



South Coast Air Quality Management District

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SENT VIA E-MAIL:

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Negative Declaration (ND) and Draft Removal Action Workplan (RAW) for the Proposed Union Pacific Railroad Beverly Hills (Proposed Project) (SCH No.: 2020090440)

South Coast Air Quality Management District (South Coast AQMD) staff appreciates the opportunity to comment on the above-mentioned document. The Department of Toxic Substances Control (DTSC) is the CEQA Lead Agency for the Proposed Project. The following comments are meant as guidance for the Lead Agency and should be incorporated into the Final ND.

South Coast AQMD Staff's Summary of Project Description

The Lead Agency proposed to develop cleanup actions to remove soil contaminated with arsenic on five acres (Proposed Project). The Proposed Project is located on the southeast corner of Santa Monica Boulevard and North Doheny Drive in the City of Beverly Hills. Construction of the Proposed Project is expected to take six weeks¹. Soil excavation consists of removing 6,600 tons (4,400 cubic yards) of arsenic-contaminated soil². At completion of excavation activities, the excavations will be backfilled with up to 4,4000 cubic yards or approximately 264 truckloads of imported clean soil (approximately nine truckloads per day), and the backfilled soil will be compacted³.

South Coast AQMD Staff's Comments

CEQA Air Quality Analysis

According to the ND, the Lead Agency did not quantify the Proposed Project's construction emissions from soil excavation activities, which will require the use of trucks to transport arsenic-contaminated soil and clean soil. The ND also did not identify the permitted hazardous disposal facility that will accept the disposal of arsenic-contaminated soil from the Proposed Project to determine the appropriate truck trip length and calculate construction emissions from haul truck trips. Arsenic-contaminated soil may need to be disposed at a permitted hazardous disposal facility outside Los Angeles County or State of California.

One of the basic purposes of CEQA is to inform government decision makers and the public about the potential, significant environmental effects of proposed activities (CEQA Guidelines

¹ ND, Page 2.

² *Ibid.*

³ *Ibid.*

Section 15002(a)(1)). A negative declaration is appropriate when the Lead Agency finds that the project will not have a significant effect on the environment (CEQA Guidelines Sections 15070 to 15075). Reasons to support this finding shall be documented in the initial study. Without quantifying emissions from excavation activities, the ND has not made that documentation which serves as substantial evidence to support a fair argument that the Proposed Project would not have any adverse effects on air quality. Therefore, South Coast AQMD staff recommends that the Lead Agency identify the permitted hazardous disposal facility that the Proposed Project will use to dispose arsenic-contaminated soil and the locations that the Proposed Project will use to obtain clean soil, disclose them in the Final ND, calculate the Proposed Project's construction emissions from truck trips for hauling contaminated and clean soil based on the appropriate one-way trip length, and compare the construction emissions to South Coast AQMD's regional air quality CEQA significance thresholds to determine the level of significance for the Proposed Project's air quality impacts in the Final ND.

Mitigation Measures

In the event that the Proposed Project results in significant adverse air quality impacts during construction, CEQA requires that all feasible mitigation measures that go beyond what is required by law be utilized to minimize these impacts. Any impacts resulting from mitigation measures must also be analyzed. South Coast AQMD staff recommends that the Lead Agency require the use of zero-emissions (ZE) or near-zero emission (NZE) on-road haul trucks such as heavy-duty trucks with natural gas engines that meet the California Air Resources Board (CARB)'s adopted optional NO_x emissions standard at 0.02 grams per brake horsepower-hour (g/bhp-hr), if and when feasible. At a minimum, require the use of 2010 model year⁴ that meet CARB's 2010 engine emissions standards at 0.01 g/bhp-hr of particulate matter (PM) and 0.20 g/bhp-hr of NO_x emissions or newer, cleaner trucks. Include environmental analyses to evaluate and identify sufficient electricity and supportive infrastructures in the Energy and Utilities and Service Systems Sections in the Final ND, where appropriate. Include the requirement in applicable bid documents, purchase orders, and contracts. Operators shall maintain records of all trucks associated with project construction to document that each truck used meets these emission standards, and make the records available for inspection. The Lead Agency should conduct regular inspections to the maximum extent feasible to ensure compliance.

South Coast AQMD Rules

Arsenic is among the applicable toxic air contaminants listed in South Coast AQMD Rule 1466 – Control of Particulate Emissions from Soils with Toxic Air Contaminants⁵. It is recommended that the Final ND and the Final Removal Action Workplan (RAW) include clarification on whether the DTSC, or other agencies listed in Rule 1466(b), have designated, or plan to designate, the site for the contaminant listed

⁴ CARB adopted the statewide Truck and Bus Regulation in 2010. The Regulation requires diesel trucks and buses that operate in California to be upgraded to reduce emissions. Newer heavier trucks and buses must meet particulate matter filter requirements beginning January 1, 2012. Lighter and older heavier trucks must be replaced starting January 1, 2015. By January 1, 2023, nearly all trucks and buses will need to have 2010 model year engines or equivalent. More information on the CARB's Truck and Bus Regulation is available at: <https://www.arb.ca.gov/msprog/onrdiesel/onrdiesel.htm>.

⁵ South Coast AQMD. Rule 1466. Accessed at: <http://www.aqmd.gov/docs/default-source/rule-book/reg-xiv/rule-1466.pdf>.

as a concern subject to Rule 1466. Since more than 50 cubic yards of contaminated soil will be excavated, the site would be subject to South Coast AQMD Rule 1466 requirements if designated pursuant to the provisions of 1466(b)(1). It is recommended that applicable Rule 1466 requirements be incorporated into the Final ND and the Final RAW if the site is so designated. Additionally, the Final ND and the Final RAW should ensure excavation and soil movement operations will comply with South Coast AQMD Regulation IV-Prohibitions⁶, such as Rule 401 – Visible Emissions⁷, Rule 402 – Nuisance⁸, and Rule 403 – Fugitive Dust⁹.

Conclusion

Pursuant to CEQA Guidelines Section 15074, prior to approving the Proposed Project, the Lead Agency shall consider the ND for adoption together with any comments received during the public review process. Please provide South Coast AQMD with written responses to all comments contained herein prior to the adoption of the Final MND. When responding to issues raised in the comments, responses should provide sufficient details 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 do not facilitate the purpose and goal of CEQA on public disclosure and are not meaningful, informative, or useful to decision makers and the public who are interested in the Proposed Project. Further, when the Lead Agency makes the finding that the recommended mitigation measure is not feasible, the Lead Agency should describe the specific reasons supported by substantial evidence for rejecting it in the Final MND (CEQA Guidelines Sections 15070 and 15074.1).

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. If you have any questions or wish to discuss the comments related to CEQA air quality analysis and mitigation measures, please contact me at lsun@aqmd.gov. If you have any questions or wish to discuss the comments related to South Coast AQMD rules, please contact Mr. John Anderson, Air Quality Analysis and Compliance Supervisor, at janderson@aqmd.gov.

Sincerely,

Lijin Sun

Lijin Sun, J.D.

Program Supervisor, CEQA IGR

Planning, Rule Development & Area Sources

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Control Number

⁶ South Coast AQMD. Regulation IV. Accessed at: <http://www.aqmd.gov/home/rules-compliance/rules/scaqmd-rule-book/regulation-iv>.

⁷ South Coast AQMD. Rule 401. Accessed at: <http://www.aqmd.gov/docs/default-source/rule-book/rule-iv/rule-401.pdf>.

⁸ South Coast AQMD. Rule 402. Accessed at: <http://www.aqmd.gov/docs/default-source/rule-book/rule-iv/rule-402.pdf>.

⁹ South Coast AQMD. Rule 403. Accessed at: <http://www.aqmd.gov/docs/default-source/rule-book/rule-iv/rule-403.pdf>.