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EXECUTIVE OFFICER/APCO

Connect with the
Bay Area Air District:



July 5, 2024

Ross Steenson
San Francisco Bay Regional Water Quality Control Board
1515 Clay Street, Suite 1400
Oakland, CA 94612

RE: Administrative Draft Addendum to the Initial Study/Mitigated Negative Declaration for the Sediment Remediation Project, Piers 39 to 43 ½ San Francisco, CA

Dear Ross Steenson:

The Bay Area Air Quality Management District (Air District) reviewed the Administrative Draft Addendum to the Initial Study/Mitigated Negative Declaration (Draft Addendum) for the Sediment Remediation Project, Piers 39 to 43 ½ (Project), located within the Port of San Francisco (Port). The Final Initial Study/Mitigated Negative Declaration (MND) was adopted by the San Francisco Bay Regional Water Quality Control Board (Regional Water Board) on February 9, 2022. The Draft Addendum was prepared as a result of modifications to the Project.

The Project entails the remediation of offshore sediment at Piers 39 to 43 ½ within the Port as well as transporting the dredged sediment to material handling facilities (MHF) where it will be dewatered, then loaded and transported to disposal sites. The modifications to the Project include utilizing Pier 94 and/or the Montezuma site in Solano County as MHF in lieu of Pier 96 or Berth 10 in the Port of Oakland, which were analyzed in the MND.

State and Federal Civil Rights Requirements & Environmental Justice

The Project seeks to move pollution from contaminated soil from the Fisherman's Wharf/North Beach area of San Francisco (a largely white community) to the Bayview Hunters Point (BVHP) community of San Francisco (a community of color). According to CalEnviroScreen 4.0 (CES), the California Environmental Protection Agency's (CalEPA) screening tool that ranks each census tract in the state for pollution and socioeconomic vulnerability, the dredge site spans three census tracts.

- Census Tract 607501022 ranks better than 89% of the state's census tracts, making it among the least polluted and vulnerable areas in the state. A significant majority of the census tract identify as White (81 percent).
- Census Tract 6075010400 ranks better than 78% of the state's census tracts. A significant majority of the census tract identify as White (63 percent).
- Census Tract 6075010100 ranks better than 58% of the state's census tracts. A substantial majority of the census tract identify as White (39 percent).

Meanwhile, the Project seeks to dewater and transload that contaminated soil at or around Pier 94. The nearest census tracts to Pier 94 that are sufficiently populated to have an overall CES score are overwhelmingly populated by communities of color.

- Census Tract 6075023103 ranks worse than 88% of the state’s census tracts, making it among the most polluted and vulnerable areas in the state. A significant majority of the census tract identify as non-white (95 percent).
- Census Tract 6075023102 ranks worse than 84% of the state’s census tracts, making it among the most polluted and vulnerable areas in the state. A significant majority of the census tract identify as non-white (92 percent)
- Census Tract 6075061200 ranks worse than 79% of the state’s census tracts, making it among the most polluted and vulnerable areas in the state. A significant majority of the census tract identify as non-white (90 percent).

The racial and pollution burden disparity between the current location of the Project’s highly contaminated soil and its planned destination is stark. Title VI of the Civil Rights Act of 1964, along with its state law analog (Gov. Code section 11135), prohibit recipients of federal (and state) funds from causing a disparate impact on protected classes of people. Under both state and federal law, those protected classes include race. (*Id.*; 42 U.S.C. section 2000d). Given these facts and civil rights requirements, and as further detailed below, the Air District urges the Water Board to conduct a civil rights and racial impact analysis under these provisions of state and federal civil rights laws.

Environmental Justice concerns should also be addressed directly in the Draft Addendum. Several components of the Project are located within or within close proximity to the boundaries of an Overburdened Community, as defined by the Air District’s [Regulation 2, Rule 1: General Requirements](#)¹ and the boundaries of the BVHP/Southeast San Francisco AB 617 Community. Assembly Bill (AB) 617 (C. Garcia, Chapter 136, Statutes of 2017) established the Community Health Protection Program, which works closely with Bay Area communities to plan, develop and implement innovative strategies to improve community health by reducing exposure to air pollutants in neighborhoods most impacted by air pollution.

Because of the potential impact to surrounding communities, the Air District strongly urges the Regional Water Board to implement Environmental Justice principles as defined in Chapter 2 of the [Air District’s California Environmental Quality Act \(CEQA\) Guidelines](#) entitled, “[Best Practices for Centering Environmental Justice \(EJ\), Health, and Equity](#)” to this Project.

¹ Bay Area Air Quality Management District. Regulation 2, Rule 1: General Requirements.
https://www.baaqmd.gov/~media/dotgov/files/rules/reg-2-permits/2021-amendments/documents/20211215_rg0201-pdf.pdf?rev=103cc60e706947d3ad1e4f5a090483c1&sc_lang=en

The following is recommended to include Environmental Justice principles for this Project:

- Lead agencies should identify overburdened communities in their CEQA analysis and contact Air District staff to determine whether the project site is located in an AB 617 community.
- Each overburdened and/or AB 617 community identified in the analysis should be identified by name or other identifying information, such as a census tract number, and its location should be shown on a map.
- If the project site is located in an overburdened and/or AB 617 community, the project description should describe the environmental setting in the vicinity of the site.
- Local governments should complement the identification of these communities with ground-truthing, supplementing technical information with local knowledge, such as the location of pollution sources and their proximity to sensitive receptors, to inform policy and project decisions.
- Lead agencies should prepare a racial impact statement—an analysis of how a proposed action affects racial or ethnic groups—to accompany its CEQA analysis in order to ensure and demonstrate nondiscrimination.

The Site Selected for Materials Handling Facility Should Minimize Impacts on Sensitive Receptors

The Draft Addendum identifies the Montezuma site in Solano County as a secondary MHF site to Pier 94. Given the environmental justice and civil rights implications of the project, the Air District recommends full consideration of utilizing the Montezuma site exclusively. The Montezuma site is located in a rural area, whereas Pier 94 is located near a greater concentration of residences. There are no sensitive receptors such as hospitals, schools, day cares, or senior facilities within 10 miles of the Montezuma site; however, there are schools, playgrounds, day cares, and senior facilities located approximately one mile (or less) from the Pier 94 site. Additionally, BVHP/Southeast San Francisco has been designated an AB 617 community in recognition of the severe historic, disparate, and ongoing pollution burdens in BVHP/Southeast San Francisco. In light of these facts and the concerns discussed above, Pier 94 should not be the preferred location as the MHF for this project when an alternative site with less environmental and disparate impacts is available.

The Draft Addendum Is Inadequate to Support an Air District Permit Decision

The Draft Addendum would not support the issuance of an Air District permit, should one be required, for the reasons outlined below. Due to these deficiencies, the Air District will not be able to rely on the analyses in the Draft Addendum to support issuance of a permit, should one be required, and would have to undertake its own CEQA review of the Project, which could delay the Project. Accordingly, the Air District requests that the Regional Water Board revise the Draft Addendum to address these issues.

The Draft Addendum does not analyze the increase in ambient PM_{2.5}, cancer risk, or noncancer risks at either the project level or cumulative level. Thus, it has not demonstrated these impacts are less than significant. These analyses should be performed for both potential MHFs as well as the proposed rail transfer locations. Appendix E, “Recommended Methods for Screening and Modeling Local Risks and Hazards,”² of the Air District’s CEQA Guidelines provides guidance for conducting such an analysis.

² Bay Area Air Quality Management District. 2023 BAAQMD CEQA Guidelines, Appendix E, Recommended Methods for Screening and Modeling Local Risks and Hazards. https://www.baaqmd.gov/~/media/files/planning-and-research/ceqa/ceqa-guidelines-2022/appendix-e-recommended-methods-for-screening-and-modeling-local-risks-and-hazards_final-pdf?rev=b8917a27345a4a629fc18fc8650951e4&sc_lang=en.

The Draft Addendum cites air quality plans, controls, and avoidance and minimization measures (AMMs) as a basis for finding impacts to be less than significant. However, the referenced plans, controls and AMMs have largely yet to be drafted. As such, the Addendum refers to vague and non-actionable controls and measures and largely defers specific actions to the future. The plans, controls and AMMs must be specific and actionable if relied upon to support a finding that an impact is less than significant.

Additionally, the Air District recommends the Project implement all feasible control measures to mitigate any potentially significant fugitive dust impacts including:

- Implementation of Basic and Enhanced Best Management Practices for Construction-Related Fugitive Dust Emissions as illustrated in the Air District’s CEQA Guidelines, Chapter 5, “Project Level Air Quality Impacts”, Table 5-2³ and Table 5-3⁴.

The Air District is also asking that the following items that should be addressed:

- Footnote 6 of the Material Handling and Management section states “sediments would remain moist with as much as 20% water content”. The Draft Addendum should explain the basis and how water content percentage would be monitored and reported. In addition, Footnote 6 mentions the use of cement as a drying agent. The Draft Addendum should analyze potential air quality impacts from the handling and use of cement, which contains toxic air contaminants.
- Within the Material Handling and Management section, the Draft Addendum does not address the possibility of soil aeration of the sediments received at the MHF as a result of the proposed temporary fabric system and vapor management system. The Draft Addendum should explain the possibility of soil aeration occurring at the MHF. The Draft Addendum should also address any potential regulated air pollutants which may be present in the sediments.
- The Draft Addendum does not provide specifics on stockpiles at the MHF locations, nor does the Draft Addendum provide details on the emissions of regulated air pollutants. The Draft Addendum should provide specifics on stockpiles at the proposed MHF locations.
- Within the Decant Water Treatment section, the Draft Addendum identifies a temporary wastewater treatment system and storage tanks. The Draft Addendum should analyze the potential impacts of this equipment.

Certain aspects of the Project may require a permit from the Air District, including the Material Handling and Management Operations. These include stockpiles, aeration of soils, material hoppers, conveyors, water treatment systems, engines, or other equipment associated with this Project. Please contact Barry Young, Senior Advanced Projects Advisor at (415) 749-4721 or byoung@baaqmd.gov to discuss permit requirements. Any applicable permit requirements should be discussed in the Draft Addendum.

³ Bay Area Air Quality Management District. 2022 BAAQMD CEQA Guidelines, Chapter 4, Project Level Air Quality Impacts. https://www.baaqmd.gov/~media/files/planning-and-research/ceqa/ceqa-guidelines-2022/ceqa-guidelines-chapter-5-project-air-quality-impacts_final-pdf.pdf?rev=de582fe349e545989239cbbc0d62c37a

⁴ Ibid.

We encourage the Regional Water Board to contact Air District staff with any questions and/or to request assistance during the environmental review process. If you have any questions regarding these comments, please contact Mark Tang, Assistant Manager at (415) 749-4778 or mtang@baaqmd.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Philip M. Fine". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Philip M. Fine, Ph.D.
Executive Officer/Air Pollution Control Officer

cc: BAAQMD Director Tyrone Jue
BAAQMD Director Shamann Walton