possibility of any new significant impact or increase in the severity of an impact, or the existence of a feasible mitigation measure considerably different from others previously analyzed that would lessen the proposed project's impacts, but that the project sponsor declines to adopt. Therefore, the Department recommends that the Board uphold the EIR, and then consider proposed revisions to the mitigation measures as part of the project approvals to further reduce the significant air quality impacts. The proposed minor revisions to the existing mitigation measures, if supported by the Board, would not require recirculation of the EIR under CEQA.

PROJECT DESCRIPTION:

Department staff previously submitted appeal response memoranda on September 17, 2018 ("Original Appeal Response") and on September 21, 2018 ("Supplemental Appeal Response"), addressing concerns raised in two appeal letters.¹ Please refer to the Department's Original Appeal Response, dated September 17, 2018, for a description of the Project.

¹ [San Francisco Board of Supervisors File No. 180841](#).

CEQA REQUIREMENTS:

As it relates to EIR certification, CEQA Guidelines section 15090(a) state that:

Prior to approving a project the lead agency shall certify that:

- (1) The final EIR has been completed in compliance with CEQA.
- (2) The final EIR was presented to the decision-making body of the lead agency, and that the decision-making body reviewed and considered the information contained in the final EIR prior to approving the project; and
- (3) The final EIR reflects the lead agency's independent judgment and analysis.

As it relates to EIR recirculation, CEQA Guidelines section 15088.5(a) states that:

a lead agency is required to recirculate an EIR when significant new information is added to the EIR after public notice is given of the availability of the draft EIR for public review but before certification. As used in this section, the term "information" can include changes in the project or environmental setting as well as additional data or other information. New information added to an EIR is not "significant" unless the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect (including a feasible project alternative) that the project's proponents have declined to implement. "Significant new information" requiring recirculation include, for example, a disclosure showing that:

- (1) A new significant environmental impact would result from the project or from a new mitigation measure proposed to be implemented.
- (2) A substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted that reduce the impact to a level of insignificance.
- (3) A feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the environmental impacts of the project, but the project's proponents decline to adopt it.
- (4) The draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded. [Citation omitted.]

Given the purpose of this memo, criteria 2 and 4 are not relevant and are not discussed further.

PLANNING DEPARTMENT AND AIR DISTRICT COORDINATION

Planning Department Notification to Air District during Environmental Review Process for Proposed Project

Consistent with standard practice for EIRs, the Department solicited comments from the Air District on two occasions during the environmental review process for the India Basin EIR. The Department first requested comment from the Air District by mailing a Notice of Availability of the EIR Notice of Preparation (comment period of June 1 to July 1, 2016). Next, the Department sent the Air District the Notice of Availability of the Draft EIR (comment period of September 13 to October 30, 2017). In addition, the Department sent these documents to the State Clearinghouse, which coordinates the state-level review of environmental documents. The Air District did not comment on the project during either of these EIR comment periods or at any time before certification of the EIR.

Air District Comments Subsequent to EIR Certification

As noted above, on October 2, 2018, Air District staff indicated for the first time that they planned to attend the Board hearing and make recommendations, modifications, and additions to the proposed mitigation measures relating to air quality.² Following this initial contact by Air District staff, and in response to the recommendations that were communicated to Department staff by telephone in the hours before the hearing, Department staff promptly prepared a memorandum describing minor revisions to two air quality mitigation measures for consideration by the Board at the hearing on the CEQA appeal. The minor revisions would require the use of renewable diesel for all diesel-powered equipment under the control of the property owner and used during construction and operation (see Attachment A.) At the hearing, Department staff indicated that these minor revisions did not speak to the adequacy of the EIR or revise the EIR in any way. Certain adverse unavoidable air quality impacts would occur with or without these revisions. As a result, if the Board denies the CEQA appeal, it would need to make a statement of overriding considerations as part of any project approval action. In short, if the CEQA appeal is denied, the Board may wish to consider whether to make the minor revisions as part of the project approval actions. Department staff also noted that the project sponsor has agreed to the proposed revisions.³

² Air District staff contacted the Department at 4 pm on October 1, 2018—the day before the Board appeal hearing – to provide a heads up that they would have comments on the EIR, but they did not provide any specifics details about the nature of their comments.

³ To the extent the October 2, 2018 memorandum to the Board suggested that the revisions to mitigation measures M-AQ-1a and M-AQ 1e would be made by revising the DEIR, that was incorrect. Under Chapter 31, when an EIR is appealed, the Board may affirm or reverse the EIR by a majority vote. (See Admin. Code, Section 31.16(b)(8).) If the Board finds the EIR was adequate, accurate and objective, reflecting the independent judgment and analysis of the City, and completed in compliance with CEQA, it can affirm certification of the EIR. Under Chapter 31, the Board cannot revise the EIR. However, the Board can revise the mitigation measures at the time of project approval actions, under Pub. Resources Code Section 21081 and CEQA Guidelines Section 15091 (CEQA Findings).

AIR QUALITY ANALYSIS IN THE EIR:

Consistent with standard practice, the Department relied upon Air District guidance for the India Basin EIR, except that the Department used more health protective thresholds of significance for local air pollution. Based on modeling, including a health risk analysis, the EIR identified significant regional criteria air pollutant and local substantial pollutant concentration impacts. The Department identified six mitigation measures to reduce impacts. However, given the magnitude of some impacts and the uncertainty of full implementation of some of the mitigation measures, the Department identified the impacts would be significant and unavoidable with mitigation.

AIR DISTRICT STAFF COMMENTS ON INDIA BASIN EIR:

On October 2, 2018, the day of the appeal hearing, Air District staff telephoned Department staff and indicated their general support of infill, mixed use development. In addition, Air District staff recommended refinements of mitigation measures to further reduce the project's significant and unavoidable impact related to fine particulate matter, referred to in the EIR as PM_{2.5}. Since 2010, the Air District provided comment letters to the Department in connection with seven projects subject to CEQA.⁴ With the exception of referencing biodiesel on one project and in their guidance document, the Air District has never made the recommendation listed below in connection with any prior project in the City nor does the Air District include these recommendations in their current Air Quality Guidelines.

Air District staff stated those recommendations as follows:

For Construction:

- (1) if use of Tier 4 off-road engines is not available, use bio or renewable diesel with lower tiered engines,
- (2) investigate the availability of Tier 4 pile drivers and cranes for shoreline work, and
- (3) review changes recently made to the Air District's Regulation 6 regarding construction mitigation measures and confirm that the project has incorporated all feasible construction mitigations.

For Operations:

- (1) investigate the availability of hybrid or alternative fueled delivery trucks and electrification of loading docks, and
- (2) continue to investigate ways to reduce exposure to toxic air pollutants in existing buildings, such as through measures like the Central SoMa improvement strategy to explore a retrofit funding program for existing buildings.

Air District staff did not raise concerns regarding the adequacy of the EIR's air quality analysis and did not identify any new significant air quality impacts not already disclosed in the EIR. The Department's responses to each suggestion are provided below.

⁴ Refer to <http://www.baaqmd.gov/plans-and-climate/california-environmental-quality-act-ceqa/ceqa-comment-letters> for those letters.

PLANNING DEPARTMENT RESPONSE TO AIR DISTRICT COMMENTS:

Department staff, with assistance from the proposed project's air quality consultants and the project sponsor, have evaluated all the above recommendations and determined that, aside from the two exceptions mentioned below in Planning responses 1 and 4, the recommendations are either: 1) already included in the proposed project, 2) already included in the mitigation measures, 3) already included through existing regulatory requirements, 4) infeasible, and/or 5) the Department will continue to work with the Air District on such strategies. The following provides a discussion of each of the recommended measures.

Air District Recommendation 1: For construction, if use of Tier 4 engines is not available, use bio or renewable diesel

Planning Response 1: The Board could incorporate this recommendation into Mitigation Measures M-AQ-1a and M-AQ-1e as part of its consideration of whether to approve the project.

Existing Mitigation Measure M-AQ-1a: Minimize Off-Road Construction Equipment Emissions ("off-road equipment measure") requires all off-road equipment that cannot be electrically powered to comply with Tier 4 final emissions standards, which are the most stringent emissions standards in the country. Although Tier 4 equipment is becoming more available, the demand for such equipment is also increasing. Past project sponsors have expressed concerns that the availability of Tier 4 equipment continues to be limited. Recognizing this, Mitigation Measure M-AQ-1a requires the sponsor to comply with the next cleanest available piece of equipment when Tier 4 equipment is not available.

Air District staff recommended use of biodiesel, Department staff does not recommend biodiesel for this project because biodiesel may increase the significant and unavoidable oxides of nitrogen emissions. The Air Board's evaluation of biodiesel concludes that biodiesel fuel results in a reduction in particulate matter, but also increases oxides of nitrogen emissions.⁵ Because use of biodiesel may actually result in increases in oxides of nitrogen emissions, which are significant and unavoidable for the proposed project, and because renewable diesel would result in a reduction in both particulate matter and oxides of nitrogen, Department staff does not recommend use of biodiesel.

Air District staff also recommended use of renewable diesel. Notwithstanding the existing requirements of the off-road equipment measure, the Board could consider amending Mitigation Measure M-AQ-1a and Mitigation Measure M-AQ-1e to require that all diesel engines be fueled with renewable diesel, while allowing for exceptions. In response to concerns about the availability of renewable diesel raised at the October 2, 2018 Board hearing, Department staff conducted the following additional analysis to assess the feasibility of requiring that all diesel engines be fueled with renewable diesel. Renewable diesel fuel is fuel derived from non-petroleum renewable resources, which can include plant-based sources, or recycled fats and oils. Renewable diesel has the potential to reduce particulate matter emissions by about 30 percent and oxides of nitrogen (NOx) emissions by 10 percent,⁶ compared to petroleum diesel. Renewable diesel's combustion quality results in similar or better vehicle performance compared to

⁵ California Environmental Protection Agency, *Staff Report: Multimedia Evaluation of Biodeisel*, May 2015. This document is available at: https://ww2.arb.ca.gov/sites/default/files/2018-08/Biodiesel_Multimedia_Evaluation_5-21-15.pdf. Accessed October 3, 2018.

⁶ California Environmental Protection Agency, 2015, *Staff Report: Multimedia Evaluation of Renewable Diesel*, Available at: https://www.arb.ca.gov/fuels/diesel/altdiesel/20150521RD_StaffReport.pdf, Accessed: October 3, 2018.

conventional diesel and can be used in diesel vehicles without any engine modifications.⁷ Between 2011 and 2016, renewable diesel use in California has increased from less than 2 million to more than 250 million gallons per year.⁸

There are no retail locations for renewable diesel in San Francisco, and only one retailer, Propel Fuels, sells such diesel in the Bay Area, sold as diesel HPR. There are seven Propel Fuels locations within the Bay Area, which includes three locations in San Jose, and locations in Redwood City, Fremont, Oakland and Berkeley. Outside the Bay Area, there are 11 Propel Fuels stations in the greater Sacramento area.⁹ The Propel Fuel stations are part of other retail gas stations and are open 24 hours a day, 365 days a year. As of October 3, 2018, the average monthly price per gallon of standard diesel¹⁰ and the current daily price of diesel HPR¹¹ were similar.

The project sponsor has indicated a willingness to agree to the minor revisions to Mitigation Measure M-AQ-1a and Mitigation Measure M-AQ-1e, which are detailed in Attachment A. Given there is only one retailer in the Bay Area, Propel Fuels, there could be unforeseen constraints that prohibit use of renewable diesel such as supply or production constraints, particularly as it relates to on-road haul trucks.¹² Therefore, taking all the considerations above, Department staff believes that use of renewable diesel is feasible, but the measure should include exceptions to this requirement.

Should the Board choose to incorporate these revisions as part of project approvals, mitigation measures M-AQ-1a and M-AQ-1e would not be considerably different from those previously analyzed, the project sponsor agrees to adopt it and the minor revisions would not result in a new significant impact. Further, because the project sponsor is willing to implement the revised mitigation measures, the revisions do not meet the requirements for recirculation under CEQA Guidelines section 15088.5.

⁷ U.S. Department of Energy, 2017, *Biodiesel Basics*, Available at:

https://www.afdc.energy.gov/uploads/publication/biodiesel_basics.pdf, Accessed: October 3, 2018.

⁸ California Air Resources Board, 2018, *Public Hearing to Consider Proposed Amendments to the low Carbon Fuel Standard Regulation and to the Regulation on Commercialization of Alternative Diesel Fuels, Staff Report: Initial Statement of Reasons*, Available at: <https://www.arb.ca.gov/regact/2018/lcfs18/isor.pdf>, Accessed: October 3, 2018.

⁹ Propel Fuels Locations, Available at: <https://propelfuels.com/locations>, Accessed: October 3, 2018.

¹⁰ U.S. Energy Information Administration, *California No. 2 Diesel Retail Prices, Dollars per Gallon*, Available: https://www.eia.gov/dnav/pet/hist/LeafHandler.ashx?n=PET&s=EMD_EPD2D_PTE_SCA_DPG&f=M, Accessed: October 3, 2018. Average September price: \$3.97 per gallon.

¹¹ Propel Fuels iPhone Application, Diesel HPR Prices. Accessed: October 3, 2018. Price on October 3, 2018: \$3.99 per gallon.

¹² Based on communications with the San Francisco Public Utilities Commission staff, using renewable diesel for on-road haul trucks (as specified in the minimize on-road construction equipment emissions mitigation measures) is more challenging than using it for off-road equipment (as specified in the off-road equipment measure). For example, renewable diesel refueling vendors can come to a construction site to refuel off-road equipment. On-road trucks travel throughout the region and state. A truck driver may not encounter a renewable diesel refueling station along their shortest path of travel between their origin and destination or they may not require refueling their tank prior to coming to the construction site.

Air District Recommendation 2: For construction, investigate the availability of Tier 4 pile drivers and cranes for shoreline work.

Planning Response 2: This measure is already required as part of Mitigation Measure M-AQ-1a.

Mitigation measure M-AQ-1a in the India Basin EIR requires all off-road equipment that cannot be electrically powered to comply with Tier 4 final emissions standards. This requirement is applicable to pile drivers and cranes and is therefore already included in the EIR.

Air District Recommendation 3: For construction, review changes recently made to the Air District's Regulation 6 regarding construction mitigation measures and confirm that the project has incorporated all feasible construction mitigations.

Planning Response 3: This measure is already required as part of existing regulatory requirements to which the proposed project would be subject.

Regulation 6, adopted by the Air District in August 2018 relates to particulate matter. Regulation 6 includes rules 1 through 6 that are related to specific types of uses (commercial cooking equipment, wood burning devices, metal recycling and shredding operation, emissions from refineries, and road dust). Should the occupants of the commercial and retail businesses include commercial cooking or wood burning devices (such as wood-fired ovens), those uses would be required to comply with Regulation 6. Regulation 6, Rule 6 limits particulate matter in the form of fugitive dust from large construction sites greater than 1 acre. The proposed project's construction activities would be required to comply with this regulation in addition to the City's Construction Dust Control Ordinance.

Regulation 6 is focused primarily on enforcement and determination of a violation of particulate matter for facilities or operations subject to the regulation. Regulation 6, Rule 6 does not identify specific measures that are required to be implemented to reduce fugitive dust. In contrast, the Dust Control Ordinance is focused on having the best available control technologies on the proposed project site prior to any earth disturbing work. The Draft EIR discusses the requirements of the construction dust control ordinance beginning on page 3.7-45. The proposed project is required to have a dust control plan approved by the Department of Public Health. Public Health will review the dust control plan to ensure that sufficient measures are included to reduce visible dust during construction of the proposed project. Draft EIR page 3.7-45 lists the minimum requirements of the dust control plan. To make sure the Plan reduces dust as intended, Public Health will require particulate dust monitors during construction to record particulate levels. Public Health will respond to concerns regarding compliance with the construction dust control ordinance and, if necessary, Public Health will coordinate with the Department of Building Inspection to issue violations. Compliance with the City's Construction Dust Control Ordinance is based on visual observations of whether airborne dust on the site crosses the property line.

Air District Recommendation 4: For operation, investigate the availability of hybrid or alternative fueled delivery trucks and electrification of loading docks

Planning Response 4: Control of future third-party delivery services is not considered feasible, and the project sponsor will incorporate electrification of loading docks or an equivalent technology for the grocery store as part of the proposed project.

As a mostly residential project, the project would not generate a substantial number of delivery truck trips. The proposed project is estimated to generate approximately 231 daily truck trips. During the years 2020 through 2022, the analysis assumes construction-related and operational emissions would overlap. The analysis estimates emissions to be the greatest in 2020 for oxides of nitrogen and in 2021 for PM_{2.5}. In 2020, the proposed project would generate approximately 141.4 pounds per day of oxides of nitrogen, and, in 2021, the proposed project would generate approximately 10.9 pounds per day of PM_{2.5}. Of this amount, the analysis estimates approximately 3.3 and 0.6 of oxides of nitrogen and PM_{2.5} pounds per day, respectively, from those daily truck trips.

The City has no authority to regulate vehicular emissions; vehicle emissions are regulated at the state and federal level. In addition, while the EIR estimates the number of daily truck trips, the company or source of future deliveries at the project site cannot be known or regulated. Future commercial and residential tenants of the project site would dictate the types and source of products to the project site, which the project sponsor and the City would not have the ability to control. Therefore, the Department did not investigate the availability of hybrid or alternative fueled delivery trucks further as this recommendation is considered infeasible.

While overall emissions from daily delivery trucks would be small, emissions from transportation refrigeration units would be even smaller.¹³ Despite this, the project sponsor has agreed to incorporate electrification of loading docks or an equivalent technology for the grocery store as part of the design standards and guidelines (refer to Attachment B).

Air District Recommendation 5: Continue to investigate ways to reduce exposure to toxic air pollutants in existing buildings, such as measures to explore a retrofit funding program for existing buildings.

Planning Response 5: Although retrofitting of existing buildings is currently considered infeasible, the Department will continue to work with the community and the Air District on this and other toxic air pollutant reduction strategies.

The project site is almost entirely undeveloped. On the 700 Innes property, there are no existing buildings or structures except for a single house that the project sponsor intends to relocate and another structure that the project would demolish. On the 900 Innes site, which the City owns, no residences or sensitive receptors exist. The Planning and Public Health departments, in coordination with the Air District, are developing a comprehensive citywide plan to protect human health from the negative effects of air pollution in a Community Risk Reduction Plan. One of the goals of this plan is to reduce exposure to harmful air pollutants. The Plan would establish the policy foundation to explore mechanisms to fund the retrofit of existing buildings or provide air filtration devices. However, there are many challenges to retrofitting existing buildings: some buildings would require substantial upgrades to their heating and

¹³ Based on modeling of the effectiveness of this type of measure for Potrero Power Station Mixed-Use Development Project, as shown in that project's draft EIR.

ventilation systems; buildings may need to be appropriately weatherized to ensure that outdoor air intrusion is limited; and existing buildings may face other environmental conditions that need to be abated, such as mold or lead paint removal.¹⁴ As of October 2017, no occupied residential buildings in San Francisco have been fully retrofitted to comply with the article 38 air filtration requirement.¹⁵

In summary, the Planning and Public Health departments, with Air District coordination, are exploring various ways to provide air filtration devices to existing buildings through the Community Risk Reduction Plan, including those buildings in locations within health vulnerable zip codes, like the India Basin area and other areas of the city with potential existing and future sources of pollution (e.g., Central SoMa). The Department welcomes additional opportunities to collaborate with the Air District on ways to reduce exposure to air pollutants.

PLANNING DEPARTMENT COORDINATION WITH AIR DISTRICT TO REDUCE THE ADVERSE EFFECTS OF DEVELOPMENT ON AIR QUALITY:

At the October 2, 2018 Board hearing, members of the Board raised questions about the level of coordination between the Department and the Air District regarding environmental review and air quality policy. The Department would like to assure the Board that the Department and the Air District routinely coordinate on environment review of projects, as well as a variety of initiatives aimed at reducing the adverse effects of development on air quality. As a representative of the Air District noted at the October 2, 2018 hearing, the Air District did receive notice from the Department regarding the India Basin EIR, and their lack of comment was not due to a failure to coordinate. The following is a summary of collaborative efforts between these parties.

Environmental Review

When analyzing air quality impacts under CEQA, the Department relies on Air District guidance and resources. In some cases, the Department modifies Air District approaches for analyzing impacts to achieve the most health protective results. In those cases, the Department consults with the Air District regarding such modifications and seeks concurrence. For example, as it relates to localized air pollution, the Department uses more health protective thresholds of significance for determining project contributions to impacts than the Air District. The Department uses these thresholds in locations where existing air quality is poor or where a high percentage of residents are health vulnerable, such as in the India Basin zip code. The Air District supports the Department's use of more health protective thresholds.

In instances where project characteristics warrant a health risk analysis that is different than a typical, mixed use project, the Department consults with the Air District regarding methodologies, impacts, and mitigation measures outside the formal consultation process (e.g., data centers, San Francisco Public Utilities Commission Biosolids Digesters Facilities Project, and computational fluid dynamic modeling conducted for the 429 Beale street project).

¹⁴ Jonathan Piakis, "Re: Central SoMa AQ Mitigation Measures," Email message to Elizabeth White (SF Planning Department), October 20, 2017.

¹⁵ Timothy Nagata, "Central SoMa – Another request for DBI assistance from Planning Dept," Email message to Elizabeth White (SF Planning Department), November 9, 2017.

Policy Initiatives

The Air District and the Department routinely coordinate on a variety of initiatives aimed at reducing the adverse effect of development on air quality. The public health benefits of these efforts extend to communities in the India Basin project vicinity. Examples include policy development such as enhanced ventilation requirements in new development (article 38 of the health code), the clean construction ordinance (chapter 25 of the environment code, requiring public projects to reduce emissions at construction sites), the transportation demand management program (section 169 of the planning code, to reduce vehicle miles traveled generated by new development projects), and greenhouse gas reduction strategy. For these policies, Air District staff came to hearings or wrote a letter to indicate support of such policies. The Air District is currently providing technical air quality modeling support to the Department in the development of a Community Risk Reduction Plan, which is a comprehensive citywide plan to protect human health from the negative effects of air pollution within San Francisco. Further, the Air District recommends such measures for other communities in their own guidance documents.¹⁶

CONCLUSION:

The Department reviewed the recommendations of the Air District in the context of the overall air quality analysis included in the EIR. The Department maintains that the EIR's air quality analysis meets the requirements of CEQA. It is accurate, thorough and complete, and studies all potential air quality impacts resulting from construction and operation of the proposed project. The EIR imposes all feasible mitigation measures to alleviate those impacts. For those reasons, the Department respectfully requests that the Board reject the appeals and uphold certification of the EIR.

The Board may wish to consider, in its project approval actions, specifically in the CEQA Findings and adoption of the MMRP, incorporating additional recommendations from Air District staff, resulting in minor revisions to existing mitigation measures and design standards and guidelines as part of the project approval documents. All other recommendations are either 1) already included in the proposed project, 2) already included in the mitigation measures, 3) already included through existing regulatory requirements, 4) are infeasible, and/or 5) the Department will continue to work with the Air District on such strategies.

Following review of the comments submitted by the Air District, the Department has determined that the comments, which relate to an impact that was identified in the EIR, do not constitute new information that has deprived the public of a meaningful opportunity to comment upon a substantial environmental effect of the project; they do not raise any new significant impacts, nor a substantial increase the severity of already identified impacts; nor do they raise a feasible way to mitigate or avoid such an effect that the project's proponents have declined to implement. As a result, the Air District's comments do not require that the EIR be recirculated pursuant to CEQA Guidelines section 15088.5.

¹⁶ Example is Bay Area Air Quality Management District, Planning Healthy Places, A Guidebook for Addressing Local Sources of Air Pollutants in Community Plan, May 2016, http://www.baaqmd.gov/~media/files/planning-and-research/planning-healthy-places/php_may20_2016-pdf.pdf?la=en.

ATTACHMENT A



SAN FRANCISCO PLANNING DEPARTMENT

DATE: October 2, 2018
TO: San Francisco Board of Supervisors
FROM: Michael Li, Environmental Planning
Joy Navarrete, Environmental Planning
Jessica Range, Environmental Planning
RE: Revisions to air quality mitigation measures for the India Basin Mixed-Use Project, Planning Department Case No. 2014-002541ENV

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In response to comments regarding the use of renewable diesel for the India Basin Mixed-Use Project, the following revisions are made to Mitigation Measures M-AQ-1a: Minimize Off-Road Construction Equipment Emissions and Mitigation Measure Mitigation Measure M-AQ-1e: Implement Best Available Control Technology for Operational Diesel Generators to require deisel powered equipment to use renewable deisel to the extent feasible. Use of renewable diesel would further reduce the significant and unavoidable nitrogen oxide emissions and PM_{2.5} emissions during construction and operation, but not to less than significant levels. Renewable diesel R100 has the potential to reduce particulate matter emissions by about 30 percent and NO_x emissions by 10 percent.¹ Revisions to the below mitigation measures do not require recirculation of the EIR in accordance with CEQA Guidelines section 15088.5.

The following revision is made to Mitigation Measure M-AQ-1a in Table S-2 beginning on Draft EIR page S-29 and on Draft EIR page 3.7-39. New text is shown in double underline; deleted text is shown in ~~striketrough~~:

Mitigation Measure M-AQ-1a: Minimize Off-Road Construction Equipment Emissions

The project sponsors shall comply with the following requirements:

- A. Construction Emissions Minimization Plan.** *Before a construction permit is issued for each project phase or property, as applicable, the project sponsors shall submit construction emissions minimization plans to the Environmental Review Officer (ERO) or the ERO's designated representative for review and approval. The construction emissions minimization plans shall detail compliance with the following requirements:*

¹ California Environmental Protection Agency, *Staff Report: Multimedia Evaluation of Renewable Diesel*, May 2015. This document is available at:
http://www.arb.ca.gov/fuels/multimedia/meetings/RenewableDieselStaffReport_Nov2013.pdf.

(1) All off-road equipment greater than 25 hp and operating for more than 20 total hours over the entire duration of construction activities shall meet the following requirements:

- a) Where access to alternative sources of power is reasonably available, portable diesel engines shall be prohibited.
- b) Where portable diesel engines are required because alternative sources of power are not reasonably available, all off-road equipment shall have engines that meet either EPA or ARB Tier 4 Final off-road emission standards. If engines that comply with Tier 4 Final off-road emission standards are not commercially available, then the project sponsor shall provide the next cleanest piece of off-road equipment as provided by the step-down schedules in Table M-AQ-1a-1.
 - i. For purposes of this mitigation measure, “commercially available” shall mean the availability of Tier 4 Final engines taking into consideration factors such as (i) critical-path timing of construction; (ii) geographic proximity to the project site of equipment; and (iii) geographic proximity of access to off-haul deposit sites.
 - ii. The project sponsor shall maintain records concerning its efforts to comply with this requirement.
- c) All diesel powered engines subject to this mitigation measure and mitigation measures M-AQ-1b and M-AQ-1c shall be fueled with renewable diesel (at least 99 percent renewable diesel or R99). Exceptions to this requirement may be granted if the project sponsor has submitted information providing evidence to the satisfaction of the ERO that renewable diesel is not feasible for a particular piece of equipment or not commercially available in the SFBAAB. With respect to renewable diesel, “commercially available” shall mean the availability taking into consideration factors such as: (i) critical path timing of construction, (ii) geographic proximity of fuel source to the project site; and (iii) cost of renewable diesel is within 10 percent of Low Sulfur Diesel #2 market price.

**TABLE M-AQ-1a-1
OFF-ROAD EQUIPMENT COMPLIANCE STEP-DOWN SCHEDULE**

<i>Compliance Alternative</i>	<i>Engine Emissions Standard</i>	<i>Emissions Control</i>
1	Tier 4 Interim	N/A
2	Tier 3	ARB Level 3 VDECS
3	Tier 2	ARB Level 3 VDECS

How to use the table: If the requirements of (A)(1)(b) cannot be met, then the project sponsor would need to meet Compliance Alternative 1. Should the project sponsor not be able to supply off-road equipment meeting Compliance Alternative 1, then Compliance Alternative 2 would need to be met. Should the

project sponsor not be able to supply off-road equipment meeting Compliance Alternative 2, then Compliance Alternative 3 would need to be met, etc.

- (2) The project sponsor shall require in its construction contracts that the idling time for off-road and on-road equipment be limited to no more than 2 minutes, except as provided in exceptions to the applicable State regulations regarding idling for off-road and on-road equipment. Legible and visible signs shall be posted in multiple languages (English, Spanish, and Chinese) in designated queuing areas and at the construction site to remind operators of the 2-minute idling limit.*
 - (3) The project sponsor shall require that construction operators properly maintain and tune equipment in accordance with manufacturer specifications.*
 - (4) The construction emissions minimization plan shall include estimates of the construction timeline by phase with a description of each piece of off-road equipment required for every construction phase. Off-road equipment descriptions and information may include but are not limited to equipment type, equipment manufacturer, equipment identification number, engine model year, engine certification (Tier rating), horsepower, engine serial number, and expected fuel usage and hours of operation. For VDECS installed: technology type, serial number, make, model, manufacturer, ARB verification number level, and installation date and hour meter reading on installation date. For off-road equipment using alternative fuels, reporting shall indicate the type of alternative fuel being used.*
 - (5) The project sponsor shall keep the construction emissions minimization plan available for public review on-site during working hours. The project sponsor shall post at the perimeter of the project site a legible and visible sign summarizing the requirements of the plan. The sign shall also state that the public may ask to inspect the construction emissions minimization plan at any time during working hours, and shall explain how to request inspection of the plan. Signs shall be posted on all sides of the construction site that face a public right-of-way. The project sponsor shall provide copies of the construction emissions minimization plan to members of the public as requested.*
- B. Reporting.** *Quarterly reports shall be submitted to the ERO or the ERO's designated representative indicating the construction phase and off-road equipment information used during each phase, including the information required in A(4).*
- (1) Within 6 months of the completion of construction activities, the project sponsor shall submit to the ERO or the ERO's designated representative a final report summarizing construction activities. The final report shall indicate the start and*

end dates and duration of each construction phase. For each phase, the report shall include detailed information required in A(4).

- C. Certification Statement and On-site Requirements.** *Before the start of construction activities, the project sponsor must certify that it is in compliance with the construction emissions minimization plan, and that all applicable requirements of the plan have been incorporated into contract specifications.*

The following revision is made to Mitigation Measure M-AQ-1e Table S-2 on Draft EIR page S-34 and on Draft EIR page beginning on page 3.7-50. New text is shown in double underline; deleted text is shown in ~~strikethrough~~:

Mitigation Measure M-AQ-1e: Implement Best Available Control Technology for Operational Diesel Generators

To reduce operational NO_x and PM emissions under the proposed project or variant, the project sponsors, as applicable, shall require in applicable contracts that the operational backup diesel generators:

- (1) comply with ARB Airborne Toxic Control Measure emissions standards for model year 2008 or newer engines; and*
- (2) meet or exceed one of the following emission standards for particulate matter:
(A) Tier 4 final certified engine or (B) Tier 4 interim or Tier 3 certified engine that is equipped with an ARB Level 3 VDECS. A nonverified diesel emissions control strategy may be used if the filter has the same PM reduction as the identical ARB-verified model and BAAQMD approves of its use; and*
- (3) be fueled with renewable diesel, R99, if commercially available. "Commercially available" shall mean the availability taking into consideration factors such as: (i) critical path timing of construction, (ii) geographic proximity of fuel source to the project site; and (iii) cost of renewable diesel is within 10 percent of Low Sulfur Diesel #2 market price.*

The project sponsors, as applicable, shall submit documentation of compliance with the BAAQMD NSR permitting process (Regulation 2, Rule 2, and Regulation 2, Rule 5) and the emissions standard requirement of this measure to the Planning Department for review and approval before a permit for a backup diesel generator is issued by any City agency.

Once operational, all diesel backup generators shall be maintained in good working order for the life of the equipment and any future replacement of the diesel backup generators shall be required to be consistent with these emissions specifications. The

operator of the facility at which the generator is located shall maintain records of the testing schedule for each diesel backup generator for the life of that diesel backup generator. The facility operator shall provide this information for review to the Planning Department within 3 months of a request for such information.

ATTACHMENT B

Modification to the India Basin Design Standards and Guidelines

The India Basin Design Standards and Guidelines (DSG) Section 3.3.2 “Site-Wide Greenhouse Gas Emissions” will be updated at page 218 to add the following:

“3.3.2.5 *Electrified Loading Docks For Grocery Store* Incorporate electrification of loading docks or equivalent technology for the grocery store.”